

RECORDING REQUESTED BY:

City of Merced, A California charter
municipal corporation acting solely as the
Housing Successor Agency to the Merced
Redevelopment Agency

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

**Exempt Recording Per Gov't Code
Section 6103**

(Above for Recorder's Use Only)

DEED RESTRICTION COVENANT AND GRANT AGREEMENT

**In Respect of the
CITY OF MERCED
acting solely as the Housing Successor Agency to the
Merced Redevelopment Agency**

(CC915 Merced, Inc. Affordable Housing Project)

THIS DEED RESTRICTION COVENANT AND GRANT AGREEMENT ("Grant Agreement"), dated _____, entered into by and between the City of Merced ("City"), a California Charter Municipal Corporation, acting solely as the Housing Successor Agency to the former Redevelopment Agency of the City of Merced ("Agency"), and CC915 Merced, Inc. (the "Developer"):

A. The Agency desires to provide a Grant of Two Hundred Thousand Dollars (\$200,000) from Low and Moderate Income Housing Asset Funds ("Housing Asset Funds") acting as the Housing Successor Agency to the former Redevelopment Agency of the City of Merced (the "Housing Successor Grant") to Developer for the construction of twenty (20) studio units, to be rented to extremely low income homeless veterans and homeless individuals, and one (1) manager unit, for a total of twenty-one (21) units (the "Project") on that certain real property generally known as 73 South "R" Street, Merced, California 95341 (APN 059-256-004, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Property" or "Site").

B. The Project consists of twenty-one (21) rental dwelling units. Twenty (20) units will be rented to extremely low income households with incomes at or below thirty percent (30%) of the Area Median Income ("AMI") for Merced County, with adjustments for family size, as determined from time to time by the California Department of Housing and Community Development ("HCD") pursuant to California Health and Safety Code ("HSC") Section 50093; the extremely low income units will be designated as housing units for veterans who are homeless or others at risk of homelessness and restricted to thirty percent (30%) AMI ; and one (1) unit will be designated as a manager unit. Should the Developer have multiple restrictions on unit affordability required by other funding sources, the Developer shall adhere to the more restrictive (lower) income limits.

C. The Housing Successor Grant is subject to the requirements of HSC Sections 34176 and 34176.1.

D. In addition, the Project was awarded a \$4,420,000 Homekey grant from the State Department of Housing and Community Services, grant execution date of April 21, 2022.

E. The City committed the sale of land for the project as is evidenced by the Disposition and Development Agreement dated August 18, 2022 and recorded in the County of Merced.

ARTICLE I. GRANT OF HOUSING ASSET FUNDS

SECTION 1.01 Housing Successor Grant. Subject to the satisfaction of the conditions set forth herein, the Agency Grants to Developer the amount of Two Hundred Thousand Dollars (\$200,000) in Housing Asset Funds for the primary purpose of assisting with the construction of twenty (20) units restricted to 30% AMI veterans and those who are homeless at or at risk of homelessness, one (1) manager's unit and for related expenses.

Disbursement of the Grant proceeds will be based on completion of work and submission of invoices for approved expenses. The amount of each such request shall be limited to the amount reimbursed. The request shall be accompanied by documentation of expenditures in such form as may be required by the City, including but not limited to submission of copies of documents such as paid invoices, payroll, time sheets, and other supporting source documents. Developer shall be liable for repayment of any Housing Successor Grant proceeds disbursed to Developer that are subsequently determined to constitute disallowed costs. Disallowed costs may be identified through audits, monitoring, or other sources. City shall make the final determination of disallowed costs subject to provisions of applicable HSC regulations.

That certain Regulatory Agreement and Declaration of Restriction Covenants of even date hereof (the "Regulatory Agreement") imposing covenants, conditions and restrictions running with the land is a material consideration for the making of the Housing Successor Grant. Developer shall execute the Regulatory Agreement and deliver it to escrow for recordation. This Deed Restrict Covenant and Grant Agreement, Regulatory Agreement and Declaration of

Restrictive Covenants, Notice of Affordability Restrictions on Transfer of Property, Agreement Containing Covenants Affecting Real Property, and any and all documents related thereto, and all of which are incorporated herein, are referred to herein as the "Grant Documents" pertinent to the Housing Successor.

SECTION 1.02 Conditions of Funding. The obligation of the Agency to disburse Housing Successor Grant proceeds pursuant to this Grant Agreement is subject to the following conditions:

1. Developer shall provide the Agency with a corporate resolution or similar document approving and authorizing execution of this Grant Agreement and all documents contemplated hereby and with such other documents required by the Agency regarding Developer's corporate status and ability to enter into this transaction.

2. Developer shall provide the Agency with Certificates of Insurance in form and with insurers admitted in California acceptable to the City and Agency, evidencing compliance with the insurance requirements of this Grant Agreement on or prior to close of escrow on the property and upon demand by Agency or City at any time subsequent. If requested by the City or Agency, Developer shall also provide copies of the required insurance policies.

3. As a material inducement to Agency to enter into this Grant Agreement and to make the Housing Successor Grant to Developer, Developer unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Agency, as of the date hereof, as follows:

(a) Developer is duly formed and validly exists in the form stated in Article I, is qualified to do business in California, and has full power to consummate the transactions contemplated.

(b) Developer has full authority to execute this Grant Agreement, the Regulatory Agreement and all of the other Grant Documents, to undertake and consummate the contemplated transactions, and to pay, perform, and observe all of the conditions, covenants, agreements, and obligations.

(c) This Grant Agreement, the Regulatory Agreement and each of the other Grant Documents constitutes a legal and binding obligation of, and is valid and enforceable against, each party other than Agency and City, in accordance with the terms of each.

(d) There are no actions, suits, or proceedings pending or, to the best knowledge of Developer, threatened against or affecting Developer, the Property, or any part of it, or involving the validity or enforceability of the Trust Deed, the priority of the lien, or the validity or enforceability of any of the other Grant Documents, at law or in equity, or before or by any local, state or federal governmental agency. Developer is not in default with respect to any order, writ, injunction, decree, or demand of any court or other local, state or federal governmental agency.

(e) The consummation of the transactions covered by this Grant Agreement and the payment and performance of all of the obligations in the Grant Documents will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, Grant or credit agreement, corporate charter, bylaws, partnership agreement, trust agreement, or other instrument to which the Developer or any of its general partners is a party or by which it or they or the Property may be bound or affected.

(f) There is no event of default or potential default on the part of Developer under the Grant Documents or any other document relating to the financing of the Project.

(g) Developer has not received financing for either the acquisition of the Property, the construction of the Project, or the permanent financing of the Project except as has been specifically disclosed to and approved by Agency or City in writing.

(h) All proceeds of the Housing Successor Grant will be disbursed as provided in this Grant Agreement and used only for reimbursement of the costs of construction of the Project in accordance with the Scope of Development attached as Exhibit B and for other purposes specified in this Grant Agreement.

(i) The Scope of Development are satisfactory to Developer and its general contractor and have been approved by the City and all other construction lenders. There are no structural defects in the Project that are known to or reasonably should have been known to Developer or its agents and employees, and to the best of Developer's knowledge, no violation of any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a local, state or federal governmental agency exists.

(j) All applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Agency concerning the Housing Successor Grant or required by this Grant Agreement or any of the other Grant Documents are accurate, correct and sufficiently complete to give Agency true and accurate knowledge of their subject matter, and do not contain any untrue statement of a material fact or omit any material fact necessary to make them not misleading.

ARTICLE II. OPERATION OF THE PROJECT

SECTION 2.01. Acceptance of Obligations. In consideration of the Grant to be provided hereunder, Developer agrees to and accepts the restrictions, obligations, and conditions contained in this Grant Agreement, including without limitation, the occupancy and rent requirements set forth in Section 2.04.

SECTION 2.02. Development and Operation of Project. Developer shall maintain the Property for rental housing in accordance with this Grant Agreement, and all other applicable legal requirements. Developer shall at all times maintain in full force and effect all applicable licenses required by the City of Merced, the County of Merced, and/or the State of California to operate and manage the property.

SECTION 2.03 Housing Asset Fund Requirements. Developer shall comply with all applicable laws and regulations governing the use of the Housing Asset Funds including, but not limited to, the terms and conditions of HSC Sections 34176 and 34176.1.

SECTION 2.04. Occupancy and Rent Requirements.

A. Occupancy Requirement. During the term of this Grant Agreement, Developer agrees to rent the property only to tenants whose income meet the requirements contained in the Regulatory Agreement.

B. Rent Requirement. Initial rent shall be established in accordance with the Regulatory Agreement.

C. Records Relating to Occupancy and Rental Requirements. Developer shall maintain all documents used in determining the qualifications of occupants, complete records of rent and other charges billed to and received from all occupants, and such other documents and reports as are necessary to enable the City or Agency to monitor compliance with the Grant Documents. The records and documents described in the preceding sentence shall be maintained for the periods and in the manner set forth in Section 2.06. The City or Agency shall have the right to review and audit such documents and records for compliance with requirements of this Section.

SECTION 2.05. Corporate Status. At all times during the term of this Grant Agreement, Developer shall maintain its existence and shall comply with all provisions of the California Law (Corporations Code Section 5000 *et. seq.*)

SECTION 2.06. Records and Audits.

A. Maintenance of Records. Developer shall maintain records including, but not limited to, books, financial records, supporting documents, statistical records, and all other pertinent records sufficient to accurately reflect all expenditures under this Grant Agreement, and all other matters covered by this Grant Agreement.

Developer shall preserve and make available its records relating to receipt and use of Housing Successor Grant proceeds until the expiration of seven (7) years from the date of final disbursement of Housing Successor Grant proceeds, or for such longer period, if any, as required by law.

B. Annual Audit. Each year throughout the Grant Term, Developer shall cause to be prepared an independent fiscal audit conducted in accordance with generally accepted auditing principles.

Upon completion, Developer shall provide the City and Agency with a copy of each annual independent fiscal audit.

C. Examination of Records and Facilities. Any time during normal business hours, and as often as may be deemed necessary, the Developer agrees that the Agency or the City or any duly authorized employee or representative, shall have access to and the right to examine Developer's offices or facilities engaged in performance of this Grant Agreement, and all the Developer's records with respect to all matters covered by this Grant Agreement.

SECTION 2.07. Insurance. Developer shall maintain, throughout the term of this Grant Agreement, insurance from companies admitted in California, and approved by the City and Agency, in amounts as follows:

A. Workers' Compensation Insurance, including Employers' Liability coverage, with limits not less than required by California law.

B. Comprehensive General Liability Insurance with limits of not less than \$1,000,000 for each occurrence combined single limit bodily injury and property damage, including coverage for contractual liability.

C. Property Insurance covering the Property in a form appropriate for the nature of this Property covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with a deductible, if any, acceptable to the Agency or City, naming City and Agency as loss payee as its interest may appear.

D. The General Liability Insurance provided hereunder shall name the City and Agency as an additional insured and all insurance shall provide the City and Agency with thirty (30) days written notice of any cancellation.

ARTICLE III. DEFAULT, ENFORCEMENT, AND REMEDIES

SECTION 3.01. Default. Failure by either party to timely perform any material term or provision of this Grant Agreement (including, without limitation, failure by Developer to comply with the occupancy and rent requirements of Section 2.04 above), shall be considered a Default by that party under this Grant Agreement. The non-defaulting party shall serve written notice of a Default upon the defaulting party. If such Default is not cured by the defaulting party within thirty (30) calendar days after service of the notice of default, the defaulting party shall be liable to the other party for any damages caused by such Default; provided, however, that if the cure cannot be effectuated within such thirty (30) day period, the defaulting party shall have a reasonable additional time period to effectuate such cure so long as it commences such cure within the initial 30 day period, but in no event shall such cure period exceed ninety (90) calendar days after service of the notice of default; and provided, however, the non-defaulting party may, at its sole and complete discretion, waive any damage from the defaulting party by written notice to the defaulting party.

ARTICLE IV. GENERAL PROVISIONS

SECTION 4.01 Notices. Any notice, tender, or delivery to be given hereunder by either party to the other may be affected in writing either by personal delivery or sent by first class mail through the United States Postal Service, addressed as set forth below. Either party may change its address by written notice in accordance with this section.

TO CITY: City of Merced
678 West 18th Street
Merced, CA 95340
Attention: City Clerk

With a Copy to: City Attorney's Office
City of Merced
678 West 18th Street
Merced, CA 95340

TO DEVELOPER: CC915 Merced, Inc.
Attn: Christine Ettore
35640 Seneca Reserve Drive
Eustis, FL 32736

SECTION 4.02 Assignment. Developer acknowledges and agrees that the Grant is being provided in consideration of its special expertise, skill, and ability of Developer to operate and maintain the Property in a manner that will achieve the City's objective to provide quality affordable housing for lower income households. Consequently, Developer shall not permit any voluntary transfer, assignment, or encumbrance of this Grant Agreement without first obtaining the Agency's written consent, which shall not be unreasonably withheld. Any transfer, assignment, encumbrance, or lease without the Agency's consent shall be voidable and, at the Agency or City's sole discretion, shall constitute a material breach of this Grant Agreement.

SECTION 4.03 Non-Discrimination. Developer shall assure, in connection with the performance of this Grant Agreement, that no person shall be subject to discrimination because of race, religion, ethnic background, sex, sexual preference, or disability.

SECTION 4.04 No Third Party Beneficiaries. Nothing contained in this Grant Agreement shall be construed as creating a relationship of employer and employee or principal and agent between the City, Agency and Developer or Developer's agents or employees. Nothing contained in this Grant Agreement shall create or justify any claim against City or Agency by any third person with whom Developer may have employed or contracted.

SECTION 4.05 Indemnification. As a separate and independent covenant and irrespective of any insurance coverage, Developer shall take all responsibility for its performance, and shall

bear all losses and damage directly resulting to it, and for performance of any of its contractors, subcontractors or agents.

Developer agrees to defend with counsel selected by the Agency, protect, indemnify, and hold harmless the City and Agency and its officers, employees, representative, and agents, on account of any act, error, or omission of Developer in the performance of this Grant Agreement.

Developer agrees to indemnify, protect, to assume the defense of with counsel selected by the City or Agency, and to hold harmless the City and Agency and its officers, employees, and agents from every claim, loss, damage, injury, expense, including attorney's fees, judgment, and direct or vicarious liability of every kind, nature, and description arising in whole or in part from the performance of this Grant Agreement.

SECTION 4.06 Covenant Running With Land. The provisions of this Grant Agreement shall constitute covenants which shall run with the land and be binding upon Developer and Developer's successors and assigns, and all parties having or acquiring any right, title, interest in whatever form, including, but not limited to, leasehold interests, in and to any part of the Property except that, subject to the Regulatory Agreement and if specifically referenced herein, the same shall terminate and become void fifty-five (55) years from the date of the issuance of the final certificate of occupancy for the Project. Any attempt to transfer title or any interest therein in violation of these covenants, except as herein provided, shall be void.

SECTION 4.07 Term. The term of this Grant Agreement shall commence upon the date of this Grant Agreement and shall continue for fifty-five (55) years from the date of the issuance of the final certificate of occupancy for the Project unless earlier terminated by the parties hereto.

SECTION 4.08 Entire Agreement. This Grant Agreement constitutes the entire Agreement between the Agency and Developer with respect to the subject matter hereof.

SECTION 4.09 Amendments. The Agency and Developer reserve the right to amend this Grant Agreement by mutual consent. It is understood and agreed that no alteration or variation of the terms of this Grant Agreement shall be valid unless made in writing and signed by the parties, and that no oral understandings or agreements not incorporated herein, and no alterations or variations of the terms of this Grant Agreement shall be binding on either of the parties, unless made in writing and signed by both of the parties.

SECTION 4.10 Severability. The invalidity of any clause, part, or provision of this Grant Agreement shall not affect the validity of the remaining portions thereof.

SECTION 4.11 Exhibits. The following referenced exhibits are attached to this Grant Agreement and are incorporated in this Grant Agreement as though fully set forth herein.

- Exhibit A: Legal Description of Property
- Exhibit B: Scope of Development
- Exhibit C: Commitment Letter

SECTION 4.12 Venue. This Grant Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Grant Agreement shall be held exclusively in a state court in the County of Merced.

SECTION 4.13. Other Program Requirements. Developer is required by this Grant Agreement to carry out each activity in compliance with all federal, state, and local laws.

IN WITNESS WHEREOF the parties hereto have executed this Grant Agreement as of the date first above written.

CITY OF MERCED
A California Charter
Municipal Corporation acting
as the Housing Successor
Agency to the Former City of
Merced Redevelopment
Agency

BY: _____
D. Scott McBride,
City Manager/

ATTEST:

D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

CRAIG J. CORNWELL, CITY ATTORNEY

BY: Craig Cornwell 3/7/2025
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

"DEVELOPER"

CC915 Merced, Inc.

A Florida Corporation

By: CC915 Merced, Inc., a Florida
Corporation

Its: Agency for Service of Process

By: C. Ettore

Christine Ettore

Taxpayer I.D. No. 87-3752951 _____

ADDRESS:

35640 Seneca Reserve Drive
Eustis, FL 32736

TELEPHONE: 407-733-8073

E-MAIL: cettore@ettore
enterprises.com

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

State of California

County of _____)

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

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)

FLORIDA NOTARY ACKNOWLEDGEMENT (CORPORATION)

STATE OF FLORIDA

COUNTY OF Lake

The foregoing instrument was acknowledged before me by means of ☒ physical presence ☐ online notarization, this 17th day of March, 2025, by

Christine Ethore (Name of Officer or Agent, Title of Officer or Agent) of CC915 Merced, Inc. (Name of Corporation Acknowledging), a Florida (State or

Place of Incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (Type of Identification) as identification.

Shana Brown
Signature of Notary Public

(Seal)

Shana Brown
Print, Type or Stamp Name of Notary

n/a
Title or Rank

n/a
Serial Number, if any



Exhibit A: Legal Description of Property

Real property in the City of Merced, County of Merced, State of California, described as follows:

ALL THAT PORTION OF LOT 9, AS SHOWN ON THE MAP ENTITLED, "MAP OF HARTLEY COLONY", FILED JANUARY 03, 1911, IN THE OFFICE OF THE COUNTY RECORDER OF MERCED COUNTY, IN VOL. 4 OF OFFICIAL PLATS, AT PAGE 41, DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE WEST LINE OF A 40 FOOT AVENUE ALONG THE EAST SIDE OF SAID LOT 9, DISTANT THEREON SOUTH 0° 54' 30" WEST 210 FEET FROM THE INTERSECTION OF SAID LINE WITH THE SOUTH LINE OF THE 60 FOOT COUNTY ROAD ALONG THE NORTH SIDE OF SAID LOT 9; THENCE SOUTH 89° 38' WEST, A DISTANCE OF 214.24 FEET TO THE WEST LINE OF THE PROPERTY CONVEYED TO SAMUEL G. R. DANIELS BY DEED RECORDED MAY 2, 1946 AS FILE NO. 5994; THENCE SOUTH 0° 33' 15" WEST, AND ALONG THE WEST LINE OF SAID DANIELS PROPERTY, A DISTANCE OF 100 FEET; THENCE NORTH 89° 38' EAST, A DISTANCE OF 214.24 FEET, MORE OR LESS, TO A POINT ON THE WEST LINE OF THE 40 FOOT AVENUE, KNOWN AS "SOUTH R STREET", THENCE NORTH AND ALONG THE WEST LINE OF SAID AVENUE, A DISTANCE OF 100 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION OF THE HEREIN DESCRIBED LAND LYING WITHIN THE STRIP OF LAND CONVEYED TO THE CITY OF MERCED, BY DEED DATED MARCH 25, 1901, AND RECORDED IN VOL. 55 OF DEEDS AT PAGE 86.

ALSO EXCEPTING THEREFROM 1/16TH INTEREST OF ALL COAL, OIL, GAS, HYDROCARBON AND OTHER MINERAL DEPOSITS CONTAINED, IN OR UNDER SAID REAL PROPERTY DESCRIBED AND OTHER LAND, AS RESERVED IN THE DEED FROM FLOYD W. WEST AND BERNICE WEST, HIS WIFE, TO JOSEPH L. PADEN, DATED APRIL 18, 1932, AND RECORDED NOVEMBER 16, 1932, IN VOL. 378 OF OFFICIAL RECORDS, AT PAGE 394.

ALSO EXCEPTING THEREFROM ALL THAT PORTION OF THE HEREIN DESCRIBED LAND LYING WITHIN THE STRIP OF LAND CONVEYED TO THE CITY OF MERCED BY DEED DATED JULY 20, 1976 AND RECORDED AUGUST 02, 1976, VOL. 2040 OFFICIAL RECORDS, PAGE 75.

APN: 059-256-004

Exhibit B: Scope of Development

A. Description of Development

The Project consists of the new construction of 21 studio units (20 rental units and 1 manager's unit) on vacant land. The 20 rental units shall be restricted to households with incomes at or below thirty percent (30%) of the area median income ("AMI") for Merced County as published annually by the California Department of Housing and Community Development ("HCD"). The units will be designated as housing units for veterans who are homeless or others at risk of homelessness and one (1) unit designated as a manager unit. The project will be deed restricted for a period of fifty-five (55) years.

The studio units shall be constructed from modular shipping containers. It will include one manager's unit and office, the supportive services office, and community space with a common kitchen and central laundry. Each residential unit will have a kitchenette that includes a mini refrigerator, microwave, and two stove burners; and will be furnished with kitchen tools, a fold-out sofa sleeper bed or a bed with lockable storage. The units will be pre-wired for internet access. The outdoor common area will be landscaped and include grills and picnic tables. The project also includes parking and an outdoor landscaped common area.

B. Obligations of Developer

1. Obtain financing for the Project, pursuant to other provisions of the Disposition and Development Agreement.
2. Complete the Project in accordance with the description above, other terms of the Disposition and Development Agreement, and applicable ordinances and laws.
3. Secure all permits and approvals needed for the construction of the project.

C. City Responsibilities

1. Give all appropriate assistance to Developer in securing necessary permits for the project, including coordinating with Developer in presentations to the Planning Commission, City Council, or other body involved in permits or approvals for the project.
2. Respond promptly to submittals from the Developer.

Exhibit C: Commitment Letter