

**SUBORDINATE BOND PURCHASE AGREEMENT**

**by and among**

**CHULA VISTA HOUSING AUTHORITY,**

**MILLENNIA II CIC, LP,**

**and**

**CIC OPPORTUNITIES FUND III LLC**

**Dated October 1, 2021**

**Relating to:**

**\$2,400,000**

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**CHULA VISTA HOUSING AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(COLUMBA APARTMENTS)  
SUBORDINATE 2021 SERIES A-3**

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## **SUBORDINATE BOND PURCHASE AGREEMENT**

CIC OPPORTUNITIES FUND III LLC, a California limited liability company, solely in its capacity as purchaser of the Bonds described herein (together with its designees, successors and assigns, the “Purchaser”), hereby offers to enter into the following agreement with the CHULA VISTA HOUSING AUTHORITY, a public body, corporate and politic organized and existing under the laws of the State of California (together with its successors and assigns, the “Issuer”), and MILLENIA II CIC, LP, a California limited partnership (together with its permitted successors and assigns, the “Borrower”). Upon your acceptance of this offer and your execution and delivery of this Subordinate Bond Purchase Agreement (this “Agreement”), this Agreement will be binding upon each of you and the Purchaser. This offer is made subject to your acceptance, evidenced by your execution and delivery of this Agreement to the Purchaser, at or prior to 12:00 P.M. Chula Vista, California time on October \_\_, 2021 and will expire if not so accepted at or prior to such time (or such later time as the Purchaser may agree in writing).

**Section 1. Definitions.** The capitalized terms used in this Agreement have the meanings assigned to them in the Glossary of Terms attached as Exhibit A hereto.

**Section 2. Purchase and Sale.**

2.1 Subject to the terms and conditions set forth in this Agreement and the Exhibits attached hereto, the Purchaser hereby agrees to purchase, or to cause its designee to purchase, all (but not less than all) of the Bonds from the Issuer and the Issuer hereby agrees to sell to the Purchaser or to the Purchaser’s designee, when, as and if issued, all (but not less than all) of the Bonds identified in Item 1 in Exhibit B attached hereto for a total purchase price equal to the purchase price set forth as Item 2 on Exhibit B attached hereto.

2.2 The Bonds will (i) be issued in accordance with the Issuer’s enabling legislation and all applicable procedural and substantive requirements and the Indenture and (ii) have the payment related terms (that is, the dated date, maturity date, interest rates, interest payment dates and redemption provisions) set forth in Item 3 of Exhibit B attached hereto.

**Section 3. Closing.** The Closing will take place at the time and on the date set forth in Item 4 of Exhibit B attached hereto or at such other time or on such other date as may be mutually agreed upon by the parties hereto. At or prior to the Closing, the Issuer will direct the Trustee to deliver the Bonds to or upon the order of the Purchaser or its designee, in definitive form, duly executed and authenticated by the Trustee. If the Purchaser receives the Bonds in advance of the Closing, the Purchaser will hold the Bonds in escrow pending Closing. If Closing does not occur, the Purchaser will either return the Bonds to the Trustee or destroy the Bonds, as directed by the Trustee. Subject to the terms and conditions hereof, the Issuer will deliver or cause to be delivered at the Place of Closing as set forth in Item 4 of Exhibit B attached hereto, the other documents and instruments to be delivered pursuant to this Agreement (the “Closing Documents”) and the Purchaser will accept delivery of the Bonds and Closing Documents and pay the purchase price for the Bonds as set forth in Section 2.1 above by wire transfer, to the Trustee, in immediately available federal funds, for the account of the Issuer or as the Issuer directs. The Bonds will be made available to the Purchaser at least one business day before the Closing for purposes of inspection. The Bonds will be prepared and delivered as fully registered Bonds without coupons in the denominations set forth in the Indenture.

#### **Section 4. Representations and Warranties of Issuer.**

4.1 The Issuer hereby makes the following representations and warranties to the Purchaser and the Borrower, all of which will continue in effect subsequent to the purchase of the Bonds:

(a) The Issuer is a public body corporate and politic, organized and existing under the laws of the State of California, has the power and authority to (i) enter into the Resolution and the Issuer Documents to which it is a party and the transactions contemplated thereby, (ii) issue the Bonds in the manner contemplated by the Resolution, this Agreement and the Indenture, and (iii) otherwise consummate the transactions contemplated by the Issuer Documents, and (iii) carry out its other obligations under this Bond Purchase Agreement and the Issuer Documents, and by proper action has duly authorized the Issuer's execution and delivery of, and its performance under, the Issuer Documents to which it is a party.

(b) The Issuer is not in default under or in violation of, and the execution and delivery of the Issuer Documents to which it is a party and its compliance with the terms and conditions thereof will not conflict or constitute a default under or a violation of, (i) the Act, (ii) to its knowledge, any other existing laws, rules, regulations, judgments, decrees and orders applicable to it, or (iii) to its knowledge, the provisions of any agreements and instruments to which the Issuer is a party, a default under or violation of which would prevent it from entering into this Bond Purchase Agreement, financing the Project, executing and delivering the other Issuer Documents to which it is a party or consummating the transactions on its part contemplated thereby, and, to its knowledge, no event has occurred and is continuing under the provisions of any such agreement or instrument or otherwise that with the lapse of time or the giving of notice, or both, would constitute such a default or violation (it being understood, however, that the Issuer is making no representations as to the necessity of registering the Note pursuant to any securities laws or complying with any other requirements of securities laws).

(c) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending with respect to which the Issuer has been served with process or, to the knowledge of the Issuer, is threatened against the Issuer with respect to (i) the organization and existence of the Issuer, (ii) its authority to execute or deliver the Issuer Documents to which it is a party, (iii) the validity or enforceability of any such Issuer Documents or the transactions contemplated thereby, (iv) the title of any officer of the Issuer who executed such Issuer Documents or (v) any authority or proceedings relating to the execution and delivery of such Issuer Documents on behalf of the Issuer, and no such authority or proceedings have been repealed, revoked, rescinded or amended but are in full force and effect.

(d) The revenues and receipts to be derived from the Note and this Bond Purchase Agreement have not been pledged previously by the Issuer to secure any of its notes or bonds.

(e) On the Closing Date, each of the representations and warranties of the Issuer contained herein and in the Issuer Documents and all other documents executed by the Issuer in connection with the Bonds shall be true, correct and complete.

4.2 Each of the representations and warranties set forth in this section will survive until ninety (90) days after the Closing Date.

4.3 Any certificate signed by any official of the Issuer and delivered to the Borrower or the Purchaser in connection with the delivery of the Bonds will be deemed to be a representation and warranty by the Issuer to the Borrower or the Purchaser, as appropriate, as to the statements made therein.

## **Section 5. Representations and Warranties of Borrower.**

5.1 The Borrower makes the following representations and warranties to the Issuer and the Purchaser as of the date hereof, all of which will continue in effect in accordance with Section 12.5 hereof:

(a) The Borrower is, and at all times will be, a limited partnership, duly organized, validly existing and in good standing under the laws of the State and duly qualified, authorized and licensed under the laws of the State to transact business as a limited partnership for the purpose of owning and operating a multifamily housing facility in the State. All general partners of the Borrower (collectively, the “Partners”), are, and at all times will be organized, existing and in good standing under the laws of the State and are in good standing and duly qualified, authorized and licensed under the laws of the State, to the extent required by applicable law. There are no other general partners of the Borrower, other than the managing general partner and the administrative general partner.

(b) The Borrower has, and on the Closing Date will have, full legal right, power and authority (i) to execute and deliver the Loan Documents and (ii) to consummate the transactions contemplated by this Agreement and the Loan Documents. The Partners have, and on the Closing Date will have, full legal right, power and authority to execute and deliver this Agreement and the other Loan Documents on behalf of the Borrower.

(c) Prior to the acceptance hereof, the Borrower has duly authorized the execution and delivery of this Agreement and the performance by the Borrower of the obligations contained herein and prior to the Closing Date the Borrower will have duly authorized the (i) execution and delivery of the Loan Documents, (ii) performance by the Borrower of the obligations contained in the Loan Documents, and (iii) consummation by the Borrower of all transactions contemplated by the Loan Documents in connection with the issuance of the Bonds.

(d) All consents, approvals, authorizations or orders of, notices to, or filings, registrations or declarations with, any court or governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Borrower by the Closing Date or for the execution and delivery by the Borrower of this Agreement and the other Loan Documents or the consummation by the Borrower of the transactions contemplated hereby or thereby required by the Closing Date, have been obtained or will be obtained prior to the Closing Date.

(e) The Borrower has not taken or omitted to take on or prior to the date hereof any action that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(f) There is no legal action, suit, proceeding, inquiry or investigation at law or in equity (before or by any court, agency, arbitrator, public board or body or other entity or person) pending or to the knowledge of the Borrower, threatened against or affecting the Borrower or the Partners, or, to the knowledge of the Borrower, any basis therefor (i) in any way affecting the

organization and existence of the Borrower, (ii) contesting or materially affecting the validity or enforceability of this Agreement or the other Loan Documents, (iii) contesting the powers of the Borrower or its authority with respect to the Loan Documents, (iv) contesting the authority of the Partners to act on behalf of the Borrower, (v) wherein an unfavorable decision, ruling or finding would have a material adverse effect on (A) the operations or the financial position or condition of the Borrower, (B) the due performance by the Borrower of the Loan Documents as of the Closing Date, (C) the validity or enforceability of any of the Loan Documents, or (D) the transactions contemplated hereby or by any Loan Document or (vi) in any way contesting the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

(g) This Agreement is, and, when executed and delivered by the Borrower and the other parties thereto, the Loan Documents will be, the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(h) The execution and delivery by the Borrower of this Agreement and the Loan Documents and the consummation by the Borrower of the transactions contemplated hereby and thereby are not prohibited by, do not violate any provision of, and will not result in a breach of or default under (i) the partnership agreement of the Borrower, (ii) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental body or other requirement to which the Borrower is subject, or (iii) any contract, indenture, agreement, mortgage, lease, note, commitment or other obligation or instrument to which the Borrower is a party or by which the Borrower or its properties is bound.

5.2 Each of the representations and warranties set forth in this Section will survive until the Maturity Date or the redemption of the Bonds.

5.3 Any certificate signed by the Borrower or the Partners and delivered to the Purchaser and/or the Issuer shall be deemed a representation and warranty by the Borrower to the Purchaser and/or the Issuer as to the statements of the Borrower made therein.

## **Section 6. Covenants.**

6.1 The Issuer hereby makes the following covenants with the Purchaser:

(a) Prior to the Closing, the Issuer will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of the Resolution or the Issuer Documents without prior written notice to the Purchaser.

(b) Prior to the Closing, the Issuer will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interests which will be pledged pursuant to the Indenture and the other Issuer Documents.

(c) The Issuer will cause the Bonds to be delivered to the address and at the time specified by the Purchaser in conjunction with the Closing.

(d) The Issuer will not take or omit to take any action which will in any way cause the proceeds of the Bonds to be applied in a manner other than as provided in the Indenture or which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(e) Prior to the Closing, the Issuer will obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of obligations under the Resolution, this Agreement, the other Issuer Documents and the Bonds.

6.2 The Borrower hereby makes the following covenants with the Issuer and the Purchaser:

(a) The Borrower will not take or omit to take any action within its control, which will in any way cause the proceeds of the Bonds to be applied in a manner other than as provided in the Indenture or which would cause the interest on the Bonds to be includable in the gross income of the holders thereof for federal income tax purposes.

(b) Prior to the Closing, the Borrower will obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of its obligations under the Loan Documents as of the Closing Date. After the Closing, the Borrower will use its best efforts to obtain all governmental consents, approvals, orders or authorizations of any governmental authority or agency that would constitute a condition precedent to the performance by it of its obligations under the Loan Documents.

(c) The Borrower shall not be in default under any of the Loan Documents, subject to any notice and cure provisions provided therein.

## **Section 7. Conditions of Closing.**

7.1 The Purchaser has entered into this Agreement in reliance upon representations, covenants and agreements of the Issuer and the Borrower contained herein, in reliance upon the representations, covenants and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer and the Borrower of their obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Purchaser's obligations under this Agreement to purchase, to accept delivery of and to pay for the Bonds will be subject to the performance by the Issuer and the Borrower of their respective obligations to be performed by them hereunder at or prior to the Closing, and to the accuracy in all material respects of the representations, covenants and agreements of the Issuer and of the Borrower contained herein as of the date hereof and as of the Closing as if made on the Closing Date, and will also be subject to the following additional conditions:

(a) The Purchaser shall not have discovered any material error, misstatement or omission in the representations and warranties made by either of the Issuer or the Borrower in this Agreement, which representations and warranties will be deemed to have been made again at and as of the time of the Closing and will then be true in all material respects.

(b) This Agreement, the other Issuer Documents and the Loan Documents each shall have been executed and delivered by each of the parties thereto, shall be in full force and effect on and as of the Closing Date and shall be in form and substance satisfactory to the Purchaser and no event of default shall exist under any such documents, and the Issuer and the Borrower shall have complied with the terms of the Issuer Documents and Loan Documents, respectively.

7.2 In addition to the conditions set forth in Section 7.1, the obligations of the Purchaser to consummate at the Closing the transactions contemplated hereby are subject to receipt by the Purchaser of the following items:

(a) An opinion of Bond Counsel, dated the Closing Date and addressed to the Purchaser, substantially in the form set forth in Exhibit C;

(b) An opinion of counsel (addressed to the Purchaser and the Trustee) or certificate of the Issuer, satisfactory in form and substance to the Purchaser, dated the Closing Date and covering the points identified in Exhibit D;

(c) An opinion or opinions of counsel to the Borrower and the Partners, addressed to the Issuer and the Purchaser dated the Closing Date in form and substance reasonably acceptable to Issuer;

(d) A certificate of the Borrower, dated the Closing Date and signed by the Partners, in form and substance satisfactory to the Purchaser and Bond Counsel, respecting certain tax matters as may be reasonably required by Bond Counsel to enable it to give its opinion;

(e) An investor letter in form and substance reasonably acceptable to Issuer;

(f) An opinion of counsel to the Trustee or Trustee's certificate addressed to the Purchaser, covering the points identified in Exhibit E;

(g) A properly completed and executed IRS Form 8038;

(h) A certified copy of the Resolution and an executed original of each of the Issuer Documents and the Loan Documents; and

(i) Such additional financing statements, legal opinions, certificates and other documents as the Purchaser or Bond Counsel may reasonably deem necessary to evidence the truth and accuracy as of the Closing Date of the respective representations and warranties herein contained and to evidence compliance by the Issuer and the Borrower with this Agreement and all applicable legal requirements, and the due performance and satisfaction by either of you at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by you.

7.3 If any of the conditions set forth in Sections 7.1 or 7.2 have not been met on the Closing Date, the Purchaser may, at its sole option, terminate this Agreement or proceed to Closing upon waiving any rights under this Agreement with respect to any such condition. If this Agreement is terminated pursuant to this Section, no party will have any rights or obligations to any other party, except as provided in Section 10.



**Section 8. Actions and Events at the Closing.** The following events will take place at the Closing:

(a) The Issuer will deliver the Bonds to the Purchaser or its designee, at the place set forth in Item 4 in Exhibit B. The Bonds so delivered will be in the form required by the Indenture, duly executed on behalf of the Issuer and authenticated by the Trustee, and will be fully registered in the names requested by the Purchaser or its designee.

(b) The Borrower will deliver or cause to be delivered to the Purchaser at the place set forth in Item 4 in Exhibit B, or at such other place or places as the parties hereto may mutually agree upon, the materials described in Section 7.2.

(c) The Purchaser will be deemed to have delivered to the Trustee, for the account of the Issuer or as Issuer directs, an amount equal to the purchase price of the Bonds as set forth in Item 2 of Exhibit B by wire transfer to the Trustee, in immediately available federal funds.

**Section 9. Termination of Agreement.** The Purchaser may terminate this Agreement, without liability therefor, by notifying you at any time prior to the Closing if:

(a) Any legislation is introduced in, or enacted by, the United States Congress, or shall have been reported out of committee or be pending in committee, or any decision is rendered by any court of competent jurisdiction, or any ruling or regulation, temporary regulation, release or announcement shall have been issued or proposed by the Treasury Department of the United States, the Internal Revenue Service, or any other agency of the government of the United States that, in the reasonable judgment of the Purchaser, has the purpose or effect of subjecting interest on the Bonds to inclusion in gross income for purposes of federal income taxation; or

(b) Any legislation is introduced in, or enacted by the United States Congress or any action is taken by, or on behalf of, the Securities and Exchange Commission, that, in the opinion of counsel to the Purchaser has the effect of requiring (i) the contemplated purchase of the Bonds, or the Indenture or the Loan Agreement to be registered under the 1933 Act or the Indenture to be qualified under the 1939 Act, or (ii) any governmental consents, approvals, orders or authorizations for the consummation of the transactions contemplated by this Agreement, the Issuer Documents or the Loan Documents which cannot, without undue expense, be obtained prior to the Closing Date.

(c) In the judgment of the Purchaser there is a material adverse effect upon the market for the Bonds or to enforce commitments for the purchase of Bonds because (A) additional material restrictions not in force as of the date hereof shall have been imposed upon the purchase or sale in securities generally by any governmental authority or by any national securities exchange; (B) a general banking moratorium shall have been established by federal, or California authorities; or (C) any outbreak or material escalation of hostilities, or a war involving the United States of America shall have been declared, or any other national or international calamity shall have occurred, or any conflict involving the armed forces of the United States of America shall have escalated to such a magnitude as to materially affect the ability of the Purchaser to purchase or sell the Bonds, or in the reasonable opinion of the Purchaser, impractical to enforce commitments for the purchase of the Bonds; or

(d) Any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance or sale of the Bonds or in any way contesting any authority or security for or the validity of the Bonds, or the existence or powers of the Issuer; or

(e) Legislation shall have been introduced in or enacted by the legislature of the State that would, in the reasonable judgment of the Purchaser, materially adversely affect the security for the Bonds; or

(f) There shall have occurred any change that, in the reasonable judgment of the Purchaser, makes unreasonable or unreliable any of the assumptions upon which (i) yield on the Bonds for purposes of compliance with the Code, (ii) payment of debt service on the Bonds, or (iii) the basis for the exclusion from gross income for federal or state income tax purposes of interest on the Bonds, is predicated; or

(g) The Issuer shall fail to execute and deliver or to obtain one or more filings, consents, approvals, authorizations, registrations or other action requested by the Purchaser to be obtained or taken by the Issuer and such failure is based upon the Issuer's conclusion that such action is unduly burdensome and the Purchaser shall reasonably conclude that, as a result of the Issuer's failure to so execute and deliver or to obtain what has been requested by the Purchaser, there will be a material adverse effect upon the market for the Bonds or to enforce the commitments for the purchase of Bonds.

**Section 10. Fees and Expenses; Costs of Issuance.** All reasonable costs, fees and expenses incident to the performance of the Issuer's, the Purchaser's and Borrower's obligations in connection with the issuance and purchase of the Bonds, including the reasonable expenses of counsel, shall be paid by the Borrower to the Trustee by wire transfer of immediately available funds on the Closing Date.

**Section 11. Indemnification by Borrower.**

(a) The Borrower agrees to pay, defend, protect, indemnify, save and hold harmless the Issuer, the Purchaser and each affiliate, member, officer, director, official, employee and agent of the Issuer and the Purchaser and each person, if any, who controls any of the foregoing within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (referred to herein as an "Indemnified Party" and collectively as the "Indemnified Parties"), against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the "Liabilities") caused by or directly or indirectly arising from or in any way relating to the Bonds, the Project, the loan of the proceeds of the Bonds, the Loan Agreement, the Indenture, this Agreement or any document related to the Bonds, the Project, the loan of the proceeds of the Bonds (the "Transaction Documents") or any transaction or agreement, written or oral, pertaining to the foregoing; provided, however, that the Borrower shall not be required to indemnify, save or hold harmless an Indemnified Party for losses caused by the gross negligence or the willful misconduct of the Indemnified Party.

(b) The Borrower also agrees to pay, defend, protect, indemnify, save and hold harmless the Purchaser and each affiliate, member, officer, director, official, employee and agent of the Purchaser from and against the Liabilities directly or indirectly arising from or relating to (i) any

errors or omissions of any nature whatsoever contained in any legal proceedings or other official representation or inducement made by the Issuer pertaining to the Bonds and (ii) any fraud or misrepresentations or omissions contained in the proceedings of the Issuer pertaining to the financial condition of the Borrower.

(c) The Indemnified Party shall, in the event of any claim, suit, action or proceeding against it with respect to which indemnity may be sought on account of any indemnity agreement by the Borrower contained herein, promptly give written notice thereof to the Borrower. When such notice is given, the Borrower shall be entitled to participate, at its own expense, in the defense of, or if it so elects, to assume the defense of, such claim, suit, action or proceeding, in which event such defense shall be conducted by counsel chosen by the Borrower, provided that each Indemnified Party shall have the right to review and approve or disapprove any compromise or settlement which approval shall not be unreasonably withheld. If the Borrower shall elect not to assume such defense, it shall assume the payment of all expenses reasonably incurred and related thereto. Notwithstanding the above, each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof, provided that the Borrower shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the Borrower to represent the Indemnified Party would present such counsel with a conflict of interest, (ii) the actual or potential defendants in, or targets of, any such action include both the Indemnified Party and the Borrower and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to the Borrower, (iii) the Borrower shall not have employed counsel satisfactory to the Indemnified Party to represent the Indemnified Party within a reasonable time after notice of the institution of such action, or (iv) the Borrower shall authorize the Indemnified Party to employ separate counsel at the expense of the Borrower. Each and every Indemnified Party shall have the right to compromise, settle or conclude any claim, action or proceeding against it with the written consent of the Borrower, which consent shall not be unreasonably withheld. The foregoing notwithstanding, in the event that the Borrower shall assume such defense and any Indemnified Party or Parties shall be advised by independent legal counsel that counsel selected by the Borrower is not fully and adequately protecting such party or parties and representing the interests of such party or parties and the Borrower has been given written notice thereof and a reasonable opportunity to cure or find other counsel acceptable to the Indemnified Parties, any such Indemnified Party or Parties shall have the right to conduct its own defense against any such claim, suit, action or proceeding in addition to or in lieu of any defense conducted by the Borrower, and the Indemnifying Party shall indemnify and hold harmless such Indemnified Party or Parties against and from any and all suits, claims, damages, liabilities or reasonable expenses whatsoever, including reasonable fees and expenses of counsel selected by such Indemnified Party or Parties incurred by and arising out of or in connection with any such claim, suit, action or proceeding.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph (a) or (b) of this Section 11 is for any reason held to be unavailable, the Borrower and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the Borrower and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bear to the aggregate offering price of the Bonds, with the Borrower responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any

amount in excess of the fees paid by the Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds.

(e) The Indemnified Parties, other than the Issuer and the Purchaser, shall be considered to be third party beneficiaries of this Agreement for purposes of this Section 11. The provisions of this Section 11 will be in addition to all liability which the Borrower may otherwise have and shall survive any termination of this Agreement, the offering and sale of the Bonds and the payment or provisions for payment of the Bonds. No person guilty of fraudulent misrepresentation (within the meaning of Section 10(b) of the Securities Exchange Act of 1934) shall be entitled to contribution from any person who was not guilty of such misrepresentation.

(f) The indemnification hereunder shall be in addition to, and shall not limit, any indemnity granted by the Borrower pursuant to the Loan Agreement or any other document.

**Section 12. Miscellaneous.**

12.1 All notices, demands and formal actions hereunder will be writing and mailed, telecopied, electronically mailed or delivered to the following address or such other address as any of the parties shall specify:

If to the Purchaser:

CIC Opportunities Fund III LLC  
6339 Paseo del Lago  
Carlsbad, CA 92011  
Telephone: (760) 456-6000  
Facsimile: (760) 456-6001

If to the Issuer:

Chula Vista Housing Authority  
276 Fourth Avenue  
Chula Vista, California 91910  
Attention: Executive Director  
Telephone: (619) 691-5263

If to the Borrower:

Millenia II CIC, LP  
6339 Paseo del Lago  
Carlsbad, CA 92011  
Telephone: (760) 456-6000  
Facsimile: (760) 456-6001  
Attn: Project Manager

c/o Chelsea Investment Corporation  
6339 Paseo del Lago  
Carlsbad, CA 92011  
Attn: Project Manager

with a copy to:

Cox, Castle & Nicholson LLP  
50 California Street, Suite 3200  
San Francisco, CA 94111  
Attention: Ofer Elitzur, Esq.

with a copy to:

RJ HOF 71-Millenia CIC L.L.C.  
c/o Raymond James Tax Credit Funds, Inc.  
880 Carillon Parkway  
St. Petersburg, FL 33716  
Attention: Steven J. Kropf, President

and to:

Bocarsly Emden Cowan Esmail & Arndt  
633 W. 5<sup>th</sup> Street, 64th Floor  
Los Angeles, California 90071  
Attention: Kyle Arndt

12.2 This Agreement will inure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns and will not confer any rights upon any other person.

12.3 This Agreement may not be assigned by the Issuer or the Borrower without the prior written consent of the Purchaser. This Agreement may be assigned by the Purchaser upon written notice of such assignment from the Purchaser to the Issuer and the Borrower. The Purchaser may designate the entity in whose name the Bonds are to be registered at Closing by providing registration information to the Trustee and Bond Counsel on or prior to the Closing Date.

12.4 This Agreement may not be amended without the prior written consent of the Issuer, the Borrower and the Purchaser.

12.5 The representations, covenants and agreements of the Issuer and the Borrower will not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of (a) any investigations made by or on behalf of the Purchaser (or statements as to the results of such investigations) concerning such representations, covenants and agreements and (b) delivery of and payment for the Bonds.

12.6 This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute but one and the same instrument.

12.7 This Agreement will become effective and binding upon the respective parties hereto upon the execution and delivery hereof by the parties hereto and will be valid and enforceable as of the time of such execution and delivery.

12.8 If any provision of this Agreement is held or deemed to be or is, in fact, inoperative, invalid or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any constitution, statute, rule of public policy, or any other reason, such circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

12.9 This Agreement will be governed by and construed in accordance with the laws of the State applicable to agreements to be performed wholly therein.

12.10 Except as provided in Section 11, the obligations of the Purchaser and Borrower hereunder shall be without recourse to any shareholder, partner, member, trustee, officer, employee, agent or manager of the Purchaser or Borrower and no shareholder, partner, member, trustee, officer, employee, agent or manager of the Purchaser or Borrower shall be personally liable for the payment of any obligation of the Purchaser or Borrower, as applicable, hereunder. In the event any legal actions or proceedings are brought in respect of such obligations, any judgment against the Purchaser or Borrower shall be enforced only against the assets of the Purchaser or Borrower, as applicable, and not against any property of any trustee or manager of the Purchaser or Borrower.

12.11 The Issuer and the Borrower each acknowledge and agree that (i) the purchase and sale of the Bonds pursuant to this Agreement is an arm's-length commercial transaction among the Issuer, the Borrower, and the Purchaser, (ii) in connection therewith and with the discussions, undertaking and procedures leading up to the consummation of such transaction, the Purchaser is and has been acting solely as a principal and is not acting as the agent, advisor, or fiduciary of the Issuer or the Borrower, (iii) the Purchaser has not assumed an advisory or fiduciary responsibility in favor of the Issuer or the Borrower with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Purchaser has provided other services or is currently providing other services to the Issuer or the Borrower on other matters) and the Purchaser has no obligation to the Issuer or the Borrower with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement and (iv) the Issuer and the Borrower have consulted their own legal, financial and other advisors to the extent they deem appropriate.

[Signature pages start on next page]

[Counterpart Signature Page to the Columba Apartments Subordinate Bond Purchase Agreement]

If the foregoing accurately sets forth our mutual understanding concerning the subject matter hereof, kindly indicate your acceptance by executing this Agreement.

CIC OPPORTUNITIES FUND III LLC,  
a California limited partnership

By: \_\_\_\_\_

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

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

[Signatures continue on next page]

[Counterpart Signature Page to the Columba Apartments Subordinate Bond Purchase Agreement]

CHULA VISTA HOUSING AUTHORITY,  
as Issuer

By: \_\_\_\_\_  
Executive Director

[Signatures continue on next page]



MILLENIA II CIC, LP,  
a California limited partnership

By: Pacific Southwest Community Development  
Corporation,  
a California nonprofit public benefit corporation,  
its Managing General Partner

By: \_\_\_\_\_  
Robert Laing  
President and Executive Director

By: CIC Columba, LLC,  
a California limited liability company,  
its Administrative General Partner

By: Chelsea Investment Corporation,  
a California corporation, its Manager

By: \_\_\_\_\_  
Cheri Hoffman, President

## EXHIBIT A

### GLOSSARY OF TERMS

“1933 Act” means the Securities Act of 1933, as amended.

“1934 Act” means the Securities Exchange Act of 1934, as amended.

“1939 Act” means the Trust Indenture Act of 1939, as amended.

“Act” means the provisions of Chapter 1 of Part 2 of Division 24 of the California Health and Safety Code.

“Agreement” means this Subordinate Bond Purchase Agreement, as amended from time to time.

“Bond Counsel” means Stradling, Yocca Carlson & Rauth, a Professional Corporation.

“Bonds” means the Issuer’s Chula Vista Housing Authority Multifamily Housing Revenue Bonds (Columba Apartments) Subordinate 2021 Series A-3.

“Borrower” means Millenia II CIC, LP, a California limited partnership.

“Closing” means the proceeding on the Closing Date at which the Bonds are delivered to the Purchaser.

“Closing Date” means October \_\_, 2021, the date on which the Closing takes place.

“Closing Documents” has the meaning ascribed to such term in Section 3 hereof.

“Code” means the Internal Revenue Code of 1986, as amended, together with all corresponding and applicable final or temporary regulations and revenue rulings issued or promulgated thereunder.

“Constitution” means the Constitution of the State.

“Indenture” means that certain Subordinate Indenture of Trust dated as of October 1, 2021 between the Issuer and the Trustee.

“Indemnified Parties” means the Issuer, the Purchaser and each affiliate, member, officer, director, official, employee and agent of the Issuer and the Purchaser and each person, if any, who controls any of the foregoing within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended.

“Investor Limited Partner” means RJ HOF 71-Millenia II CIC L.L.C., a Florida limited liability company, its successors or assigns.

“Issuer” means the Chula Vista Housing Authority, a public body, corporate and politic, organized and existing under the laws of the State of California.

“Issuer Documents” means, collectively, the Subordinate Indenture, the Loan Agreement, this Agreement, and the Subordinate Deed of Trust dated as of October 1, 2021 executed by the Issuer and all other agreements, documents and certificates as may be required to be executed and delivered by the Issuer to carry out, give effect to, and consummate the transactions contemplated by this Agreement or by the other Issuer Documents.

“Loan Agreement” means that certain Subordinate Loan Agreement dated as of October 1, 2021 among the Issuer, the Trustee and the Borrower.

“Loan Documents” shall mean the Subordinate Loan Documents, as defined in the Indenture.

“Note” means that certain Subordinate Multifamily Note from the Borrower relating to the Bonds and secured by the Subordinate Mortgage.

“Partners” means all partners, members and other entities that comprise the Borrower and are included on the Borrower’s signature page to this Agreement.

“Project” means, collectively, the land and residential rental apartment units, and related fixtures, equipment, furnishings and site improvements known as Columba Apartments, located in Chula Vista, California, including the real estate described in the Subordinate Mortgage.

“Purchaser” means CIC Opportunities Fund III LLC, a California limited liability company, or its designee or nominee, together with their respective permitted successors and assigns hereunder.

“Regulatory Agreement” means that certain Regulatory Agreement and Declaration of Restrictive Covenants by and among the Issuer, the Trustee and the Borrower.

“Resolution” means the resolution or resolutions of the Issuer, authorizing, among other things, the execution and delivery by the Issuer of the Issuer Documents and the Bonds and the performance of its obligations thereunder.

“State” means the State of California.

“Subordinate Bond Payment Date” shall have the meaning ascribed to it in the Indenture.

“Subordinate Mortgage” means that certain Subordinate Deed of Trust (Seller Loan), executed by the Borrower and granting a second lien on the Project for the benefit of the Trustee (by assignment from the Issuer), including any amendments and supplements thereto.

“Trustee” means U.S. Bank National Association, or its successors or any other corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at any time serving as successor trustee under the Indenture.

## **EXHIBIT B**

### **TERMS OF BONDS**

1. Title of Bonds: \$2,400,000 Chula Vista Housing Authority Multifamily Housing Revenue Bonds (Columba Apartments) Subordinate 2021 Series A-3
2. Purchase Price: 100% of Aggregate Original Principal Amount.
3. Payment Related Terms:
  - (a) Date of the Bonds: October \_\_, 2021
  - (b) Interest Payment Dates: Subordinate Bond Payment Date, as set forth in the Indenture
  - (d) Aggregate Principal Amount: \$2,400,000 purchased upon the Closing Date.
  - (d) Maturity Dates: October \_\_, 2021.
  - (e) Interest Rates: 7.50% per annum.
  - (f) Interest Payments: Interest only payments until the Subordinate Bond Conversion Date. Commencing the first business day after the Subordinate Bond Conversion Date (as such term is defined in the Indenture), principal and interest payments will be made twice per year.
  - (g) Redemption Provisions:
    - (i) Mandatory Redemption: as set forth in the Indenture.
    - (ii) Optional Redemption: as set forth in the Indenture.
4. Logistics of Closing:
  - (a) Time of Closing: 12:00 noon, California time.
  - (b) Date of Closing: October \_\_, 2021
  - (c) Place of Closing: Stradling Yocca Carlson & Rauth, Newport Beach, California.
  - (d) Delivery of Bonds: as directed by Purchaser, subject to the provisions of Section 3 hereof.

**EXHIBIT C**

**FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL**

[Letterhead of Bond Counsel]

\_\_\_\_\_, 2021

CIC Opportunities Fund III LLC  
6339 Paseo Del Lago  
Carlsbad, CA 92011

\$ \_\_\_\_\_  
CHULA VISTA HOUSING AUTHORITY  
MULTIFAMILY HOUSING REVENUE BONDS  
(COLUMBA APARTMENTS), SUBORDINATE 2021 SERIES A-3

[After appropriate introductory language, the opinion shall state substantially as follows:]

(1) The Subordinate Bond Purchase Agreement dated October 1, 2021 has been duly executed and delivered by, and constitutes the valid and binding agreement of, the Issuer.

(2) The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

## **EXHIBIT D**

### **POINTS TO BE COVERED IN OPINION OF COUNSEL TO THE ISSUER/CERTIFICATE OF ISSUER**

[After appropriate introductory language, the opinion or certificate shall state substantially as follows:]

(1) The Issuer is a public body, corporate and politic, organized and existing under the laws of the State of California.

(2) The Bond Resolution was duly adopted at a meeting of the governing board of the Issuer, which was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout. The Bond Resolution is in full force and effect and has not been amended, modified or superseded.

(3) The Issuer Documents have been duly executed and delivered by the Issuer and (assuming due authorization, execution and delivery by and validity against the other parties thereto) are valid and binding agreements of the Issuer.

(4) To the best of my knowledge, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body has been served upon the Issuer and is pending or is otherwise known to be threatened in any way affecting the existence of the Issuer, or the titles of the Issuer's officials to their respective offices, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds or the application of the proceeds thereof in accordance with the Indenture, or the collection or application of the Pledged Revenues (as defined in the Indenture) to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity or enforceability of the Issuer Documents or any action of the Issuer contemplated by any of said documents, or in any way contesting the powers of the Issuer or its authority with respect to the Issuer Documents or any action on the part of the Issuer contemplated by any of said documents, nor to my knowledge is there any basis therefor.

## **EXHIBIT E**

### **POINTS TO BE COVERED IN THE OPINION OF TRUSTEE'S COUNSEL/TRUSTEE'S CERTIFICATE**

[After appropriate introductory language, the opinion/certificate shall state substantially as follows:]

(1) The Trustee is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America with trust powers.

(2) The Trustee has all requisite corporate and trust power, authority and legal right and has taken all necessary corporate action to: (i) execute and deliver the Indenture and to accept the trusts created under the Indenture and to perform its obligations thereunder, (ii) execute and deliver in its capacity as Trustee the Loan Agreement, the Continuing Disclosure Agreement, the Contingency Draw-Down Agreement, Issuer Assignment and the Regulatory Agreement, as such documents are defined in the Indenture, (such documents, collectively, with the Indenture, the, "Trustee Documents") and perform the duties and obligations of the Trustee thereunder.

(3) The Trustee has duly authorized, executed and delivered the Trustee Documents.

Assuming the due authorization, execution and delivery thereof by the other parties thereto, the Trustee Documents are the legal, valid and binding agreements of the Trustee, enforceable in accordance with their terms against the Trustee.

(4) No authorization, approval, consent, or other order of any governmental agency or regulatory authority having jurisdiction over the Trustee that has not been obtained is required for the authorization, execution and delivery by the Trustee of the Trustee Documents.

(5) There is no litigation pending or, to our knowledge, threatened against the Trustee to restrain the Trustee's participation in, or in any way contesting or affecting the creation, organization or existence of the Trustee or the power of the Trustee with respect to the transactions contemplated by the Trustee Documents.

(6) The execution and delivery of the Trustee Documents by the Trustee, and compliance with the provisions thereof will not contravene the Articles of Association or Bylaws of the Trustee or any law or regulation governing the banking and trust powers of the Trustee or, to our knowledge, any indenture, mortgage, deed of trust, resolution, note agreement or other agreement or instrument to which the Trustee is a party or by which the Trustee is bound.