

# COB - BOSAIR FORM

03/30/2026 10:06 AM (MST)

Submitted by Sofia.Blue@pima.gov



## BOARD OF SUPERVISORS AGENDA ITEM REPORT (BOSAIR)

\*All fields are required. Enter N/A if not applicable. For number fields, enter 0 if not applicable.\*

Record Number: PO CWD PO2600007903

Award Type: Contract

Is a Board Meeting Date Requested? Yes

Requested Board Meeting Date: 04/21/2026

Signature Only:

NO

Procurement Director Award / Delegated Award: • N/A

Supplier / Customer / Grantor / Subrecipient: Old Pueblo Community Services

Project Title / Description: OPCS Veterans Center

Purpose: This Gap Funding Agreement is among County and Old Pueblo Community Services, to effectuate the award of \$500,000.00 in gap funding, toward OPCS Veterans Center on the, City of Tucson, Pima County, Arizona Parcel number: 125-11-1560

Procurement Method: Other

Insert additional Procurement Method info, if applicable: RFP-CWD-2025-1001

Program Goals/Predicted Outcomes: The project will provide transitional housing and services to Veterans experiencing homelessness in Pima County. This project includes construction of 18 new studio apartments along with a community kitchen, dining facility, laundry room, and remodeling of 5 existing casitas, with all the units located at one site. The completion of the construction of the OPCS Veteran's Center will improve our ability to provide a supportive and inclusive community where Veterans can recover from chronic mental health and physical health problems, while preparing for their eventual move into a permanent home within the larger Tucson community. The center provides on-site access to case management, outpatient behavioral health services, employment coaching, and housing navigation. Through this project we expect to serve an additional 100 veterans experiencing homelessness each year.

Public Benefit and Impact: This project will increase the number of transitional housing units available for veterans experiencing homelessness in Pima County.

TO: COB, 4/3/26 (1)

VERSION: 0

PAGES: 25

APR01'26PM0205PO

<b>Budget Pillar</b>	<ul style="list-style-type: none"> <li>Improve the quality of life</li> </ul>
<b>Support of Prosperity Initiative:</b>	<ul style="list-style-type: none"> <li>3. Improve Housing Stability</li> </ul>
<b>Provide information that explains how this activity supports the selected Prosperity Initiatives</b>	Improve housing stability among low-income renters and homeowners by preventing evictions and foreclosures, increasing homeownership, developing more affordable housing, and reducing home energy and weatherization costs, especially for those in high poverty areas.
<b>Metrics Available to Measure Performance:</b>	Construction of 18 new studio apartments along with a community kitchen, dining facility, laundry room, and remodeling of 5 existing casitas.
<b>Retroactive:</b>	<b>NO</b>

### Contract / Award Information

Record Number: PO CWD PO2600007903	
<b>Document Type:</b>	PO
<b>Department Code:</b>	CWD
<b>Contract Number:</b>	PO2600007903
<b>Commencement Date:</b>	04/21/2026
<b>Termination Date:</b>	12/31/2027
<b>Total Expense Amount:</b>	\$500,000.00
<b>Total Revenue Amount:</b>	\$0.00
<b>Funding Source Name(s) Required:</b>	General Fund
<b>Funding from General Fund?</b>	<b>YES</b>
<b>If Yes Provide Total General Funds:</b>	\$500,000.00
<b>Percent General Funds</b>	100
<b>Contract is fully or partially funded with Federal Funds?</b>	<b>NO</b>
<b>Were insurance or indemnity clauses modified?</b>	<b>NO</b>

Vendor is using a Social Security Number?

NO

Department: Community and Workforce Development

Name: Sofia Blue

Telephone: 5207247312

Add Procurement Department Signatures

No

Add GMI Department Signatures

No

Department Director Signature:  Date: 3.31.26

Deputy County Administrator Signature:  Date: 3-31-2026

County Administrator Signature: \_\_\_\_\_ Date: 3/31/26

**Pima County Community and Workforce Development**

**Project: OPCS Veterans Center**

**Owner: Old Pueblo Community Services**

**Amount: \$500,000.00**

**Contract No.: PO2600007903**

**Funding: General Fund**

**AFFORDABLE HOUSING GAP FUNDING AGREEMENT**

**Background and Purpose**

- A. As part of Pima County's ("County") fiscal year ("FY") 2025-26 budget, the Pima County Board of Supervisors ("Board") allocated \$5 million toward increasing affordable housing in Pima County. The Board appointed a Pima County Regional Affordable Housing Commission ("Commission") to study and make recommendations on how to expend that funding.
- B. County staff, with Commission comment and approval, developed and issued a Request for Proposals ("RFP"), RFP-CWD-2025-1001, to solicit proposals for projects to seek gap funding. Eighteen proposals were received, seeking a total of \$16,508,743.76 in funding. The proposals were scored by a panel with expertise in diverse areas, including housing, development, community development, and finance based on criteria set forth in the RFP. The panel also included Commission representation from a non-conflicted commissioner. The panel recommended funding 9 projects: San Isidro Subdivision, \$500,000.00; Main & Davis, \$500,000.00; Shasta Apartments, \$1,000,000.00; Stone & Speedway, \$500,000.00; Limberlost Family Flats, \$500,000.00; Drexel Commons, \$500,000.00; Craycroft Towers and Lee Street Duplexes, \$500,000.00; OPCS Veteran Center, \$500,000.00; Mountain View Development, \$500,000.00.
- C. The Commission unanimously endorsed staff's recommendations. On February 17, 2026, the Board approved staff and the Commission's recommendations, awarding funding to nine recommended projects in the amounts requested.
- D. This Gap Funding Agreement is among County and Old Pueblo Community Services, (collectively, "the Parties") to effectuate the award of \$500,000.00 in gap funding, toward OPCS Veterans Center.
- E. Owner submitted a Gap Funding Application for the use of County funds for direct construction costs for the Project.

- F. The Project consists of a total of 23 units of multifamily housing located in Tucson. The Project is situated at 3701 E. 3<sup>rd</sup> St. Tucson, AZ 85716.
- G. Owner has obtained all necessary plan approvals and construction permits from the City of Tucson and any other necessary approving entity. A description of the Project is attached as **Exhibit A**, and a map depicting the Project is attached as **Exhibit B**.

### **Agreement**

1. **Term.** This Agreement commences on the Effective Date and terminates on December 31, 2027. Notwithstanding this section, Sections 4, 7, and 8 of this Agreement survive termination and remain in effect so long as the Affordability Restrictions remain in effect.
  
2. **Payment and Terms of Gap Funding.**
  - 2.1. Gap Funding Total. County will pay the Owner an amount not to exceed \$500,000.00.
  - 2.2. Gap Funding Terms. Gap Funds will be provided as a grant subject to the affordability terms of the Affordable Housing Restrictive Covenant, **Exhibit C**.
  - 2.3. Timing of Invoices. Owner will submit invoices on the template provided by County for the period in which Owner delivered the invoiced services.
  - 2.4. Content of Invoices. All invoices will be accompanied by a description of the work performed during the period covered by the invoice, time accounting information and an allocation of all direct costs, including reimbursable costs to County. Owner charges must be supported by appropriate documentation with each separate invoice submitted. Owner will provide a project summary as it applies to the project timeline with each invoice.
  - 2.5. Invoice Adjustments. The Owner applied for Gap funding for direct construction costs. County will adjust invoices at a reimbursement rate of not less than 90% until the project meets half of their construction timeline. After the halfway milestone is reached, the County will adjust its reimbursement rate to 95%.
  - 2.6. County Review. County will review the invoice and, within **10** days, either approve it or reject it. If approved, County will pay the Owner the amount requested within **30** days of the date of the invoice. If rejected, County will provide Owner with a written response including the reasons for the rejection, and the Parties may submit a new invoice to correct any deficiencies.
  - 2.7. After Project completion. Owner will submit a final invoice for the remaining Gap Funding. The Owner must include with the final invoice documentation demonstrating full Project completion, including final Certificates of Occupancy issued by the City of Tucson. County will review the invoice and,

within **10** days, either approve it or reject it. If approved, County will pay the Owner the amount requested within **30** days of the date of the invoice. If rejected, County will provide Owner with a written response including the reasons for the rejection, and Owner may submit a new invoice to correct any deficiencies.

3. **Affordability Restriction.** County will record Affordable Housing Restrictive Covenant against the Project Property in substantially the form attached as **Exhibit C** and provide copy to owner.
4. **Enforcement.** County may enforce the Affordability Restrictions in accordance with their terms at any time during which they are in effect.
5. **Marketing Plan.** Owner will market the Project in accordance with the previously submitted Marketing Plan.
6. **Assignment.** Owner may not assign its obligations under this Agreement without County's written consent, which will not be unreasonably withheld.
7. **Insurance.** The Insurance Requirements herein are minimum requirements for this Agreement and in no way limit, the indemnity covenants contained in this Agreement. Owner's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Owner from potential insurer insolvency.
  - 7.1. Minimum Scope and Limits of Insurance. Owner shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Owner from liabilities that arise out of the performance of the work under this Agreement. If necessary, Owner may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.
    - 7.1.1. Property. Commercial Property insurance with coverage at least as broad as ISO form CP 00 01, covering full replacement cost of real property up to insurance limits.
    - 7.1.2. Commercial General Liability (CGL). Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.
    - 7.1.3. Business Automobile Liability. Waived.
    - 7.1.4. Workers' Compensation (WC) and Employers' Liability. Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

Sole Proprietor: The Workers' Compensation requirement shall not apply to a contractor that is exempt under A.R.S. § 23-901, and when such contractor executes the appropriate "Pima County Sole Proprietor/Independent Contractor Waiver Form".

- 7.1.5. Claims-Made Insurance Coverage. If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Owner must maintain such coverage for a period of not less than three (3) years following Agreement expiration, termination or cancellation.
- 7.2. Additional Insurance Requirements. The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:
  - 7.2.1. Additional Insured. The General Liability Policy shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Owner.
  - 7.2.2. Subrogation. The General Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Owner.
  - 7.2.3. Primary Insurance. The Owner's policies shall stipulate that the insurance afforded the Owner shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.
  - 7.2.4. Insurance provided by the Owner shall not limit the Owner's liability assumed under the indemnification provisions of this Agreement.
- 7.3. **Notice of Cancellation.** Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the Pima County project or contract number and project description.
- 7.4. **Verification of Coverage.** Owner shall furnish Pima County with certificates of insurance as required by this Agreement. An authorized representative of the insurer shall sign the certificates.
  - 7.4.1. All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance coverages or policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

7.4.2. All certificates required by this Agreement shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Agreement at any time.

7.5. **Approval and Modifications.** The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Agreement amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Owner, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

8. **Indemnification.** To the fullest extent permitted by law, Owner will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Owner or any of Owner's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Owner to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising from the gross negligence or the acts or omissions of the Indemnitee, be indemnified by Owner from and against any and all Claims. Owner or is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Agreement.

## 9. **Laws and Regulations.**

9.1. Compliance with Laws. Owner will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.

9.2. Licensing. Owner warrants that it is appropriately licensed to provide the services under this Agreement, if applicable, and that its general contractor and their subcontractors will be appropriately licensed.

9.3. Choice of Law - Venue. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Agreement. Any action relating to this Agreement must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

10. **Independent Contractor.** Owner is an independent contractor. None of Owner, nor any of its officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or

assert any protections, under the Pima County Merit System. Owner is responsible for paying all federal, state and local taxes on the compensation received by it under this Agreement and will indemnify and hold County harmless from any and all liability that County may incur because of their failure to pay such taxes.

11. **Subcontractors.** Subject to that certain A102 – 2017 Standard Form of Agreement between Owner and Contractor dated as of the Effective Date by and between Owner and Contractor. Owner is responsible for all acts and omissions of the general contractor, and of persons directly or indirectly employed by the general contractor, and of persons for whose acts any of them may be liable, to the same extent that the Owner is responsible for the acts and omissions of its own employees. Nothing in this Agreement creates any obligation on the part of County to pay or see to the payment of any money due the general contractor or any subcontractor, except as may be required by law.
12. **Non-Discrimination.** Owner will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Agreement, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Agreement, Owner will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
13. **Americans with Disabilities Act.** Owner will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
14. **Authority to Contract.** Owner warrants its right and power to enter into this Agreement. If any court or administrative agency determines that County does not have authority to enter into this Agreement, County will not be liable to Owner or any third party by reason of such determination or by reason of this Agreement.
15. **Full and Complete Performance.** The failure of any party to insist, in one or more instances, upon another party's complete and satisfactory performance under this Agreement, or to take any action based on another party's failure to completely and satisfactorily perform, is not a waiver of that party's right to insist upon complete and satisfactory performance, or compliance with any other covenant or condition in this Agreement, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
16. **Cancellation for Conflict of Interest.** This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Agreement by reference.
17. **Termination by County.** County may terminate this Agreement if Owner fails to cure a default under this Agreement after more than 30 days after written notice of the default from County (or for a longer period as may be reasonable required under the circumstances to cure the violation, provided that Owner has commenced the cure within the initial 30-day period and thereafter diligently pursues the cure to completion). The County agrees to accept cure by the Limited Partner as if such cure were made by Owner.

18. **Remedies.** Any party may pursue any remedies provided by law for the breach of this Agreement. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Agreement.
19. **Severability.** Each provision of this Agreement stands alone, and any provision of this Agreement found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.
20. **Non-Exclusive Agreement.** Owner understands that this Agreement is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.
21. **Books and Records.** Owner will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Owner will retain all records relating to this Agreement for at least five (5) years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.
22. **Public Records.**
- 22.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., all documents submitted in response to the solicitation resulting in award of this Agreement, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.
- 22.2. Records Marked Confidential; Notice and Protective Order. If Owner reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Owner must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Owner of the request as soon as reasonably possible. County will release the records 30 days after the date of that notice, unless Owner has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.
23. **Legal Arizona Workers Act Compliance.**
- 23.1. Compliance with Immigration Laws. Owner hereby warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Owner will further ensure that each general contractor who performs any work under this Agreement likewise complies with the State and Federal Immigration Laws.

23.2. Books & Records. County has the right at any time to inspect the books and records of Owner and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

23.3. Remedies for Breach of Warranty. Any breach of Owner's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Agreement subjecting Owner to penalties up to and including suspension or termination of this Agreement. If a breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Owner will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Owner.

23.4. Subcontractors. Owner will direct its general contractor to advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 23 by including a provision in each prospective subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to

Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

24. **Notices**. Any notice required or permitted to be given under this Agreement must be in writing and be served by personal delivery or by certified mail upon the other party as follows:

County:  
Daniel Sullivan  
Director, Pima County Community  
& Workforce Development  
2797 W. Ajo Way, 3rd Floor  
Tucson, AZ 85713

Owner:  
Thomas Litwicki  
Chief Executive Officer  
Old Pueblo Community Services  
2323 S. Park Avenue  
Tucson, AZ 85713

Any party may update its contact for purposes of notices in writing at any time.

25. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Owner engages in for-profit activity and have 10 or more employees, and if this Agreement has a value of \$100,000.00 or more, Owner certifies that it is not currently engaged in and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
26. **Forced Labor of Ethnic Uyghurs.** Pursuant to A.R.S. § 35-394, if Owner engages in for-profit activity and have 10 or more employees, Owner certifies that it is not currently using, and agrees for the duration of this Agreement to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Owner becomes aware during the term of the Agreement that it is not in compliance with A.R.S. § 35-394, it must notify the County within five business days and provide a written certification to County regarding compliance within one hundred eighty days.
27. **Heat Injury and Illness Prevention and Safety Plan.** Pursuant to Pima County Procurement Code 11.40.030, the Owner hereby warrants that if the employees of the Owner's general contractor and its subcontractors perform work in an outdoor environment under this Agreement, the Owner will keep on file a written Heat Injury and Illness Prevention and Safety Plan. At the County's request, the Owner will provide a copy of this plan and documentation of heat safety and mitigation efforts implemented by the Owner to prevent heat-related illnesses and injuries in the workplace. The Owner will post a copy of the Heat Injury and Illness Prevention and Safety Plan where it is accessible to employees. The Owner will further ensure that its general contractor and each of the general contractor's subcontractors that perform any work for the Owner under this Agreement complies with this provision.
28. **Amendments.** The parties may modify, amend, alter or extend this Agreement only by a written amendment signed by the parties.
29. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which shall constitute one and the same instrument.
30. **County Recognition.** Owner will, at its cost, acknowledge Pima County Gap Funds contribution in a form approved by County. Acceptable forms of recognition may include, but not limited to, signs, permanent plaques, press releases and recognition at opening ceremonies. Inclusion of Pima County logo on signs, press releases and advertisements may also list member names from Board of Supervisors and County Administration if applicable. County will provide County-approved logo artwork for placement on any sign or printed material.

31. **Entire Agreement.** This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Agreement supersedes all prior or contemporaneous agreements and understandings, oral or written.

*The remainder of this page is intentionally left blank.*

*Signatures only on following page.*

**PIMA COUNTY:**

**OLD PUEBLO COMMUNITY SERVICES:**

\_\_\_\_\_  
Jennifer Allen  
Chair, Board of Supervisors

\_\_\_\_\_  
Thomas Litwicki  
Chief Executive Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Clerk of the Board

Approved as to Form:

  
\_\_\_\_\_  
Kyle Johnson, Deputy County Attorney

PIMA COUNTY:

\_\_\_\_\_  
Jennifer Allen  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Clerk of the Board

Approved as to Form:

\_\_\_\_\_  
Kyle Johnson, Deputy County Attorney

OLD PUEBLO COMMUNITY SERVICES:

  
\_\_\_\_\_  
Thomas Litwicki  
Chief Executive Officer

3/20/26  
Date

## **Exhibit A – Description of Project (1 page)**

The project is to provide transitional housing and services to Veterans experiencing homelessness in Pima County. This project includes construction of 18 new studio apartments along with a community kitchen, dining facility, laundry room, and remodeling of 5 existing casitas, with all the units located at one site. The completion of the construction of the OPCS Veteran's Center will improve our ability to provide a supportive and inclusive community where Veterans can recover from chronic mental health and physical health problems, while preparing for their eventual move into a permanent home within the larger Tucson community. The center provides on-site access to case management, outpatient behavioral health services, employment coaching, and housing navigation. Through this project we expect to serve an additional 100 veterans experiencing homelessness each year.



## Exhibit C – Affordable Housing Restrictive Covenant

When Recorded, Please Return To:

Pima County Community & Workforce Development  
2797 E. Ajo Way, 3<sup>rd</sup> Floor  
Tucson, AZ 85713-6223  
ATTN: Division Manager

### AFFORDABLE HOUSING RESTRICTIVE COVENANT

#### 1. Background and Purpose.

- 1.1. Pima County ("County") and Old Pueblo Community Services have entered into an Affordable Housing Gap Funding Agreement, Pima County Contract No. PO2600007903 Under that Agreement, County provided \$500,000.00 in funding ("Gap Funding") to Owner to complete an affordable-housing project, OPCS Veterans Center, subject to, among others, the requirement that the Project remain affordable for a period of 30 years ("County Affordability Period"). The Project is also subject to affordability restrictions tied to other funding sources.
- 1.2. The Project consists of 18 studio units and 5 one-bedroom units for a total 23 rental units, and is located on a parcel of land, legally described in attached **Exhibit C-1** and further identified by Pima County Assessor Tax Parcel Number 125-11-1560. Owner owns the Project Property.
- 1.3. In order to effectuate the County Affordability Restriction, County and Owner (collectively, "Parties") desire to enter into this Affordable Housing Restrictive Covenant ("Covenant") to be recorded against the Project Property to ensure that any subsequent sale of the Project Property would be subject to the County Affordability Period.

#### 2. Use Restrictions. The Project Property will be subject to the following covenants and restrictions (collectively the "Affordability Restrictions") regulating and restricting the use and transfer of the Project Property, commencing on the date hereof. These restrictions shall be covenants running with the land and will bind Owner and its respective successors and assigns as set forth in this Covenant.

- 2.1. **Residential Use.** Owner will cause all occupants to use the Property only for residential purposes and any incidental activities related to residential use that are currently permitted by applicable state and local zoning laws.

#### 3. Term and termination. This Covenant takes effect upon its execution by the last Party to sign it and, unless earlier terminated by written consent of all Parties or through foreclosure or deed in lieu of foreclosure.

#### 4. Affordability Restrictions.

4.1. Pursuant to the Affordable Housing Restrictive Covenant by County and Owner, all 23 rental units comprising the Project are to be leased in accordance with applicable Income Limits, which are published annually by US Department of Housing and Urban Development (HUD). For demonstrative purposes, a copy of the Multifamily Tax Subsidy Project Income Limits applicable at the time of the execution of this Covenant is attached as **Exhibit C-3**. Such Income Limits are subject to change and nothing herein shall bind Owner to continue complying with such Income Limits to the extent that the same are revised from time to time, and further the County shall have no right to enforce such Income Limits.

4.2. All 23 rental units comprising the Project (collectively, the "County Affordable Units") must be leased to tenants whose household income does not exceed 80% of the area median income ("AMI") for Pima County, as determined and promulgated by the Department of Housing and Urban Development (HUD), as applicable at the time the unit is rented. During this period, the total monthly rent for any one of the County Affordable Units may not at any time exceed the allowable rent limit as established by the Arizona Department of Housing as published for the applicable year for 80% AMI tenants ("80% AMI Rent"), which includes the required utilities.

4.3. **Physical Condition Standards.** During the Affordability Period, the Owner must maintain the Project suitable for occupancy; and, in decent, safe, and sanitary condition and good repair in accordance with the applicable local, state, and federal health, safety, and building codes and regulations.

5. **Eligibility Verification.** Owner must ensure that, for the duration of the County Affordability Period, the household income for each household occupying a County Affordable Unit in the Project is verified to be within the applicable limits described in Section 4, based on the tenant's current household income. Eligibility verification requires some form of income documentation (e.g., pay stubs, direct deposit images, third-party government verification of income within applicable limits), which must be retained for the duration of that household's tenancy and for at least one year after termination of that tenancy.

#### 6. Monitoring and Enforcement.

6.1. In order to ensure compliance with and enforce this Covenant, County may:

6.1.1. At any reasonable time and in a reasonable manner enter and inspect the Project Property and to inspect any facility, document book, and record of the Owner relating to the Project.

6.1.2. With at least 30 days' prior written notice, take any reasonable action to cure any violations of the provisions of this Covenant.

6.2. Owner covenants and agrees to inform County by written notice of any breach of the Owner's obligations hereunder within twenty (20) calendar days of first discovering any such breach. Violations must be cured within the deadlines described in paragraph 6.4, below.

- 6.3. If County believes Owner has violated any provision of this Covenant, County will serve Owner with written notice of the alleged default. The notice must specify both the violation alleged and the actions County believes are necessary and feasible to remedy the violation.
- 6.4. If Owner fails to cure the violation after more than 30 days after written notice of the violation from County (or for a longer period as may be reasonably required under the circumstances to cure the violation, provided that the Owner has commenced the cure within the initial 30-day period and is thereafter diligently pursuing the cure to completion), County, at its option (without liability to any party for failure to do so), may, in addition to any other remedies available at law:
- 6.4.1. Apply to an Arizona court of competent jurisdiction for specific performance of this Covenant or an injunction to remedy the violation, or for such other relief as may be appropriate.
- 6.4.2. Seek damages against Owner in an amount that represents that portion of the Gap Funding that is the extent to which the duration of the violation compares to the County Affordability Period and the scope of the violation compares to the overall Project. As an illustration of how this measure of damages should be applied, if the violation lasted for one year after expiration of the cure period and involved 5 of the 23 total units, the damages formula would be  $\$500,000.00 \times (1/30) \times (5/23) = \$3,623.18$
- 6.5. In any action brought under this Covenant, the prevailing Party is entitled to recover its reasonable costs and fees incurred in the action, including its reasonable attorney fees.
- 6.6. Owner and County each acknowledge that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Covenant are to assure compliance of the Project and the Owner with the program requirements, AND BY REASON THEREOF, THE OWNER IN CONSIDERATION FOR RECEIVING SAID FUNDS FOR THIS PROJECT HEREBY AGREES AND CONSENTS THAT COUNTY AND THE LOW-INCOME TENANT(S) (WHETHER PROSPECTIVE, PRESENT OR FORMER OCCUPANTS OF THE PROJECT) (OR EITHER OR ALL OF THEM) WILL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS COVENANT IN ANY ARIZONA STATE COURT OF COMPETENT JURISDICTION. Owner hereby further specifically acknowledging that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.
7. **Representations, Covenants and Warranties of Owner.** Owner hereby warrants and covenants that the warranties, covenants, and declaration of obligations and duties set forth herein may be relied upon by County and all persons interested in Project compliance under the Agreement requirements. In performing its duties and obligations hereunder, County may rely upon statements and certificates of the Owner

pertaining to occupancy of the Project. The Owner further represents, covenants and warrants to County that:

7.1. The Owner:

7.1.1. has the power and requisite authority to own its properties and assets as owned, where owned, and to carry on its business as now being conducted (and as now contemplated) by this Covenant and the Agreement;

7.1.2. has the full legal right, power, and authority to execute and deliver this Covenant and the Agreement and to perform all undertakings of the Owner hereunder; and

7.2. The execution and performance of this Covenant and the Agreement by the Owner:

7.2.1. will not violate or, if applicable, have not violated any provision of law, rule or regulation, or any order of any court or other governmental agency;

7.2.2. is not in default under any indenture, declaration, mortgage, mortgage note or other instrument to which the Owner is a party or by which it or the Project is bound; and

7.2.3. will not result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature

7.3. Except for those items listed on attached **Exhibit C-2**, the Owner will, at the time of execution and delivery of this Covenant, have good and marketable title to the real property and improvements constituting the Project free and clear of any lien or encumbrance.

7.4. There is presently no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair the Owner's right to carry on business substantially as now conducted (and as now contemplated) by this Covenant and the Agreement or which would materially, adversely affect its financial condition. Neither the Owner, its principals, shareholders, managers, members or general partners, as the case may be, have any judgment entered against them which would, when recorded, constitute a lien against or otherwise impair the security of the Project.

7.5. No actions will be taken by the Owner which will in any way materially adversely affect the use of the Project.

8. **Preservation of Records.** Owner must maintain records related to compliance with Pima County's affordability restrictions for the duration of each household's tenancy and for at least one year following the termination of any household's tenancy.
9. **Recordation of Documents.** Owner is authorized to record and file any notices or instruments appropriate to assure the enforceability of the Affordability Restrictions. Owner will execute any such instruments upon request. The benefits of the Affordability Restrictions may be assignable by County to any successor institution performing substantially similar functions. The Parties intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.
10. **Nondiscrimination.** Owner may not discriminate in the lease, use, or occupancy of any of the rental units on the basis of any of the following: race, color, ethnicity, religion, sex, age, disability, marital or familial status, sexual or gender identity, or lawful source of income.
11. **Covenant Runs with the Land.** Upon execution Owner will cause this Covenant and all amendments and attachments hereto to be recorded and filed in the official records of the Pima County Recorder's Office in the county in which the Project is located, and pay all fees and charges incurred in conjunction with said recording. The restrictions and other provisions in this Covenant burden and run with the Project Property, bind any of Owner's successors or assigns, and inure to the benefit of County and any of its assigns.
12. **Severability.** The provisions of this Covenant are severable. If any provision of this Covenant, or any application of any of its provisions, to the Parties or any person or circumstances, is held invalid, that invalidity will not affect other provisions or applications of this Covenant that can be given effect without regard to the invalidity.
13. **Restraint on Alienation.** If the Affordability Restrictions are deemed unenforceable by virtue of its scope in terms of purpose or eligibility of tenants, but would be enforceable by reducing or increasing, as applicable, any part or all thereof, the same will be enforced to the fullest extent permissible under the laws and public policies applied in the State of Arizona.
14. **No Waiver.** No waiver by County of any breach of this Covenant, or any other act or omission by County, may be deemed a waiver of any other or subsequent breach.
15. **Governing Law.** This Covenant is governed by and must be interpreted in accordance with Arizona law.
16. **Conflict of Interest.** This Covenant is subject to the provisions of Arizona Revised Statutes § 38-511.
17. **Entire Agreement; Amendment.** This document constitutes the entire agreement among the Parties pertaining to its subject matter. This Covenant may be modified, amended, altered, or extended only by a written agreement signed by all Parties.

**18. Notice and Cure Rights.** The County agrees to give Owner's Limited Partner written notice of any and all defaults by the Owner under the Loan Documents, and an opportunity, at the Limited Partner's option, to cause the cure of such default within the cure periods set forth below, prior to exercising any remedies under the Loan Documents. The County agrees that the Limited Partner will have ten (10) days after the Limited Partner's receipt of notice of such default to cure, or cause the cure of a monetary default under the Loan Documents, and thirty (30) days (or such longer period as is set forth in the Loan Documents) after the limited Partner's receipt of such notice to cure any non-monetary defaults under the Loan Documents, or, as to non-monetary defaults, such longer period as is reasonably necessary for the Limited Partner to cause cure, provided that cure is commenced within the above cure period and diligently prosecuted, including, without limitation, such time period as is necessary to remove Borrower's general partner, if necessary in order to effect a cure. The County agrees to accept cure by the Limited Partner as if such cure were made by Owner.

*The remainder of the page is intentionally left blank.*

Signatures are on following page.

**EXHIBIT ONLY**

**PIMA COUNTY:**

\_\_\_\_\_  
Daniel Sullivan, Director  
Community & Workforce Development

\_\_\_\_\_  
Date

STATE OF ARIZONA     )

) ss.

COUNTY OF PIMA     )

The foregoing instrument was acknowledged before me the \_\_\_\_\_ day of \_\_\_\_\_, 2026 by \_\_\_\_\_.

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

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT ONLY**

**OWNER:**

Old Pueblo Community Services

By: \_\_\_\_\_  
Thomas Litwicki, Chief Executive Officer

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

STATE OF )

) ss.

COUNTY OF )

Acknowledged before me on \_\_\_\_\_, 2026, by Thomas Litwicki, Chief Executive Officer, Old Pueblo Community Services.

\_\_\_\_\_  
Notary Public My commission expires: \_\_\_\_\_

**EXHIBIT ONLY**

**Exhibit C-1  
Legal Description**

In the NE  $\frac{1}{4}$  Of the NE  $\frac{1}{4}$  Of Section 09, T. 14 S., R. 14 E., G. & S. R.M.,  
City of Tucson, Pima County, Arizona

Parcel number: 125-11-1560

**EXHIBIT**

**Exhibit C-2 Permitted Encumbrances**

Not Applicable

**EXHIBIT**

**Exhibit C-3 FY 2025 Multifamily Tax Subsidy Project Income Limits**

<b>FY 2025 MTSP Income Limits</b>									
<b>FY 2025 MTSP Income Limit Area</b>	<b>Income Limit Category</b>	<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
Tucson, AZ MSA	80 Percent Income Limits	\$53,840	\$61,520	\$69,200	\$76,880	\$83,040	\$89,200	\$95,360	\$101,520
	70 Percent Income Limits	\$47,110	\$53,830	\$60,550	\$67,270	\$70,660	\$78,050	\$83,440	\$88,830
	60 Percent Income Limits	\$40,380	\$46,100	\$51,820	\$57,540	\$62,280	\$66,900	\$71,520	\$76,140
	<u>50 Percent (Very Low) Income Limits</u>	\$33,650	\$38,150	\$42,650	\$48,050	\$51,900	\$55,750	\$59,600	\$63,450
	40 Percent Income Limits	\$26,920	\$30,160	\$34,600	\$38,440	\$41,520	\$44,600	\$47,680	\$50,760
	30 Percent Income Limits	\$20,190	\$23,070	\$25,950	\$28,830	\$31,140	\$33,450	\$35,760	\$38,070
	20 Percent Income Limits	\$13,460	\$15,380	\$17,300	\$19,220	\$20,760	\$22,300	\$23,840	\$25,380