

Attachment E

**Standard Agreement
No. 21-HHCC-00013:
Heritage Ridge Senior**

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

21-HHCC-00013

PURCHASING AUTHORITY NUMBER (if applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

Heritage Ridge Senior, L.P., SURF Development Company and Housing Authority of the County of Santa Barbara

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

Fifty-Seven (57) years from the Date of Execution

3. The maximum amount of this Agreement is:

\$ 5,450,000.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGES
Exhibit A	Authority & Purpose, Scope of Work, Effective Date & Commencement of Work, Definitions, and Deadlines	4
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	HHC Program Terms and Conditions	41
Exhibit E	Project Specific Provisions	7
TOTAL NUMBER OF PAGES ATTACHED		55

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

See Attached

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
PRINTED NAME OF PERSON SIGNING	TITLE		
CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED		

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Jenee McClain-Battiste

TITLE

Contracts Manager,
Business & Contract Services Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Jenee McClain-Battiste

DATE SIGNED

07/12/2023

California Department of General Services Approval (or exemption, if applicable)

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 06/12/1981)

STATE OF CALIFORNIA
STANDARD AGREEMENT
STD 213

Heritage Senior, L.P
SURF Development Company
Housing Authority of the County of Santa Barbara.
21-HHCC-00013

CONTRACTOR

BORROWER:

HERITAGE RIDGE SENIOR, L.P.,
a California limited partnership

By: SURF DEVELOPMENT COMPANY,
a California nonprofit public benefit corporation,
Its: Managing General Partner

By: DocuSigned by:
Robert P Havlicek JR
6623E5FAC383407...

Robert P. Havlicek Jr,
Its: Chief Executive Officer

By: HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA,
a public body, corporate and politic
Its: Administrative General Partner

By: DocuSigned by:
Robert P Havlicek JR
6623E5FAC383407...

Robert P. Havlicek Jr,
Its: Executive Director

SURF DEVELOPMENT COMPANY,
a California nonprofit public benefit corporation

By: DocuSigned by:
Robert P Havlicek JR
6623E5FAC383407...

Robert P. Havlicek Jr,
Its: Chief Executive Officer

HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA,
a public body, corporate and politic

By: DocuSigned by:
Robert P Havlicek JR
6623E5FAC383407...

Robert P. Havlicek Jr,
Its: Executive Director

Recipient:

HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA,
a public body, corporate and politic

By: DocuSigned by:
Robert P Havlicek JR
6623E5FAC383407...

Robert P. Havlicek Jr,
Its: Executive Director

Exhibit A

AUTHORITY & PURPOSE, SCOPE OF WORK, EFFECTIVE DATE & COMMENCEMENT OF WORK, DEFINITIONS, AND DEADLINES

1. Authority & Purpose

This Standard Agreement ("Agreement") is a contract under the Department of Housing and Community Development's (the "Department" or "HCD") Housing for a Healthy California ("HHC") Program and is a commitment of funds under 24 C.F.R. § 93.2 and 93.400(d)(1). Applicable statutory authority for the HHC Program includes Part 14.2, Division 31 of the California Health and Safety Code, which authorizes the Department to use allocations from the National Housing Trust Fund for the HHC program. See also 12 U.S.C. §§ 4501 et seq & 24 C.F.R. Part 93. The HHC Program is also subject to the HHC Article I Guidelines adopted by the Department on May 13, 2019 and amended on February 28, 2020 ("HHC Article I Guidelines"). The Project is subject to the HHC Article I Guidelines and 24 C.F.R. Part 93.

Under this Agreement, the Contractor (sometimes referred to herein as the "Recipient") agrees to comply with the terms and conditions of this Agreement and:

- A. The Notice of Funding Availability ("NOFA") under which the Recipient applied;
- B. The representations contained in the Recipient's application for this funding allocation (the "Application");
- C. The authorities cited above;
- D. The National Housing Trust Fund Allocation Plan, Annual Action Plan, and Consolidated Plan, as amended; and
- E. The Uniform Multifamily Regulations at 25 C.C.R. §§ 8300 et seq.

2. Scope of Work

- A. The Recipient must perform the Scope of Work ("Work") as described in the Application and the Project Report identified in Exhibit E of this Agreement. The Application and the Project Report are hereby incorporated into this Agreement by reference. All written materials or alterations submitted as addenda to the

Exhibit A

Application and Project Report, which are approved in writing by a HHC Program Manager or higher Departmental official, are hereby incorporated into this Agreement by reference. The Department reserves the right to require the Recipient to modify any parts of the Application to comply with HHC Article I Guidelines, federal regulations and the state National Housing Trust Fund Allocation Plan and Substantial Amendment to the AP and Consolidated Plan. The Department reserves the right to review and approve all Work to be performed by the Recipient in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department. Any approval must not be presumed unless such approval is made by the Department in writing. Any agreed upon changes to the Application or Project Report may be detailed in Exhibit E, Special Conditions. If the information in the Project Report or Application conflict with Exhibits A through E, then Exhibits A through E prevail, and the Department may, in its sole and absolute discretion, modify the Project Report and authorize the Recipient to modify its Application so that the Project will comply with the terms of this Agreement.

- B. The Work and funding specific to this Agreement is further set forth in Exhibit E.
- C. Project identification: The Project's legal address, funding sources, unit mix chart, development budget, operating budget, and schedule are found in the Project Report identified in Exhibit E.

3. Effective Date

This Agreement is effective upon approval by the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD 213 (the "Effective Date"). The Recipient agrees that Work must not commence, nor any costs to be paid with HHC funds be incurred or obligated by any party, prior to execution of this Agreement by the Department.

4. Definitions

Unless defined below, capitalized terms in this Agreement have the same meaning of the definitions set forth in the following authorities regardless if the following authorities capitalize these terms: (1) 24 C.F.R. Part 93; (2) the Uniform Multifamily Regulations at 25 C.C.R. §§ 8300 et seq.; and (3) the HHC Article I Guidelines.

Exhibit A

- A. “Borrower”, or “Ultimate Borrower” refers to the borrowing entity and owner of the Development. The Recipient must have continuing control of the Development. The Borrower structure must not have more levels of organization than are allowed under 25 C.C.R. § 8313.2.
- B. “Project Completion” has the same meaning as 24 C.F.R. § 93.2.
- C. “Project Report” refers to the HCD staff report presented to and approved by the Department’s Internal Loan Committee. The Project Report sets forth the Project criteria approved by the Department at the time of the Award of HHC funds. The Project criteria may be amended only upon HCD’s written approval.
- D. “Performance Milestones” Recipient must ensure the completion of the Performance Milestones set forth in Exhibit E of this Agreement by their corresponding date in the column titled “Date to be Completed”. Recipient may request from the Department an extension of these timelines; however, the Department has sole and absolute discretion to approve or deny such a request.
- E. “Recipient” includes the entity or entities that made the Application to the Department for the Award for the Development and identified as “Contractor” on page 1 to this Agreement (STD. 213). “Recipient” has the same meaning as “sponsor” under 25 C.C.R. § 8301(s) and also includes any affiliate or assignee of the Recipient approved by the Department. In the case of joint applicants, “Recipient” refers to each applicant or the approved assignee of such applicant. Each joint applicant is jointly and severally liable for all obligations of a Recipient as set forth herein.

5. Deadlines and Performance Milestones

- A. Commencement of Work: For acquisition, new construction, or rehabilitation projects, construction must start within 12 months from the date the Department signs this Agreement. The Project’s construction must be completed within 24 months of construction start date.
- B. Disbursement of funds: The Department may only disburse funds under this Agreement within five years from the date of HUD’s execution of the NHTF grant agreement with HCD. The exact date for this deadline is the “Disbursement Deadline” in Exhibit E of this Agreement. Funds that are not disbursed within five

Exhibit A

years from the date of HUD's execution of the NHTF grant agreement with HCD, are subject to recapture by, or repayment to, HUD and the Department will reduce the award under this Agreement accordingly.

C. Expiration:

- 1) This Agreement expires 55-years after the date of Project Completion; or
- 2) This Agreement expires 50 years after the date of Project Completion if the Project is developed on an Indian Reservation or Native American Lands.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Terms of Loan and COSR Grants

A. The Department will disburse funds under this Agreement for new construction, acquisition, or rehabilitation of a Project as a permanent loan (“HHC Loan”).

- 1) The Department may disburse the proceeds of the HHC Loan for the following costs at the following times:
 - a) At construction closing: The Department may reimburse the Recipient for acquisition and predevelopment soft costs under 24 C.F.R. § 93.201(c) including architectural, engineering, or related professional services required to prepare plans, drawings and specifications, or work write-ups if expressly authorized in Exhibit E of this Agreement and only if such costs were incurred in the 24 months prior to the execution of this Agreement.
 - b) During construction: The Department may reimburse the Recipient for development hard costs under 24 C.F.R. § 93.201(a) and related soft costs under 24 C.F.R. § 93.201(d) incurred on or after the execution of this Agreement. In addition, the Department may only disburse funds for an HHC Loan under this Agreement in an amount based on the percentage of the Project completed less 10% of funds related to hard costs from each disbursement. Upon the Department’s written approval, the final disbursement will include the remainder of the HHC Loan; and
 - c) At permanent closing: For costs authorized under 24 C.F.R. § 93.201(g).

2) Principal Amount

The principal amount of the HHC Loan must be the lesser of:

- a) The principal amount as stated in the Application; or

EXHIBIT B

- b) The amount later approved by the Department as consistent with the requirements of the Guidelines.
- 3) Interest and Payment
- a) The HHC Loan will bear simple interest at the rate of 3 percent per annum on the unpaid principal balance and interest must accrue from the date the Department disburses funds to the Borrower.
 - b) The HHC Loan has an initial term of 55-years commencing on the date of recordation of the HHC Loan Documents.
 - c) HHC Loans must be evidenced by a promissory note that must be consistent with Section 104 of the HHC Article I Guidelines.
 - d) The HHC Loan must not be prepaid without the prior written consent of the Department.
 - e) The HHC Loan must be secured by a deed of trust.
- B. The Department will disburse funds under this Agreement for a Capitalized Operating Subsidy Reserve (“COSR”), if any, as a grant as specified in Exhibit E and under terms and conditions that are consistent with Section 108 of the HHC Article I Guidelines, and paragraph 2 below.

2. Invoicing and Payment

- A. The HHC Loan proceeds must be disbursed through an independent escrow/title company. The Department will prepare and submit instructions to the escrow holder, detailing the requirements for the release of HHC Loan proceeds to the Borrower.
- B. For the HHC Loan proceeds the Department disburses before permanent closing, the Department may disburse the proceeds to the Borrower with a check upon submittal of the Request for Funds form and to the satisfaction of the terms of the award letter, this Agreement, and a disbursement agreement with the Department.

EXHIBIT B

The Recipient may not request the Department to disburse funds until the Recipient needs the funds to pay for costs and the Department must limit disbursements to the amount the Recipient needs.

- C. The Department reserves the right to retain 10 percent of the HHC Loan proceeds pending receipt and acceptance of the cost audit and any remaining loan closing checklist items. HHC Loan proceeds do not include funds awarded for a COSR grant.
- D. If any funds under this Agreement are for a COSR grant, then the Recipient must establish a COSR account. Withdrawals from the COSR account require prior written approval of the Department. The Department may only approve a withdrawal of more than five percent of the total COSR to the Project per year, except in a given year where the operating deficit attributable to the Assisted Units exceeds this amount, the Department may, in its sole discretion, increase the withdrawal up to seven percent of the total COSR, in accordance with the operating reserves limits and applicable review processes. The Department will disburse funds under this Agreement for any COSR grant under the terms of a COSR Agreement.

EXHIBIT D

HHC PROGRAM TERMS AND CONDITIONS

Federal Grant Identification

CFDA Number: 14.275

GENERAL TERMS AND CONDITIONS

1. Recipient's Representations

- A. The Recipient has submitted to the Department an Application for funding under the HHC Program. The Department is entering into this Agreement based on, and in substantial reliance upon, the Recipient's facts, information, assertions, and representations contained in their Application, and in any subsequent modifications or additions thereto approved by the Department in writing.
- B. The Recipient warrants that all information, facts, assertions and representations contained in their Application and approved modifications and additions thereto are true, correct and complete to the best of the Recipient's knowledge. In the event that any part of the Application and any approved modification and addition thereto is untrue, incorrect, incomplete or misleading in such a manner that would substantially affect the Department's approval, disbursement, or monitoring of the funding and the HHC Loan and any COSR grants, or activities governed by this Agreement, then the Department may declare a breach hereof and take such action or pursue such remedies as are provided for breach hereof.
- C. The Recipient further represents and warrants that as of the date of this Agreement:
 - 1) It is a duly organized and validly existing entity under California law;
 - 2) It is authorized to execute this Agreement;
 - 3) It has the capacity and authority to fulfill the obligations required of it in this Agreement;
 - 3) Nothing prohibits or restricts the right or ability of the Recipient to carry out the terms of this Agreement; and

EXHIBIT D

- 4) The person signing this Agreement on behalf of the Recipient has the authority to act on behalf of and to bind the Recipient in accordance with the terms of this Agreement.

2. **Incompatible Funding**

It is the duty and responsibility of the Recipient to review the provisions, requirements, and limitations of all funding sources applied for and obtained for the Project to ensure that each and every requirement of those funding sources are compatible with all Program requirements and restrictions. Incompatibility of funding sources will result in the termination of this Agreement or may result in the placement of conditions or limitations on this Agreement through an amendment, all as determined by the Department in its sole and absolute discretion.

3. **Duplication of Benefits**

Under both Federal and State law all costs for the Project: (1) must be necessary; (2) must be reasonable; (3) must not duplicate benefits; and (4) must not be used to supplant local or state resources.

4. **Sufficiency of Funds**

If the funds under this Agreement come from the U.S. Treasury from an appropriation made by a federal statute, then the following subparagraphs apply:

- A. It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
- C. The parties mutually agree that if the Congress does not have sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

EXHIBIT D

- D. The Department has the option to invalidate the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.

5. **Cancellation Clause**

- A. The Department may cancel this Agreement, in whole or in part, if **(i)** sufficient funds are not made available by the United States Government; **(ii)** Congress enacts any restrictions, limitations, or conditions that impact this Agreement or the funding of this Agreement; or **(iii)** cancellation is otherwise permitted under state contracting law.
- B. To cancel this Agreement pursuant to this paragraph, the Department shall give thirty (30) calendar days' advance written notice to the Recipient.

6. **Waivers**

No waiver of any breach of this Agreement will be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce the provisions of this Agreement at any time will not be construed to be a waiver of such provisions.

7. **Remedies for Noncompliance and Sanctions**

A. Remedies

The Department may impose all remedies available under law, to include but not limited to, specific performance, reformation, and restitution on the Recipient for failure to abide by any state and federal laws applicable to the HHC Program and the terms of this Agreement.

B. Sanctions

The Department may impose sanctions, as well as any other remedies available to it under law on the Recipient for failure to abide by any State and Federal laws and regulations applicable to the HHC Program and the terms of this Agreement. Such sanctions include, but are not limited to:

EXHIBIT D

- 1) Conditioning a future grant on compliance with specific laws or regulations;
- 2) Directing the Recipient, or its subrecipients, to stop incurring costs under this Agreement;
- 3) Requiring that some or the entire amount of funds under this Agreement is remitted to the Department;
- 4) Reducing or disencumbering some or all the funds from this Agreement the Recipient would otherwise be entitled to receive; and
- 5) Electing not to award future Department funds to the Recipient, unless and until appropriate actions are taken by the Recipient to ensure compliance.

8. Termination

- A. The Department may terminate this Agreement at any time for cause by giving 15 days written notice to the Recipient. Such termination will not limit any other remedies or sanctions that may be available to the Department under this Agreement, at law, or in equity. Cause will consist of Recipient's breach of, or failure to satisfy, any of the terms or conditions of this Agreement.
- B. Unless otherwise approved by the Department, upon termination or cancellation of this Agreement, the Recipient must complete all Work in progress and terminate any other activities that were to be paid for with HHC funds. Any unexpended funds received by the Recipient must be returned to the Department within 15 days of the notice of termination.
- C. In the event that the Department terminates this Agreement, the Department may recapture the total amount of HHC funds under this Agreement.

9. Litigation

The Recipient must notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department and must take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

EXHIBIT D

10. **Funding Accountability and Transparency Act**

This Agreement is a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. § 6101 note).

11. **Eminent Domain**

The Recipient must not use funds from this Agreement in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, public use must not be construed to include economic development that primarily benefits any private entity.

12. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

The Recipient agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Project, the Recipient, its contractors or subcontractors, and any loan activity.

13. **Obligations of Recipient with Respect to Certain Third-Party Relationships**

The Recipient must remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Project with respect to which assistance is being provided under this Agreement. The Recipient must comply with all lawful requirements of the Department necessary to ensure the completion, occupancy and use of the Project in accordance with this Agreement.

14. **Documents and Evidence**

- A. Upon the Department's request, the Recipient must provide the Department with any documents that the Department deems necessary to fulfill its obligations to the Project.
- B. Upon the Department's request, the Recipient must provide the Department with any evidence that the Department deems necessary for it to determine that the

EXHIBIT D

Project complies, or will comply, with this Agreement, Program requirements, and all other law.

15. **Governing Law**

This Agreement will be construed with and be governed by the laws of the State of California. All references to codes refer to the California Codes.

16. **Bonus or Commission Prohibition**

The funds under this Agreement must not be used in the payment of any bonus or commission for the purpose of obtaining Department approval of the application for such assistance, or Department approval of the applications for additional assistance, or any other approval or concurrence of the Department required under this Agreement, or State or Federal regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

17. **Faith Based Activities**

The Recipient must comply with the requirements of 24 C.F.R. § 5.109, which provide, in part, that organizations that are directly funded under the HHC Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance funded under this Agreement. HHC funds and activities must be separate in time and location from explicitly religious activities.

18. **Interest of Certain Federal Officials**

No member of or delegate to the Congress of the United States, and no resident commissioner, will be a party to this Agreement or receive any benefit hereunder.

19. **Conflict of Interest**

The Recipient must comply with the conflict of interest provisions in 24 C.F.R. § 93.353(f) for the award of rental Units. The Recipient must immediately notify the Department in writing of any potential conflicts under 24 C.F.R. § 93.353(b) if it becomes aware of such potential conflicts.

EXHIBIT D

CONSTRUCTION CLOSING REQUIREMENTS

The following conditions require compliance prior to the close of the Project's construction financing for the Project:

20. Certification Regarding Lobbying (Byrd Amendment)

If the funds under this Agreement come from the U.S. Treasury from an appropriation made by a federal statute, the following subparagraphs apply:

- A. The Recipient must require that the language of the certification be contained in subpart C below included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients must certify and disclose accordingly.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000.00 and no more than \$100,000.00 for such failure.
- C. "The undersigned certifies, to the best of his or her knowledge and belief, that:
 - 1) No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - 2) If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in

EXHIBIT D

connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions."

21. **Contractors and Subcontractors - Federal Requirements**

- A. As a condition of receipt of federal funds under this Agreement, the Recipient and all of its contractors and their subcontractors are required to provide the certification set forth below in subparagraph D and include this certification in their contracts.
- B. This certification is required by the federal government and contains terms defined in Executive Order 12549. For purposes of this Agreement:
- 1) "prospective lower tier participant" refers to the Recipient and any other party or person that receives funds from this Agreement, such as general contractors and their subcontractors;
 - 2) "lower tier transaction" refers to contracts let by the Recipient or its contractors utilizing funds provided through this Agreement; and
 - 3) "this proposal" refers to the Recipient's Application and any bid or application from a prospective lower tier participant.
- C. By signing this Agreement, the Recipient is providing the certification set forth below. The Recipient must provide immediate written notice to the Department if at any time the Recipient learns that its certification was erroneous when submitted or has become erroneous.
- D. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

EXHIBIT D

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective lower tier participant shall attach an explanation to this proposal.

By signing this Agreement, the Recipient agrees that it shall not knowingly enter into any lower tier transaction with a person or entity that is proposed for debarment under 48 C.F.R. Part 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.

By signing this Agreement, the Recipient agrees that it shall include the above certification in all lower tier transactions to which it is a part; and it shall require that each of its contractors include the certification in their subcontracts.

22. Contractors and Subcontractors Department Requirements

- A. The Recipient must not enter into any agreement, written or oral, with any construction contractor without first determining that the contractor is duly licensed and eligible to perform the work being contracted for. A contractor or subcontractor is not eligible to receive HHC funds if not actively licensed and in good standing with the State of California.
- B. The Department reserves the right to review and approve any contracts or agreements executed by the Recipient related to the Project.
- C. The contract between the Recipient and any construction contractor must require the construction contractor and its subcontractors, if any, to:
 - 1) Perform the Work in accordance with all applicable federal, State and local housing and building codes, regulations, and statutes;
 - 2) Provide adequate security to assure completion of the Project and payment of Project costs by furnishing the borrower and construction lenders with performance and payment Bonds;
 - 3) Comply with the applicable Labor Standards/Prevailing Wage Provisions

EXHIBIT D

of this Exhibit. In addition to these requirements, all contractors and subcontractors must comply with the applicable provisions of the California Labor Code;

- 4) Comply with the applicable Equal Opportunity Requirements and Responsibilities described in this Exhibit;
- 5) Maintain at least the minimum State-required workers' compensation insurance for those employees who perform the Work or any part of it; and,
- 6) Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the Department, which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the contractor or any subcontractor in performing the Work or any part of it.

23. Property Standards

The Recipient must ensure that all housing Units meet the property standards in 24 C.F.R. § 93.301 and 25 C.C.R. § 8304 ("Property Standards").

24. Site Control

The Recipient must have site control of the Project, as required by HHC Article I Guidelines Section 102, at the time of application and through the term of this Agreement. Such control must not be contingent on the approval of any other party. The status and nature of the Recipient's title and interest in the Project are subject to the Department's approval.

25. Displacement, Relocation, and Acquisition

The Recipient must comply with the federal displacement, relocation, and real property acquisition rules governing the HHC Program, which are contained in the Uniform Relocation Act ("URA"), with implementing regulations at 49 C.F.R. Part 24. The Recipient must also comply with 24 C.F.R. § 93.352.

EXHIBIT D

Recipient must maintain all relocation records under HUD's Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0) during the term of the Project's Regulatory Agreement(s) and must provide these records to the Department immediately upon its request. Any records of notices provided as required by the authorities specified in this paragraph and the Tenant Assistance, Relocation and Real Property Acquisition Handbook (1378.0) must include evidence of receipt from the tenants.

26. Control of Project

The Recipient must retain full control over the Project either directly or through its control of the Ultimate Borrower consistent with 25 C.C.R. § 8313.2.

27. Limited Partnership Agreement

If the Ultimate Borrower is a limited partnership, the Department neither approves nor disapproves the Limited Partnership Agreement (the "LPA"), but may require changes thereto to ensure that the Recipient has sufficient control of the limited partnership entity, and that the term of the LPA is equal to or greater than the terms of the HHC Loan Documents. In the event of any conflict between the LPA and the HHC Loan Documents or state and federal law, the HHC Loan Documents and state and federal law control and prevail.

28. Architect Contract

The Recipient must enter into a contract with an architect to provide professional services for the Project. The contract must require an architect to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, certify to the Department, in a form acceptable to the Department, that all construction is completed in accordance with the "as-built" plans and specifications and in compliance with all applicable federal, state and local laws.

29. Non-Department Financing

The Recipient must qualify for and obtain the financial assistance, loans and grants described in the Application. Final terms and conditions of the non-Department

EXHIBIT D

financing must substantially conform to the terms and conditions that were represented in the Application. The terms and conditions of all financing are subject to the Department's review and approval.

30. Senior Loan Terms and Disclosures

The terms of loans in a lien position senior to the HHC Loan must comply with all the underwriting standards of 25 C.C.R. §§ 8310 and 8315.

No subordination may limit the Department's remedies or sanctions and must comply with 25 C.C.R. § 8315.

Balloon payments are not allowed on senior debt, except as provided pursuant to 25 C.C.R. § 8310(f). Senior loans are prohibited from including call option language in the terms of the loan other than is reasonable in case of default, nor may the Recipient be required to remarket bonds prior to expiration of the senior loan. Financial instruments on senior loans (including but not limited to swaps, collars, and interest rate hedges) must extend for the full term of the senior loan and cannot be required to be renewed or extended prior to the end of the full term.

The Recipient must obtain an interest rate cap on any interest rate that is not fixed for the full term of the senior loan. The interest rate at the cap must not jeopardize Project feasibility. Interest rate resets, renewals, extensions of letters of credit, or other senior loan provisions must not require the Recipient to re-qualify.

All payments, lender fees, bond fees, issuer fees, trustee fees, letter of credit fees, swaps fees, hedge fees, enhancement fees, credit facility and liquidity fees, and other fees, charges and costs, in addition to principal and interest payments, must be fully disclosed to the Department in the loan closing transaction summary and in the operating budget

The Department's lien must not be subordinated to the liens of a lender affiliated with an entity that has an ownership interest (to include, but not limited to, reversionary interests) in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lender's documents that includes the provisions of 25 C.C.R. § 8310(f).

EXHIBIT D

31. **Article XXXIV**

The Project must comply with article XXXIV, section 1 of the California Constitution (“Article XXXIV”), as clarified by the Public Housing Election Implementation Law (Health & Safety Code §§ 37000 – 37002). Prior to construction loan closing, the Recipient must submit documentation which shows, to the Department’s satisfaction, that the Project complies with or is exempt from Article XXXIV.

32. **Title Report**

The Recipient must provide a current title report for the real property on which the Project is located. If the Recipient’s interest in the property is leasehold, then the Recipient must provide current but separate title reports for the leasehold interest and the fee interest.

33. **Physical Needs Assessment**

If the Project involves rehabilitation of existing property, the Recipient must submit a physical needs assessment acceptable to the Department in accordance with 24 C.F.R. § 93.201(b)(ix), prior to construction closing.

34. **Reserve Study**

Upon request by the Department, Recipient must provide an independent, third-party replacement reserve study acceptable to the Department. If a physical needs assessment is required, the Recipient must also submit a reserve study with its physical needs assessment.

35. **Development Budget**

Unless otherwise approved in writing by the Department, prior to the close of any construction financing, the Recipient must provide to the Department for its review and approval, a copy of the construction lender(s)’ approved development budget.

36. **Reasonable Development Costs**

Recipient must provide to the Department evidence that total development costs are reasonable and necessary for the proposed improvements and consistent with Department’s established maximum per Unit subsidy limits under 24 C.F.R. § 93.300.

EXHIBIT D

The funds under this Agreement, in combination with other financing and assistance, must not be more than what is necessary to provide quality affordable housing that is financially viable throughout the Project's 55-year state period of affordability and will not provide a profit or return on the owner's or developer's investment that exceeds permitted developer fee for that Project pursuant to Department requirements. To verify cost reasonableness, the Department may require qualified third-party verification of costs, cost estimates, documentation of procurements related to the Project, evidence of the competitive bidding of major trades, and real estate appraisals. Where the Project is a component of a larger development, the Recipient must submit to the Department for its approval, a development cost sharing breakdown for the entire development which covers all development costs for each of the individual components of the entire development and includes a discrete development budget for the Project consistent with the budget in the Application and Project Report.

37. Appraisals

If the property for the Project is being purchased, the Recipient must provide an appraisal acceptable to the Department of the as-is value of the property, prepared by a qualified, licensed appraiser. For acquisition of newly constructed housing, the Recipient must provide the Department with an as-built appraisal that supports the purchase price.

38. Environmental Provisions

The Recipient must provide the Department with documentation of its compliance with the Environmental Provisions under 24 C.F.R. § 93.301(f) before construction loan closing.

39. Investor Commitments

The Recipient must provide the Department with evidence of all firm written financial commitments, to include but not limited to, any allocations of tax credits from TCAC and any tax credit investor commitments. The Recipient must provide the Department with estoppel letters from all entities making firm written financial commitments to the Project.

CONSTRUCTION PHASE REQUIREMENTS

The following paragraphs apply during the construction of the Project.

EXHIBIT D

40. Construction Phase Information

If requested by the Department, the Recipient must provide the Department information during the construction period including but not limited to all change orders and modifications to the construction documents, all inspection reports prepared by the Project architect and other consultants, and information relative to Project income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the Project. Upon written notice to Recipient, Department may require its advance written approval of all future change orders and modifications. Deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they are deemed accepted if not rejected in writing within 10 business days of receipt by the Department. Recipient must not authorize or approve any change orders rejected by the Department.

41. Inspection

The Department and any authorized representative of the Department must have the right, during construction and thereafter, to enter upon and inspect the construction of the Project to fulfill its requirements under 24 C.F.R. § 93.301. Such right to inspect must include, but must not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection must be exercised in a reasonable manner. Once having undertaken any inspection, neither the Department, nor any representative of the Department incurs any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred must not relieve the Recipient, the contractor, the construction lender, the architect, the structural engineer, the locality, or anyone else of any obligation to inspect the Project.

42. Updated Information

Recipient must provide the Department updated documentation for any change in the information previously provided relating to the HHC loan, including updated sources and uses and income information. All changes are subject to Department's approval. However, if the Project is changed in any way as to make it ineligible under the

EXHIBIT D

Guidelines, then the Department may terminate this Agreement, and all HHC loan funds awarded to the Recipient will be disencumbered.

43. **Evidence of Existence of Application Selection Criteria**

Upon request, Recipient must provide to the Department evidence of the existence of the amenities, services, improvements, features and characteristics of the Project which were included in the Application and as set forth in the Project Report.

44. **Signage**

Recipient must place signs on the construction site for the Work stating that the Department is providing financing through the HHC Program in an appropriate location(s), typeface and size containing the following message:

**DEVELOPMENT NAME
THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM THE
NATIONAL HOUSING TRUST FUND PROGRAM
VIA THE
HOUSING FOR A HEALTHY CALIFORNIA PROGRAM
THROUGH THE
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT & THE US
DEPARTMENT OF HOUSING & URBAN DEVELOPMENT**

The sign must be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders, the Department acknowledgment and logo must also be displayed in a similar size and layout. The Recipient must also display the Equal Housing Opportunity logo. Copies of the Department logo can be obtained by contacting the Department Contract Manager.

Upon installation of the sign, the Recipient must submit a digital photograph thereof to the Department to verify compliance with these signage requirements.

45. **Photographs**

The Recipient will provide the Department, upon request, with copies of any photographs that may be taken of the Project by or on behalf of the Recipient or the Project's architect.

EXHIBIT D

The Recipient will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

46. **Project Construction**

The Project must be constructed in compliance with the plans and specifications.

47. **Labor Standards/Prevailing Wage**

Where applicable, prevailing wage rates under California Labor Code § 1720 *et seq.* must be paid with respect to the Work performed in connection with the Project.

48. **Cost Savings**

If, upon completion of construction, the total Project funding sources exceed the total development costs, the Department may recapture any funds under this Agreement so that it will not fund more than the Department's established maximum per Unit subsidy limits under 24 C.F.R. § 93.300, nor any maximum award based on the Department's underwriting and subsidy layering review for the project.

49. **Procurement Standards**

The Recipient must follow the procurement standards in 2 C.F.R. §§ 200.318 through 200.327.

PROJECT COMPLETION

The Recipient must comply with the following paragraphs before Project Completion.

50. **Labor Standards/Prevailing Wage**

The Recipient must provide a certificate signed by the general contractor(s) and the Recipient, certifying that prevailing wages have been, or will be, paid in conformance with Labor Code §§ 1720 *et seq.*, and that labor records will be maintained and made available to any enforcement agency upon request.

EXHIBIT D

51. Relocation Plan Implementation Report

The Recipient must provide a report, in a form acceptable to the Department (known as “Final URA Report”), summarizing the actions taken and identifying all recipients of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each recipient.

52. Architect Certification

Where required by the Department, the Recipient must cause the Project architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the “as-built” plans and specifications and in compliance with all applicable federal, state, and local laws relating to accessibility for persons with disabilities, including Fair Housing Act Design and Section 504 UFAS requirements.

53. Cost Certification

The Recipient must submit a Project cost certification audited by an independent certified public accountant in accordance with the requirements of the Department and California Tax Credit Allocation Committee (“TCAC”), if applicable. The Recipient (and the developer or builder if there is an identity of interest with the Recipient) must keep and maintain records of all construction costs not representing work done under the construction contract and to make such records available for review by the Department.

54. Recorded Notice of Completion

The Recipient must provide to the Department a certified copy of any notice of completion for the Project recorded in the county in which the Project is located.

55. Final Certificate of Occupancy

The Recipient must provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

EXHIBIT D

56. Environmental Conditions Remedial Work

The Recipient must complete all remedial work on any recognized environmental conditions before Project Completion.

LOAN CLOSING REQUIREMENTS

The Department is not obligated to close or fund an HHC Loan or COSR grant unless the Recipient has complied with, and satisfied, any state and federal laws applicable to the HHC Program, and all the terms and conditions of this Agreement in a manner satisfactory to the Department in its sole and absolute discretion. Prior to closing any HHC Loan, the Recipient must comply with the following paragraphs. If the Department will close its NHTF Loan at permanent closing, then the Department may require the Recipient to meet the Project Completion requirements above, or require the Recipient to provide the Department with any other documents it deems necessary, before permanent closing.

57. Recipient's Status

As of the date of the loan closing, the Borrower must be a duly organized and validly existing limited or general partnership, corporation, limited liability company, nonprofit public benefit corporation, or other valid legal entity under California law. The Recipient and Borrower must have the authority to enter into the HHC Loan Documents. The Recipient further represents and warrants that as of the date of the loan closing, the person(s) executing the HHC Loan Documents will have full authority to act on behalf of and to bind the Recipient in accordance with the terms of the HHC Loan Documents.

58. Reserve Accounts

The Recipient must establish and maintain reserve accounts as required by the Department and as further described in the regulatory agreement. All withdrawals require prior written approval from the Department, as provided in the regulatory agreement.

A. Operating Reserve Account.

The Recipient must establish an operating reserve account in accordance with 25 C.C.R. § 8308. The specific amount of the operating reserve account must be set forth in the regulatory agreement.

EXHIBIT D

B. Replacement Reserve Account.

The Recipient must establish a replacement reserve account in accordance with 25 C.C.R. § 8309. The replacement reserve account must be funded by monthly deposits from operating income, or a combination of operating income and development sources, as indicated in the regulatory agreement. The amount of the monthly deposits may be adjusted, as determined by the Department, in its sole and absolute discretion, based on reserve studies performed by an independent third party at the Recipient's expense as requested by the Department or as based on other reliable indicators of future reserve needs.

C. CalHFA and HUD Funded Projects.

Projects subject to the U.S. Department of Housing and Urban Development ("HUD") Section 811 and 202 programs or receiving a permanent loan from California Housing Finance Agency ("CalHFA") may not be subject to Program reserve requirements during the time such Projects are regulated by HUD or CalHFA and the Recipient complies with the applicable CalHFA or HUD reserve requirements.

59. Change of Conditions

The Department reserves the right to re-underwrite the Project based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Project and the maintenance of the security position of the HHC Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the HHC Loan, the Department will reduce the amount of the loan request stated in the Application and the amount of the Award accordingly.

60. Asset Management Fees

Asset management, partnership management, and similar fees must follow 25 C.C.R. § 8314(a)(1)(B).

EXHIBIT D

61. Title Insurance

The Recipient must provide an updated title report and an ALTA As-Built Survey acceptable to the Department upon its request. The Recipient must provide a pro forma ALTA lender's policy of title insurance upon request by Department. The Recipient must ensure the issuance to the Department of an ALTA lender's policy of title insurance. The condition of title, insurer, liability amount, form of policy and endorsements must be subject to the approval of the Department. Such endorsements must include, but not be limited to, a CLTA endorsement 100, and may include, but not be limited to, CLTA endorsements 105, 110.9 and 116 (modified for apartments). The policy must insure that the Recipient holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department holds a fee mortgage (or leasehold) lien on the Project, free and clear of all encumbrances, encroachments, other interests and exceptions to title other than as previously approved in writing by the Department.

62. Organizational Documents

The Recipient must provide the Department with copies of all organizational documents, including but not limited to, partnership agreements, operating agreements, corporate documents, and related documents and agreements, as required by the Department.

63. HHC Loan Documents

Prior to the Department's initial disbursement of funds under this Agreement, the documents described in this paragraph must be entered into, executed and, where appropriate, acknowledged and recorded. The documents described in the subparagraphs below must be provided by the Department.

The Recipient must comply with, and fulfill its obligations under, all the applicable documents called for in this Agreement. Any breach or violation by the Recipient or the Recipient's successor-in-interest of any provision of any of the required documents constitutes a breach or violation of this Agreement and are subject to the remedies provided herein.

- A. The Department will disburse funds under this Agreement for new construction, acquisition, or rehabilitation of a Rental Project as a loan or a COSR grant. The loan will be evidenced by a promissory note ("Note") and secured by a deed of trust and assignment of rents with power of sale ("Deed of Trust"), executed by the owner of the fee estate of the real property the project occupies, naming the

EXHIBIT D

- Department as beneficiary. The Deed of Trust must encumber the fee estate of the real property the Project occupies and must be recorded in the county the Project is located and must have priority over other liens, encumbrances, and other matters of record on the fee estate except as may be approved by the Department in its sole and absolute discretion.
- B. If the Project occupies a leasehold, the Department may, in its sole and absolute discretion, authorize the promissory note to be secured by a Deed of Trust, executed by the owner of the leasehold the Project occupies, naming the Department as beneficiary instead of the landlord. This Deed of Trust must encumber the leasehold and must be recorded in the county in which the project is located, and must have priority over other liens, encumbrances, and other matters of record on the leasehold except as may be approved by the Department in its sole and absolute discretion.
- C. The Borrower and owner of the fee estate in real property the Project occupies must enter into a regulatory agreement with the Department governing the ownership, occupancy, management, maintenance, and operation of the project consistent with this Agreement, the HHC Article I Guidelines, and 24 C.F.R Part 93 for a period not less than the minimum period of affordability authorized under this Agreement (the "Regulatory Agreement"). The Department, and any tenants who occupy Assisted Units, may, at a minimum, enforce the terms of the Regulatory Agreement through specific performance. The Department may, in its sole and absolute discretion, include additional remedies for any breach of the Regulatory Agreement. The Regulatory Agreement must encumber the fee estate in the real property the Project occupies as a lien running with the land and must be binding on all successors-in-interest, assignees, and transferees of the Borrower. The Regulatory Agreement must be recorded against the fee estate in the real property the Project occupies. The Regulatory Agreement must have priority over other liens, encumbrances, and other matters of record on the fee estate in real property the Project occupies except as may be approved by the Department in its sole and absolute discretion.
- D. If the Project occupies a leasehold, the Department may, in its sole and absolute discretion, authorize the Borrower to execute the Regulatory Agreement with the Department so that the Regulatory Agreement encumbers the leasehold the Project occupies instead of the fee estate in real property the Project is located on. This Regulatory Agreement must be a lien running with the land and must be

EXHIBIT D

binding on all successors-in-interest, assignees, and transferees of the Borrower. This Regulatory Agreement may be recorded against the leasehold the Project occupies. This Regulatory Agreement must have priority over other liens, encumbrances, and other matters of record on the leasehold the Project occupies except as may be approved by the Department in its sole and absolute discretion.

- E. If the Department authorizes the Deed of Trust and Regulatory Agreement to encumber a leasehold, then the lease must conform to the requirements of 25 C.C.R. § 8316(a)(2) and the Department must be a party to the lease. If the Department uses a lease rider to comply with this subparagraph, then the lease rider must encumber the fee estate of which the lease is derived from.
- F. If the Department disburses funds under this Agreement before permanent closing, the Recipient must enter into a disbursement agreement with the Department governing the Work to be performed and the use and disbursement of the funds.
- G. The Recipient must execute the Department's Sponsor Operating Guaranty to provide assurance that the Recipient has the resources and experience to develop, own and manage the Development.
- H. The Recipient must execute and enter into those additional agreements and documents as the Department may require to meet the Program requirements and the requirements under this Agreement. The Department, in its sole and absolute discretion, may authorize the Borrower to execute these additional agreements. These additional agreements and documents are subject to the approval of the Department in its sole and absolute discretion.

64. **Rental Subsidy Contract**

Upon request by the Department, the Recipient must provide the Department with complete copies of all contracts and amendments thereto, regarding rental subsidies to be provided to tenants residing in the Project.

65. **Substitution of Rent or Social Service Subsidy**

Recipient may substitute a source of funding equivalent to the original rent or social service subsidy with prior written approval by the Department. The amount, terms, and

EXHIBIT D

conditions of the new source of funding must provide an equivalent or greater level of subsidy to the Project, acceptable to the Department.

66. **Insurance**

The Recipient must obtain and maintain for the term of the HHC loan hazard and liability insurance for the Project in accordance with the Department's requirements, including flood insurance if applicable. The Department must be named as a loss payee or an additional insured on all such policies. Such policies also must provide for notice to the Department in the event of any lapse of coverage and in the event of any claim thereunder. The Recipient must provide evidence satisfactory to the Department of compliance with these insurance requirements.

67. **TCAC and Other Regulatory Agreements**

The Recipient must provide the Department with a copy of the TCAC regulatory agreement if the development budget includes tax credits and any other regulatory agreements pertaining to the Project.

68. **Property Tax Exemption**

Unless expressly waived in writing by the Department, Recipient must provide evidence of eligibility for property tax exemption for the Project and a copy of the tax exemption application to the local tax assessor(s).

69. **Government Assistance**

The Recipient must provide a formal certification concerning the governmental assistance provided, or to be provided, to the Project. If no such governmental assistance is to be provided at the time of the application, or in the future, the Recipient must certify as to that fact. The Recipient must also certify that should other governmental assistance be sought in the future, the Department must be promptly notified. Activities assisted under this Agreement are subject to the underwriting and subsidy layering requirements established by the Department for each activity pursuant to the requirements of 24 C.F.R. § 93.300 and the HHC Article I Guidelines.

EXHIBIT D

70. **Street Addresses**

The Recipient must provide the address (e.g., street address and apartment number) of each HHC Assisted Unit no later than the time of Project Completion.

POST PROJECT COMPLETION

The Recipient must comply with the following paragraphs after Project Completion.

71. **Adjusting Rent**

The Recipient may only adjust rent for Units assisted by the HHC Loan annually if the adjustments do not exceed HUD's published NHTF rent limits in accordance with 24 C.F.R. § 93.302, and are approved prior to implementation of such rental adjustments in writing by the Department.

72. **Restrictions on Transfer and Change of Ownership**

The Recipient must not, without the prior written approval of the Department:

- A. Sell, transfer, convey, encumber, hypothecate, or pledge any of the Project or any portion or interest in it;
- B. Discharge or replace any general or managing partner if Recipient is a partnership, or amend, modify, or add to its partnership agreement except that the Recipient may sell or transfer limited partnership interests without the Department's approval, provided the Project's revenue and reserves are not used for such sale or transfer;
- C. If Recipient is a limited liability company: change the manager(s), amend, modify or add to its operating agreement or management structure;
- D. Wind up, liquidate or dissolve its affairs or enter into any transaction of merger or consolidation; or
- E. Change the organizational structure of the Recipient.

EXHIBIT D

73. Ongoing Property Standards

The Recipient must ensure that the Project complies with 24 C.F.R. § 93.301(e) and 25 C.C.R. § 8304 throughout the Project's affordability period. These standards ensure that owners maintain the housing as decent, safe, and sanitary housing in good repair.

74. Affordability

- A. The state period of affordability for this Project is 55 years beginning on the date the regulatory agreement is recorded, unless recordation happens before permanent closing, in which case the state period of affordability begins at permanent conversion. If the Project is developed on an Indian Reservation or Native American Lands, then the state period of affordability for this Project is 50 years beginning on the date the regulatory agreement is recorded, unless recordation happens before permanent closing, in which case the state period of affordability begins at permanent conversion. The federal period of affordability is 30 years and begins upon Project Completion as defined at 24 CFR 93.2 and runs concurrently with the state period of affordability.
- B. Throughout the period of affordability, the Recipient must restrict the rent of Assisted Units under HHC Article I Guidelines Section 106 and under the Regulatory Agreement.
- C. The Department may recapture any funds from this Agreement that the Recipient uses for activities that do not meet these affordability requirements.

75. Tenant Protections and Selection and Protections

- A. Assisted Units Tenant Selection.
 - 1) The Recipient must select tenants consistent with the core components of the Housing First requirements set forth in Welfare and Institutions Code § 8255(b), basic tenant protections established under federal, state, and local law, and in accordance with the Department approved Tenant Selection Plan. The Tenant Selection Plan must include, at a minimum, criteria that:

EXHIBIT D

- a) Limits tenancy to applicants who meet the income requirements in Section 105 of the HHC Article I Guidelines Section 105 and the Target Population requirements of Section 102 of the HHC Article I Guidelines;
 - b) Are reasonably related to the applicant's ability to perform the obligations of the lease (i.e., to pay the rent, not to damage housing' not to interfere with the rights and quiet enjoyment of other tenants);
 - c) Do not exclude an applicant with a voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher program (24 C.F.R. Part 982) or an applicant participating in a HOME tenant-based rental assistance program (24 C.F.R. Part 92) because of the status of the prospective tenant as a holder of such voucher or comparable HOME tenant-based assistance document;
 - d) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;
 - e) Give prompt written notification to any rejected applicant of the grounds for any rejection;
 - f) Comply with the Violence Against Women Act ("VAWA") requirements prescribed in 24 C.F.R. § 93.356;
 - g) Provide a preference for accessible Units to persons with disabilities requiring the features of the accessible Units in accordance with Section 10337(b)(2) of the TCAC regulations; and
 - h) Adopt the tenant selection requirements under 25 C.C.R. § 8305 to the extent that 25 C.C.R. § 8305 is consistent with this paragraph.
- 2) The Recipient may select tenants from a Coordinated Entry System or similar system provided that the selection is consistent with this paragraph.
 - 3) The Department may require additional criteria in the Tenant Selection Plan through the Regulatory Agreement.

EXHIBIT D

B. Tenant Protections

- 1) Under 24 C.F.R. § 93.303, there must be a written lease between the tenant and the owner of rental housing assisted with HHC funds that is for a period of not less than one year, unless by mutual agreement between the tenant and the owner, a shorter period is specified, the form and addenda of which must be approved in advance by the Department.
- 2) The lease must not contain any of the prohibited lease terms in 24 C.F.R. § 93.303(b).
- 3) Tenant leases may be terminated only for cause under the terms of 24 C.F.R. § 93.303(c).
- 4) The Recipient must adopt and follow written tenant selection policies and criteria that the Department permits under 24 C.F.R. § 93.303(d)(3).
- 5) Rental or occupancy agreements and grievance procedures for Assisted Units must comply with 25 C.C.R. § 8307 and 24 C.F.R. § 93.303. Consistent with Housing First practices, tenants must not be required to maintain sobriety, be tested for substances, or participate in services or treatment.

C. Prohibited Fees. The Borrower must not charge tenants fees that are not customarily charged in rental housing, such as origination fees, parking fees, laundry room access fees, and other fees, except that the Borrower may charge tenants:

- 1) Reasonable application fees to prospective tenants;
- 2) Parking fees to tenants only if such fees are customary for rental housing projects in the neighborhood; and
- 3) Fees for services such as bus transportation or meals, as long as the services are voluntary, and the fees are charged for services provided.

EXHIBIT D

76. **Supportive Services**

The Recipient must make available the Supportive Services in its Department approved Supportive Services plan throughout the Project's period of affordability. The Supportive Services must comply with HHC Article I Guidelines Section 112. Any changes to the Supportive Services plan or Lead Service provider require prior approval in writing from the Department.

77. **Housing First**

The Recipient must comply with the Housing First requirements under HHC Article I Guidelines Section 113.

78. **Vulnerable Populations Best Practices**

The Recipient must follow the Vulnerable Populations Best Practices under HHC Article I Guidelines Section 116.

79. **Capital Operating Subsidy Reserve**

The Recipient must use any funds under this Agreement for a COSR in accordance with Section 108 of the HHC Article I Guidelines and 24 C.F.R. Subpart E.

80. **Fees**

Under 24 C.F.R. § 93.204(b), the Recipient may not charge fees such as origination fees, servicing fees, processing fees, inspection fees, other fees related to the cost of administering HHC funds, or fees that are not customarily charged in rental housing (e.g., laundry room access fees). The Recipient, however, may charge: (i) reasonable application fees to prospective tenants and (ii) fees for services such as bus transportation or meals, as long as the services are voluntary, and fees are charged for services provided.

81. **Additional HHC Funds**

Housing may be re-assisted by the HHC Program in accordance with any of the following: upon expiration of applicable federal affordability period, or within the exception detailed under 24 C.F.R. § 93.402(d)(2). Housing may also be re-assisted as

EXHIBIT D

permitted by federal waiver.

82. **Repayment of Funds**

- A. The Recipient must repay the Department:
- 1) Any funds from this Agreement that the Recipient invested in housing that does not meet the affordability requirements during its affordability period;
 - 2) Any funds from this Agreement that HUD requires repayment for under 24 C.F.R. § 93.453.
- B. In addition, the Recipient must forfeit and have no further rights or claim to any other remaining herein-granted HHC award funds and consent to and facilitate as necessary the Department's use of all the foregoing referenced funds for any purpose, including as may be necessary to satisfy any Department obligation regarding repayment of those funds under 24 C.F.R. § 93.403(b).

83. **Equal Opportunity Requirements and Responsibilities**

- A. Executive Order 11063 (1962) applies to the Project and prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
- B. Executive Order 12892 (1994), as amended, applies to the Project and requires federal agencies to affirmatively further fair housing in their programs and activities.
- C. The Architectural Barriers Act of 1968, as amended (42 U.S.C. §§ 4151 *et seq.*), applies to the Project and requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
- D. Executive Order 12898, Environmental Justice (1994) applies to the Project and requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

EXHIBIT D

E. Affirmative Marketing

For Projects with 5 or more Assisted Units, the Recipient must adopt and follow affirmative marketing procedures that provide information, through the implementation of an outreach-marketing program, to attract all eligible persons in the area to the Project without regard to race, color, national origin, sex, religion, familial status or disability. This affirmative marketing includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 C.F.R. § 93.350.

These affirmative marketing procedures must be approved by the Department under 24 C.F.R. § 93.350. If the Department has permitted the Project owner to limit tenant eligibility or to have a tenant preference under 24 C.F.R. § 93.303(d)(3), the affirmative marketing procedures must apply in the context of the limited/preferred tenant eligibility for the Project, and the Project must market widely in an effort to reach all persons in the market area who may qualify for the limited/preferred tenant eligibility.

F. Section 504 of the Rehabilitation Act of 1973 and the "504 Coordinator."

The Recipient agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations under 24 C.F.R. Part 8. For Recipients with 15 or more permanent, full-or part-time employees, this includes but is not limited to, the designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator".

G. The Civil Rights and Age Discrimination Acts Assurances

During the performance of this Agreement, the Recipient assures that no otherwise qualified person will be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 U.S.C. §§ 3601 *et seq.* and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.

EXHIBIT D

H. **The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3):**

The Recipient and any of its Contractors shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulation at 24 CFR, Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:

1. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.
2. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining

EXHIBIT D

agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

EXHIBIT D

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

3. Facilitating the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in 24 CFR Part 75.25(b), as appropriate, to reach the goals set forth in 24 CFR Part 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

Documenting actions taken to comply with the foregoing requirements, the results of those actions taken and impediments, if any.

- I. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000.00 or more.

All solicitations for bids and all construction contracts and subcontracts of \$10,000.00 or more issued by the Recipient are required to include the following:

- 1) The Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246) The Recipient furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts as required by Executive Order 11246;
- 2) The Standard Equal Opportunity Clause (41 C.F.R. Part 60 - 1.4); and
- 3) The Standard Equal Employment Opportunity Construction Contract

EXHIBIT D

Specifications (41 C.F.R.) Part 60 – 4.3);

- 4) A statement that says, “Women and Minority Owned Business Enterprises and Section 3 Businesses are encouraged to apply.”
- J. Assurance of Compliance with the “Violence Against Women Reauthorization Act of 2013” (“VAWA”) (S.47 – 113th Congress (2013-2014)) (as amended or reauthorized) Title VI - Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking – Sec. 601-603. See also 81 C.F.R. § 80724.

VAWA provides housing protections for survivors of domestic and dating violence, sexual assault, and stalking when it comes to finding and keeping a home, they can feel safe in.

VAWA applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistently with all nondiscrimination and fair housing requirements. VAWA now expands housing protections to HUD programs beyond HUD’s public housing program and HUD’s tenant-based and project-based Section 8 programs. VAWA now provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking.

During the performance of this Agreement, the Recipient must ensure that all requirements of VAWA are complied with including but not limited to:

- 1) Domestic Violence survivors are not denied assistance as an applicant, or evicted or have assistance terminated as a tenant, because the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, and stalking.
- 2) It will implement an ‘emergency transfer plan’, which allows for domestic violence survivors to move to another safe and available Unit if they fear for their life and safety.
- 3) It will provide “Protections against denials, terminations, and evictions that directly result from being a victim of domestic violence, dating violence,

EXHIBIT D

sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.”

- 4) It will implement a ‘Low-barrier certification process’ where a domestic violence survivor need only to self-certify in order to document the domestic violence, dating violence, sexual assault, or stalking, ensuring third party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.
- 5) The Recipient must provide the notice and certification form described in 24 C.F.R. § 5.2005(a) to an applicant for an Assisted Unit at the time the applicant is admitted to an Assisted Unit, or denied admission to an Assisted Unit based on the Recipient’s tenant selection policies and criteria. The Recipient must also provide the notice and certification form described in 24 C.F.R. § 5.2005 with any notification of eviction from an Assisted Unit.

84. **HUD Smoke-Free Policy**

The Recipient must comply, to the extent applicable, with all terms, conditions, and requirements of HUD’s “Smoke-Free Public Housing” policy set forth in 24 C.F.R. Part 965, Subpart G.

85. **Lead Based Paint Hazards**

This Project is subject to the Lead-Based Paint Poisoning Prevention Act and 24 C.F.R. § 93.351.

86. **Records**

- A. The Recipient must maintain necessary and sufficient recordkeeping for the program, Project, financial, program administration, and federal requirement records specified in 24 C.F.R. § 93.407, for review and inspection by the Department upon its request.
- B. All records related to the Project must be retained for 5 years after Project Completion. These records must include, but are not limited to the following: (i)

EXHIBIT D

- a full description of each Project assisted with HHC funds, including the location (address of each Unit), form of HHC assistance, and the Units or tenants assisted with HHC funds; (ii) the source and application of funds for each Project, including supporting documentation in accordance with 2 C.F.R. Part 200; and records to document the eligibility and permissibility of the Project costs; (iii) records demonstrating that each Project meets the maximum per-Unit subsidy amount of 24 C.F.R. § 93.300(a), and the subsidy layering and underwriting evaluation adopted by the Department under 24 C.F.R. § 93.300(b); and (iv) records (e.g., inspection reports) demonstrating that each Project meets the Property Standards specified in 24 C.F.R. 93.301 at Project completion.
- C. Records of individual tenant income verifications, Project rents inspections must be retained for the most recent 5 year period, until five years after the federal and state periods of affordability terminates; and, records relating to any and all audits or litigation relevant to this Agreement must be retained for 5 years after the conclusion or resolution of the matter. The State, the Bureau of State Audits, and the Department and/or their representatives must have unrestricted reasonable access to all locations, books and records for the purpose of monitoring, auditing or otherwise examining said locations, books and records, with or without prior notice.
- D. If directed by the Department upon termination of this Agreement, the Recipient must cause all records, accounts, documentation and all other materials relevant to the Work to be delivered to the Department as depository.

87. Reporting

- A. The Recipient must comply with the reporting requirements under HHC Article I Guidelines Section 117, as well as any other requested reports or information as may be required by the Department.
- B. In addition to the above reporting requirements, The Recipient must comply with the following reporting requirements:
- 1) The Recipient must submit a monthly status report on the Project to the Department on forms provided by the Department. Unless otherwise waived in writing by the Department, such reporting must begin in the second month following execution of the Agreement and must continue

EXHIBIT D

through the receipt and approval by the Department of the Project Completion Report, which is a report from the Recipient that conveys the Project completion information, determined by the Department, for inputting into the Federal Integrated Disbursement and Information System ("IDIS").

- 2) Upon Project Completion, and annually thereafter during the required period of affordability, the Recipient must submit on an annual and midyear basis to the Department all HHC monitoring documentation necessary to ensure that the Recipient is in compliance with federal and State regulations. Such documentation requirements and the midyear and annual submission deadline must be provided by the Department and will include, but will not be limited to, copies of financial states to enable the Department to determine the financial condition and continued financial viability of the Project, and if the Project has floating units, information regarding Unit substitution and filing vacancies so that the Project remains in compliance with this Agreement.

88. Inspections

During the period of affordability, the Department, or a California qualified contracted third party, must perform on-site inspections of a representative sample of the Project to determine compliance with the Property Standards of 24 C.F.R. § 93.301(e) and to verify the information submitted by the owners in accordance with the requirements of 24 C.F.R. § 93.302. The on-site inspections will be in accordance with the inspection procedures that the Department must establish.

The Department will conduct onsite inspections within 12 months after Project completion and at least once every 3 years thereafter during the period of affordability.

- 1) If there are observed deficiencies for any of the inspectable items in the Property Standards, the Department must require a follow-up on-site inspection to verify that the Recipient corrects the deficiencies within 12 months. The Department may establish a list of non-hazardous deficiencies for which correction can be verified by third party documentation (e.g., paid invoice for work order) rather than re-inspection. The Recipient must correct all health and safety deficiencies immediately. The Department must adopt a more frequent inspection schedule for

EXHIBIT D

properties that have been found to have health and safety deficiencies.

- 2) The Recipient must annually certify to the Department that each building and all Assisted Units in the Project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing Property Standards.
 - 3) Inspections must be based on a statistically valid sample of Units appropriate for the size of the Project, as set forth by HUD through notice, in accordance with 24 C.F.R. § 93.404(v).
- B. The Department reserves the right to inspect the Project at any time during construction and throughout the period of affordability.
- C. During the period of affordability, the Department must examine at least annually the financial condition of the Project to determine the continued financial viability if the Project has more ten or more Assisted Units.

89. **Audit/Retention and Inspection of Records**

- A. The Recipient agrees that the Department or its designee must have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement. The Recipient agrees to provide the Department or its designee with any relevant information requested and must permit the Department or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Government Code § 8546.7. The Recipient further agrees to maintain such records in compliance with 2 C.F.R. Part 200 and 24 C.F.R. § 93.407. The Recipient may contact the Department for specific record retention questions regarding this agreement. The Recipient also agrees to include in any contract that it enters into, in an amount exceeding \$10,000.00, a provision establishing the Department's right to audit the contractor's records and interview their employees. If the Recipient provides HHC funds to for-profit owners or developers or other entity approved by the Department, the Recipient must have a written agreement that includes a provision for meeting the fiscal

EXHIBIT D

and audit requirements of this Section. The Recipient must comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in California Public Contract Code § 10115.10.

- B. An expenditure which is not authorized by this Agreement, or which cannot be adequately documented must be disallowed, and funds must be returned to the Department within 60 days of discovery by the Recipient unless the Department approves in writing an alternate plan.
- C. The determination by the Department of the eligibility of any expenditure must be final.
- D. The Recipient must cause to be performed annually a financial audit by an independent certified public accountant. This requirement starts the first year following the Department's receipt of the cost certification and the final audit will be during the last year of the state period of affordability.
 - 1) The Recipient must notify the Department of the auditor's name and address immediately after the selection has been made. The contract for audit must allow access by the Department to the independent auditor's working papers.
 - 2) The Recipient must submit one copy of all required audit reports to the Department within the earlier of 30 days after receipt of the auditor's report or nine months after the close of the required audit period unless a longer period is agreed to in advance by the Department, to:

California Department of Housing and Community Development
Division of Financial Assistance
P.O. Box 952054
Sacramento, CA 94252-2050
ATTN: HHC Program Long-Term Monitoring

- E. The performance of this Agreement by the Recipient must be subject to examination and audit by the State Auditor pursuant to Government Code § 8546.7.
- F. The Recipient is responsible for the completion of any required audits and all

EXHIBIT D

costs of preparing audits.

- G. If there are audit findings, the Recipient must submit a detailed response acceptable to the Department for each audit finding.

90. **Pet Friendly Housing Act of 2017**

Health and Safety Code § 50466 requires the Recipient to authorize a resident of the Project to own or otherwise maintain one or more common household pets within the resident's dwelling Unit, subject to applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.

91. **Identification of Elderly and Veteran Units**

If applicable, Recipient must submit a report that specifically identifies the number of Units rented to the elderly. The report must also specifically identify the number of Units rented to military veterans.

92. **Restricted Units**

All Units designated in the Application approved by the Department as Restricted Units that are not also Assisted Units, must be restricted on a long-term basis by a public agency at the income and rent levels shown in the Application. Similarly, all Units designated in the Application as Restricted Units and that are not also Assisted Units, must be restricted on a long-term basis by a public agency to the designated target population.

93. **Drug-Free Workplace Act**

The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, *et seq.*) and HUD's implementing regulations at 2 C.F.R. Part 2429 are applicable to this Agreement.

EXHIBIT E

PROJECT SPECIFIC PROVISIONS

1. Scope of Work:

A. The funding for the Work consists of:

Type of HHC Activity	Fund Amount	Funds HCD Will Provide to HHC Recipient	Total Units	Total HHC Units	Fixed or Floating Units
Permanent loan disbursed at construction closing and during construction	\$ 5,450,000	Encumbered Non-Appropriated NHTF Program Funds	41	12	Floating
Operating cost assistance for HHC units in the form of Capitalized Operating Subsidy Reserve Grant	\$ 0	Encumbered Non-Appropriated NHTF Program Funds	N/A	N/A	N/A

For the purposes of performing the Work, the Department agrees to provide the amount referenced above. In no instance will the Department be liable for any costs for Work in excess of this amount, nor for any unauthorized or ineligible costs. The Recipient agrees to use the amounts above only for costs authorized under 24 C.F.R. § 93.201. The Recipient agrees that funding for a Capitalized Operating Subsidy Reserves (“COSR”) is available only for rental housing acquired, rehabilitated, reconstructed, or newly constructed with funds from the HHC Article I Program, and is specific to the HHC Assisted Units. The Recipient agrees that it will not use the amounts above for any unauthorized activities and expenses under 24 C.F.R. § 93.204. The Department may reduce the amounts above accordingly if the Department determines that the funds under this Agreement will not be used consistently with this paragraph. If funds under this Agreement are not used consistently with this paragraph, then they are subject to recapture by, or repayment to, the Department and HUD and the Department will reduce the award under this Agreement accordingly. If HUD recaptures any funds under this Agreement for any reason or requires the Department to repay any funds under this Agreement for any reason, then the Department may recapture such funds and reduce

EXHIBIT E

the amount of funds under this Agreement accordingly, and in addition, terminate this Agreement.

2. **Joint and Several Liability:**

Heritage Ridge Senior, L.P., a California Limited Partnership (“LP”) is an affiliate of SURF Development Company, a California nonprofit public benefit corporation (“Corps 1”) and the Housing Authority of the County of Santa Barbara, a public body, corporate and politic (“Corps 2”). Corps 1 and Corps 2 were awarded the HHC funds pursuant to the Award Letter, dated August 17, 2022, amended May 5, 2023. The Department acknowledges that the LP will be considered the Ultimate Borrower of the HHC funds and as such will execute the HHC Loan Documents. For the purposes of this Standard Agreement, LP, Corps 1, and Corps 2 will be collectively referred to herein as “Recipient”. As such, the LP, Corps 1, and Corps 2 are jointly and severally liable for all the obligations of a Recipient as set forth herein. Performance satisfactory to the Department by the Recipient of any duties and obligations under this Standard Agreement, and any other agreements as required by the Department, by either the LP, Corps 1 or Corps 2 will be deemed as performance by the Recipient.

At a minimum, the Recipient-controlled general partner must perform the substantial management duties identified in BOE Rule 140.1(a)(10) as items (A), (H), (I) and (K).

3. **Application:** As used in this Agreement, “Application” is identified as that Application dated, March 1, 2022.
4. **Project Report:** As used in this Agreement, “Project Report” is identified as that Project Report dated, August 11, 2022.
5. **Disbursement Deadline:** The Department may only disburse the above funds within 5 years after the date of the U.S. Department of Housing and Urban Development’s (HUD) execution of the NHTF grant agreement with HCD. The Department may not disburse any of the above funds beyond September 1, 2026.

EXHIBIT E

6. Project Milestones:

	Project Milestone	Date to be Completed
1	Executed binding agreement between the Sponsor and developer of the Project detailing the terms and conditions of the Project development.	07/01/2021
2	Control of Project site(s).	07/01/2021
3	Completion of all necessary environmental clearances, including those required under NHTF Environmental Provisions, CEQA and if applicable, NEPA.	09/01/2022
4	Obtaining all necessary and discretionary public land use approvals.	03/31/2023
5	Obtaining all enforceable construction funding commitments.	07/12/2023
6	Obtaining all enforceable permanent funding commitments including substantially final permanent loan documents, and Tax Credit syndication documents.	07/12/2023
7	Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	12/15/2023
8	Commencement of construction.	05/01/2024
9	Construction completed and the filing of the Notice of Completion.	11/01/2025
10	Program funds fully disbursed.	03/01/2026

7. Payee:

The authorized Payee(s) is/are as specified below:

Name: Heritage Ridge Senior, L.P. a California limited partnership \$5,450,000

EXHIBIT E

8. **Combating Fraud:**

False, Fictitious or Fraudulent Claims:

Warning: Any person who knowingly makes a false claim or statement to the U.S. Department of Housing and Urban Development (“HUD”) or the Department in connection with this Agreement may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

Detecting, Preventing, and Reporting Fraud:

Fraud is a white-collar crime that has a devastating effect on the HHC Program because the HHC Program beneficiaries are victims of this crime when the HHC Program is abused.

The Department wants to stop any criminal assault on the HHC Program it administers, and in doing so ensure all HHC funds go to people it was designed to help and improve their living conditions.

HUD’s Office of Inspector General (“OIG”) is committed to protecting HUD’s programs, operations, and beneficiaries from dishonest individuals and organizations.

HUD cannot combat fraud alone.

HUD relies on the Department and the Recipient to combat NHTF program fraud. HUD also relies on applicants and people receiving HUD benefits, such as tenants receiving rental assistance, borrowers with HUD insured loans, and citizens having their communities restored using HUD grants, to combat NHTF program fraud.

The HUD OIG Hotline number is 1-800-347-3735, and is the primary means to submit allegations of fraud, waste, abuse, mismanagement, or Whistleblower related matters for the HHC Program to the Office of Inspector General.

HUD OIG accepts reports of fraud, waste, abuse, or mismanagement in the NHTF Program from HUD employees, anyone administering the NHTF Program, anyone working in the NHTF Program, contractors, and the public.

You can report mismanagement or violations of law, rules, or regulations by HUD employees or program participants.

EXHIBIT E

Fraud, Waste and Abuse in the NHTF Program and its operation may be reported in one of the following ways:

E-mail to: hotline@hudoig.gov

By Phone: Call toll free: 1-800-347-3735

By Fax: 202-708-4829

By Mail:

U.S. Department of Housing & Urban Development at the following addresses:

HUD OIG, Office of Investigation

Room 1200

Field Office

One Sansome Street

San Francisco, CA 94104

[\(213\) 534-2518](tel:(213)534-2518)

HUD OIG, Office of Investigation

Suite 4070

Regional Office

300 North Los Angeles Street

Los Angeles, CA 90012

[\(213\) 534-2518](tel:(213)534-2518)

SPECIAL CONDITIONS

These Special Conditions are specific for this Standard Agreement.

1. Not less than 60 days prior to construction loan closing, the Sponsor shall provide updated financial documents including, but not limited to the development budget, development sources and uses, schedule of rents and unit mix, operating budget and 15-year cash-flow analysis, which are acceptable to the Department and demonstrate compliance with all applicable Program regulations or guidelines and the Uniform Multifamily Regulations (UMR). All proposed changes to the project, including but not limited to project financing, rents and unit mix, scope of work to be performed or Borrower's organizational structure must be submitted to and approved by the Department in writing.

EXHIBIT E

2. The Sponsor who garnered the experience points at the application stage must be the Sponsor who controls the borrowing entity at construction, through permanent close of escrow, and into management and operation of the project. Organizational documents demonstrating that the experienced Sponsor has the authority to exercise control of the borrowing entity in compliance with Section 8301(s) of the Uniform Multifamily Regulations (UMR) must be submitted to the Department for review and approved by the Department prior to execution of the Standard Agreement.
3. Prior to construction loan close, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan which shall be subject to the approval of the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.
4. All proposed changes to the project, including but not limited to project financing, rents and unit mix, scope of work to be performed or Borrower's organizational structure must be submitted to and approved by the Department in writing.
5. The Target Population must be persons who are experiencing Homelessness who are: (1) a high-cost health user upon initial eligibility; (2) a Medi-Cal beneficiary, or eligible for Medi-Cal; (3) eligible to receive services under a program providing services promoting housing stability; and (4) likely to improve their health conditions with Supportive Housing.
6. Prior to Construction Closing, the Sponsor shall provide an updated Development Budget with the General Requirements, Contractor Overhead, and Contractor Profit at or below 14 percent of Site Work and Structures.
7. Pursuant to 25 C.C.R. § 8315(d), the Department's lien(s) shall not be subordinate to the liens of a lender affiliated with an entity that has ownership interest in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lenders documents that includes the provisions specified in 25 C.C.R. § 8310(f).
8. Pursuant to 25 C.C.R. § 8310(f), balloon payments are not allowed on senior debt, except where the Department's affordability covenant or regulatory agreement (collectively "Use Restriction") is recorded in a position that is senior to the debt with a balloon payment.

EXHIBIT E

9. The Recipient is authorized to use HHC Loan proceeds for architectural, engineering, or related profession services required to prepare plans, drawings, specifications, or work write-ups.
10. Prior to Construction Loan close, the Sponsor must provide documentation and/or a certification satisfactory to the Department that all Phase I Environmental Site Assessment report recommendations have been met.
11. Within 30 days after any HCD award, the Sponsor shall provide evidence satisfactory to the Department that the requirements of Article XXXIV of the California Constitution have been satisfied or are inapplicable. If additional affordable units are added or if current units are subject to another program's affordability restrictions or stacking occurs, a brand new Article XXXIV analysis is needed."
12. Prior to construction closing, the Sponsor shall submit a commitment for the City of Goleta funds.
14. The MHP Loan and the HHC Loans must be cross-defaulted to one another so that a default under either loan, and applicable documents, constitutes a default of the other loan and its applicable documents. The loan documentation for the MHP Loan and the HHC Loan will both reflect the cross-defaulted nature of the loans. The milestones for the MHP loan will be the same as the milestones for the HHC loan.
15. The Housing Authority of the County of Santa Barbara (HASBROCO) must be the sponsor and sole managing member of Heritage House Senior, L.P. and must perform the substantial management duties pursuant to 25 C.C.R. § 8313.2(a)(3).