

When Recorded Return to:
Clerk of the Pinal County Flood Control District
Board of Directors
P.O. Box 827
Florence, Arizona 85132

LEASE AGREEMENT BETWEEN THE PINAL COUNTY FLOOD CONTROL DISTRICT AND PAN DE VIDA FOUNDATION.

WHEREAS, Pan de Vida Foundation, an Arizona Non-Profit Corporation, (hereinafter “Tenant”) desires to lease Property from the Pinal County Flood Control District (hereinafter “District”);

WHEREAS, the property to be leased is described in Exhibit A (hereinafter “Property”);
and

WHEREAS, the Pinal County Flood Control District (“District”) is authorized by A.R.S. § 48-3603C(2) to lease property owned by the District; and

WHEREAS, pursuant to A.R.S. §§ 48-3603I and 9-402 the District has published a request for bids on the property in a local newspaper of general circulation twice a week for two consecutive weeks on August 10 & 11th and August 17th and 18th 2016; and based on the bids submitted Pan de Vida Foundation was chosen as the preferred bidder.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **TERM.** This Lease Agreement shall commence upon execution by both parties hereto, and shall terminate five (5) year(s) thereafter unless terminated sooner as provided below.
2. **RENEWAL.** This Lease Agreement may be renewed for up to one (1) additional five (5) year periods if agreed to by the parties. In order to renew this Lease, Lessee must submit a request to renew 90 days prior to the expiration of the current Lease term.
3. **RENT.** Tenant agrees to pay District \$1.00 per year beginning on November 1, 2016, and on each anniversary date of the Lease thereafter during the term.
4. **USE OF PROPERTY.** The Lessee shall use the Property to establish and maintain a community garden to grow and prepare fresh produce for food banks and other non-profit civic groups.
5. **TERMINATION.** This Lease may be terminated by either party with 180 days written notice, but all financial and indemnification responsibilities of Tenant shall survive the termination of this Lease.

6. UTILITIES. Tenant shall pay for all light, power, and sewer charges, relating to the Property, from the date of occupancy.
7. MAINTENANCE. Tenant is responsible for all maintenance and repair of the Property during the term of this Lease and any extension thereof. Upon termination of the Lease, Tenant shall surrender the Property to District in a condition and state of repair of not less than the condition and state of repair in which the Property existed on the date Tenant took possession.
8. TENANT ALTERATIONS. Tenant shall maintain the Property in good condition. Tenant may place chain link fencing, a temporary shed, canopy shaded area and produce washing station on the property with the consent of the District. Such consent shall not be unreasonably withheld. All additions or improvements to the property shall be removed at the end of the lease period as extended or upon prior termination of the lease.
9. INSURANCE. Tenant agrees to provide, pay for and maintain, during the term of this Lease and any extensions thereof, at its sole cost and expense, a policy or policies of insurance of the following types:
 - a. Comprehensive general liability insurance and property damage insurance with insurers reasonably acceptable to District, which shall name District as additional insured. Tenant will furnish District with certificates of such insurance and an endorsement on each such policy whereby the insurer agrees to give District at least thirty (30) days written notice, prior to the alteration, cancellation, amendment or other occurrence that in any way affects the coverage provided. The insurance required pursuant to this paragraph is as follows: Comprehensive Liability with Single Limit \$1,000,000; and Property Damage of \$1,000,000.
 - b. Fire insurance covering the improvements, with extended coverage and endorsement with insurers in a form reasonably acceptable to District. Such insurance shall be in an amount of not less than 100 percent of the full replacement value of the improvements. If the improvements occupied by Tenant are partially or totally destroyed by fire or other casualty such that they are untenable, Tenant may terminate the Lease or may utilize the insurance proceeds to replace all improvements. Tenant will furnish District with certificates of such insurance and an endorsement on each such policy whereby the insurer agrees to give District at least thirty (30) days written notice prior to the alteration, cancellation, amendment or other occurrence that in any way affects the coverage provided.
10. INDEMNIFICATION BY TENANT. To the extent provided by law, Tenant shall indemnify, defend and hold harmless District, its officials, employees and agents from all suits, actions, claims, demands, losses, costs or damages of every kind and description, including any attorneys' fees, arbitration and litigation expenses, which may be brought or made against or incurred by District on account of injuries, death or damages received or sustained by any person, persons or property on account of any

negligent or willful act, omission, neglect or misconduct of Tenant, its employees, agent or anyone acting on Tenant's behalf or under its direction, arising under this Lease. Such indemnity shall not be limited by reasons of remuneration of any insurance coverage.

11. ASSIGNMENT OR SUBLETTING. Tenant shall not sublease Property and shall not voluntarily or by operation of law, assign, transfer, mortgage, pledge, or otherwise encumber this Lease or any interest therein.
12. QUIET POSSESSION. Upon Tenant observing and performing all of its covenants, conditions and provisions under this Lease, Tenant shall have quiet possession of the Property for the entire term hereof, subject to all provisions of this Lease.
13. DISTRICT'S RIGHT OF ENTRY. District or its agents shall have the right to enter the Property at reasonable times in order to examine it, to show it to prospective tenants, lenders, ground lessors, or purchasers or to make such decorations, repairs, alterations, improvements or additions as District shall deem necessary or desirable. District will give Tenant reasonable notice of its entry, and will conduct such work so as not to impair Tenant's use and enjoyment of the Property.
14. SPECIFIC PERFORMANCE. The District agrees to Lease and Tenant accepts the Property described in Exhibit "A" for the express purpose of establishing and maintaining a community. In developing and maintaining the community garden, Tenants specifically agree to perform the following activities:
 - a. Provide a minimum of six (6) gardening classes to community residents per year
 - b. Provide all materials and labor not otherwise specifically provided for in this agreement for the development and maintenance of the Property;
 - c. Donate food produced with preference given to food banks and residents of San Tan/Valley of the Sun Estates,
 - d. Construct the Shade Structure referenced in Paragraph 8 above;
 - e. Provide the District an annual report on the crops grown, the amount of food produced and donated, the number of classes held and plans for the upcoming year. The report shall be submitted no later than January 31, for the previous year.
15. NOTICE. All notices and other communications connected with this Lease shall be in writing and shall be deemed to have been given when delivered personally or deposited in a U.S. mail box, in a postage prepaid envelope addressed to the other party to the address provided herein:

Clerk, Pinal County Flood Control District Board of Directors
Post Office Box 827
Florence, AZ 85132

Pan de Vida Foundation, Inc.
6720 W. Hunt Hwy
Queen Creek AZ 85142

16. CANCELLATION. This Lease is subject to cancellation for conflict of interest without penalty or further obligation as provided by A.R.S. § 38-511.
17. DEFAULT. In the event of a default in the performance of any of the terms and conditions under this Lease herein agreed to, each party shall have all remedies as provided by law and the prevailing party shall be entitled to recover attorneys' fees and costs as the court or arbitrator may determine in any legal action brought forth.
18. APPLICABLE LAW. This Lease and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Arizona. In the event of litigation between County and Tenant involving this Lease, the laws and decisions of the State of Arizona shall apply and any such litigation shall be commenced and prosecuted in the appropriate court of competent jurisdiction within the geographical boundaries of the State of Arizona.
19. ENTIRE LEASE AGREEMENT. This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party except to the extent incorporated into this Lease.
20. PARAGRAPH HEADINGS. The titles of the paragraphs in this Lease are solely for the convenience of the parties and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions of this Lease.
21. MODIFICATIONS. This Lease may not be modified orally or in any manner other than by an agreement in writing signed by all parties hereto or their respective successors in interest.
22. SEVERABILITY. The provisions of this Lease Agreement shall be deemed severable and should any provision of this Lease Agreement be declared or be determined by a Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Lease Agreement, notwithstanding any other provision of this Lease Agreement to the contrary.
23. INCORPORATION BY REFERENCE. All documents referred to in this Lease are hereby incorporated by reference into the Lease.
24. DUPLICATE ORIGINALS. This Lease may be executed in duplicate, each of which shall be an original when executed by all parties.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals the day and year written below.

PAN DE VIDA FOUNDATION,
INC.

By: _____

Title: _____

Date: _____

PINAL COUNTY FLOOD CONTROL
DISTRICT, a political subdivision
of the State of Arizona

By: _____
Chairman of the Board of Directors

Date: _____

Attest:

By: _____
Clerk of the Board

APPROVED as to form:

M. LANDO VOYLES
PINAL COUNTY ATTORNEY

Deputy County Attorney, Civil Division

STATE OF ARIZONA)
) ss.
County of PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____ of Pan De Vida Foundation, Inc., a nonprofit corporation of the State of Arizona, as their _____.

Notary Public

My Commission Expires: _____