



## **REQUEST FOR PROPOSAL (RFP) # COARC-0027**

### **The Continuum of Care (CoC) Builds (CoCBuilds)**

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**This RFP and any ensuing Addendums are available at the following link:**  
<https://rivcohhpws.org/coc-open-bids-division-and-funded-programs>

**NOTE: BIDDERS ARE RESPONSIBLE TO READ ALL INFORMATION THAT IS  
STATED IN THIS REQUEST FOR PROPOSAL AND PROVIDE A RESPONSE AS  
REQUIRED**

Table of Contents

1. OVERVIEW.....3

2. FUNDING (AVAILABLE) FOR SERVICES.....3

3. ELIGIBILITY REQUIREMENTS .....4

4. POPULATION TO BE SERVED .....6

5. HUD's STRATEGIC PLANNING GOALS AND HOMELESS POLICY PRIORITIES .....6

6. GENERAL APPLICATION REQUIREMENTS.....9

7. TIMELINES/SCHEDULE OF EVENTS .....11

8. SCORING CRITERIA AND BIDDER’S RESPONSE.....12

9. CONTRACT TERM.....27

10. REPORTING.....27

11. ENVIRONMENTAL REVIEW.....29

12. ADMINISTRATIVE, NATIONAL AND DEPARTMENT POLICY REQUIREMENTS AND  
TERMS FOR HUD APPLICANTS AND RECIPIENTS OF FINANCIAL ASSISTANCE  
AWARDS.....30

13. CONFIDENTIALITY AND PROPRIETY INFORMATION/DATA .....34

14. INTERPRETATION OF SOLICITATION.....34

15. CONTRACTUAL DEVELOPMENT .....35

16. CANCELLATION OR MODIFICATION.....35

17. COUNTY OBSERVED HOLIDAYS .....35

18. EVALUATION PROCESS.....36

Attachment A- [U.S. Department of Housing and Urban Development \(HUD\) Continuum of Care \(CoC\) Builds Competition](#)

Attachment B- HUD COCBuilds Sample Agreement

## PURPOSE/BACKGROUND

### 1. OVERVIEW

The Housing and Workforce Solutions (HWS) Department on behalf of the Riverside County Continuum of Care is seeking proposals from qualified applicants for the [U.S. Department of Housing and Urban Development \(HUD\) Continuum of Care \(CoC\) Builds Competition](#) (CoCBuils NOFO) incorporated herein as Attachment A. Prospective applicants should read through all sections of this RFP carefully to avoid submitting an incomplete or ineligible application. Failure to respond accurately to any submission requirement could result in an incomplete or noncompetitive proposal.

The Continuum of Care (CoC) Program (24 CFR part 578) is designed to promote a community-wide commitment to the goal of ending homelessness; to provide funding for efforts by nonprofit providers, states, Indian Tribes, tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) (TDHEs)), and local governments to quickly rehouse homeless individuals, families, persons fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking, and youth while minimizing the trauma and dislocation caused by homelessness; to promote access to and effective utilization of mainstream programs by homeless individuals and families; and to optimize self-sufficiency among those experiencing homelessness.

HWS serves as the CoC Lead Agency and Collaborative Applicant for the Riverside County CoC and works alongside the CoC to oversee the community's plan to organize and deliver supportive services, including housing options, which meet the specific needs of homeless individuals and families. The County of Riverside Department of Housing and Workforce Solutions and Continuum of Care Homeless Action Plan can be accessed here: [County of Riverside Homeless Action Plan 1.pdf \(harivco.org\)](#).

### 2. FUNDING (AVAILABLE) FOR SERVICES

The Riverside County Continuum of Care is eligible to apply for up to **\$ 7,500,000 in Final Pro Rata Need** funding and an additional **\$2,000,000** set aside for CoCs with units located on Tribal Reservations or Trust Lands under HUD's CoCBuils Competition. The project(s) selected through this RFP will be evaluated, ranked and approved by the CoC Board of Governance (BoG) for inclusion in the Riverside County's CoCBuils Competition Application. For this NOFO, the following will be considered for funding: New Permanent Supportive Housing (PSH) units which must include a capital costs budget for new construction, acquisition, or rehabilitation. The application may request no more than 20 percent of an award for CoC Program eligible activities and costs associated with the new PSH projects (see Section IV.G.1 of Attachment A-CoCBuils NOFO), and no more than 10 percent for administrative costs. Ineligible or late project applications will not be reviewed.

NOTE: This process is competitive, with greater expectations from HUD for local review and prioritization of all projects. All proposal(s) will be reviewed based on HUD thresholds of a minimum of 60 points, rating factors criteria (See Section V.A.1 Rating Factors of Attachment A-CoCBuilds NOFO), as well as project readiness. Given this, all applications must be complete, demonstrate strong project performance based on the specific guidelines of the RFP, and submitted by the deadline.

Revisions and addendums may be issued to communicate changes, revisions, or corrections to this RFP. All projects awarded funding will be subject to the terms and conditions under the [U.S. Department of Housing and Urban Development \(HUD\) Continuum of Care \(CoC\) Builds Competition](#).

### 3. ELIGIBILITY REQUIREMENTS

Applicants who fail to meet any of the following threshold eligibility requirements are deemed ineligible. Applications from ineligible applicants are not rated or ranked and will not receive HUD funding.

- a) **Resolution of Civil Rights Matters:** Outstanding civil rights matters must be resolved before the application submission deadline. Applicants with unresolved civil rights matters at the application deadline are deemed ineligible. Applications from ineligible applicants are not rated or ranked and will not receive HUD funding.
  - i. An applicant is ineligible for funding if the applicant has any of the charges, cause determinations, lawsuits, or letters of findings referenced in subparagraphs (1) – (5) that are not resolved to HUD's satisfaction before or on the application deadline date for this NOFO.
    - (1) Charges from HUD concerning a systemic violation of the Fair Housing Act or receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex (including sexual orientation and gender identity), national origin, disability or familial status; Page 20 of 55
    - (2) Status as a defendant in a Fair Housing Act lawsuit filed by the United States alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance under 42 U.S.C. § 3614(a);
    - (3) Status as a defendant in any other lawsuit filed or joined by the Department of Justice, or in which the Department of Justice has intervened, or filed an amicus brief or statement of interest, alleging a pattern or practice or systemic violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Americans

- with Disabilities Act, Violence Against Women Act, or a claim under the False Claims Act related to fair housing, non-discrimination, or civil rights generally including an alleged failure to affirmatively further fair housing;
  - (4) Receipt of a letter of findings identifying systemic non-compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974; Violence Against Women Act; or the Americans with Disabilities Act; or
  - (5) Receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law prohibiting discrimination in housing based on sexual orientation, gender identity, or lawful source of income.
- ii. HUD will determine if actions to resolve the charge, cause determination, lawsuit, or letter of findings taken before the application deadline date will resolve the matter. Examples of actions that may be sufficient to resolve the matter include, but are not limited to:
- (1) Current compliance with a voluntary compliance agreement signed by all the parties;
  - (2) Current compliance with a HUD-approved conciliation agreement signed by all the parties;
  - (3) Current compliance with a conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter;
  - (4) Current compliance with a consent order or consent decree;
  - (5) Current compliance with a final judicial ruling or administrative ruling or decision; or
  - (6) Dismissal of charges.
- b) **CoC Review of Project Applications:** CoCs are required to review proposed CoCBuils applications locally. HUD encourages inclusion of one or more subrecipients that will contribute towards the goals of this NOFO (e.g., capital costs, housing, supportive services). CoCs are permitted to submit a second application if the new PSH units are constructed, rehabilitated, or acquired on Tribal reservations or trust lands. If a second application is submitted for the construction, rehabilitation, or acquisition of new PSH units on Tribal reservations or trust lands, the area must be identified in the letter.

HUD encourages CoCs to use scoring criteria outlined in Section V.A of Attachment A-CoCBuils NOFO to ensure it submits the most viable application to HUD for

review and scoring. The CoC must include a letter of support signed by the Riverside County CoC Board of Governance (BoG) Chair stating support for all projects included in the Riverside County CoC HUD CoCBuils application.

#### **4. POPULATION TO BE SERVED**

- a) For PH-PSH Projects where 100 percent of the beds are dedicated to individuals and families experiencing chronic homelessness, as defined in 24 CFR 578.3 or individuals or families eligible to be served by DedicatedPLUS projects as described in Section I.B.2.b.(2) of the 2024 HUD COC NOFO.

#### **5. HUD's STRATEGIC PLANNING GOALS AND HOMELESS POLICY PRIORITIES**

##### **a) HUD Strategic and Other Goals**

The U.S. Department of Housing and Urban Development (HUD) Strategic Plan sets the direction and focus of our programs and staff to create strong, sustainable, inclusive communities and quality, affordable homes for all. This RFP supports [HUD's Strategic Plan for Fiscal Years \(FY\) 2022-2026](#) to accomplish HUD's mission and vision. Each of the five goals in the Strategic Plan include what HUD hopes to accomplish, the strategies to accomplish those objectives, and the indicators of success.

HUD will pursue two overarching priorities focused on increasing equity and improving customer experience across all HUD programs. Five strategic goals and several objectives undergird the Plan; however, the follow goals are applicable to this RFP:

##### **Applicable Goals and Objectives from HUD's Strategic Plan**

###### **Strategic Goal 1: Support Underserved Communities**

Fortify support for underserved communities and support equitable community development for all people.

###### **1A: Advance Housing Justice**

Fortify support for vulnerable populations, underserved communities, and Fair Housing enforcement.

###### **1B: Reduce Homelessness**

Strengthen Federal, State, Tribal, and community implementation of the Housing First approach to reducing the prevalence of homelessness, with the ultimate goal of ending homelessness.

###### **1C: Invest in the Success of Communities**

Promote equitable community development that generates wealth-building for underserved communities, particularly for communities of color.

###### **Strategic Goal 2: Ensure Access to and Increase the Production of Affordable Housing**

Ensure housing demand is matched by adequate production of new homes and equitable access to housing opportunities for all people.

**2A: Increase the Supply of Housing**

Enhance HUD's programs that increase the production and supply of housing across the county.

**2B: Improve Rental Assistance**

Improve rental assistance to address the need for affordable housing.

**Strategic Goal 3: Promote Homeownership**

Promote homeownership opportunities, equitable access to credit for purchase and improvements, and wealth-building in underserved communities.

**3A: Advance Sustainable Homeownership**

Advance the deployment of tools and capital that put sustainable homeownership within reach.

**3A – Major Initiative: Expand Homeownership Opportunities**

Promote financing for innovative ownership models to increase the availability of affordable housing.

**3B: Create a More Accessible and Inclusive Housing Finance System**

Advance new policy, programs, and modernization initiatives that support a more equitable housing finance system. Promote the preservation and creation of affordable housing stock.

**Strategic Goal 4: Advance Sustainable Communities**

Advance sustainable communities by strengthening climate resilience and energy efficiency, promoting environmental justice, and recognizing housing's role as essential to health.

**4A: Guide Investment in Climate Resilience**

Invest in climate resilience, energy efficiency, and renewable energy across HUD programs.

**4B: Strengthen Environmental Justice**

Reduce exposure to health risks, environmental hazards, and substandard housing especially for low-income households and communities of color.

**4C: Integrate Health and Housing**

Advance policies that recognize housing's role as essential to health.

You are expected to align your application to the applicable strategic goals and objectives above. Use the information in this section to describe in your application the specific goals, objectives, and measures that your project is expected to help accomplish. If your project is selected for funding, you are also expected to establish a plan to track progress related to those goals, objectives, and measures. HUD will monitor compliance with the goals, objectives, and measures in your project.

**b) HUD Homeless Policy Priorities**

The following are policy priorities specific to this funding opportunity. Prospective applicants are encouraged to consider incorporating the following policy priorities and program highlights into their proposals to strengthen the competitiveness of

their application. Doing so will further strengthen the Riverside County's Continuum of Care HUD CoCBuils Application and maximize the competitiveness of each project application.

- (1) ***Increasing Affordable Housing Supply.*** The lack of affordable housing is the main driver of homelessness. This NOFO provides funding for new construction, rehabilitation, or acquisition that can increase permanent supportive housing stock in a CoC's geographic area. CoCs, applicants, and developers should partner to determine an economical way to increase permanent supportive housing supply for individuals and families experiencing homelessness that considers adaptive reuse and conversion of hotel properties. Additionally, CoCs and applicants should engage local leaders to mitigate zoning and land use issues that may impact adding permanent supportive housing units to the CoC's housing stock.
- (2) ***Ensuring Access to Supportive Services and Public Services.*** Providing voluntary supportive services to individuals and families experiencing homelessness, particularly for these households that also include a family member who has a disability, can ensure the households have the tools and resources needed to successfully maintain permanent housing. Applicants must ensure households that will reside in the units developed under this NOFO will have access to CoC Program supportive services as well as other public services such as easy access to local parks and recreation, post office, etc. Additionally, applicants proposing projects in rural areas are encouraged to consider the most cost-effective method for supportive services delivery (e.g., use of internet for check-ins with program participants) and access to public services.
- (3) ***Partnering with Housing, Health, and Service Agencies.*** Using cost performance and outcome data, CoCs should improve how all available resources are utilized to end homelessness. HUD encourages CoCs to maximize the use of mainstream and other community-based resources when serving persons experiencing homelessness and should:
  - (a) Work closely with health care systems and agencies and assist program participants to obtain health care and supportive services, including behavioral health services, including those covered and financed by Medicaid. In addition, CoCs should develop close partnerships with public health agencies to analyze data and design approaches that reduce homelessness, improve the health of people experiencing homelessness, and prevent and address disease outbreaks, including HIV/AIDS.
  - (b) Partner closely with Public Housing Authority (PHAs) and state and local housing organizations to utilize coordinated entry, develop housing units, and provide housing assistance to people experiencing homelessness. These partnerships can also help CoC Program participants exit permanent supportive housing through Housing Choice Vouchers and other available housing options. CoCs and PHAs should especially work together to implement targeted programs such as HUD-VASH,



Mainstream Vouchers, Family Unification Program (FUP) Vouchers, Fostering Youth Independence (FYI) Vouchers, and other housing voucher programs targeted to people experiencing homelessness. CoCs should coordinate with their state and local housing agencies on the utilization of new program resources provided through the Homelessness Assistance and Supportive Services Program (HOME-ARP) that was created through the American Rescue Plan. CoCs should also work with organizations administering other housing assistance, such as assistance provided through HUD's Section 202 and 811 programs, HUD's Project Based Rental Assistance, and U.S. Department of Agriculture's housing assistance programs.

- (c) Partner with local workforce development centers to improve employment opportunities.
- (d) Work with Tribal organizations to ensure that Tribal members can access CoC-funded assistance when a CoC's geographic area borders a Tribal area.

(4) **Racial Equity.** In nearly every community, Black, Indigenous, and other people of color are substantially over-represented in the homeless population. HUD is emphasizing system and program changes to address racial equity within CoCs. Responses to preventing and ending homelessness should address racial inequities to ensure successful outcomes for all persons experiencing homelessness using proven approaches, such as: partnering with a racially diverse set of community partners and people experiencing homelessness and partnering with organizations with experience serving underserved populations. CoCs should review local data, policies, procedures, and processes to identifying barriers that result in racial disparities and take steps to eliminate barriers to improve racial equity and to address disparities.

## 6. GENERAL APPLICATION REQUIREMENTS

- a) This program requires match. 24 CFR 578.73 of the Rule requires that recipients must match all grant funds, except for leasing funds (i.e., Leased Units and Leased Structures), with no less than 25% of funds or in-kind contributions from other sources. *(Note: Since HUD typically includes a slight increase in Fair Market Rent [FMR] during the CoC Program Award process, please include a match letter for 30% of your proposed amount.)*
- b) All project proposals must utilize the Housing First Approach and participate in Coordinated Entry, and the selection of program participants must be consistent with Riverside CoC's Coordinated Entry System (CES) process which can be found at [CES Policies and Procedures](#).
- c) Projects should demonstrate coordination with **HUD's Homeless Policy Priorities and Program Highlights** under Section 4 of this application which include incorporating projects that include partnerships with housing and healthcare providers.
- d) Applicants are strongly encouraged to utilize [Riverside County 2023 Homeless Point in Time Count Report](#) and [Infographics](#) as well as the [County of Riverside](#)

- [Homeless Action Plan](#) to ensure project proposals are taking a systems level approach.
- e) Consistency with Consolidated Plan: Proposed activities in the application must be consistent with the [2024-2025 One Year Action Plan of the 2024-2029 Five-Year Riverside County Consolidated Plan](#), and the location of the proposed activities must be consistent with the geographic areas specified in the Riverside County Consolidated Plan.

## 7. TIMELINES/SCHEDULE OF EVENTS

#	Activities	Dates	Information
1	Release of RFP	Monday, September 16, 2024	
2	Primary Contact(s)	<b>Tanya Torno – Deputy Director</b> <a href="mailto:Ttorno@rivco.org">Ttorno@rivco.org</a> <b>Marisol Alaniz – Sup. Development Specialist</b> <a href="mailto:malaniz@rivco.org">malaniz@rivco.org</a> <b>Emma Perez-Singh – Development Manager</b> <a href="mailto:emmasingh@rivco.org">emmasingh@rivco.org</a>	
3	HUD CoCBuils Competition Non- Mandatory Pre-Bid Workshop	Wednesday, September 25, 2024 1:00 PM – 2:00 PM PST	<p>Microsoft Teams Meeting ID: 226 430 607 625 Passcode: ZWmwbR Dial in by phone: +1951-465- 8390,,836467901# United States, Riverside Find a local number Phone conference ID: 836 467 901#</p> <p>Web links to the recording and slides will be posted on the competition <a href="#">website</a>.</p>
4	Last day to submit written questions related to HUD CoCBuils Competition	Monday, September 23, 2024 5:00 PM PST	Submit via e-mail to <a href="mailto:CoC@rivco.org">CoC@rivco.org</a>
5	Responses to submitted questions posted on website	Friday, September 27, 2024 11:59 PM PST	Posted to: <a href="#">CoC website</a>
6	Project proposal submission due date and time	Monday, October 14, 2024 1:30 PM PST	Submit via e-mail to <a href="mailto:CoC@rivco.org">CoC@rivco.org</a>

## 8. SCORING CRITERIA AND BIDDER'S RESPONSE

The application is based on 100 points and has a minimum score threshold of 60 points. Each rating factor includes a maximum number of pages per response. Any pages above the maximum length will not be reviewed or considered. Project applicants are strongly encouraged to review Attachment A to ensure their project applications align and address each of the respective components.

Rating Factor	Maximum Points	Bidder's Response to Receive Maximum Points
<b>Development Experience and Leveraging</b> Maximum 5 pages for this narrative.	24	<p>(1) Demonstrate that the applicant, developer, and relevant subrecipients have experience with at least (4) four other projects that have a similar scope and scale as the proposed project. (up to 8 points)</p> <p>(2) Demonstrate that the applicant, developer, and relevant subrecipients have experience leveraging resources substantially similar to the funds being proposed in the current project. HUD will evaluate up to (3) three examples of prior leveraging experience for up to the five largest (by dollar value being contributed to the project) resources being leveraged for the proposed project.</p> <p>Examples of resources that will be considered include Low Income Housing Tax Credits, HOME, CDBG, Section 108, Section 202, and Section 811 (up to 8 points)</p> <p>(3) Provide information regarding the availability of low income housing tax credit commitments, project-based rental assistance, and other resources dedicated to the proposed project.</p> <p>(4) Describe the dollar value of each of these commitments and describe the overall cost of the project, including the estimated cost per unit. In cases where the project includes more than one type of housing (e.g. townhouses and apartments), or has multiple sites, provide cost per unit information on each site or housing type to the extent possible. (up to 8 points)</p> <p>(5) If there are current properties under construction or rehabilitation where CoCBuils funds could be used to obtain units, in addition to the items above, provide:</p> <ul style="list-style-type: none"> <li>• the amount and type of funds being used to construct the property;</li> <li>• evidence of site control;</li> </ul>

		<ul style="list-style-type: none"> <li>• evidence of completed and approved environmental review;</li> <li>• identify the owner of the property and their experience with constructing or rehabilitation; and</li> <li>• the number of units that will be finished using CoCBuils funds.</li> </ul>
<b>Managing Homeless Projects</b> Maximum 4 pages.	12	<p>Demonstrate that your organization has experience administering programs for individuals and families experiencing homelessness where one member of the household has a disability. Your response must include:</p> <p>(1) Experience managing at least 4 properties that at a minimum includes how you determine the amount of rent to charge based on unit size, addressing program participant complaints, working with other service organizations that may place program participants in the units, and maintaining the properties. (Up to 8 points)</p> <p>(2) Type and frequency of supportive services that will be available (e.g., case management, life skills, health care). See 24 CFR part 578.53 for full list of CoC Program eligible supportive services. State whether your organization or another organization will provide supportive services. If other organizations will provide some or all of the supportive services, provide the organization(s) name, address, email address, and phone number. If your organization will provide direct supportive services with CoCBuils funds, you must complete the Supportive Services Budget. (Up to 3 points)</p> <p>(3) Providing transportation for program participants. Describe the methods of transportation that will be available for program participants to travel to doctor appointments, recreation, public services (e.g., post office, library), shopping, other services, etc. If public transportation is available, indicate the hours of operation and the distance from the units. (1 point)</p>
<b>Implementation Schedule</b> Maximum page length not to exceed 2 pages.	12	<p>Complete an implementation schedule based on the proposed CoCBuils project.</p> <p>(1) Based on type of capital cost requested, provide:</p>

		<ul style="list-style-type: none"> <li>• New Construction – date construction will begin and end, and date property will be available for move-in.</li> <li>• Acquisition – date property will be acquired.</li> <li>• Rehabilitation – dates rehabilitation of the property will begin and end.</li> </ul> <p>(2) Provide the proposed schedule for the following activities:</p> <ul style="list-style-type: none"> <li>• site control, indicate if the property has already been identified;</li> <li>• environmental review completion;</li> <li>• execution of grant agreement;</li> <li>• start and completion dates:</li> <li>• anticipated date the jurisdiction will issue the occupancy certificate;</li> <li>• date property will be available for individuals and families experiencing homelessness to begin occupying units</li> </ul> <p>HUD will evaluate the implementation schedule and provide:</p> <ul style="list-style-type: none"> <li>• up to 4 points based on whether the development schedule is complete and has all necessary elements,</li> <li>• up to 4 points depending on likelihood that development milestones will be met, and</li> <li>• up to 4 points based on the likelihood that the project will be ready for occupancy within 36 months of award.</li> </ul>
<b>Property Maintenance</b> Maximum 2 pages.	5	<p>Demonstrate how you will ensure the property is maintained annually to prevent unnecessary costly repairs.</p> <p>Your description must include:</p> <p>(1) How the property will be maintained annually and needed repairs are conducted (e.g., checking for roof leaks, routine maintenance for heating and cooling). Identify the source of funds that will be used and whether there will be a reserve fund established specifically for maintenance and repair of proposed units.</p> <p>(2) Demonstrate how the project will be able to cover replacement costs (e.g., replacing broken or damaged appliances, major equipment). Indicate if there will be funds provided from</p>

		other sources and what those sources will be.
<b>Unmet Housing Need</b> Maximum 1 page.	7	<p>(1) Describe the population that will be served by the project and the level of unmet need for new units of permanent supportive housing in your area for that population.</p> <p>(2) Using the PIT Count and HIC information, estimate the gap between the number of units of permanent supportive housing available and the number of homeless individuals and families experiencing homelessness where at least one household member has a disability. Maximum points will be awarded for applicants that demonstrate that there are fewer than 50 PSH beds available in a given year for each 100 people in the population that is proposed to be served. (Up to 7 points)</p>
<b>Management of Rental Housing</b> Maximum 2 pages.	10	<p>(1) Describe the rental housing projects you or your subrecipient have managed. If you have or will partner with other organization(s) within the CoC to manage a property(s), provide the organization's information, type of program participants assisted, and experience.</p> <p>(2) Include the number of grants for affordable housing awarded over the last three years, total amount of awards, and the type of subsidy funding or financing provided for housing.</p> <p>(3) Specify the number of assisted and non-assisted units in each property you list. Maximum points will be available for adequately describing management of at least 4 times the number of properties and units proposed in this application.</p>
<b>Coordinated Entry</b> Maximum 2 pages.	3	<p>(1) Demonstrate how the project will use the CoC's coordinated entry process, or in the case of victim service providers, another coordinated entry process that meets HUD's minimum requirements, to refer individuals and families experiencing homelessness in the new PH-PSH units. The response must include the coordinated entry process implemented and how program participants will be placed in the project.</p>
<b>Coordination with Housing Providers, Healthcare Organizations, and Social Service Providers</b> Maximum 2 pages.	10	<p>(1) Demonstrate either that:</p> <ul style="list-style-type: none"> <li>the project is leveraging non-CoC funded housing resources through coordination with housing providers, healthcare organizations, and social service providers for new construction, acquisition, and rehabilitation to provide at least 50 percent of the amount being</li> </ul>

		<p>requested in the application, or</p> <ul style="list-style-type: none"> <li>the project is leveraging non-CoC funded housing resources to provide subsidies for at least 25 percent of the units that are proposed in the application.</li> </ul> <p>(2) You must attach letters of commitment, contracts, or other formal written documents that demonstrate the percentage of subsidies or number of units being provided to support the project. (5 points)</p> <p>(3) Demonstrate through written commitment from a healthcare organization, housing provider, and/or social service provider:</p> <ul style="list-style-type: none"> <li>Access to housing resources (e.g., supportive services, home-based and long-term services and supports, primary and medical care, behavioral health, substance use disorder treatment and recovery, and other services); or</li> <li>The value of assistance being provided is at least an amount that is equivalent to at least \$7,500 per unit included in the proposed project.</li> </ul> <p>Acceptable forms of commitment are formal written agreements and must include:</p> <ul style="list-style-type: none"> <li>value of the commitment, and</li> <li>dates the housing and resources will be provided.</li> </ul> <p>In-kind resources must be valued at the local rates consistent with the amount paid for services not supported by grant funds. (5 points)</p>
<b>Experience Promoting Racial Equity</b> Maximum 4 pages.	8	<p>Describe:</p> <p>(1) Experience soliciting, obtaining, and applying input from underserved groups when designing, planning, and implementing housing projects.</p> <p>(2) Experience building community partnerships with grassroots and resident-led organizations that provide housing, health care, and supportive services.</p> <p>(3) Experience designing or operating programs that have improved racial equity, particularly among people experiencing homelessness.</p>
<b>Community Integration for Persons with Disabilities</b>	7	<p>(1) Demonstrate how permanent supportive housing will enable program participants to make meaningful choices about housing, health care, and long-term services and supports that will allow them to fully participate in the</p>



Maximum 2 pages		<p>community. The response should include how the PSH units will ensure non-segregation of individuals and families experiencing homelessness where at least one household member has a disability.</p> <p>(2) Additionally, the response should include whether the PSH units will be part of mixed-use development, meaning individuals and families that will reside in the units are not all disabled.</p>
<b>Section 3 Requirement</b> Maximum 1 page.	2	<p>(1) Describe the actions that will be taken by project applicants to comply with <a href="#">Section 3 of the Housing and Urban Development Act of 1968</a> (12 U.S.C. 1701u) (Section 3) and HUD's implementing rules at <a href="#">24 CFR part 75</a> to provide employment and training opportunities for low- and very low-income persons, as well as contracting and other economic opportunities for business that provide economic opportunities to low- and very low-income persons.</p> <p>This does not affect applicant's existing responsibilities to provide training, employment, and other economic opportunities pursuant to Section 3 that result from their receipt of other HUD funding. Grants to Indian Tribes are subject to Indian Preference under Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b) and are not subject to Section 3 requirements.</p>
<b>CoCBuils Total Application Points</b>		<b>Maximum Points: 100</b>
<b>HUD Preference Points (Up to 2 points)</b>		
<b>Optional Policy Initiative Preference Points: Environmental Justice</b>	2	<p>You may voluntarily choose to address preference point policy initiatives in your application. Addressing these policy initiatives is not a requirement to apply for or receive an award. If you voluntarily choose to address a policy initiative in your application, you will be required to adhere to the information submitted with your application should you receive an award. The proposed information will be included as a binding requirement of any Federal award you receive as a term and condition of that award.</p> <p>Environmental Justice: In accordance with <a href="#">Executive Order 12898</a>, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and EO 14008, HUD will</p>

		<p>award up to two (2) points for applications proposing activities that advance Environmental Justice (as defined in Section I.A.4 of this NOFO). For the purposes of this HUD program, activities that advance Environmental Justice include doing the following for people or communities that have been environmentally underserved or overburdened (e.g. low-income and Black and Brown communities):</p> <ul style="list-style-type: none"> <li>• Reducing or mitigating exposure to environmental and health hazards (e.g. industrial facilities, EPA superfund sites, brownfields and legacy pollution, heat islands).</li> <li>• Improving protection from and resilience to environmental harms (e.g. fire-resistant materials, floodproofing).</li> <li>• Expanding environmental benefits (e.g. clean air and water, public transportation, bike and walking paths, clean energy, green technology, biodiversity).</li> <li>• Overcoming prior disinvestment in environmental infrastructure (e.g. drainage systems, green spaces, pollution controls).</li> </ul> <p>To receive points under this Section, your application must describe in detail how your proposed activities will advance Environmental Justice in one or more of these ways.</p> <p>In addition, to receive points under this Section, your application must also clearly describe how your activities will be informed by input from affected communities. To provide those affected a meaningful opportunity to participate in the design and implementation of your activities, you should make key information available online and through other media, engage with community leaders, solicit public feedback, hold public meetings at a variety of times and locations or virtually, and respond appropriately to community concerns.</p>
<b>Local Bonus Points (Up to 20 points)</b>		
<b>Project Based Vouchers</b>	<p>&lt; 25% PBV of total units = 5</p> <p>&gt; 25% PBV of total units =10</p>	Bonus points will be awarded to projects that have secured project-based vouchers (PBV).

<b>Additional Funds Committed</b>	5	Bonus points will be awarded for additional funds committed to the project such as: HOME, CDBG, PLHA, HOME-ARP, HHAP, ESG, HHIP
<b>Environmental Review</b>	5	Bonus points will be awarded for projects that submit evidence of completed and approved environmental review.

**Bidder's Response to Above Questions Below:**

*\*Note, there may be multiple questions per section. Page maximums are for each section and should include responses to all questions under that section (i.e., The responses to the 3 questions under Development Experience and Leveraging should be no more than 5-pages cumulatively, not 5 pages per question). \**

- (1) **Development Experience and Leveraging** Maximum 5 pages for this narrative. Demonstrate that the applicant, developer, and relevant subrecipients have experience with at least (4) four other projects that have a similar scope and scale as the proposed project. (Up to 8 points)  
(Bidder's response here: (Attach supporting document or screenshot as appropriate))

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- (2) **Development Experience and Leveraging** Maximum 5 pages for this narrative. Demonstrate that the applicant, developer, and relevant subrecipients have experience leveraging resources substantially similar to the funds being proposed in the current project. HUD will evaluate up to (3) three examples of prior leveraging experience for up to the five largest (by dollar value being contributed to the project) resources being leveraged for the proposed project. Examples of resources that will be considered include Low Income Housing Tax Credits, HOME, CDBG, Section 108, Section 202, and Section 811 (Up to 8 points)  
(Bidder's response here: (Attach supporting document or screenshot as appropriate))

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- (3) **Development Experience and Leveraging** Maximum 5 pages for this narrative. Provide information regarding the availability of low-income housing tax credit

commitments, project-based rental assistance, and other resources dedicated to the proposed project. Describe the dollar value of each of these commitments and describe the overall cost of the project, including the estimated cost per unit. In cases where the project includes more than one type of housing (e.g. townhouses and apartments), or has multiple sites, provide cost per unit information on each site or housing type to the extent possible.

If there are current properties under construction or rehabilitation where CoCBuils funds could be used to obtain units, in addition to the bulleted items above, provide:

- the amount and type of funds being used to construct the property;
- evidence of site control;
- evidence of completed and approved environmental review;
- identify the owner of the property and their experience with constructing or rehabilitation; and
- the number of units that will be finished using CoCBuils funds. (Up to 8 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

**(4) Managing Homeless Projects** Maximum 4 pages. Demonstrate that your organization and that your proposed subrecipients have experience administering programs for individuals and families experiencing homelessness where one member of the household has a disability. Your response must include:

- Experience managing at least 4 properties that at a minimum includes how you determine the amount of rent to charge based on unit size, addressing program participant complaints, working with other service organizations that may place program participants in the units, and maintaining the properties. (Up to 8 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

**(5) Managing Homeless Projects** Maximum 4 pages. Type and frequency of supportive services that will be available (e.g., case management, life skills, health care). See 24 CFR part 578.53 for full list of CoC Program eligible supportive services. State whether your organization or another organization will provide supportive services. If other

organizations will provide some or all of the Page 37 of 55 supportive services, provide the organization(s) name, address, email address, and phone number. If your organization will provide direct supportive services with CoCBuils funds, you must complete the Supportive Services Budget. (Up to 3 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (6) **Managing Homeless Projects** Maximum 4 pages. Providing transportation for program participants. Describe the methods of transportation that will be available for program participants to travel to doctor appointments, recreation, public services (e.g., post office, library), shopping, other services, etc. If public transportation is available, indicate the hours of operation and the distance from the units. (Up to 1 point)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (7) **Implementation Schedule** Maximum page length not to exceed 2 pages. Complete an implementation schedule based on the proposed CoCBuils project.

i. Based on type of capital cost requested, provide:

- New Construction – date construction will begin and end, and date property will be available for move-in.
- Acquisition – date property will be acquired.
- Rehabilitation – dates rehabilitation of the property will begin and end.

ii. Provide the proposed schedule for the following activities:

- site control, indicate if the property has already been identified;
- environmental review completion;
- execution of grant agreement;
- start and completion dates;
- anticipated date the jurisdiction will issue the occupancy certificate;
- date property will be available for individuals and families experiencing homelessness to begin occupying units.

Points for this section will be allocated as follows:

- up to 4 points based on whether the development schedule is complete and has all necessary elements,
- up to 4 points depending on likelihood that development milestones will be met, and

- up to 4 points based on the likelihood that the project will be ready for occupancy within 36 months of award. (Up to 12 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (8) **Property Maintenance** Maximum 2 pages. Demonstrate how you will ensure the property is maintained annually to prevent unnecessary costly repairs. Your description must include:

- how the property will be maintained annually and needed repairs are conducted (e.g., checking for roof leaks, routine maintenance for heating and cooling). Identify the source of funds that will be used and whether there will be a reserve fund established specifically for maintenance and repair of proposed units.
- Demonstrate how the project will be able to cover replacement costs (e.g., replacing broken or damaged appliances, major equipment). Indicate if there will be funds provided from other sources and what those sources will be. (Up to 5 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (9) **Unmet Housing Need** Maximum 1 page. Describe the population that will be served by the project and the level of unmet need for new units of permanent supportive housing in your area for that population. (Up to 7 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (10) **Management of Rental Housing** Maximum 2 pages.

- Describe the rental housing projects you or your subrecipient have managed. If you have or will partner with other organization(s) within the CoC to manage a property(s), provide the organization's information, type of program participants assisted, and experience.
- Include the number of grants for affordable housing awarded over the last three years, total amount of awards, and the type of subsidy funding or financing provided for housing.
- Specify the number of assisted and non-assisted units in each property you list.

Maximum points will be available for adequately describing management of at least 4 times the number of properties and units proposed in this application. (Up to 10 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (11) **Coordinated Entry** Maximum 2 pages. Demonstrate how the project will use the CoC's coordinated entry process, or in the case of victim service providers, another coordinated entry process that meets HUD's minimum requirements, to refer individuals and families experiencing homelessness in the new PH-PSH units. The response must include the coordinated entry process implemented and how program participants will be placed in the project. (Up to 3 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (12) **Coordination with Housing Providers, Healthcare Organizations, and Social Service Providers** Maximum 2 pages for this entire section..

i. Demonstrate either that:

- the project is leveraging non-CoC funded housing resources through coordination with housing providers, healthcare organizations, and social service providers for new construction, acquisition, and rehabilitation to provide at least 50 percent of the amount being requested in the application, or
- the project is leveraging non-CoC funded housing resources to provide subsidies for at least 25 percent of the units that are proposed in the application. You must attach letters of commitment, contracts, or other formal

written documents that demonstrate the percentage of subsidies or number of units being provided to support the project. (Up to 5 points)  
*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

**(13) Coordination with Housing Providers, Healthcare Organizations, and Social Service Providers** Maximum 2 pages for this entire section.

- ii. Demonstrate through written commitment from a healthcare organization, housing provider, and/or social service provider:
- Access to housing resources (e.g., supportive services, home-based and long-term services and supports, primary and medical care, behavioral health, substance use disorder treatment and recovery, and other services); or
  - The value of assistance being provided is at least an amount that is equivalent to at least \$7,500 per unit included in the proposed project.

Acceptable forms of commitment are formal written agreements and must include:

- value of the commitment, and
- dates the housing and resources will be provided. In-kind resources must be valued at the local rates consistent with the amount paid for services not supported by grant funds. (Up to 5 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

**(14) Experience Promoting Racial Equity** Maximum 4 pages.

Describe:

- Experience soliciting, obtaining, and applying input from underserved groups when designing, planning, and implementing housing projects.
- Experience building community partnerships with grassroots and resident-led organizations that provide housing, health care, and supportive services.
- Experience designing or operating programs that have improved racial equity, particularly among people experiencing homelessness. (Up to 8 points)



*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (15) **Community Integration for Persons with Disabilities** Maximum 2 pages Demonstrate how permanent supportive housing will enable program participants to make meaningful choices about housing, health care, and long-term services and supports that will allow them to fully participate in the community.

The response should include how the PSH units will ensure non-segregation of individuals and families experiencing homelessness where at least one household member has a disability.

Additionally, the response should include whether the PSH units will be part of mixed-use development, meaning individuals and families that will reside in the units are not all disabled.  
(Up to 7 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (16) **Section 3 Requirement** Maximum 1 page. Describe the actions that will be taken by project applicants to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) and HUD's implementing rules at 24 CFR part 75 to provide employment and training opportunities for low- and very low-income persons, as well as contracting and other economic opportunities for business that provide economic opportunities to low- and very low-income persons. This does not affect applicant's existing responsibilities to provide training, employment, and other economic opportunities pursuant to Section 3 that result from their receipt of other HUD funding. Grants to Indian Tribes are subject to Indian Preference under Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b) and are not subject to Section 3 requirements.

The response should include how the PSH units will ensure non-segregation of individuals and families experiencing homelessness where at least one household member has a disability.  
(Up to 2 points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

**(17) Optional Policy Initiative Preference Points: Environmental Justice**

You may voluntarily choose to address preference point policy initiatives in your application. Addressing these policy initiatives is not a requirement to apply for or receive an award. If you voluntarily choose to address a policy initiative in your application, you will be required to adhere to the information submitted with your application should you receive an award. The proposed information will be included as a binding requirement of any Federal award you receive as a term and condition of that award.

Environmental Justice: In accordance with [Executive Order 12898](#), Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and EO 14008, HUD will award up to two (2) points for applications proposing activities that advance Environmental Justice (as defined in Section I.A.4 of this NOFO).

For the purposes of this HUD program, activities that advance Environmental Justice include doing the following for people or communities that have been environmentally underserved or overburdened (e.g. low-income and Black and Brown communities):

- Reducing or mitigating exposure to environmental and health hazards (e.g. industrial facilities, EPA superfund sites, brownfields and legacy pollution, heat islands).
- Improving protection from and resilience to environmental harms (e.g. fire-resistant materials, floodproofing).
- Expanding environmental benefits (e.g. clean air and water, public transportation, bike and walking paths, clean energy, green technology, biodiversity).
- Overcoming prior disinvestment in environmental infrastructure (e.g. drainage systems, green spaces, pollution controls).

To receive points under this Section, your application must describe in detail how your proposed activities will advance Environmental Justice in one or more of these ways.

In addition, to receive points under this Section, your application must also clearly describe how your activities will be informed by input from affected communities. To provide those affected a meaningful opportunity to participate in the design and implementation of your activities, you should make key information available online and through other media, engage with community leaders, solicit public feedback, hold public meetings at a variety of times and locations or virtually, and respond appropriately to community concerns. (Up to 2 bonus points)

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

- (18) **FINANCIALS:** Evidence of financial capacity to deliver the proposed project and proven ability of developer to possess or obtain equity and debt capital for the proposed project and past projects, **the bidder must submit a concise and detailed description of its financial performance including audited financials.** HWS will evaluate the proposer's financial stability, assets, bank, or other lender references, and current commitment to assess the proposer's capacity to secure construction and permanent financing, meet construction lender's equity requirements, absorb any cost overruns, and commence and complete construction of proposer's entire development project in a timely manner.

*(Bidder's response here: (Attach supporting document or screenshot as appropriate))*

## 9. CONTRACT TERM

The period of performance anticipated for this solicitation is effective upon HUDs announced awards in 2025 and signature of an Agreement by both parties, through 2030, unless terminated earlier. This agreement shall be based on mutually acceptable services, cost adjustments, and County requirements and there is no obligation by the County to purchase any specified amount of goods or services. The grant term will be for five (5) years. In accordance with HUD length of periods explanation of other, period of performance dates may range anywhere from 24 months to 60 months (see Section IV.G.2 of Attachment A- CoCBuils NOFO).

## 10. REPORTING

HUD requires the CoC to submit performance and financial reports under OMB guidance and program instructions.

1. Recipient Integrity and Performance Matters: You should be aware that if the total Federal share of your Federal award includes more than \$500,000 over the period of performance, the award will be subject to post award reporting requirements reflected in Appendix XII to 2 CFR part 200, Award Terms and Conditions for Recipient Integrity and Performance Matters.
2. Race, Ethnicity and Other Data Reporting: HUD requires recipients that provide HUD-funded program benefits to individuals or families to report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of HUD programs in order to carry out the Department's responsibilities under the Fair Housing Act, Executive Order 11063,

Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987. These authorities prohibit discrimination in housing and in programs receiving financial assistance from the Department and direct the Secretary to administer the Department's programs and activities in a manner affirmatively to further these policies and to collect certain data to assess the extent of compliance with these policies. Each recipient shall keep such records and submit to the Department timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Department may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with 24 CFR parts 1 and 121. In general, recipients should have available for the Department data showing the demographics of beneficiaries of Federally-assisted programs. HUD will collect this information through the Homelessness Data Exchange (HDX) based on HMIS data submitted by CoCs.

3. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) as amended (FFATA): FFATA requires information on Federal awards be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov). Accordingly, each award HUD makes under this NOFO will be subject to the requirements provided by the Award Term in Appendix A to 2 CFR part 170, "REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION," unless the Federal funding for the award (including funding that may be added through amendments) is not expected to equal or exceed \$30,000. Requirements under this Award Term include filing subaward information in the Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS.gov) by the end of the month following the month in which the recipient awards any sub-award equal to or greater than \$30,000.
4. Program-Specific Reporting Requirements:
  - a. In accordance with 24 CFR 578.103, recipients must maintain records within the timeframe required, submit any reports, including those pertaining to race, ethnicity, gender, and disability status that HUD may require. Recipients may report the data as part of their APR submission to HUD. Additionally, project recipients that expend \$750,000 or more in 1 year in federal awards must have a single audit or program-specific audit for that year in accordance with 2 CFR part 200, subpart F.
  - b. Section 3 Reporting Regulations. Recipients are required to report their Section 3 activities per 24 CFR 75.25 if funds were awarded for housing rehabilitation, housing construction, and other public construction. See HUD's Section 3 website for additional information including annual reporting requirements.

- c. Award notices may also include requirements for sub-award reporting in compliance with the requirements of the Federal Financial Assistance Accountability and Transparency Act of 2006 (Pub. L. 109-282) (FFATA) and Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), referred to as "Section 872." See the General Section for further information.
5. Administrative and Other Program Requirements: Federal agencies are required to measure the performance of their programs. HUD captures this information from monitoring visits and APRs.
6. Timeliness Standards: All conditional funds awarded under this NOFO must be obligated by HUD by September 30, 2025 for FY 2023 funds and September 30, 2026, for FY 2024 funds. Obligated funds remain available for expenditure until September 30, 2030, for FY 2023 funds and September 30, 2031 for FY 2024 funds. Obligated funds remain available for expenditure until September 30, 2030, for FY 2023 funds and September 30, 2031 for FY 2024 funds. HUD reserves the right to require an earlier expenditure deadline under a grant agreement. The applicant is expected to initiate the approved project promptly in accordance with the requirements of this Section of the NOFO. Grant terms, and associated grant operations, may not extend beyond the availability of funds. Applicants must plan accordingly and only submit applications that can start operations in a timely manner with sufficient time to complete the post award process within the awarded grant term. Additionally, HUD will take action if the recipient fails to satisfy the timeliness standards found in 24 CFR 578.85.

## 11. ENVIRONMENTAL REVIEW

Compliance with environmental requirements, including regulations at 24 CFR 50 or 58: Notwithstanding 24 CFR 578.31 and 24 CFR 578.99(a) of the Rule, and in accordance with Section 100261(3) of MAP-21 (Pub. L. 112-141, 126 Stat. 405), activities under this RFP are subject to environmental review by a responsible entity under HUD regulations at 24 CFR part 58 or by HUD under 24 CFR part 50.

1. Two types of projects are Categorically Excluded from review under the National Environmental Policy Act and not subject to the laws and authorities listed under 24 CFR 58.5 (CENST): All scattered-site projects where program participants choose their own unit and are not restricted to units within a pre-determined specific project site or sites are categorized in 24 CFR 58.35(b)(1) as CENST. This includes both tenant-based rental assistance and tenant-based leasing projects where program participants choose their own unit. An Exempt/CENST environmental review determination addressing the laws and authorities at 24 CFR 58.6 is only required for each project, not every unit.

2. For activities under a grant to a recipient other than a state or unit of general local government that generally would be subject to review under 24 CFR part 58, HUD may

make a finding in accordance with 24 CFR 58.11(d) and may itself perform the environmental review under the provisions of 24 CFR part 50.

3. Irrespective of whether the responsible entity in accordance with 24 CFR part 58 (or HUD in accordance with 24 CFR part 50) performs the environmental review, the recipient must supply all available, relevant information necessary for the responsible Page 51 of 55 entity (or HUD, if applicable) to perform for each property any required environmental review. The recipient also must carry out mitigating measures required by the responsible entity (or HUD, if applicable) or select alternative property.

4. The recipient, its project partners, and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this NOFO, or commit or expend HUD or Non-HUD funds for such eligible activities under this NOFO, until the responsible entity (as defined by 24 CFR 58.2(a)(7)) has completed the environmental review procedures required by 24 CFR part 58 and the environmental certification and Request for Release of Funds (RROF) have been approved or HUD has performed an environmental review under 24 CFR part 50 and the recipient has received HUD approval of the project. HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required), or HUD has completed the environmental review under 24 CFR part 50 and notified the recipient of its approval of the project.

## **12.ADMINISTRATIVE, NATIONAL AND DEPARTMENT POLICY REQUIREMENTS AND TERMS FOR HUD APPLICANTS AND RECIPIENTS OF FINANCIAL ASSISTANCE AWARDS**

Unless otherwise specified, the following requirements apply and are detailed on HUD's Funding Opportunity page in the document titled, "Administrative, National & Departmental Policy Requirements and Terms for HUD Financial Assistance – 2024." You must review each requirement to ensure compliance is considered when preparing your application materials (e.g., staff, budget, and timeline). Failure to comply with these requirements may impact your ability to receive or retain a financial assistance award from HUD.

1. Compliance with The Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations at 24 CFR part 100 et seq.
2. Compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d4)(Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1.
3. Compliance with the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR part 146.

4. Compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8.
5. Compliance with the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.
6. Compliance with Affirmatively Furthering Fair Housing (AFFH) requirements, including 24 CFR 5.150 et seq.
7. Compliance with Economic Opportunities for Low-and Very Low-income Persons (12 U.S.C. 1701u) requirements, including those listed at 24 CFR part 75.
8. Compliance with Improving Access to Services for Persons with Limited English Proficiency (LEP) requirements, including those listed within Federal Register Notice, FR-4878-N-02 (also see HUD's webpage).
9. Compliance with Accessible Technology requirements, including those listed on in HUD's Policy on Section 508 of the Rehabilitation Act and Accessible Technology.
10. Compliance with Equal Access Requirements (e.g., 24 CFR 5.105(a)(2) and 5.106).
11. Compliance with Ensuring the Participation of Small Disadvantaged Business, and Women Owned Business requirements at 2 CFR 200.321.
12. Compliance with Energy Efficient and Sustainable by Design.
13. Compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) (URA) requirements, 49 CFR part 24, and applicable program regulations.
14. Compliance with Participation in HUD-Sponsored Program Evaluation.
15. Compliance with OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200)
16. Compliance with Drug-Free Workplace requirements (2 CFR part 2429).
17. Compliance with the requirements related to safeguarding resident/client files (e.g., 2 CFR 200.303(e)).
18. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (2 CFR part 170) (FFATA), as amended.

19. Compliance with Eminent Domain.

20. Compliance with Accessibility for Persons with Disabilities requirements, including 24 CFR parts 8 and 100; 28 CFR part 35.

21. Compliance with applicable Violence Against Women Act requirements in the Housing Chapter of VAWA, 34 U.S.C. 12491-12496, 24 CFR part 5, subpart L, and program-specific regulations, if applicable.

22. Compliance with Conducting Business in Accordance with Ethical Standards/Code of Conduct, including 2 CFR 200.317, 2 CFR 200.318(c) and other applicable conflicts of interest requirements.

23. Compliance with the Build America, Buy America (BABA) Act procurement requirements.

24. Compliance with System for Award Management and Universal Identifier Requirements at 2 CFR part 25.

25. Compliance with section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)) and implementing regulations at 2 CFR part 175 (Award Term for Trafficking in Persons).

26. Compliance with Award Term and Condition for Recipient Integrity and Performance Matters (see Appendix XII to 2 CFR part 200).

27. Compliance with Suspension and Debarment regulations (2 CFR part 2424 and 2 CFR part 180).

28. Compliance with environmental justice requirements that apply in accordance with Executive Orders 12898 and 14008, and OMB Memorandum M-21-28, which implements the Justice40 Initiative, section 223 of Executive Order 14008.

29. Compliance with HUD Secretary Fudge's April 12, 2022 memorandum, "Eliminating Barriers That May Unnecessarily Prevent Individuals with Criminal Histories from Participation in HUD Programs".

30. Compliance with equity requirements, including racial equity and underserved communities and LGBTQ+ requirements that apply in accordance with Executive Orders 13985, 13988, and 14091.

31. Compliance with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a contractor, subcontractor, grantee, subgrantee, and personal services contractor may not be discharged, demoted, or otherwise discriminated



against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. (See Federal Contractor or Grantee Protections | Office of Inspector General, Department of Housing and Urban Development ([hudoig.gov](https://www.hudoint.gov))).

32. Compliance with 2 CFR 200.216, Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment and Executive Orders 14091 and 14110, which includes prohibition on the use of HUD funds to purchase or fund any form of facial or biometric recognition technology for the purpose of surveillance or any other use that may adversely impact equitable access to housing.

### **Remedies for Noncompliance**

HUD may apply the remedies at 2 CFR 200.339 or impose additional conditions to remedy noncompliance with any Federal State, or local statutes, regulations, or terms and conditions of the financial assistance award. If noncompliance cannot be remedied, HUD may terminate a Federal award, in whole or in part, for any of the reasons specified in 2 CFR 200.340, Termination. For more information on CoC Program sanctions and remedies for noncompliance see 24 CFR 578.107.

### **Acquisition and Relocation Requirements**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and its implementing regulations, implemented through the CoC program via 24 CFR 578.83, apply to any acquisition, rehabilitation, or demolition undertaken as part of any project funded under this NOFO. Grantees are thus required to plan for relocation and displacement, provide proper notification and all applicable relocation assistance to residents and owners, comply with acquisition requirements, and keep adequate records of acquisition and relocation activities. Relocation assistance can prove costly, so it's important for grantees to minimize displacement and proactively plan for relocation costs. Grantees are encouraged to contact their HUD Regional Relocation Specialist with any questions or concerns pertaining to acquisition and relocation compliance and best practices.

### **Lead-Based Paint Requirements**

When providing housing assistance funding for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead based paint evaluation and hazard

reduction requirements of HUD's lead- based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)); and EPA's lead- based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)). When providing education or counseling on buying or renting housing that may include pre-1978 housing under your HUD award you must inform clients of their rights under the Lead Disclosure Rule (24 CFR part 35, subpart A), and, if the focus of the education or counseling is on rental or purchase of HUD-assisted pre-1978 housing, then you must also inform clients of the Lead Safe Housing Rule (subparts B, R, and, as applicable, F - M).

### **13.CONFIDENTIALITY AND PROPRIETY INFORMATION/DATA**

Subsequent to the County's evaluation and proposals, which requires application submission in response to the solicitation process, **applications** become the exclusive property of the County. Upon submission of an Applicant's application, the submission and any pertaining documents is subject to the State of California Public Records Act. Exceptions will be those elements in the California Government Code section 6250 et. seq. (Public Records Act) and which are marked "trade secret," "confidential," or "proprietary." The County shall not be liable or responsible for the disclosure of any such records, including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction. In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of a Qualification marked "trade secret", "confidential", or "proprietary" the Applicant agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act. Where applicable, Federal regulations may take precedence over this language.

If an Applicant's application is accepted and an agreement is made with the County, then the Applicant will be required to sign the most current HIPAA Business Associate Addendum (if applicable). If the County revises the HIPAA Associate Addendum, the Applicant shall sign a new agreement as it becomes available and adhere to the new requirements. Furthermore, under the Health Insurance Portability and Accountability ACT (HIPAA), 42 U.S.C. 1320d et seq. and 162, and 164 ("Privacy Rule and Security Rule"), the Applicant will comply with the Security Rule as a Business Associate, if under an agreement arising from this Solicitation, it receives, maintains, or transmits any health information in electronic form in connection with a transaction covered by part 162 of Title 45 of the Code of Federal Regulations.

### **14.INTERPRETATION OF SOLICITATION**

The Applicant must make careful examination and understand all the requirements, specifications, and conditions stated in the solicitation. If any Applicant planning to submit an application finds discrepancies in or omissions from the solicitation, or is

in doubt as to the meaning, a written request for interpretation or correction must be given to the County via email to the Primary HWS-CoC Contact: CoC@rivco.org. Any changes to the solicitation will be made only by written addendum and may be emailed. The County is not responsible for any other explanations or interpretations. If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

## **15. CONTRACTUAL DEVELOPMENT**

If an application is accepted, the County will enter into a contractual agreement with the selected Contractor. If an agreement cannot be reached, negotiations with the next ranking Applicant shall commence.

## **16. CANCELLATION OR MODIFICATION**

County may cancel the procurement process at any time. All applications become the property of the County. All information submitted in the application becomes "public record" as defined by the State of California upon completion of the procurement process. If any proprietary information is contained in or attached to the application, it must be clearly identified by the Applicant; otherwise, the Applicant agrees that all documents provided may be released to the public after contract award.

The procurement process may be canceled after opening, but prior to award if the County determines that cancellation is in the best interest of the County for reasons (but not limited to) such as:

1. Inadequate, ambiguous, or otherwise deficient specifications.
2. The services are no longer required.
3. Proposals received are at an unreasonable cost.
4. Proposal did not arrive in open competition, were collusive, or not submitted in good faith.
5. The County determines, after analysis of the proposals that its needs can be satisfied through a less expensive method.

The County reserves the right to amend or modify the project Scope of Services prior to the award of contract, as necessity may dictate, and to reject any applications hereunder. This solicitation does not commit the County to award a contract or to pay any costs incurred in the preparation of an application in response to this request. The County reserves the right to accept or reject any or all applications received because of this request, to negotiate with any qualified source or to cancel in part or in its entirety this solicitation if it is in the best interest of the County.

## **17. COUNTY OBSERVED HOLIDAYS**

HOLIDAY	DAY OBSERVED
*New Year's Day	January 1
Martin Luther King Jr's Birthday	Third Monday in January
Lincoln's Birthday	Second Tuesday in February
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans' Day	November 12
*Thanksgiving Day	Fourth Thursday in November
* Following Thanksgiving	Friday following the fourth Thursday in November
*Christmas Day	December 25

**\* Note:**

- 1) Thanksgiving Day, which shall be the fourth Thursday in November unless otherwise appointed.
- 2) Friday following Thanksgiving Day.
- 3) December 24<sup>th</sup> and 31<sup>st</sup> when they fall on Monday.
- 4) December 26<sup>th</sup> and January 2<sup>nd</sup> when they fall on Friday.

Friday proceeding January 1<sup>st</sup>, February 12<sup>th</sup>, July 4<sup>th</sup>, November 11<sup>th</sup> or December 25<sup>th</sup>, when such date falls on Saturday, the Monday following such date when such date falls on a Sunday.

## 18. EVALUATION PROCESS

Applications will be evaluated based on the criteria to be appropriate by the County, which may include, but not necessarily limited to the following:

- a. Applicant's ability to meet qualification requirements for this funding as noted in Section 8. Scoring Criteria and Bidder's Response of this RFP.
- b. Applicant's experience and ability to provide appropriate services.
- c. Financials
- d. Technical capability and project methodology.
- e. Overall best value to the County.
- f. Any other factors the County determines to be appropriate.

Applications will be given thorough review. All communication during the application process and review selection phase may be directed to the primary HWS contact. Attempts by the Applicant to contact any other County representative may result in disqualification of the Applicant's application to this or any other solicitation.

All evaluation material will be considered confidential and not released by the County. The County reserves the right to split or make the award that is most advantageous to the County.



## **U.S. Department of Housing and Urban Development**

Community Planning and Development

Continuum of Care (CoC) Builds

FR-6800-N-25A

11/21/2024

# Table of Contents

OVERVIEW .....	3
I. FUNDING OPPORTUNITY DESCRIPTION.....	3
A. Program Description .....	3
B. Authority .....	15
II. AWARD INFORMATION .....	15
A. Available Funds .....	15
B. Number of Awards .....	15
C. Minimum/Maximum Award Information .....	15
D. Period of Performance.....	16
E. Type of Funding Instrument .....	16
III. ELIGIBILITY INFORMATION .....	16
A. Eligible Applicants .....	16
B. Ineligible Applicants .....	19
C. Cost Sharing or Matching.....	19
D. Threshold Eligibility Requirements .....	19
E. Statutory and Regulatory Requirements Affecting Eligibility .....	21
F. Program-Specific Requirements .....	21
G. Criteria for Beneficiaries.....	24
IV. APPLICATION AND SUBMISSION INFORMATION .....	24
A. Obtain an Application Package .....	24
B. Content and Form of Application Submission .....	25
C. System for Award Management (SAM) and Unique Entity Identifier (UEI).....	29
D. Application Submission Dates and Times .....	29
E. Intergovernmental Review .....	32
F. Funding Restrictions .....	33
V. APPLICATION REVIEW INFORMATION .....	35
A. Review Criteria .....	35
B. Review and Selection Process .....	42
VI. AWARD ADMINISTRATION INFORMATION.....	43
A. Award Notices.....	43
B. Administrative, National and Departmental Policy Requirements and Terms for HUD Applicants and Recipients of Financial Assistance Awards .....	48
C. Reporting .....	52

D. Debriefing .....53

VII. AGENCY CONTACT(S).....53

VIII. OTHER INFORMATION .....54

APPENDIX.....55



**Funding Opportunity Title:**

Continuum of Care (CoC) Builds

**Funding Opportunity Number:**

FR-6800-N-25A

**Assistance Listing Number:**

14.267

**Due Date for Applications:**

11/21/2024

## OVERVIEW

The U.S. Department of Housing and Urban Development (HUD) issues this Notice of Funding Opportunity (NOFO) to invite applications from eligible applicants for the program and purpose described within this NOFO. You, as a prospective applicant, should carefully read all instructions in all sections to avoid sending an incomplete or ineligible application. HUD funding is highly competitive. Failure to respond accurately to any submission requirement could result in an incomplete, ineligible, or noncompetitive proposal.

In accordance with [Title 24 part 4, subpart B](#) of the Code of Federal Regulations (CFR), during the selection process (which includes HUD's NOFO development and publication, and concludes with the announcement of the selection of recipients of assistance), HUD is prohibited from disclosing covered selection information. Examples of impermissible disclosures include: 1) information regarding any applicant's relative standing; 2) the amount of assistance requested by any applicant; and 3) any information contained in the application. Prior to the application deadline, HUD may not disclose the identity of any applicant or the number of applicants who have applied for assistance.

For further information regarding this NOFO, direct questions regarding the specific requirements of this NOFO to the agency contact identified in section VII.

**Paperwork Reduction Act Statement.** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501- 3520) (PRA), the Office of Management and Budget (OMB) approved the information collection requirements in this NOFO. HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a valid OMB control number. This NOFO identifies the applicable OMB control number, unless the collection of information is excluded from these requirements under [5 CFR Part 1320](#).

**OMB Control Number(s):**

2506-0112

## I. FUNDING OPPORTUNITY DESCRIPTION

### A. Program Description

#### 1. Purpose

The Continuum of Care (CoC) Builds (CoCBuilds) NOFO targets efforts within CoC geographic areas to address and reduce persons experiencing homelessness by adding new units of permanent supportive housing (PSH) through new construction, acquisition, or rehabilitation through one-time CoCBuilds awards under the CoC Program. Through the CoCBuilds NOFO,

HUD is encouraging CoCs to leverage funds provided for construction, acquisition, or rehabilitation of new PSH units with other funding sources to maximize the amount of housing that can be directed to meeting the needs of individuals and families experiencing homelessness. PSH is permanent housing in which supportive services are provided to assist individuals with a disability and families where at least one household member has a disability and is experiencing homelessness to live independently. Additionally, no more than 20 percent of each award may be used for other eligible CoC Program activities associated with the PSH project (e.g., supportive services, operating costs (Section IV.G.3 of this NOFO)), and no more than 10 percent of an award may be used for project administration.

Permanent supportive housing is beneficial for several reasons:

- **Stability:** It provides stable housing for individuals who may otherwise be experiencing homelessness or precariously housed, offering a foundation for stability in their lives.
- **Support Services:** It offers on-site or readily accessible, voluntary support services such as counseling, healthcare, substance abuse treatment, and job training, tailored to the individual's needs.
- **Cost-Effectiveness:** It can reduce overall public costs by decreasing the use of emergency services, such as hospitals, shelters, and law enforcement, which are often utilized at higher rates by individuals experiencing homelessness.
- **Improved Health Outcomes:** Stable housing contributes to better physical and mental health outcomes for residents, as they have a safe and consistent environment in which to address health issues and access regular care.
- **Community Integration:** Permanent supportive housing allows individuals to become integrated into their communities, fostering a sense of belonging and social connection, which are crucial for overall well-being.
- **Prevention of Recidivism:** For individuals who have experienced incarceration or cycles of homelessness, permanent supportive housing can break these cycles by providing a stable environment and support systems to prevent relapse into previous patterns.

Overall, permanent supportive housing addresses both the immediate need for shelter and the underlying factors contributing to homelessness, leading to better outcomes for individuals and communities alike.

Rural areas often lack the resources and infrastructure for providing services to persons experiencing homelessness and permanent housing. Additionally, rural areas often require unique strategies to solve challenges specific to their geography. Available funds from this NOFO may assist rural areas in the development of new PSH units for eligible individuals and families.

Indian Tribes and Tribally Designated Housing Entities (TDHEs) also lack resources and infrastructure needed to address the needs of individuals and families experiencing homelessness where a member of the household has a disability. Therefore, this NOFO provides incentives for Indian Tribes and TDHEs to apply for funds to develop units of new PSH.

Converting hotels or motels from their original use to permanent supportive housing may be more cost-effective than constructing new units. HUD's Office of Policy Development and Research (PD&R) highlighted the conversion of abandoned hotel properties to permanent supportive housing which greatly reduced the costs ([Learning From the Pandemic Response](#):

[Converting Hotels to Shelter or Housing](#)) and additional research has demonstrated that conversion of hotel or motel properties to permanent supportive housing is cost-effective.

Applicants should consider whether there is an opportunity to use properties made available through the Title V Process. More information can be found at: [https://www.hud.gov/program\\_offices/comm\\_planning/titlev](https://www.hud.gov/program_offices/comm_planning/titlev).

The Continuum of Care (CoC) Program (24 CFR part 578) (the Rule) is designed to promote a community-wide commitment to the goal of ending homelessness; to provide funding for efforts by nonprofit providers, states, Indian Tribes, tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) (TDHEs)), and local governments to quickly rehouse individuals and families experiencing homelessness, persons fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking, and youth experiencing homelessness while minimizing the trauma and dislocation caused by homelessness; to promote access to and effective utilization of mainstream programs by individuals and families experiencing homelessness; and to optimize self-sufficiency among those experiencing homelessness.

HUD has the following six goals for this competition:

1. Increase housing opportunities for people with high risk of levels of need.
2. Increase the supply of permanent supportive housing units within CoC geographic areas to address individuals and families experiencing homelessness where one member of the household has a disability.
3. Encourage coordination between housing providers, health care organizations, and social service providers.
4. Ensure access to resources for projects to expand opportunities for new PSH units in States with populations less than 2.5 million.
5. Ensure new PSH units are conveniently located near local services; e.g., walking distance, near reliable transportation services, provide access to telehealth.
6. Affirmatively further fair housing by addressing barriers which perpetuate segregation, hinder access to areas of opportunity for protected class groups and concentrate affordable housing in under-resourced areas.

## **2. HUD and Program-Specific Goals and Objectives**

HUD's Strategic Plan sets the direction and focus of our programs and staff to create strong, sustainable, inclusive communities and quality, affordable homes for all. This NOFO supports [HUD's Strategic Plan for Fiscal Years \(FY\) 2022-2026](#) to accomplish HUD's mission and vision. Each of the five goals in the [Strategic Plan](#) include what HUD hopes to accomplish, the strategies to accomplish those objectives, and the indicators of success.

HUD will pursue two overarching priorities focused on increasing equity and improving customer experience across all HUD programs. Five strategic goals and several objectives undergird the Plan; however the following goals are applicable to this NOFO.

You are expected to align your application to the applicable strategic goals and objectives below. Use the information in this section to describe in your application the specific goals, objectives, and measures that your project is expected to help accomplish. If your project is selected for funding, you are also expected to establish a plan to track progress related to those goals,

objectives, and measures. HUD will monitor compliance with the goals, objectives, and measures in your project.

### **Applicable Goals and Objectives from HUD's Strategic Plan**

#### **Strategic Goal 1: Support Underserved Communities**

Fortify support for underserved communities and support equitable community development for all people.

##### **1B: Reduce Homelessness**

Strengthen Federal, State, Tribal, and community implementation of the Housing First approach to reducing the prevalence of homelessness, with the ultimate goal of ending homelessness.

#### **Strategic Goal 2: Ensure Access to and Increase the Production of Affordable Housing**

Ensure housing demand is matched by adequate production of new homes and equitable access to housing opportunities for all people.

##### **2A: Increase the Supply of Housing**

Enhance HUD's programs that increase the production and supply of housing across the country.

#### **Strategic Goal 4: Advance Sustainable Communities**

Advance sustainable communities by strengthening climate resilience and energy efficiency, promoting environmental justice, and recognizing housing's role as essential to health.

##### **4B: Strengthen Environmental Justice**

Reduce exposure to health risks, environmental hazards, and substandard housing, especially for low-income households and communities of color.

##### **4C: Integrate Health and Housing**

Advance policies that recognize housing's role as essential to health.

The following are policy priorities specific to this NOFO:

- *Increasing Affordable Housing Supply.* The lack of affordable housing is the main driver of homelessness. This NOFO provides funding for new construction, rehabilitation, or acquisition that can increase permanent supportive housing stock in a CoC's geographic area. CoCs, applicants, and developers should partner to determine an economical way to increase permanent supportive housing supply for individuals and families experiencing homelessness that considers adaptive reuse and conversion of hotel properties. Additionally, CoCs and applicants should engage local leaders to mitigate zoning and land use issues that may impact adding permanent supportive housing units to the CoC's housing stock.
- *Ensuring Access to Supportive Services and Public Services.* Providing voluntary supportive services to individuals and families experiencing homelessness, particularly for these households that also include a family member who has a disability, can ensure the households have the tools and resources needed to successfully maintain permanent housing. Applicants must ensure households that will reside in the units developed under this NOFO will have access to CoC Program supportive services as well as other public services such as easy access to local parks and recreation, post office, etc. Additionally, applicants proposing projects in rural areas are encouraged to consider the most cost-effective method for supportive services delivery (e.g., use of internet for check-ins with program participants) and access to public services.

- Partnering with Housing, Health, and Service Agencies. Using cost performance and outcome data, applicants should improve how all available resources are utilized to end homelessness. This is especially important as the CARES Act and American Rescue Plan have provided significant new resources to help end homelessness. HUD encourages CoCs to maximize the use of mainstream and other community-based resources when serving persons experiencing homelessness and should:
  - Work closely with public and private healthcare organizations and assist program participants who are interested in assistance with receiving primary care, housing related services, and with obtaining medical insurance to address healthcare needs. This includes developing close partnerships with public health agencies to analyze data and design approaches that reduce homelessness, improve the health of people experiencing homelessness, and prevent and address disease outbreaks, including HIV/AIDS.
  - Partner closely with PHAs and state and local housing organizations to utilize coordinated entry, develop housing units, and provide housing subsidies to people experiencing homelessness. These partnerships can also help CoC Program participants exit permanent supportive housing through Housing Choice Vouchers and other available housing options. CoCs and PHAs should especially work together to implement targeted programs such as Emergency Housing Vouchers, HUD-VASH, Mainstream Vouchers, Family Unification Program (FUP) Vouchers, and other housing voucher programs targeted to people experiencing homelessness. CoCs should coordinate with their state and local housing agencies on the utilization of new program resources provided through the HOME Investment Partnerships - American Rescue Plan Program (HOME-ARP) that was created through the American Rescue Plan.
  - Partner with local workforce development centers to improve employment opportunities.
  - Work with Tribes and Tribal organizations to ensure that Tribal members can access CoC funded assistance when a CoC's geographic area borders a Tribal area.

### 3. Changes from Previous NOFO

This is the first CoCBuils NOFO; therefore, no changes from a previous NOFO.

### 4. Definitions

#### a. Standard Definitions

**Affirmatively Furthering Fair Housing (AFFH)** means taking meaningful actions, in addition to combating discrimination to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunities, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all program participant's activities and programs relating to housing and urban development.

**Assistance Listing number** refers to the unique number assigned to each Federal assistance program publicly available in the Assistance Listing, which is managed and administered by the General Services Administration. The Assistance Listing number was formerly known as the Catalog of Federal Domestic Assistance (CFDA) number.

**Authorized Organization Representative (AOR)** is a person authorized to legally bind your organization and submit applications via Grants.gov. The AOR is authorized by the E-Business Point of Contact (E-Biz POC) in the System for Award Management (see E-Biz POC definition). An AOR may include an Expanded AOR and/or a Standard AOR.

**Expanded Authorized Organization Representative** is a user in Grants.gov who is authorized by the E-Biz POC to perform the functions of a Standard AOR, initiate and submit applications on behalf of your organization, and is allowed to modify organization-level settings and certifications in Grants.gov.

**Standard Authorized Organization Representative** is a user in Grants.gov who is authorized by the E-Biz POC to initiate and submit applications in Grants.gov. A Grants.gov user with the Standard AOR role can only submit applications when they are a Participant for that workspace.

**Consolidated Plan** is the document submitted to HUD that serves as the comprehensive housing affordability strategy, community development plan, and submission for funding under any of the Community Planning and Development formula grant programs (e.g., CDBG, ESG, HOME, and HOPWA). This Plan is prepared in accordance with the process described in [24 CFR part 91](#). This plan is completed by engaging in a participatory process to assess affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions with funding from formula grant programs. (See [24 CFR part 91](#) for HUD's requirements regarding the Consolidated Plan and related Action Plan).

**Contract** means, for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award. For additional information on contractor and subrecipient determinations, see [2 CFR 200.331](#).

**Contractor** means an entity that receives a contract as defined above and in [2 CFR 200.1](#).

**Cooperative agreement** has the same meaning defined at [2 CFR 200.1](#).

**Deficiency**, with respect to the making of an application for funding, is information missing or omitted within a submitted application. Examples of deficiencies include missing documents, missing or incomplete information on a form, or some other type of unsatisfied information requirement. Depending on specific criteria, a deficiency may be either Curable or Non-Curable.

**A Curable Deficiency** is missing or incomplete application information that may be corrected by the applicant with timely action. To be curable, the deficiency must:

- Not be a threshold requirement, except for documentation of applicant eligibility;
- Not influence how an applicant is ranked or scored versus other applicants; and
- Be remedied within the time frame specified in the notice of deficiency.

**A Non-Curable Deficiency** is missing or incomplete application information that cannot be corrected by an applicant after the submission deadline. A non-curable deficiency is a

deficiency that is a threshold requirement, or a deficiency that, if corrected, would change an applicant's score or rank versus other applicants. If an application includes a non-curable deficiency, the application may receive an ineligible determination, or the non-curable deficiency may otherwise adversely affect the application's score and final funding determination.

**E-Business Point of Contact (E-Biz POC)** is an individual associated with the applicant organization who is responsible for the administration and management of award activities for the applicant organization. The E-Biz POC is likely to be an organization's chief financial officer or authorizing official. The E-Biz POC authorizes representatives of their organization to apply on behalf of the organization (see Authorized Organization Representative definition). There can only be one E-Biz POC per unique entity identifier (see definition of Unique Entity Identifier below).

**Eligibility requirements** are mandatory requirements for an application to be eligible for funding.

**Environmental Justice** means investing in environmental improvements, remedying past environmental inequities, and otherwise developing, implementing, and enforcing environmental laws and policies in a manner that advances equity and provides meaningful involvement for people and communities that have been environmentally underserved or overburdened, such as Black and Brown communities, indigenous groups, and individuals with disabilities. This definition does not alter the requirements under HUD's regulations at [24 CFR 58.5\(j\)](#) and [24 CFR 50.4\(l\)](#) implementing [Executive Order 12898](#). E.O. 12898 requires a consideration of how Federally assisted projects may have disproportionately high and adverse human health or environmental effects on minority and/or low-income populations. For additional information on environmental review compliance, refer to:

[https://www.hud.gov/program\\_offices/comm\\_planning/environment\\_energy/regulations](https://www.hud.gov/program_offices/comm_planning/environment_energy/regulations).

**Equity** has the meaning given to that term in Section 2(a) of Executive Order [13985](#) and means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

**Federal award**, has the meaning, depending on the context, in either paragraphs (1) or (2) of this definition:

(1)

(a) The Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in [2 CFR 200.101](#); or

(b) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in [2 CFR 200.101](#).



(2) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (2) of the definitions of Federal financial assistance in [2 CFR 200.1](#), and this NOFO, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(3) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government owned, contractor operated facilities (GOCOs).

(4) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement in [2 CFR 200.1](#).

**Federal Financial Assistance** has the same meaning defined at [2 CFR 200.1](#).

**Grants.gov** is the website serving as the Federal government's central portal for searching and applying for Federal financial assistance throughout the Federal government. Registration on Grants.gov is required for submission of applications to prospective agencies unless otherwise specified in this NOFO.

**Non-Federal Entity (NFE)** means a state, local government, Indian tribe, Institution of Higher Education (IHE), or non-profit organization that carries out a Federal award as a recipient or subrecipient.

**Primary Point of Contact (PPOC)** is the person who may be contacted with questions about the application submitted by the AOR. The PPOC is listed in item 8F on the SF-424.

**Racial Equity** is the elimination of racial disparities and is achieved when race can no longer predict opportunities, distribution of resources, or outcomes – particularly for Black and Brown persons.

**Recipient** means an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from HUD. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

**Small business** is defined as a privately-owned corporation, partnership, or sole proprietorship that has fewer employees and less annual revenue than regular-sized business. The definition of “small”—in terms of being able to apply for government support and qualify for preferential tax policy—varies by country and industry. The U.S. Small Business Administration defines a small business according to a set of standards based on specific industries. See [13 CFR part 121](#).

**Subaward** means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

**Subrecipient** means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**System for Award Management (SAM)** is the Federal Repository into which an entity must provide information required for the conduct of business as a recipient. Registration with SAM is



required for submission of applications via Grants.gov. You can access the website at <https://www.sam.gov/SAM/>. There is no cost to use SAM.

**Threshold Requirements** are eligibility requirements that must be met for an application to be reviewed, rated, and ranked. Threshold requirements are not curable, except for documentation of applicant eligibility, which are listed in Section III.D., Threshold Eligibility Requirements. Similarly, there are eligibility requirements under Section III.E., Statutory and Regulatory Requirements Affecting Eligibility.

**Underserved Communities** has the meaning given to that term in Section 2(b) of Executive Order [13985](#) and refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the definition of “equity” above.

**Unique Entity Identifier (UEI)** means the identifier assigned by SAM to uniquely identify entities. As of April 4, 2022, the Federal government has transitioned from the use of the DUNS Number to the use of UEI, as the primary means of entity identification for Federal awards government-wide.

b. Program Definitions.

The following definitions are defined in 24 CFR 578.3.

1. Applicant
2. Centralized or Coordinated Assessment System (also known as Coordinated Entry)
3. Collaborative Applicant
4. Continuum of Care
5. Consolidated Plan
6. Homeless Management Information System (HMIS)
7. HMIS Lead
8. Homeless. Although not reflected in the regulation, section 605 of the Violence Against Women Reauthorization Act of 2022 amended Section 103(b) of the McKinney-Vento Homeless Assistance Act and requires HUD to consider certain individuals and families as homeless. This amendment took effect on October 1, 2022. Notwithstanding anything to the contrary contained elsewhere in this NOFO, where 24 CFR 578.3 of the homeless definition, paragraph (4) is referenced, you may apply to serve the population as defined in Section 103(b) of the Act.
9. Permanent Housing
10. Permanent Supportive Housing
11. Private Nonprofit Organization
12. Program Participant
13. Project
14. Recipient
15. Subrecipient
16. Unified Funding Agency
17. Victim Service Provider

c. CoCBUILDS NOFO Concepts.

The following terms are not found in 24 CFR 578.3 but are used in other areas of the Rule or are used in this NOFO to define concepts that pertain specifically to this NOFO.

1. Adaptive Reuse. Refers to the process of reusing an existing building for a purpose other than which it was originally built or designed for. It is also known as recycling and conversion. Adaptive reuse is an effective strategy for optimizing the operational and commercial performance of built assets.
2. Annual Renewal Demand (ARD) (24 CFR 578.17(b)(2)). The total amount of all the CoC's projects that were eligible for renewal in the FY 2023 CoC Program Competition, before any required adjustments to funding for rental assistance, and operating Budget Line Items (BLIs) based on FMR changes.
3. Consolidated Plan Certification. The standard form HUD-2991, *Certification of Consistency with the Consolidated Plan* in which a state or local official certifies the proposed project, and activities are consistent with the jurisdiction's Consolidated Plan and, if the project applicant is state or unit of local government, that the jurisdiction is following its Consolidated Plan per the requirement of 24 CFR part 91.
4. Final Pro Rata Need. (24 CFR 578.17(b)(3)). The higher of Preliminary Pro Rata Need (PPRN) or ARD for the CoC is the FPRN, which determines the amount of CoCBuilds funds a project can apply for through this NOFO.
5. Formula. Defined in 24 CFR 578.17(a).
6. Formula Area. Defined in the Indian Housing Block Grant Program at [24 CFR 1000.302](#).
7. Indian Tribe. A federally recognized Tribe or a State recognized Tribe as defined in Section 4 of NAHASDA (25 U.S.C. 4103).
8. Low-income Housing Tax Credit. Provides a tax incentive to construct or rehabilitate affordable rental housing for low-income households.
9. Reservation. For purposes of this NOFO, reservations are a type of formula area as specifically delineated under HUD's IHBG program at 24 CFR 1000.302.
10. Rural Area. For this competition, a rural area is a county which:
  1. has no part of it within an area designated as a standard metropolitan statistical area by the office of Management and Budget;
  2. is within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area and at least 75 percent of its population is local on U.S. Census blocks classified as non-urban; or
  3. is located in a state that has a population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city in such State is the sole beneficiary of the grant amounts awarded under this NOFO. A metropolitan city means a city that was classified as a metropolitan city under section 102(a) of the Housing and Community Development Act of 1974 (42.U.S.C. 5302(a)) for the fiscal year immediately preceding the fiscal year for which Emergency Solutions Grants program funds are made available.
11. Tribally Designated Housing Entity. For purposes of this NOFO, this term has the same meaning as in Section 4 of NAHASDA (25 U.S.C. 4103).

12. Trust land. For purposes of this NOFO, trust lands are a type of formula area as delineated under HUD's IHBG program at 24 CFR 1000.302.

d. CoC Geographic Area. 24 CFR 578.5 requires representatives from relevant organizations within a geographic area to establish a CoC to carry out the duties within the geographic area. The boundaries of identified CoC geographic areas cannot overlap, and any overlapping geographies are considered Competing CoCs. HUD follows the process at 24 CFR 578.35(d) to determine which CoC HUD will recognize in the case of CoC geographic areas that overlap. For the CoCBuils competition, there are no Competing CoCs.

e. Centralized or Coordinated Assessment System. In general, 24 CFR 578.23(c)(9) and (11) requires all CoC program recipients and subrecipients to use the centralized or coordinated assessment system (coordinated entry) established by CoCs. The definition of Centralized or Coordinated Assessment is found at 24 CFR 578.3. 24 CFR 578.7(a)(8) details the responsibilities of the CoC to establish and operate this required system. In addition to the definition and responsibilities established in the Rule, HUD posted on its website, CPD-17-01: Notice Establishing Additional Requirements for a Continuum of Care Centralized or Coordinated Assessment System, establishing additional requirements related to the development and use of a centralized or coordinated entry assessment system. These systems help communities assess the needs of program participants and effectively match individuals and families experiencing homelessness with the most appropriate resources available to address their supportive service and housing needs. CoCs must operate the system with CoC Program funds, other funds, or a combination of the two. Section 578.23(c)(9) of the CoC Program Rule exempts, a victim service provider from using the CoC's centralized or coordinated assessment system if victim service providers use a centralized or coordinated assessment system that otherwise meets HUD's requirements.

f. CoC Program Components. 24 CFR 578.37 states CoC funds may be used to pay for the eligible costs listed in 24 CFR 578.39 through 578.63 when used to establish and operate projects under five components: Permanent Housing – Permanent Supportive Housing (PH-PSH) or Rapid Rehousing (PH-RRH); Transitional Housing (TH); Supportive Services Only (SSO); Homeless Management Information System (HMIS); and in some cases, homelessness prevention.

Only designated high performing communities (HPCs) may carry out homelessness prevention activities through the CoC Program. Unfortunately, no CoCs have applied for or been designated as a HPC, thus none of the funds in this NOFO can be used for homelessness prevention.

For this NOFO, the following will be considered for funding:

- new PH-PSH which must include a capital costs budget for new construction, acquisition, or rehabilitation; and
- the application may also request no more than 20 percent of an award for CoC Program eligible activities and costs associated with such new PH-PSH projects (see Section IV.G.1 of this NOFO), and no more than 10 percent for administrative costs.

g. Collaborative Applicant. HUD will only review CoCBuils project applications submitted by the CoC-designated Collaborative Applicants. Each CoC-designated Collaborative Applicant may only submit one CoCBuils application. However, if a CoC is working with a Tribe or TDHE to provide units of PSH on Tribal reservations or trust land, two applications may be submitted by the CoC-designated Collaborative Applicant, one for the CoC's geographic area not

including the Tribal reservations or trust lands and one where the units will be located on Tribal reservations or trust lands

h. **Maximum Award.** The maximum award amount under this CoCBuils NOFO is based on each CoC's Final Pro Rata Need for the FY 2024 CoC Competition, which is the higher of the CoC's Preliminary Pro Rata Need or Annual Renewal Demand. CoCs that submit two project applications, with one project proposing new PSH units located on a Tribal reservation or trust land, may request an additional \$2,000,000 above the maximum amount as indicated in the following chart. The maximum award amount for a single project may not exceed the maximum amount listed in the *Maximum Amount for a Single Project* column of the following chart.

<b>FPRN Amount</b>	<b>Maximum Amount for a Single Project</b>	<b>Maximum Amount for Projects Submitted by CoCs with Units Located on Tribal Reservations or Trust Lands</b>
\$40,000,000 and above	\$10,000,000	\$12,000,000
\$10,000,000 to \$39,999,999	\$7,500,000	\$9,500,000
\$0 to \$9,999,999	\$5,000,000	\$7,000,000
CoCs that are the only CoC within their State or Territory	\$10,000,000	\$12,000,000

5. **CoC Program Provisions.** The following list highlights important information you should consider while preparing the CoCBuils application. This is not an exhaustive list of considerations or requirements; therefore, you should carefully review this NOFO and the Rule for more comprehensive information.

a. **Indian Tribes or Tribally Designated Housing Entities (TDHEs).** The Consolidated Appropriations Act, 2021 amended title IV of the Act by adding section 435 so designated Indian Tribes or TDHEs (as defined in Section 4 of the Native American Housing Assistance and Self-Determination Action of 1996 (25 U.S.C. 4103) may:

- (1) create a CoC;
- (2) be a Collaborative Applicant;
- (3) be an eligible project applicant; or
- (4) receive grant amounts from another entity that receives a grant directly from HUD (i.e., be a CoC grant subrecipient).

However, under 42 U.S.C. 11383(g) only States, Units of General Local Government, nonprofit organizations, and Public Housing Agencies may administer permanent housing rental assistance.

6. **Coordination with Housing and Healthcare.** The Consolidated Appropriations Act, 2023 and the Consolidated Appropriations Act, 2024 directs HUD to provide incentives to create projects that coordinate with housing providers, healthcare organizations, and social service providers to provide permanent supportive housing.

7. **Adaptive Reuse.** Where possible, consider existing vacant structures that were initially designed for use other than housing (e.g., used as office space) if requesting funds for

rehabilitation or acquisition where the structure can be cost-effectively restructured to create new PH-PSH units for individuals and families experiencing homelessness.

8. Maximum Award and FMR Adjustments. The process for determining the maximum award amount is detailed in 24 CFR 578.17(b). HUD will adjust awards for operating and rental assistance BLIs based on changes to the FMR. HUD will make all adjustments prior to the award announcement as follows:

- a. Funds awarded for rental assistance will be adjusted by applying the FMR in effect at the time of application submission to HUD.
- b. HUD will increase funds awarded for operating costs based on the average increase in FMR amounts within the CoC's geographic area, weighted for population density.

9. Non-capital costs funds awarded under this NOFO may be eligible for renewal in the CoC Program Competition.

## **B. Authority**

CoCBuils is part of the CoC Program that is authorized by Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11381–11389) (the Act), and the CoC Program rule found in 24 CFR part 578 (the Rule). The CoCBuils funds were provided by the Consolidated Appropriations Act, 2023 (Public Law 117-328, approved December 29, 2022) and the Consolidated Appropriations Act, 2024 (Public Law 118-42, approved March 9, 2024).

## **II. AWARD INFORMATION**

### **A. Available Funds**

Funding of approximately **\$175,000,000** is available through this NOFO.

Additional funds may become available for award under this NOFO consistent with VI.A.2.e., Adjustments to Funding. Use of these funds is subject to statutory constraints. All awards are subject to the funding restrictions contained in this NOFO.

Of this \$175,000,000, not less than \$65 million (\$30 million of FY 2023 funds and \$35 million of FY 2024 funds) is available only for CoCs that are located in states with populations of fewer than 2.5 million people. However, if HUD does not receive this amount in application requests any remaining amount may be awarded to qualified applicants for projects in any state. All application requirements are included in this NOFO.

### **B. Number of Awards**

HUD expects to make approximately 25 awards from the funds available under this NOFO.

Up to 3 awards are set aside for the highest scoring project applications where the PSH units are located on Tribal reservations or trust lands.

### **C. Minimum/Maximum Award Information**

Estimated Total Funding:

\$175,000,000

Minimum Award Amount:

\$1,000,000

Per Project Period

Maximum Award Amount:

\$10,000,000

Per Project Period

## **D. Period of Performance**

Estimated Project Start Date:

10/01/2025

Estimated Project End Date:

10/01/2030

Length of Project Periods:

Other

Length of Periods Explanation of Other:

Period of performance dates may range anywhere from 24 months to 60 months. See Section IV.G.2.

## **E. Type of Funding Instrument**

Funding Instrument Type:

G (Grant)

## **III. ELIGIBILITY INFORMATION**

### **A. Eligible Applicants**

00 (State governments)

01 (County governments)

02 (City or township governments)

04 (Special district governments)

07 (Native American tribal governments (Federally recognized))

08 (Public housing authorities/Indian housing authorities)

11 (Native American tribal organizations (other than Federally recognized tribal governments))

12 (Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education)

25 (Others (see text field entitled "Additional Information on Eligibility" for clarification))

#### **Additional Information on Eligibility**

Eligible project applicants are found at 24 CFR 578.15 and include nonprofit organizations; state governments; local governments; instrumentalities of state and local governments; Indian Tribes and Tribally Designated Housing Entities (TDHEs), as defined in section 4 of the Native

American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103); and public housing agencies, as such term is defined in 24 CFR 5.100, are eligible without limitation or exclusion.

1. Indian Tribes and Tribally Designated Housing Entities (TDHE). The Consolidated Appropriations Act, 2021 (Public Law 116-260, approved December 27, 2020) amended title IV to add section 435 of the Act to allow Indian Tribes and TDHEs to be Collaborative Applicants, eligible entities, or subrecipients of the CoC Program in addition to amending title IV section 401 to add the terms “Formula Area” and “Indian Tribe.” These amendments mean that not only may Tribes and TDHEs apply for grants through other CoCs, but that formula areas, as that term is defined in the Indian Housing Block Grant program at 24 CFR 1000.302, are eligible to be added to the geographic areas of existing CoCs or may be included in newly formed CoCs through the CoC registration process (see Notice CPD-22-02) or may be temporarily added through the process outlined in Section III.A.5. Any applicant that is not a Tribe or TDHE proposing to site a project on a Tribal reservation or trust land must include a Tribal resolution from the Tribe authorizing the applicant to do so or a letter from an official or principal of the Indian Tribe or TDHE who is authorized to act on behalf of the Indian Tribe or TDHE. Tribes do not need to include a Tribal resolution to site a project on their own reservation or trust land.
2. Collaborative Applicants. HUD will only accept CoCBuils project applications from CoCs that had a valid e-snaps registration for the FY 2024 CoC Program Competition. CoCs should not attempt to change Collaborative Applicants during this CoCBuils competition without prior HUD approval unless HUD replaces the CoC's designated Collaborative Applicant under the authority of Section 402(c) of the Act. HUD will approve Collaborative Applicant changes outside the annual CoC Program Registration process under the following circumstances:
  - a. the Collaborative Applicant made an error when entering the Collaborative Applicant name in the CoC Applicant Profile;
  - b. the CoC-designated Collaborative Applicant is no longer in business;
  - c. the CoC designates a new Collaborative Applicant; or
  - d. HUD designated a new Collaborative Applicant as a remedial action under Section 402(c) of the Act.
3. In cases where the CoC changed its designated Collaborative Applicant after the FY 2024 CoC Program Registration process, the CoC must notify the local HUD CPD field office, in writing, stating the reason for the Collaborative Applicant change. The notice to HUD must provide documentation of the CoC's approval of the change (e.g., a copy of the meeting minutes to include the date and attendees).

Parties that are interested in forming a new CoC, including Indian Tribes that are interested in forming a new CoC should contact the Office of Special Needs Assistance Programs [SNAPSinfo@hud.gov](mailto:SNAPSinfo@hud.gov) as soon as possible.

4. Collaborative Applicants. All recognized Collaborative Applicants eligible to submit the application to HUD on behalf of the applicant organization are listed on the CoCBuils Final Pro Rata Need Report located on the CoC Program page of HUD's website.

5. Temporarily Add to CoC Geography and Tribal Reservations and Trust Lands. In general, HUD will only consider projects that propose to locate PSH units in geographic areas included in their FY 2024 CoC Program Registration. However, HUD will make an exception for Tribal reservations and trust lands and permit CoCs to temporarily include projects for new PSH units on Tribal Reservations and trust lands not currently a part of their geographic area if the Collaborative Applicant is a Tribe or TDHE and, if they add the Tribal Reservations and trust lands to the geographic areas covered by their CoC with the Tribe's express consent. To apply for a project on a Tribal Reservation or trust land not currently included in the CoC's geographic area, the Collaborative Applicant must add the formula area to the CoC's geographic area by sending an email to HUD at [CoCBuilds@hud.gov](mailto:CoCBuilds@hud.gov) with the following information:

- a. The name of the CoC;
- b. The name of the tribe(s) assigned to the formula area(s) the Collaborative Applicant is seeking to add; and
- c. If the Collaborative Applicant is adding the formula area on behalf of a CoC that is not an Indian Tribe or TDHE directly selecting their own formula area, a tribal resolution from the applicable Indian Tribe authorizing the CoC to select the trust land or reservation or a letter from an official or principal of the Indian Tribe or TDHE who is authorized to act on behalf of the Indian Tribe or TDHE. Indian Tribes and TDHEs are not required to include a tribal resolution to select their own trust land or reservation.

This message must be submitted to HUD by September 15, 2024. The formula area must be either contiguous to the CoC's existing geographic area or the formula area must overlap with the CoC's existing geographic area. For the non-capital costs of these PSH projects to be eligible for renewal under the CoC program, the CoC must complete the CoC registration process (see Notice CPD-22-02) to add the Tribal Reservations and trust lands to the geographic areas covered by their CoC. Note: HUD will not update a CoC's PPRN based on the inclusion of the temporary new formula area(s) to determine the maximum award amount established in Section I.A.4.h of this NOFO and the temporary addition to the CoC's geography will not be considered by HUD under the FY CoC Program Competition.

6. Eligible Project Applicants (McKinney-Vento Homeless Assistance Act, 24 CFR 578.15, 24 CFR 5.100). Eligible project applicants for the CoC Program Competition are found at 24 CFR 578.15 and in the Act and include nonprofit organizations, states, local governments, instrumentalities of state and local governments, Indian Tribes and TDHE [as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) (TDHEs)]. Public housing agencies, as such term is defined in 24 CFR 5.100, are eligible without limitation or exclusion. For-profit entities are ineligible to apply for grants and are prohibited from being subrecipients of CoC Program grant funds.

#### Faith-based organizations

(1) Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at [24 CFR part 5.109](#), and subject to the protections and requirements of 42 U.S.C. § 2000bb et seq., HUD will not, in the selection of recipients, discriminate against an organization based on the organization's religious character, affiliation, or exercise.



(2) A faith-based organization that participates in this program will retain its independence and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law, including the Free Speech and Free Exercise Clauses of the Constitution, 42 U.S.C. § 2000bb et seq., 42 U.S.C. § 238n, 42 U.S.C. § 18113, 42 U.S.C. §§ 2000e-1(a) and 2000e-2€, 42 U.S.C. § 12113(d), and the Weldon Amendment, among others. Religious accommodations may also be sought under many of these religious freedom and conscience protection laws, particularly under the Religious Freedom Restoration Act.

(3) A faith-based organization may not use direct financial assistance from HUD to support or engage in any explicitly religious activities except where consistent with the Establishment Clause and any other applicable requirements. Such an organization also may not, in providing services funded by HUD, discriminate against a beneficiary or prospective program beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

## **B. Ineligible Applicants**

Individuals, foreign entities, and sole proprietorship organizations are not eligible to compete for, or receive, awards made under this announcement.

## **C. Cost Sharing or Matching**

This Program requires cost sharing or matching as described below.

24 CFR 578.73 provides the information regarding match requirements. Project applicants that intend to use program income as a match must provide an estimate of how much program income will be used for the match.

## **D. Threshold Eligibility Requirements**

Applicants who fail to meet any of the following threshold eligibility requirements are deemed ineligible. Applications from ineligible applicants are not rated or ranked and will not receive HUD funding.

### **1. Resolution of Civil Rights Matters**

Outstanding civil rights matters must be resolved before the application submission deadline. Applicants with unresolved civil rights matters at the application deadline are deemed ineligible. Applications from ineligible applicants are not rated or ranked and will not receive HUD funding.

- a. An applicant is ineligible for funding if the applicant has any of the charges, cause determinations, lawsuits, or letters of findings referenced in subparagraphs (1) – (5) that are not resolved to HUD’s satisfaction before or on the application deadline date for this NOFO.

- (1) Charges from HUD concerning a systemic violation of the Fair Housing Act or receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of a substantially equivalent state or local fair housing law proscribing discrimination because of race, color, religion, sex (including sexual orientation and gender identity), national origin, disability or familial status;

(2) Status as a defendant in a Fair Housing Act lawsuit filed by the United States alleging a pattern or practice of discrimination or denial of rights to a group of persons raising an issue of general public importance under 42 U.S.C. § 3614(a);

(3) Status as a defendant in any other lawsuit filed or joined by the Department of Justice, or in which the Department of Justice has intervened, or filed an amicus brief or statement of interest, alleging a pattern or practice or systemic violation of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Americans with Disabilities Act, Violence Against Women Act, or a claim under the False Claims Act related to fair housing, non-discrimination, or civil rights generally including an alleged failure to affirmatively further fair housing;

(4) Receipt of a letter of findings identifying systemic non-compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974; Violence Against Women Act; or the Americans with Disabilities Act; or

(5) Receipt of a cause determination from a substantially equivalent state or local fair housing agency concerning a systemic violation of provisions of a state or local law prohibiting discrimination in housing based on sexual orientation, gender identity, or lawful source of income.

b. HUD will determine if actions to resolve the charge, cause determination, lawsuit, or letter of findings taken before the application deadline date will resolve the matter. Examples of actions that may be sufficient to resolve the matter include, but are not limited to:

(1) Current compliance with a voluntary compliance agreement signed by all the parties;

(2) Current compliance with a HUD-approved conciliation agreement signed by all the parties;

(3) Current compliance with a conciliation agreement signed by all the parties and approved by the state governmental or local administrative agency with jurisdiction over the matter;

(4) Current compliance with a consent order or consent decree;

(5) Current compliance with a final judicial ruling or administrative ruling or decision; or

(6) Dismissal of charges.

**2. CoC Review of Project Applications.** CoCs are required to review proposed CoCBuilds applications locally and if more than one application is received, the CoC must determine which application it will submit to HUD. While only one project application per CoC may be submitted, where feasible, HUD encourages inclusion of one or more subrecipients that will contribute towards the goals of this NOFO (e.g., capital costs, housing, supportive services). CoCs are permitted to submit a second application if the new PSH units are constructed, rehabilitated, or acquired on Tribal reservations or trust lands.

HUD encourages CoCs to use scoring criteria outlined in Section V.A of this NOFO to ensure it submits the most viable application to HUD for review and scoring. The CoC must include a letter signed by the CoC Board President stating the CoC supports the submission of the selected application. The letter must include the:

- CoC Number and Name;

- name of the applicant organization;
- name of the project; and
- amount of funds that are requested.

If a second application is submitted for the construction, rehabilitation, or acquisition of new PSH units on Tribal reservations or trust lands, the area must be identified in the letter.

If HUD receives more than one CoCBuils application from a CoC it will only review the earliest submitted application and automatically reject any other applications received.

## **2. Timely Submission of Applications**

Applications submitted after the deadline stated within this NOFO that do not meet the requirements of the grace period policy are marked late. Late applications are ineligible and are not considered for funding. See Section IV. D. Application Submission Dates and Times.

## **E. Statutory and Regulatory Requirements Affecting Eligibility**

### **Eligibility Requirements for Applicants of HUD's Financial Assistance Programs**

The following requirements affect applicant eligibility. Detailed information on each requirement is found in the "[Eligibility Requirements for Applicants of HUD's Competitive Programs](#)" document on HUD's Funding Opportunities page. Applicants who fail to meet any of these eligibility requirements are deemed ineligible to receive HUD funding.

1. Universal Identifier and System for Award Management (SAM.gov) Requirements
2. Outstanding Delinquent Federal Debts
3. Debarments or Suspensions, or both
4. Mandatory Disclosure Requirement
5. Pre-selection Review of Performance
6. Sufficiency of Financial Management System
7. False Statements
8. Prohibition Against Lobbying Activities

In addition, each applicant under this NOFO must have the necessary processes and systems in place to comply with the Award Term in Appendix A of [2 CFR part 170](#) if the applicant receives an award, unless an exception applies as provided in [2 CFR 170.110](#).

## **F. Program-Specific Requirements**

**Certification of Consistency with the Consolidated Plan.** This program requires a certification of Consistency with the Consolidated Plan under [24 CFR 91.2](#). This certification means the proposed activities in the application are consistent with the jurisdiction's strategic plan, and the location of the proposed activities is consistent with the geographic areas specified in the Consolidated Plan.

Applicants must submit a certification by the jurisdiction in which the proposed project will be located that the applicant's project application for funding is consistent with the jurisdiction's HUD-approved consolidated plan. The certification must be made in accordance with the provisions of the consolidated plan regulations at 24 CFR part 91, subpart F.

Form HUD-2991 must be completed and dated between June 1, 2024, and October 31, 2024.

Additionally, applicants that propose to locate a project on a Tribal reservation or trust land must include a Tribal resolution from the Tribe authorizing the applicant to do so or a letter from an official or principal of the Indian Tribe or TDHE who is authorized to act on behalf of the Indian Tribe or TDHE. Indian Tribes do not need to include a tribal resolution to site a project on their own reservation or trust land. A tribal resolution is the formal manner in which the tribal government expresses its legislative will in accordance with its organic documents. In the absence of such organic documents, a written expression adopted pursuant to tribal practices will be acceptable.

### **Advancing Racial Equity**

In accordance with Executive Order [13985](#), Executive Order 14091, *Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government*, and Federal fair housing and civil rights laws, your application must address the following:

- You analyzed the racial composition of the persons or households who are expected to benefit, directly or indirectly, from your proposed award activities;
- You identified any potential barriers to persons or communities of color equitably benefiting from your proposed award activities;
- You detailed the steps you will take to prevent, reduce, or eliminate these barriers; and
- You have measures in place to track your progress and evaluate the effectiveness of your efforts to advance racial equity in your award activities.

Note that any actions taken in furtherance of this section must be consistent with Federal nondiscrimination requirements.

This narrative is required and must address the four bullets outlined in the paragraph above. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency and will not change the applicant's score or rank as compared to other applicants. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency.

**All Applicants (except for Tribes and TDHEs):** This narrative is required and must address the four bullets outlined in the paragraph above. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency and will not change the applicant's score or rank as compared to other applicants. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency. (2 pages maximum)

**Tribes and TDHEs only:** Due to your specific focus on serving tribal communities, all grant activities will benefit underserved communities as defined in this NOFO, including Native Americans and Black and Brown people and communities. If you believe there are potential barriers to historically underserved communities equitably benefiting from proposed grant activities, submit a narrative identifying those barriers, detailing steps to prevent, reduce, or eliminate those barriers, and explaining how you will measure, track progress, and evaluate the effectiveness of efforts to overcome those barriers. (2 pages maximum)

### **Affirmative Marketing and Outreach**

Any outreach or marketing conducted under a HUD award must be conducted broadly throughout the local area and nearby areas and targeted to reach any eligible persons in demographic groups that would be unlikely or least likely to be aware of the benefits of a HUD award absent such efforts, or entities that serve such groups. Such demographic groups may include, for example, Black and Brown persons or communities, individuals with limited English proficiency, individuals with disabilities, or families with children. Strategies for affirmative marketing or outreach include outreach through community contacts or service providers or at community centers serving the target population; and marketing on websites, social media channels, television, radio, and print media serving local members of the targeted group. You must submit a narrative describing the affirmative marketing/outreach activities that will be conducted if you are selected for a HUD award.

This narrative is required and must address the issues outlined in the paragraph above. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency and will not change the applicant's score or rank as compared to other applicants. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency.

**All Applicants (except Tribes and TDHEs):** This narrative is required and must address the issues outlined in the paragraph above. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency and will not change the applicant's score or rank as compared to other applicants. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency. (2 pages maximum)

**Tribes and TDHEs only:** Tribes and TDHEs should describe any outreach or marketing to eligible Tribal members who would be unlikely or least likely to be aware of the benefits of this NOFO absent such efforts. This may include affirmative marketing or outreach to Tribal members such as, individuals with disabilities and/or families with children. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency and will not change the applicant's score or rank as compared to other applicants. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency. (2 pages maximum)

### **Experience Promoting Racial Equity**

In accordance with Executive Order 13985, Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Executive Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, and Federal fair housing and civil rights laws, your application must demonstrate that the applicant has the experience and/or the resources to effectively address the needs of underserved communities, particularly Black and Brown communities. This may include experience successfully working directly with such groups, experience designing or operating programs that equitably benefit such groups, or experience successfully advancing racial equity in other ways. This may also include experience soliciting, obtaining, and applying input from such groups when designing, planning, or implementing programs and activities.

Applicants will describe their past experience or resources to effectively meet the needs of underserved communities, particularly Black and Brown communities in response to V.A.1.i..

**All Applicants:** will describe their past experience or resources to effectively meet the needs of underserved communities, particularly Black and Brown communities in response to V.A.1.i.

**Tribes and TDHEs only:** will describe their past experience or resources to effectively meet the needs of Tribal members, in response to V.A.1.i.

### **Affirmatively Furthering Fair Housing**

With some exceptions for Federally recognized Indian tribes and their instrumentalities, the application must discuss how the applicant will carry out the proposed activities in a manner that affirmatively furthers fair housing in compliance with the Fair Housing Act and its implementing regulations and how applicants will meet the requirements of the definition of affirmatively furthering fair housing at 24 CFR 5.151. If the applicant will carry out proposed activities with an Assessment of Fair Housing (AFH), the proposed activities should be consistent with the AFH's fair housing goals and with fair housing strategies specified in the jurisdiction's Consolidated Plan or Public Housing Agency Plan.

Applicants must address this requirement by submitting a written narrative which describes how their proposed NOFO activities are aligned with the requirement to affirmatively further fair housing (AFFH). Specifically, applicants should describe how their proposed NOFO activities will meaningfully: (1) address significant disparities based on protected class in unmet housing needs (2) address disparities based on protected class in access to opportunity (3) address segregation and promoting integration (4) transform racially or ethnically concentrated areas of poverty into well-resourced areas of opportunity without displacing existing residents, and/or (5) foster and maintain compliance with civil rights and fair housing laws]. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency.

**All Applicants (except Tribes and TDHEs):** See 24 CFR 578.93(c) for specific Affirmatively Furthering Fair Housing requirements that apply to the CoC program and provide a written narrative addressing how the proposed project will adhere to this requirement. Applicants will submit this narrative according to the instructions in Section IV.B. This narrative will be evaluated for sufficiency. If the narrative is deemed insufficient, it will be a "Curable Deficiency" that will be communicated to the applicant for correction with a notice of deficiency. (2 pages maximum)

**Tribes and TDHEs only:** Tribes and TDHEs are not required to submit a written narrative related to Affirmatively Furthering Fair Housing.

## **G. Criteria for Beneficiaries.**

Eligible program participants (beneficiaries) are individuals and families experiencing homelessness outlined in [24 CFR 578.37\(a\)\(1\)\(i\)](#) where at least one individual in the household has a disability.

## **IV. APPLICATION AND SUBMISSION INFORMATION**

### **A. Obtain an Application Package**

#### **Instructions for Applicants**

All application materials, including the Application Instructions and Application Package, are

available through Grants.gov. You must access and review all available application materials. You must submit your application electronically via Grants.gov under the Funding Opportunity Number cited within this NOFO. Your application must list the applicable Funding Opportunity Number.

You can request a waiver from the requirement for electronic submission, if you demonstrate good cause. An example of good cause may include: a lack of available Internet access in the geographic area in which your business offices are located. However, lack of SAM registration or valid UEI is not good cause. If you cannot submit your application electronically, you must ask in writing for a waiver of the electronic application submission requirements. HUD will not grant a waiver if you fail to submit to HUD by email or postmark by mail a request for a waiver at least 15 calendar days before the application deadline. If HUD grants a waiver, a paper application must be received before the deadline for this NOFO. To request a waiver, you must contact:

Name:

Sherri L. Boyd

Email:

CoCBuils@hud.gov

HUD Organization:

CPD

Street:

471 7th St., SW

City:

Washington

State:

DC DISTRICT OF COLUMBIA

Zip:

20410

## **B. Content and Form of Application Submission**

You must verify that boxes 11, 12, and 13 on the SF-424 match the NOFO for which you are applying. If they do not match, you have downloaded the wrong Application Instruction and Application Package.

Submission of an application that is otherwise sufficient, but is under the wrong Assistance Listing and Funding Opportunity Number is a Non-Curable Deficiency, and will be rejected, unless otherwise stated under the Threshold requirements section. When applying with a UEI that does not match the organization name as registered in sam.gov will result in an ineligible applications.

### **1. Content**

<b>Forms/Assurances/Certifications</b>	<b>Submission Requirement</b>	<b>Notes/Description</b>
Application for Federal Assistance (SF-424)	This form is required.	Review section IV.B.2.a. of this NOFO for detailed application requirements.
Applicant and Recipient Assurances and Certifications (HUD 424-B)	This form is required.	Review section IV.B.2.a. of this NOFO for detailed application requirements.
Applicant/Recipient Disclosure/Update Report (HUD 2880)	This form is required.	Review section IV.B.2.a. of this NOFO for detailed application requirements.
Disclosure of Lobbying Activities (SF-LLL)	This form is conditionally required.	Review section IV.B.2.a. of this NOFO for detailed application requirements.
Certification Regarding Lobbying Activities	This form is required.	
Grant Application Detailed Budget Worksheet (HUD-424-CBW)		This form is contained within the Instruction Package.
Assurances for Non-Construction Programs (SF-424B)	This form is required.	This form is contained within the Application Package.
Assurances for Construction Programs (SF-424D)	This form is required.	This form is contained within the Application Package.

## **2. Other Submission Requirements**

Additionally, your complete application must attach form HUD-2991, Certification of Consistency with the Consolidated Plan and you must also submit narrative responses to the following equity requirements as outlined in Section III.F: Advancing Racial Equity, Affirmative Marketing and Outreach, and Affirmatively Furthering Fair Housing. Each narrative should be no more than 2-pages.

a. Standard Application, Assurances, Certifications and Disclosures

### **(1) Standard Form 424 (SF-424) Application for Federal Assistance**



The SF-424 is the government-wide form required to apply for Federal assistance programs, discretionary awards, and other forms of financial assistance programs. You must complete and submit the form with the other required forms and information as directed in this NOFO.

By signing the forms in the SF-424 either through electronic submission or in paper copy submission (for those granted a waiver), you and the signing authorized organization representative affirm that you both have reviewed the certifications and assurances associated with the application for Federal assistance and (1) are aware the submission of the SF-424 is an assertion that the relevant certifications and assurances are established and (2) acknowledge that the truthfulness of the certifications and assurances are material representations upon which HUD will rely when making an award to the applicant. If it is later determined the signing authorized organization representative to the application made a false certification or assurance, caused the submission of a false certification or assurance, or did not have the authority to make a legally binding commitment for the applicant, the applicant and the individual who signed the application may be subject to administrative, civil, or criminal action. Additionally, HUD may terminate the award to the applicant organization or pursue other available remedies. Each applicant is responsible for including the correct certifications and assurances with its application submission, including those applicable to all applicants, those applicable only to Federally recognized Indian tribes, or Alaskan native villages and those applicable to applicants other than Federally recognized Indian tribes, or Alaskan native villages.

## **(2) Assurances (HUD 424-B)**

By submitting your application, you provide assurances that, if selected to receive an award, you will comply with U.S. statutory and other requirements, including, but not limited to civil rights requirements. All recipients and subrecipients of the award are required to submit assurances of compliance with Federal civil rights requirements. *See, e.g.*, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, Violence Against Women Act, and the Age Discrimination Act of 1975; *see also* [24 CFR §§ 1.5; 3.115; 8.50](#); and [146.25](#). HUD accepts these assurances in the form of the HUD 424-B, which also require compliance with HUD Reform Act requirements and all general Federal nondiscrimination requirements in the administration of the Federal assistance award.

## **(3) Applicant Disclosure Report Form 2880 (HUD 2880)**

The form HUD 2880 is required if you are applying for assistance within the jurisdiction of HUD to any project subject to Section 102(d) of the HUD Reform Act . Assistance is provided directly by HUD to any person or entity, but not to subrecipients. It includes assistance for the acquisition, rehabilitation, operation, conversion, modernization, renovation, or demolition of any property containing five or more dwelling units that is to be used primarily for residential purposes. It includes assistance to independent group residences, board and care facilities, group homes and transitional housing but does not include primarily nonresidential facilities such as intermediate care facilities, nursing homes and hospitals. It also includes any change requested by a recipient in the amount of assistance previously provided, except changes resulting from annual adjustments in Section 8 rents under Section 8(c)(2)(A) of the United States Housing Act of 1937 ([42 U.S.C. § 1437f](#)). *See* [24 CFR part 4 for additional information](#).

## **(4) Code of Conduct**

Both you, as the award recipient, and all subrecipients must have a code of conduct (or written standards of conduct). The code of conduct must comply with the requirements included in the “Conducting Business in Accordance with Ethical Standards” section of the Administrative, National and Department Policy Requirements and Terms for HUD Financial Assistance Awards-- 2024, as well as any program-specific requirements. These requirements include ethical standards related to conflicts of interest for procurements in [2 CFR 200.318\(c\)](#) and [2 CFR 200.317](#), as well as HUD-specific conflict of interest standards. HUD maintains a list of organizations that have previously submitted written standards of conduct on its [Code of Conduct for HUD Grant Programs webpage](#). But it is your responsibility to ensure that the standards are compliant with the noted requirements and that HUD has the latest version of the written standards. Updated written standards should be submitted with the application. Any updates to your written standards, after the application period, should be submitted as directed by the HUD program contact for this NOFO.

### **(5) False Statements**

Applicant understands that providing false or misleading information during any part of the application, award, or performance phase of an award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 USC 1001, 18 USC 1012, or 18 USC 287; treble damages and civil penalties under the False Claims Act, 31 USC 3729 et seq.; double damages and civil penalties under the Program Fraud Civil Remedies Act, 31 USC 3801 et seq.; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other remedies including termination of active HUD award.

### **(6) Lobbying Activities**

Applicants are subject to the provisions of Section 319 of Public Law 101-121, 31 U.S.C. 1352, (the Byrd Amendment), and 24 CFR part 87, which prohibit recipients of federal awards from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a Federal award. All applicants must submit with their application the signed “Certification Regarding Lobbying” form. In addition, applicants must disclose, using Standard Form LLL (SF-LLL), “Disclosure of Lobbying Activities,” any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, or congressional staff regarding specific awards. Federally recognized Indian tribes and tribally designated housing entities (TDHEs) established by Federally recognized Indian tribes as a result of the exercise of the tribe’s sovereign power are excluded from coverage of the Byrd Amendment, but state-recognized Indian tribes and TDHEs established only under state law shall comply with this requirement.

## **3. Format and Form**

Narratives and other attachments to your application must follow the following format guidelines. Do not submit password protected or encrypted files.

25 Pages maximum length of narratives

Double spaced 12-point (minimum) Times Roman font on letter sized paper (8 1/2 x 11 inches) with at least 1-inch margins on all sides.

Each rating factor includes the maximum number of pages per rating factor. HUD will not review additional pages submitted over the limit. Budget worksheets do not count toward the maximum number of pages.

## C. System for Award Management (SAM) and Unique Entity Identifier (UEI)

### 1. SAM Registration Requirement

You must register at [www.sam.gov](http://www.sam.gov) before submitting an application. You must maintain current information in SAM on immediate and highest-level owner and subsidiaries, as well as on all predecessors that a Federal award within the last three years, if applicable. Information in SAM must be current for all times during which you have an active Federal award or an application or plan under consideration by HUD.

### 2. UEI Requirement

All entities doing business with the Federal government must use the UEI created in SAM.gov. Your application must include a valid UEI that is registered and active at [www.sam.gov](http://www.sam.gov). **When submitting an application with a UEI that does not match the organization name as registered in sam.gov will result in an ineligible application.**

### 3. Requirement to Register with Grants.gov

Anyone planning to submit applications on behalf of an organization must register at Grants.gov and be approved by the E-Biz POC in SAM to submit applications for the organization. Registration for SAM and Grants.gov is a multi-step process and can take four (4) weeks or longer to complete if data issues arise. Applicants without a valid registration cannot apply through Grants.gov. Complete registration instructions and guidance are provided on Grants.gov.

## D. Application Submission Dates and Times

### 1. Application Due Date Explanation

The application deadline is 11:59:59 PM Eastern time on

11/21/2024

Submit your application to Grants.gov unless a waiver has been issued allowing you to submit a paper application. Instructions for submitting your paper application will be contained in the waiver of electronic submission.

“Received by Grants.gov” means the applicant received a confirmation of receipt and an application tracking number from Grants.gov. Grants.gov then assigns an application tracking number and date-and timestamp each application upon successful receipt by the Grants.gov system. A submission attempt not resulting in confirmation of receipt and an application tracking number is not considered received by Grants.gov.

Applications received by Grants.gov must be validated by Grants.gov to be received by HUD.

“Validated by Grants.gov” means the application has been accepted and was not rejected with errors. You can track the status of your application by logging into Grants.gov, selecting “Applicants” from the top navigation, and selecting “Track my application” from the dropdown list. If the application status is “rejected with errors,” you must correct the error(s) and resubmit

the application before the 24-hour grace period ends. Applications in “rejected with errors” status after the 24-hour grace period expires will not be received by HUD. Visit Grants.gov for a complete description of processing steps after applying.

HUD strongly recommends you review your application before you submit it at Grants.gov. Also, HUD recommends you submit your application at least **48 hours before the deadline** and during regular business hours to allow enough time to correct errors or overcome other problems.

## 2. Grants.gov Customer Support

Grants.gov provides customer support information on its website at <https://www.grants.gov/web/grants/support.html>. If you have difficulty accessing the application and instructions or have technical problems, contact Grants.gov customer support center by calling (800) 518-GRANTS (this is a toll-free number) or by sending an email to [support@grants.gov](mailto:support@grants.gov). The customer support center is open 24 hours a day, seven days per week, except Federal holidays. Individuals who are deaf or hard of hearing, as well as individuals who have speech or other communication disabilities may use a relay service to reach Grants.gov Customer Support. To learn more about how to make an accessible telephone call, visit the [webpage for Federal Communications Commission](#).

## 3. Grants.gov Application Submission

You can verify the contents of your submitted application to confirm Grants.gov received everything you intended to submit. To verify the contents of your submitted application:

- Log in to Grants.gov.
- Click the Check Application Status link, which appears under the Grant Applications heading in the Applicant Center page. This will take you to the Check Application Status page.
- Enter search criteria and a date range to narrow your search results.
- Click the Search button. To review your search results in Microsoft Excel, click the Export Data button.
- Review the Status column. To view more detailed submission information, click the Details link in the Actions column.
- To download the submitted application, click the Download link in the Actions column.

Take note of the Grants.gov tracking number, as it is needed by the Grants.gov customer support center should you seek their assistance.

HUD may extend the application deadline for any program if Grants.gov is offline or not available to applicants for at least 24 hours immediately prior to the deadline date, or the system is down for 24 hours or longer and impacts the ability of applicants to cure a submission deficiency within the grace period.

HUD may also extend the application deadline upon request if there is a presidentially declared disaster in the applicant’s area.

If these events occur, HUD will post a notice on its website establishing the new, extended deadline for the affected applicants. HUD will also publish the extension on Grants.gov.

In determining whether to grant a request for an extension based on a presidentially declared disaster, HUD will consider the totality of the circumstances including the date of an applicant's extension request (how closely it followed the basis for the extension), whether other applicants in the geographic area are similarly affected by the disaster, and how quickly power or services are restored to enable the applicant to submit its application.

**NOTE:** Busy servers, slow processing, large file sizes, improper registration or password issues are not valid circumstances to extend the deadline dates or the grace period.

#### **4. Amend or Revise an Application**

Before the submission deadline, you may amend a validated application through Grants.gov by submitting a revised and complete application including the new or changed material. The revised application must be received and validated by Grants.gov by the applicable deadline.

If HUD receives an original and a revised application for a single proposal, HUD will evaluate only the last submission received by Grants.gov before the deadline.

#### **5. Grace Period for Grants.gov Submissions**

If your application is received by Grants.gov before the deadline, but is rejected with errors, you have a grace period of 24 hours after the application deadline to submit a corrected, received, and validated application through Grants.gov. The date and time stamp on the Grants.gov system determines the application receipt time. Any application submitted during the grace period but not received and validated by Grants.gov will not be considered for funding. There is no grace period for paper applications.

#### **6. Late Applications**

An application received after the NOFO deadline date that does not meet the Grace Period requirements will be marked late and will not be reviewed by HUD for funding

consideration. Improper or expired registration and password issues are not sufficient causes to allow HUD to accept applications after the deadline date.

#### **7. Corrections to Deficient Applications**

HUD will not consider information from applicants after the application deadline except for curable deficiencies.

HUD will uniformly notify applicants of each curable deficiency. See curable deficiency definition in section I.A of this NOFO. Examples of curable (correctable) deficiencies include inconsistencies in the funding request and failure to submit required certifications. These examples are non-exhaustive.

When HUD identifies a curable deficiency, HUD will notify the authorized organization representative identified on the SF-424 Application for Federal Assistance via email. This email is the official notification of a curable deficiency.

You must email corrections of Curable Deficiencies to [applicationsupport@hud.gov](mailto:applicationsupport@hud.gov) within the time limits specified in the notification. The time allowed to correct deficiencies will be no less than 48 hours and no more than 14 calendar days from the date of the email notification. The start of the cure period will be the date stamp on the email sent from HUD. If the deficiency cure

deadline date falls on a Saturday, Sunday, Federal holiday, or on a day when HUD's Headquarters are closed, then the applicant's correction must be received on the next business day HUD Headquarters offices in Washington, DC are open.

The subject line of the email sent to [applicationsupport@hud.gov](mailto:applicationsupport@hud.gov) must state: Technical Cure and include the Grants.gov application tracking number or the GrantSolutions application number (e.g., Subject: Technical Cure - GRANT123456 or Technical Cure - XXXXXXXXXXXX). If this information is not included, HUD cannot match the response with the application under review and the application may be rejected due to the deficiency.

Corrections to a paper application must be sent in accordance with and to the address indicated in the notification of deficiency. HUD will treat a paper application submitted in accordance with a waiver of electronic application containing the wrong UEI as having a curable deficiency. Failure to correct the deficiency and meet the requirement to have a UEI and active registration in SAM will render the application ineligible for funding.

## **8. Authoritative Versions of HUD NOFOs**

The version of this NOFO posted on Grants.gov includes the official documents HUD uses to solicit applications.

## **9. Exemptions**

Parties that believe the requirements of the NOFO would impose a substantial burden on the exercise of their religion should seek an exemption under the [Religious Freedom Restoration Act](#) (RFRA).

**10. Summary of the Application Process.** This CoCBuils NOFO is administered under the Rule. You should review the information in this NOFO to ensure your application is complete and submitted in a timely manner.

CoCBuils applications are to be completed by the organization requesting funds, but must be submitted by the CoC's Collaborative Applicant, including Collaborative Applicants designed by HUD as a Unified Funding Agency (UFA). A CoC must have a current CoC Program Registration and must only submit one application, unless a second application is submitted specifically to create PSH units on Tribal reservations or trust lands.

The application must describe the type of capital costs being requested – new constructions, acquisition, rehabilitation – existing partnerships with eligible developers and if you are also requesting other eligible costs outlined in Section IV.G.3 of this NOFO, including up to 10 percent for administrative costs of overall program management, coordination, monitoring, and evaluation and up to 20 percent for other eligible CoC Program activities associated with the PSH project.

CoC planning and UFA Costs are not eligible under this NOFO.

## **E. Intergovernmental Review**

This program is not subject to [Executive Order 12372, Intergovernmental Review of Federal Programs](#).



## F. Funding Restrictions

Under 2 CFR 200.458 pre-award costs are allowable with written approval from HUD if such costs: a) are consistent with 2 CFR 200.458; and b) would be allowable as a post-award cost; and c) do not exceed 10 percent of the total funds obligated to this award. However, HUD will not consider eligibility for pre-award costs until after the date of the HUD selection notice.

Additionally, the incurrence of pre-award costs in anticipation of an award imposes no obligation on HUD either to make the award, or to increase the amount of the approved budget, if the award is made for less than the amount anticipated and is inadequate to cover the pre-award costs incurred.

### Indirect Cost Rate

Normal indirect cost rules under [2 CFR part 200, subpart E](#) apply. If you intend to charge your indirect costs to the award, your application must clearly state the rate and distribution base you intend to use. If you have a Federally negotiated indirect cost rate, your application must also include a letter or other documentation from the cognizant agency showing the approved rate. Successful applicants whose rate changes after the application deadline must submit the new rate and documentation to assure the award agreement incorporates the applicable rate.

Applicants other than state and local governments. If you have a Federally negotiated indirect cost rate, your application must clearly state the approved rate and distribution base and must include a letter or other documentation from the cognizant agency showing the approved rate. If your organization does not have a current negotiated rate (including provisional rate) and elects to use the de minimis rate, your application must clearly state you intend to use the de minimis rate of 10% of Modified Total Direct Costs (MTDC), as defined at [2 CFR 200.1](#). Costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both, as described in [2 CFR 200.403](#). Once elected, the de minimis rate must be applied consistently for all Federal awards until the organization chooses to negotiate a rate, which the organization may apply to do at any time. Documentation of the decision to use the de minimis rate must be retained on file for audit.

State and local governments. If your department or agency unit has a Federally negotiated indirect cost rate, your application must include that rate, the applicable distribution base, and a letter or other documentation from the cognizant agency showing the negotiated rate. If your department or agency unit receives more than \$35 million in direct Federal funding per year, you may not claim indirect costs until you receive a negotiated rate from your cognizant agency for indirect costs as provided in [Appendix VII to 2 CFR part 200](#).

If your department or agency unit receives no more than \$35 million in direct Federal funding per year and your department or agency unit has developed and maintains an indirect cost rate proposal and supporting documentation for audit in accordance with [2 CFR part 200, Appendix VII](#), you may use the rate and distribution base specified in that indirect cost rate proposal.

Alternatively, if your department or agency unit receives no more than \$35 million in direct Federal funding per year and does not have a current negotiated rate (including provisional) rate, you may elect to use the de minimis rate of 10% of MTDC. As described in [2 CFR 200.403\(d\)](#), costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both. Once elected, the de minimis rate must be applied consistently for all Federal awards until your department or agency chooses to negotiate for a

rate, which you may apply to do at any time. Documentation of the decision to use the de minimis rate must be retained on file for audit.

## **G. Other Program-specific Requirements**

### **1. Project Applications:**

- a. must include capital costs for new construction, acquisition, or rehabilitation of new PSH units; and
  - b. may include costs for other eligible CoC Program Costs associated with the PSH project as outlined in Section IV.G.3 of this NOFO that are no more than 20 percent of the total budget requested (HUD will award no more than 20 percent of final award for non-capital costs eligible CoC activities associated with the PSH project); and
  - c. may include administrative costs of no more than 10 percent of the total amount requested for capital costs and, if included, eligible CoC Program costs outlined in Section IV.G.3 of this NOFO. HUD will award no more than 10 percent of final award for administrative costs associated with the PSH project).
2. Grant terms may be two, three, four, or five years. Projects selected for conditional award must be able to:
- a. provide proof of site control (24 CFR 578.25) prior to execution of the grant agreement; and
  - b. execute the grant agreement with HUD no later than September 1, 2025.

Additionally, projects selected for conditional award must:

- c. have a completed environmental review before awarded funds can be drawn for project activities.; and
- d. meet the timeliness standards outlined in 24 CFR 578.85 for new construction or rehabilitation activities.

You should select the grant term based on the type of capital costs project you are submitting and the realistic time frame for completion. Generally, rehabilitation and acquisition time frames are less than new construction.

See [24 CFR 578.85](#) for timeliness requirements related to new construction and rehabilitation projects.

3. Eligible Costs. You may include a budget request with the following eligible costs in the application. However, HUD will award no more than 20 percent of the total funds for use in project-based rental assistance, operating costs, or supportive services. Additionally, HUD will award no more than 10 percent of the total budget (capital costs plus additional eligible costs) for project administrative costs.

- a. Acquisition ([24 CFR 578.43](#));
- b. Rehabilitation ([24 CFR 578.45](#));
- c. New Construction ([24 CFR 578.47](#));
- d. Project-based rental assistance ([24 CFR 578.51\(e\)](#));
- e. Supportive Services ([24 CFR 578.53](#));



- f. Operating Costs ([24 CFR 578.55](#)); and
- g. Project administrative costs ([24 CFR 578.59](#)).

If a project application's budget exceeds the cost limits noted above, HUD will reduce the costs to the eligible amount which will result in a reduction in the total amount of funds requested. See [24 CFR 578.87\(c\)](#) for restrictions on combining funds.

4. CoC Review of Application prior to Submission to HUD. HUD requires CoCs to implement a thorough review and oversight process at the local level to determine which application, if more than one is received, will be submitted to HUD under this NOFO. CoCs must closely review the information provided in each application to ensure:

- a. The information provided in the application and proposed activities are eligible under this NOFO.
- b. The application narratives are fully responsive to the NOFO requirements (Section V.A).
- c. All required attachments are included in the submission, including HUD-required forms and budget forms, ensuring all are accurately and fully completed.

5. HUD will require recordation of a HUD-approved use and repayment covenant before funds can be drawn down (the form can be obtained from the local HUD CPD field office) for all grants of funds for new construction, acquisition, and rehabilitation. (24 CFR 578.81) HUD Field Office Counsel must approve the use and repayment covenants in advance of their being recorded, and proof of recording must be submitted to HUD Field Office Counsel before HUD will release grant funds, other than acquisition funds.

## V. APPLICATION REVIEW INFORMATION

### A. Review Criteria

#### 1. Rating Factors

The application is based on 100 points and has a minimum score threshold of 60 points. Each rating factor includes a maximum number of pages per response. HUD will only read the number of pages indicated. Any pages above the maximum length will not be reviewed or considered.

Rating Factor	Maximum Points	To Receive Maximum Points
<b>a. Development Experience and Leveraging.</b> Maximum 5 pages for this narrative.	24	Demonstrate that the applicant, developer, and relevant subrecipients have experience with at least four other projects that have a similar scope and scale as the proposed project. (up to 8 points) Demonstrate that the applicant, developer, and relevant subrecipients have experience leveraging resources substantially similar to the funds being proposed in the current project. HUD will evaluate up to 3 examples of prior leveraging experience for up to the five largest (by dollar value being contributed to the project) resources being leveraged for the proposed project. Examples of resources

		<p>that will be considered include Low Income Housing Tax Credits, HOME, CDBG, Section 108, Section 202, and Section 811 (up to 8 points)</p> <p>Provide information regarding the availability of low-income housing tax credit commitments, project-based rental assistance, and other resources dedicated to the proposed project. Describe the dollar value of each of these commitments and describe the overall cost of the project, including the estimated cost per unit. In cases where the project includes more than one type of housing (e.g. townhouses and apartments), or has multiple sites, provide cost per unit information on each site or housing type to the extent possible. (up to 8 points)</p> <p>If there are current properties under construction or rehabilitation where CoCBuils funds could be used to obtain units, in addition to the bulleted items above, provide:</p> <ul style="list-style-type: none"> <li>• the amount and type of funds being used to construct the property;</li> <li>• evidence of site control;</li> <li>• evidence of completed and approved environmental review;</li> <li>• identify the owner of the property and their experience with constructing or rehabilitation; and</li> <li>• the number of units that will be finished using CoCBuils funds.</li> </ul>
<p><b>b. Managing Homeless Projects</b> Maximum 4 pages.</p>	12	<p>Demonstrate that your organization and that your proposed subrecipients have experience administering programs for individuals and families experiencing homelessness where one member of the household has a disability. Your response must include:</p> <ul style="list-style-type: none"> <li>• Experience managing at least 4 properties that at a minimum includes how you determine the amount of rent to charge based on unit size, addressing program participant complaints, working with other service organizations that may place program participants in the units, and maintaining the properties. (Up to 8 points)</li> <li>• Type and frequency of supportive services that will be available (e.g., case management, life skills, health care). See <a href="#">24 CFR part 578.53</a> for full list of CoC Program eligible supportive services. State whether your organization or another organization will provide supportive services. If other organizations will provide some or all of the</li> </ul>

		<p>supportive services, provide the organization(s) name, address, email address, and phone number. If your organization will provide direct supportive services with CoCBuils funds, you must complete the Supportive Services Budget. (Up to 3 points)</p> <ul style="list-style-type: none"> <li>• Providing transportation for program participants. Describe the methods of transportation that will be available for program participants to travel to doctor appointments, recreation, public services (e.g., post office, library), shopping, other services, etc. If public transportation is available, indicate the hours of operation and the distance from the units. (1 point)</li> </ul>
<p><b>c. Implementation Schedule</b> Maximum page length not to exceed 2 pages.</p>	12	<p>Complete an implementation schedule based on the proposed CoCBuils project.</p> <p>i. Based on type of capital cost requested, provide:</p> <ul style="list-style-type: none"> <li>• New Construction – date construction will begin and end, and date property will be available for move-in.</li> <li>• Acquisition – date property will be acquired.</li> <li>• Rehabilitation – dates rehabilitation of the property will begin and end.</li> </ul> <p>ii. Provide the proposed schedule for the following activities:</p> <ul style="list-style-type: none"> <li>• site control, indicate if the property has already been identified;</li> <li>• environmental review completion;</li> <li>• execution of grant agreement;</li> <li>• start and completion dates;</li> <li>• anticipated date the jurisdiction will issue the occupancy certificate;</li> <li>• date property will be available for individuals and families experiencing homelessness to begin occupying units.</li> </ul> <p>HUD will evaluate the implementation schedule and provide up to 4 points based on whether the development schedule is complete and has all necessary elements, up to 4 points depending on likelihood that development milestones will be met, and up to 4 points based on the likelihood that the project will be ready for occupancy within 36 months of award.</p>
<p><b>d. Property Maintenance</b> Maximum 2 pages.</p>	5	<p>Demonstrate how you will ensure the property is maintained annually to prevent unnecessary costly repairs. Your description must include:</p>

		<ul style="list-style-type: none"> <li>• how the property will be maintained annually and needed repairs are conducted (e.g., checking for roof leaks, routine maintenance for heating and cooling). Identify the source of funds that will be used and whether there will be a reserve fund established specifically for maintenance and repair of proposed units.</li> <li>• Demonstrate how the project will be able to cover replacement costs (e.g., replacing broken or damaged appliances, major equipment). Indicate if there will be funds provided from other sources and what those sources will be.</li> </ul>
<b>e. Unmet Housing Need</b> Maximum 1 page.	7	Describe the population that will be served by the project and the level of unmet need for new units of permanent supportive housing in your area for that population. Using the PIT Count and HIC information, estimate the gap between the number of units of permanent supportive housing available and the number of homeless individuals and families experiencing homelessness where at least one household member has a disability. Maximum points will be awarded for applicants that demonstrate that there are fewer than 50 PSH beds available in a given year for each 100 people in the population that is proposed to be served. (Up to 7 points)
<b>f. Management of Rental Housing</b> Maximum 2 pages.	10	<ul style="list-style-type: none"> <li>• Describe the rental housing projects you or your subrecipient have managed. If you have or will partner with other organization(s) within the CoC to manage a property(s), provide the organization's information, type of program participants assisted, and experience.</li> <li>• Include the number of grants for affordable housing awarded over the last three years, total amount of awards, and the type of subsidy funding or financing provided for housing.</li> <li>• Specify the number of assisted and non-assisted units in each property you list.</li> </ul> <p>Maximum points will be available for adequately describing management of at least 4 times the number of properties and units proposed in this application.</p>
<b>g. Coordinated Entry</b> Maximum 2 pages.	3	Demonstrate how the project will use the CoC's coordinated entry process, or in the case of victim service providers, another coordinated entry process that meets HUD's minimum requirements, to refer individuals and families experiencing homelessness in the new PH-PSH units. The response must include the coordinated entry process

		implemented and how program participants will be placed in the project.
<b>h. Coordination with Housing Providers, Healthcare Organizations, and Social Service Providers</b> Maximum 2 pages.	10	<p>i. Demonstrate either that:</p> <ul style="list-style-type: none"> <li>the project is leveraging non-CoC funded housing resources through coordination with housing providers, healthcare organizations, and social service providers for new construction, acquisition, and rehabilitation to provide at least 50 percent of the amount being requested in the application, or</li> <li>the project is leveraging non-CoC funded housing resources to provide subsidies for at least 25 percent of the units that are proposed in the application.</li> </ul> <p>You must attach letters of commitment, contracts, or other formal written documents that demonstrate the percentage of subsidies or number of units being provided to support the project. (5 points)</p> <p>ii. Demonstrate through written commitment from a healthcare organization, housing provider, and/or social service provider:</p> <ul style="list-style-type: none"> <li>Access to housing resources (e.g., supportive services, home-based and long-term services and supports, primary and medical care, behavioral health, substance use disorder treatment and recovery, and other services); or</li> <li>The value of assistance being provided is at least an amount that is equivalent to at least \$7,500 per unit included in the proposed project.</li> </ul> <p>Acceptable forms of commitment are formal written agreements and must include:</p> <ul style="list-style-type: none"> <li>value of the commitment, and</li> <li>dates the housing and resources will be provided.</li> </ul> <p>In-kind resources must be valued at the local rates consistent with the amount paid for services not supported by grant funds. (5 points)</p>
<b>i. Experience Promoting Racial Equity</b> Maximum 4 pages.	8	<p>Describe:</p> <ul style="list-style-type: none"> <li>Experience soliciting, obtaining, and applying input from underserved groups when designing, planning, and implementing housing projects.</li> <li>Experience building community partnerships with grassroots and resident-led organizations that provide housing, health care, and supportive services.</li> </ul>

		<ul style="list-style-type: none"> <li>Experience designing or operating programs that have improved racial equity, particularly among people experiencing homelessness.</li> </ul>
<b>j. Community Integration for Persons with Disabilities</b> Maximum 2 pages	7	Demonstrate how permanent supportive housing will enable program participants to make meaningful choices about housing, health care, and long-term services and supports that will allow them to fully participate in the community. The response should include how the PSH units will ensure non-segregation of individuals and families experiencing homelessness where at least one household member has a disability. Additionally, the response should include state whether the PSH units will be part of mixed-use development, meaning individuals and families that will reside in the units are not all disabled.
<b>k. Section 3 Requirement</b> Maximum 1 page.	2	Describe the actions that will be taken by project applicants to comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) and HUD’s implementing rules at 24 CFR part 75 to provide employment and training opportunities for low- and very low-income persons, as well as contracting and other economic opportunities for business that provide economic opportunities to low- and very low-income persons. This does not affect applicant's existing responsibilities to provide training, employment, and other economic opportunities pursuant to Section 3 that result from their receipt of other HUD funding. Grants to Indian Tribes are subject to Indian Preference under Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b) and are not subject to Section 3 requirements.

## CoCBUILDS Total Application Points

**Maximum Points: 100**

### Section 3

In accordance with HUD's Section 3 regulations at [24 CFR 75.7](#), your application will receive up to 2 points based on the quality of Section 3 plans submitted. The program office will consider the following in evaluating the quality of the Section 3 plan: Section V.A.1.k of this NOFO.

#### 2. Other Factors

HUD may employ rating panels to review and rate all or part of the applications according to the rating criteria in Section V.A of this NOFO.

- a. **Threshold Review.** HUD first will review applications to determine whether you and subrecipients meet the project eligibility in Section III.A., and whether the applications meet eligibility and quality thresholds detailed in Section V.A of this NOFO. If HUD determines these standards are not met, HUD will reject the application, unless otherwise

provided in this NOFO. There are 100 points available for applications. To be considered for possible funds, a project application must score at least 60 points or higher.

- b. Projects on Tribal reservations or trust land. HUD will next set aside up to three awards for the highest scoring project applications where new PSH units will be constructed, rehabilitated, or acquired on Tribal reservations or trust lands.
- c. Conditional Selection and Adjustments to Funding. HUD will finally conditionally select applications based on CoCBUILDS application score using the following process:
  - i. From all the applications for projects in states that have a population of 2,500,000 or fewer, HUD will select the highest scoring applications until a cumulative total of \$65,000,000 has been selected;
  - ii. Select the highest scoring projects remaining, regardless of the population of the state in which the project is located. If there are not enough eligible projects submitted as outlined in Section V.A.2.c.i, HUD intends to add the remaining amount to this amount.

### **Policy Initiative Preference Points**

This NOFO supports the following policy initiatives, for which a maximum of two (2) preference points may be awarded. Preference points are added to your overall application score.

#### **Environmental Justice (2 points)**

You may voluntarily choose to address preference point policy initiatives in your application. Addressing these policy initiatives is not a requirement to apply for or receive an award. If you voluntarily choose to address a policy initiative in your application, you will be required to adhere to the information submitted with your application should you receive an award. The proposed information will be included as a binding requirement of any Federal award you receive as a term and condition of that award.

This NOFO does not offer preference points for Climate Change

**Environmental Justice:** In accordance with [Executive Order 12898](#), Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and EO 14008, HUD will award up to two (2) points for applications proposing activities that advance Environmental Justice (as defined in Section I.A.4 of this NOFO). For the purposes of this HUD program, activities that advance Environmental Justice include doing the following for people or communities that have been environmentally underserved or overburdened (e.g. low-income and Black and Brown communities):

- Reducing or mitigating exposure to environmental and health hazards (e.g. industrial facilities, EPA superfund sites, brownfields and legacy pollution, heat islands).
- Improving protection from and resilience to environmental harms (e.g. fire-resistant materials, floodproofing).
- Expanding environmental benefits (e.g. clean air and water, public transportation, bike and walking paths, clean energy, green technology, biodiversity).
- Overcoming prior disinvestment in environmental infrastructure (e.g. drainage systems, green spaces, pollution controls).

To receive points under this Section, your application must describe in detail how your proposed activities will advance Environmental Justice in one or more of these ways.

In addition, to receive points under this Section, your application must also clearly describe how your activities will be informed by input from affected communities. To provide those affected a meaningful opportunity to participate in the design and implementation of your activities, you should make key information available online and through other media, engage with community leaders, solicit public feedback, hold public meetings at a variety of times and locations or virtually, and respond appropriately to community concerns.

This NOFO does not offer HBCU preference points.

This NOFO does not offer preference points related to minority-serving institutions.

This NOFO does not offer Promise Zone preference points.

### **Rural Partners Network Community Networks**

This program does not offer Rural Partners Network Community Networks preference points.

## **B. Review and Selection Process**

### **1. Past Performance**

In evaluating applications for funding, HUD will consider an applicant's past performance in managing funds. Items HUD will consider include, but are not limited to:

OMB-designated repositories of governmentwide data, as noted in [2 CFR 200.206\(a\)](#)

The ability to account for funds in compliance with applicable reporting and recordkeeping requirements

Timely use of funds received from HUD

Timely submission and quality of reports submitted to HUD

Meeting program requirements

Meeting performance targets as established in the HUD agreement

The applicant's organizational capacity, including staffing structures and capabilities

Timely completion of activities and receipt and expenditure of promised matching or leveraged funds

The number of persons served or targeted for assistance

Promoting self-sufficiency and economic independence

Producing positive outcomes and results

HUD will conditionally select project applications based on application score using the following process:

- a. Select the three highest scoring PSH projects that received 60 points or more where units will be located on Tribal reservations or trust lands.
- b. Select the highest scoring eligible projects in states that have a population of 2,500,000 or less until a cumulative total of \$65,000,000 has been selected. For purposes of calculating



the cumulative total of \$65,000,000, HUD will consider projects selected in paragraph a above if they are located in states that have a population of 2,500,000 or less.

- c. Select the highest scoring projects remaining, regardless of the population of the state in which the project is located. If there are not enough eligible projects submitted as outlined in subparagraph b, the remaining amount will be added to this amount.

HUD may reduce scores based on the past performance review, if specified under V.A. Rating Factors. Whenever possible, HUD will obtain and review past performance information. If this review results in an adverse finding related to integrity of performance, HUD reserves the right to take any of the remedies provided in the [Pre-Selection Review of Performance section of the Eligibility Requirements for Applicants of HUD Financial Assistance Programs](#).

HUD may reduce scores based on the past performance review, if specified under V.A. Rating Factors. Whenever possible, HUD will obtain and review past performance information. If this review results in an adverse finding related to integrity of performance, HUD reserves the right to take any of the remedies provided in the [Pre-Selection Review of Performance section of the Eligibility Requirements for Applicants of HUD Financial Assistance Programs](#).

## **2. Assessing Applicant Risk**

In evaluating risks posed by applicants, HUD may use a risk-based approach and may consider any items such as the following:

- (1) Financial stability;
- (2) Quality of management systems and ability to meet the management standards prescribed in this part;
- (3) History of performance. The applicant's record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, failing to make significant progress in a timely manner, failing to meet planned activities in a timely manner, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;
- (4) Reports and findings from audits performed under Subpart F—Audit Requirements of 2 CFR part 200 or the reports and findings of any other available audits; and
- (5) The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

# **VI. AWARD ADMINISTRATION INFORMATION**

## **A. Award Notices**

Following the evaluation process, HUD will notify successful applicants of their selection for funding. HUD will also notify other applicants, whose applications were received by the deadline but were not chosen for award. Notifications will be sent by email to the person listed as the AOR in item 21 of the SF-424.

### **1. Final Award**

After HUD has made selections, HUD will finalize specific terms of the award and budget in consultation with the selected applicant. If HUD and the selected applicant do not finalize the terms and conditions of the award in a timely manner, or the selected applicant fails to provide requested information, an award will not be made to that applicant. In this case, HUD may select another eligible applicant. HUD may also impose specific conditions on an award as provided under [2 CFR 200.208](#).

## **2. Adjustments to Funding**

To ensure fair distribution of funds and enable the purposes or requirements of a specific program to be met, HUD reserves the right to fund less than the amount requested in an application.

a. HUD may fund no portion of an application that:

- (1) Is ineligible for funding under applicable statutory or regulatory requirements;
- (2) Fails, in whole or in part, to meet the requirements of this notice;
- (3) Duplicates activities funded by other Federal awards; or
- (4) Duplicates activities funded in a prior year.

b. HUD may adjust the funding for an application to ensure funding diversity, geographic diversity, and alignment with HUD administrative priorities.

c. If an applicant turns down an award offer, or if HUD and an applicant do not finalize the terms and conditions of the award in a timely manner, HUD may withdraw the award offer and make an offer of funding to another eligible application.

d. If funds remain after all selections have been made, remaining funds may be made available within the current FY for other competitions within the program area, may be held for future competitions (if allowable in accordance with the applicable appropriation or authorizing statute), or may be used as otherwise provided by authorizing statute or appropriation.

e. If, after announcement of awards made under the current NOFO, additional funds become available either through the current appropriations, a supplemental appropriation, other appropriations or recapture of funds, HUD may, in accordance with the appropriation, use the additional funds to provide additional funding to an applicant awarded less than the requested amount of funds to make the full (or nearer to full) award, and/or to fund additional applicants that were eligible to receive an award but for which there were no funds available.

## **3. Funding Errors**

If HUD commits an error that, when corrected, would cause selection of an applicant during the funding round of a Program NOFO, HUD may select that applicant for funding, subject to the availability of funds. If funding is not available to award in the current fiscal year, HUD may make an award to this applicant during the next fiscal year if funding is available.

## **4. Geographic Diversity.**

HUD has determined that geographic diversity is an appropriate consideration in selecting projects under this NOFO. HUD believes that geographic diversity can be achieved best by awarding grants in each of HUD's ten regions. To this end, in instances where any of the ten

regions do not have at least one funded project, HUD reserves the right to fund eligible project(s) with the highest total score in that region.

#### 5. Funding Diversity.

HUD reserves the right to reduce the amount of a grant, if necessary, to ensure no more than 20 percent of assistance made available under this NOFO will be awarded to projects located within any one state. Additionally, HUD reserves the right to select up to three projects where PSH units will be located on Tribal reservations or trust land.

#### 6. Tie Breaking Rules.

In the case of a tie, HUD will fund the projects in order of score based on rating factor V.A.1.a. If there is still a tie, HUD will select the project from the CoC that has the highest rating factor V.A.1.c.3. If HUD exercises a right it has reserved under this NOFO, that right will be exercised uniformly across all applications received in response to this NOFO.

#### 7. Appeals

24 CFR 578.35 sets forth the following types of appeals:

- **Solo Applicants.** A process for eligible project applicants that attempted to participate in their CoC planning process and believe they were denied the right to participate in a reasonable manner.
- **Denied or Decreased Funding.** A process for eligible applicants that are denied funds by HUD or that requested more funds than HUD awarded to them.
- **Consolidated Plan Certification.** A process for eligible applicants whose jurisdiction refused to provide a Certification of Consistency with the Consolidated Plan (form HUD-2990).
- **Competing CoCs.** A process when more than one CoC selects the same geographic area, for eligible applicants of lower-scoring CoCs, to appeal to HUD's decision to fund the competing CoC. Should two or more CoCs select the same geographic codes associated with formula areas during the CoC Program Registration process, HUD will use the competing CoC process provided by 24 CFR 578.35(d).

Appeals must be submitted via email to [snapsappeals@hud.gov](mailto:snapsappeals@hud.gov). The subject line of your email must include the CoC Number, Applicant Name, Appeal Notice, and type of appeal (i.e., Denied, Decreased, Consolidated Plan Certification). An example Subject Line is: AA-500 – Appeal Notice – Consolidated Plan Certification. HUD will not accept or consider appeals outside of those listed below, nor will it consider appeals that do not include the requirements listed in this Section.

HUD will respond to all appeals via email and will not consider any requests to reconsider funding except for the types of appeals outlined below.

- a. Solo Applicant. Per the Act, “A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to reasonably participate. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.”

To apply as a solo applicant, the project applicant must submit a Solo Applicant Project Application in e-snaps by the application submission deadline of October 31, 2024 at 8:00 PM EST. Additionally, the solo applicant, Collaborative Applicant, and HUD must take the following steps (See 24 CFR 578.35 for more information):

- (1). Written Notice of Intent to Appeal. The solo applicant must submit a written notice of intent to appeal, with a copy to the CoC, with their funding application.
- (2). No later than 30 days after the date that HUD announces the awards, the solo applicant shall submit in writing, with a copy to the Collaborative Applicant, all relevant evidence supporting its claim. The submission shall be emailed to [snapsappeals@hud.gov](mailto:snapsappeals@hud.gov).
- (3). The CoC has 30 days from the date of its receipt of the solo applicant's evidence to respond to HUD in writing, with a copy to the solo applicant. The submission must be emailed to [snapsappeals@hud.gov](mailto:snapsappeals@hud.gov).
- (4). HUD will notify the solo applicant and the CoC of its decision within 60 days of receipt of the CoC's response.
- (5). If HUD finds that the solo applicant was not permitted to participate in the Continuum of Care planning process in a reasonable manner, then HUD may award a grant to the solo applicant when funds next become available and may direct the Continuum of Care to take remedial steps to ensure reasonable participation in the future. HUD may also reduce the award to the Continuum's applicant(s).

b. Denied or Decreased Funding. Eligible applicants that applied to HUD in response to this NOFO, that were either not awarded funds by HUD, or that requested more funds than HUD awarded, may appeal HUD's decision within 45 days after the final funding announcement. HUD will only consider funding or additional funding based on the CoC's maximum amount available. To appeal HUD's decision, you must submit a written appeal to HUD, with a copy to the authorized representative from the CoC's designated Collaborative Applicant, that must include evidence demonstrating HUD error and follow the instructions for submitting an appeal.

(1) For applicants that were fully denied funding for a grant, you must provide evidence that demonstrates HUD error in not awarding the grant. Your documentation must include:

(a) evidence from the application supporting your claim that the application met project eligibility and project quality; and

(b) evidence that you believe HUD failed to follow its selection priorities set forth in this NOFO that resulted in the project not receiving funding.

(2) If your application was denied funding due to the application being decreased to such a level that the project was no longer feasible, documentation submitted must include:

(a) evidence from the project application supporting your claim that the project application met project eligibility and project quality thresholds set forth in the NOFO; and

(b) evidence that you believe HUD failed to follow its selection priorities set forth in this NOFO that resulted in the application not receiving funding.

(3) If your application was denied funding due to the application score not being high enough due to HUD error, you may appeal the application score and request funding for the project. Documentation submitted must include evidence of HUD error when calculating the application score.

(4) Where HUD determines that a HUD error occurred, and you should have been awarded funding or additional funding, HUD will provide funding from the next available funds and make necessary adjustments by amending the award. HUD will reverse a decision only when you can show that HUD error caused the denial or decrease.

c. Consolidated Plan Certification. An applicant may appeal to HUD a jurisdiction's refusal to provide a certification of consistency with the Consolidated Plan.

(1) Written Appeal. With the application that is submitted by the application submission deadline, you must submit a written appeal that is attached to the application and email a copy of the appeal to the jurisdiction that denied the Certification of Consistency with the Consolidations Plan and send a copy to the authorized representative from the CoC's designated Collaborative Applicant. The written appeal must include the following information:

(a) a copy of your request to the jurisdiction for the Certification of Consistency with the Consolidated Plan; and

(b) a copy of the jurisdiction's response stating the reason(s) the proposed project is not consistent with the jurisdiction's Consolidated Plan in accordance with 24 CFR 91.510(c); and a statement of the reasons why the applicant believes its project is consistent with the jurisdiction's Consolidated Plan.

(2) Jurisdiction's Response. The jurisdiction will have 10 days after the receipt of your written appeal to submit a written response to HUD. The response must be sent by email to [snapsappeals@hud.gov](mailto:snapsappeals@hud.gov) on the jurisdiction's letterhead, with a copy to you. The response must include the following information:

(a) an explanation of the reason(s) originally given for refusing to provide the Certification with the Consolidated Plan; and

(b) written rebuttal to any claims made by your in the written appeal.

d. HUD Decision and Notification of Decision.

(1) HUD will review the appeal submissions and provide written notification, by email, of its decision to you and the jurisdiction within 45 days of the date of the receipt of the jurisdiction's response. In making its decision, HUD will consider whether you submitted the request to the appropriate certifying jurisdiction and the reasonableness of the jurisdiction's refusal to provide the certification.

(2) If HUD finds the certifying jurisdiction's refusal to provide the Certification of Consistency with the Consolidated Plan was reasonable, HUD will automatically reject the application. If HUD finds the certifying jurisdiction's refusal to provide a

Certification of Consistency with the Consolidated Plan was unreasonable, HUD will consider the application for funding in accordance with the review standards set forth in this NOFO.

(3) If the jurisdiction failed to provide written reasons for refusal, including the reason(s) why the project is inconsistent with the jurisdiction's Consolidated Plan in its initial response to your request for a certification, HUD will find in your favor without further inquiry or response from the political jurisdiction.

(4) HUD will provide written notification of its decision with 45 days of the date of HUD's receipt of the jurisdiction's response. If the jurisdiction failed to provide a written response, HUD will provide written notification of its decision within 55 days of the date of HUD's receipt of your response.

## **B. Administrative, National and Departmental Policy Requirements and Terms for HUD Applicants and Recipients of Financial Assistance Awards**

Unless otherwise specified, the following requirements apply and are detailed on HUD's Funding Opportunity page in the document titled, "[Administrative, National & Departmental Policy Requirements and Terms for HUD Financial Assistance – 2024](#)." You must review each requirement to ensure compliance is considered when preparing your application materials (e.g., staff, budget, and timeline). Failure to comply with these requirements may impact your ability to receive or retain a financial assistance award from HUD.

1. Compliance with The Fair Housing Act ([42 U.S.C. 3601-3619](#)) and implementing regulations at [24 CFR part 100 et seq](#)
2. Compliance with Title VI of the Civil Rights Act of 1964, [42 U.S.C. 2000d-2000d-4](#)(Nondiscrimination in Federally Assisted Programs) and implementing regulations at [24 CFR part 1](#)
3. Compliance with the Age Discrimination Act of 1975 ([42 U.S.C. 6101-6107](#)) and implementing regulations at [24 CFR part 146](#)
4. Compliance with Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](#)) and implementing regulations at [24 CFR part 8](#)
5. Compliance with the Americans with Disabilities Act, [42 U.S.C. 12101 et seq](#)
6. Compliance with Affirmatively Furthering Fair Housing (AFFH) requirements, including 24 CFR 5.150 et seq
7. Compliance with Economic Opportunities for Low-and Very Low-income Persons (12 U.S.C. 1701u) requirements, including those listed at [24 CFR part 75](#)
8. Compliance with Improving Access to Services for Persons with Limited English Proficiency (LEP) requirements, including those listed within [Federal Register Notice, FR-4878-N-02](#) (also see [HUD's webpage](#))
9. Compliance with Accessible Technology requirements, including those listed on in [HUD's Policy on Section 508 of the Rehabilitation Act and Accessible Technology](#)

10. Compliance with Equal Access Requirements (e.g., [24 CFR 5.105\(a\)\(2\)](#) and [5.106](#))
11. Compliance with Ensuring the Participation of Small Disadvantaged Business, and Women-Owned Business requirements at [2 CFR 200.321](#)
12. Compliance with Energy Efficient and Sustainable by Design
13. Compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) (URA) requirements, [49 CFR part 24](#), and applicable program regulations
14. Compliance with Participation in HUD-Sponsored Program Evaluation
15. Compliance with OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 CFR part 200](#))
16. Compliance with Drug-Free Workplace requirements ([2 CFR part 2429](#))
17. Compliance with the requirements related to safeguarding resident/client files (e.g., 2 CFR 200.303(e))
18. Compliance with the Federal Funding Accountability and Transparency Act of 2006 ([2 CFR part 170](#)) (FFATA), as amended
19. Compliance with Eminent Domain
20. Compliance with Accessibility for Persons with Disabilities requirements, including 24 CFR parts 8 and 100; 28 CFR part 35
21. Compliance with applicable Violence Against Women Act requirements in the Housing Chapter of VAWA, 34 U.S.C. 12491-12496, 24 CFR part 5, subpart L, and program-specific regulations, if applicable
22. Compliance with Conducting Business in Accordance with Ethical Standards/Code of Conduct, including [2 CFR 200.317](#), [2 CFR 200.318\(c\)](#) and other applicable conflicts of interest requirements
23. Compliance with the [Build America, Buy America \(BABA\) Act](#) procurement requirements
24. Compliance with System for Award Management and Universal Identifier Requirements at [2 CFR part 25](#)
25. Compliance with [section 106\(g\) of the Trafficking Victims Protection Act of 2000 \(TVPA\), as amended \(22 U.S.C. 7104\(g\)\)](#) and implementing regulations at [2 CFR part 175](#) (Award Term for Trafficking in Persons)
26. Compliance with Award Term and Condition for Recipient Integrity and Performance Matters (see [Appendix XII to 2 CFR part 200](#))
27. Compliance with Suspension and Debarment regulations ([2 CFR part 2424](#) and [2 CFR part 180](#))
28. Compliance with environmental justice requirements that apply in accordance with Executive Orders [12898](#) and [14008](#), and OMB Memorandum [M-21-28](#), which implements the *Justice40 Initiative*, section 223 of Executive Order [14008](#).



29. Compliance with [HUD Secretary Fudge's April 12, 2022 memorandum](#), "Eliminating Barriers That May Unnecessarily Prevent Individuals with Criminal Histories from Participation in HUD Programs"

30. Compliance with equity requirements, including racial equity and underserved communities and LGBTQ+ requirements that apply in accordance with Executive Orders [13985](#), [13988](#), and 14091

31. Compliance with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a contractor, subcontractor, grantee, subgrantee, and personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. (See [Federal Contractor or Grantee Protections | Office of Inspector General, Department of Housing and Urban Development \(hudoig.gov\)](#))

32. Compliance with [2 CFR 200.216, Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment](#) and Executive Orders 14091 and 14110, which includes prohibition on the use of HUD funds to purchase or fund any form of facial or biometric recognition technology for the purpose of surveillance or any other use that may adversely impact equitable access to housing

### **Environmental Review**

Compliance with environmental requirements, including regulations at [24 CFR 50](#) or [58](#):

Notwithstanding 24 CFR 578.31 and 24 CFR 578.99(a) of the Rule, and in accordance with Section 100261(3) of MAP-21 (Pub. L. 112-141, 126 Stat. 405), activities under this NOFO are subject to environmental review by a responsible entity under HUD regulations at 24 CFR part 58 or by HUD under 24 CFR part 50.

1. Two types of projects are Categorically Excluded from review under the National Environmental Policy Act and not subject to the laws and authorities listed under 24 CFR 58.5 (CENST): All scattered-site projects where program participants choose their own unit and are not restricted to units within a pre-determined specific project site or sites are categorized in 24 CFR 58.35(b)(1) as CENST. This includes both tenant-based rental assistance and tenant-based leasing projects where program participants choose their own unit. An Exempt/CENST environmental review determination addressing the laws and authorities at 24 CFR 58.6 is only required for each project, not every unit.
2. For activities under a grant to a recipient other than a state or unit of general local government that generally would be subject to review under 24 CFR part 58, HUD may make a finding in accordance with 24 CFR 58.11(d) and may itself perform the environmental review under the provisions of 24 CFR part 50.
3. Irrespective of whether the responsible entity in accordance with 24 CFR part 58 (or HUD in accordance with 24 CFR part 50) performs the environmental review, the recipient must supply all available, relevant information necessary for the responsible



entity (or HUD, if applicable) to perform for each property any required environmental review. The recipient also must carry out mitigating measures required by the responsible entity (or HUD, if applicable) or select alternative property.

4. The recipient, its project partners, and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this NOFO, or commit or expend HUD or Non-HUD funds for such eligible activities under this NOFO, until the responsible entity (as defined by 24 CFR 58.2(a)(7)) has completed the environmental review procedures required by 24 CFR part 58 and the environmental certification and Request for Release of Funds (RROF) have been approved or HUD has performed an environmental review under 24 CFR part 50 and the recipient has received HUD approval of the project. HUD will not release grant funds if the recipient or any other party commits grant funds (i.e., incurs any costs or expenditures to be paid or reimbursed with such funds) before the recipient submits and HUD approves its RROF (where such submission is required), or HUD has completed the environmental review under 24 CFR part 50 and notified the recipient of its approval of the project.

### **Remedies for Noncompliance**

HUD may apply the remedies at [2 CFR 200.339](#) or impose additional conditions to remedy noncompliance with any Federal State, or local statutes, regulations, or terms and conditions of the financial assistance award. If noncompliance cannot be remedied, HUD may terminate a Federal award, in whole or in part, for any of the reasons specified in [2 CFR 200.340, Termination](#).

For more information on CoC Program sanctions and remedies for noncompliance see 24 CFR 578.107.

### **Acquisition and Relocation Requirements**

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and its implementing regulations, implemented through the CoC program via [24 CFR 578.83](#), apply to any acquisition, rehabilitation, or demolition undertaken as part of any project funded under this NOFO. Grantees are thus required to plan for relocation and displacement, provide proper notification and all applicable relocation assistance to residents and owners, comply with acquisition requirements, and keep adequate records of acquisition and relocation activities. Relocation assistance can prove costly, so it's important for grantees to minimize displacement and proactively plan for relocation costs. Grantees are encouraged to contact their [HUD Regional Relocation Specialist](#) with any questions or concerns pertaining to acquisition and relocation compliance and best practices.

### **Lead-Based Paint Requirements**

When providing housing assistance funding for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, you must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing ([24 CFR part 35](#))); and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification ([40 CFR part 745](#))).

When providing education or counseling on buying or renting housing that may include pre-1978 housing under your HUD award you must inform clients of their rights under the Lead

Disclosure Rule ([24 CFR part 35, subpart A](#)), and, if the focus of the education or counseling is on rental or purchase of HUD-assisted pre-1978 housing, then you must also inform clients of the Lead Safe Housing Rule (subparts B, R, and, as applicable, F - M).

## C. Reporting

HUD requires recipients to submit performance and financial reports under OMB guidance and program instructions.

### 1. Recipient Integrity and Performance Matters

You should be aware that if the total Federal share of your Federal award includes more than \$500,000 over the period of performance, the award will be subject to post award reporting requirements reflected in [Appendix XII to 2 CFR part 200, Award Terms and Conditions for Recipient Integrity and Performance Matters](#).

### 2. Race, Ethnicity and Other Data Reporting

HUD requires recipients that provide HUD-funded program benefits to individuals or families to report data on the race, color, religion, sex, national origin, age, disability, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of HUD programs in order to carry out the Department's responsibilities under the Fair Housing Act, Executive Order 11063, Title VI of the Civil Rights Act of 1964, and Section 562 of the Housing and Community Development Act of 1987. These authorities prohibit discrimination in housing and in programs receiving financial assistance from the Department and direct the Secretary to administer the Department's programs and activities in a manner affirmatively to further these policies and to collect certain data to assess the extent of compliance with these policies. Each recipient shall keep such records and submit to the Department timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Department may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with 24 CFR parts 1 and 121. In general, recipients should have available for the Department data showing the demographics of beneficiaries of Federally-assisted programs.

HUD will collect this information through the Homelessness Data Exchange (HDX) based on HMIS data submitted by CoCs.

### 3. Compliance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282) as amended (FFATA)

FFATA requires information on Federal awards be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov). Accordingly, each award HUD makes under this NOFO will be subject to the requirements provided by the Award Term in Appendix A to [2 CFR part 170](#), "REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION," unless the Federal funding for the award (including funding that may be added through amendments) is not expected to equal or exceed \$30,000. Requirements under this Award Term include filing subaward information in the Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS.gov) by the end of the month following the month in which the recipient awards any sub-award equal to or greater than \$30,000.

### 4. Program-Specific Reporting Requirements

- a. In accordance with 24 CFR 578.103, recipients must maintain records within the timeframe required, submit any reports, including those pertaining to race, ethnicity, gender, and disability status that HUD may require. Recipients may report the data as part of their APR submission to HUD. Additionally, project recipients that expend \$750,000 or more in 1 year in federal awards must have a single audit or program-specific audit for that year in accordance with 2 CFR part 200, subpart F.
- b. Section 3 Reporting Regulations. Recipients are required to report their Section 3 activities per 24 CFR 75.25 if funds were awarded for housing rehabilitation, housing construction, and other public construction. See [HUD's Section 3](#) website for additional information including annual reporting requirements.
- c. Award notices may also include requirements for sub-award reporting in compliance with the requirements of the Federal Financial Assistance Accountability and Transparency Act of 2006 (Pub. L. 109-282) (FFATA) and Section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), referred to as "Section 872." See the General Section for further information.

**5. Administrative and Other Program Requirements.** Federal agencies are required to measure the performance of their programs. HUD captures this information from monitoring visits and APRs.

**6. Timeliness Standards.** All conditional funds awarded under this NOFO must be obligated by HUD by September 30, 2025 for FY 2023 funds and September 30, 2026, for FY 2024 funds. Obligated funds remain available for expenditure until September 30, 2030, for FY 2023 funds and September 30, 2031 for FY 2024 funds. Obligated funds remain available for expenditure until September 30, 2030, for FY 2023 funds and September 30, 2031 for FY 2024 funds. HUD reserves the right to require an earlier expenditure deadline under a grant agreement. The applicant is expected to initiate the approved project promptly in accordance with the requirements of this Section of the NOFO. Grant terms, and associated grant operations, may not extend beyond the availability of funds. Applicants must plan accordingly and only submit applications that can start operations in a timely manner with sufficient time to complete the post award process within the awarded grant term. Additionally, HUD will take action if the recipient fails to satisfy the timeliness standards found in 24 CFR 578.85.

## D. Debriefing

For a period of at least 120 calendar days, beginning 30 calendar days after the public announcement of awards under this NOFO, if requested, HUD will provide a debriefing related to their application. The AOR or the AOR's successor must submit a written request for debriefing via mail or email to the POC in Section VII Agency Contact(s) of this NOFO. Information provided during a debriefing may include the applicant's final score for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which funding was approved or denied.

## VII. AGENCY CONTACT(S)

HUD staff will be available to provide clarification on the content of this NOFO. Questions regarding specific program requirements for this NOFO should be directed to the POC listed below.

Name:

Sherri L. Boyd

Phone:

Email:

CoCBuilds@hud.gov

Individuals who are deaf or hard of hearing, as well as individuals who have speech or communication disabilities may use a relay service to reach the agency contact. To learn more about how to make an accessible telephone call, visit the webpage for the [Federal Communications Commission](#).

Note that HUD staff cannot assist applicants in preparing their applications.

## VIII. OTHER INFORMATION

### 1. Compliance of this NOFO with the National Environmental Policy Act (NEPA)

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this NOFO in accordance with HUD regulations at [24 CFR part 50](#), which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C.4332(2)(C)). The FONSI is available for inspection at [HUD's Funding Opportunities](#) web page.

### 2. Web Resources.

- [Affirmatively Furthering Fair Housing](#)
- [Assistance Listing\(formerly CFDA\)](#)
- [Climate Action Plan](#)
- [Climate and Economic Justice Screening Tool \(CEJST\)](#)
- [Code of Conduct Requirements and E-Library](#)
- [Environmental Review](#)
- [Equal Participation of Faith-Based Organizations](#)
- [Fair Housing Rights and Obligations](#)
- [Federal Awardee Performance and Integrity Information System](#)
- [Federal Funding Accountability and Transparency Act \(FFATA\) Subaward Reporting System](#)
- [Grants.gov](#)
- [Healthy Homes Strategic Plan](#)
- [Healthy Housing Reference Manual](#)
- [Historically Black Colleges and Universities \(HBCUs\)](#)
- [HUD's Disability Overview](#)
- [HUD's Strategic Plan](#)
- [HUD Grants](#)
- [HUD Reform Act](#)
- [HUD Reform Act: Hud Implementing Regulations](#)
- [Limited English Proficiency \(LEP\)](#)
- [NOFO Webcasts](#)

- [Procurement of Recovered Materials](#)
- [Promise Zones](#)
- [Rural.gov](#)
- [Rural Partners Network Community Networks](#)
- [Section 3](#)
- [State Point of Contact List](#)
- [System for Award Management \(SAM\)](#)
- [Real Estate Acquisition and Relocation](#)
- [Unique Entity Identifier](#)
- [USA Spending](#)

### **3. Program Relevant Web Resources**

HUD staff will be available to provide general clarification on the content of this NOFO; however, HUD staff are prohibited from assisting any applicant in preparing the application.

- a. Training and Resources. Applicants that need assistance understanding the program requirements under the CoC Program and this NOFO may access the Rule, training materials, and program resources located on the [CoC Program page](#) of HUD's website.
- b. Questions. Applicants that require information and technical support related to this NOFO may submit an inquiry to [CoCBuilds@hud.gov](mailto:CoCBuilds@hud.gov)

## **APPENDIX**

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

Order No.  
Escrow No.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10th Street, Suite 300  
Riverside, CA 92501  
Attn:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LOAN AGREEMENT FOR THE USE OF HOME INVESTMENT PARTNERSHIPS-  
AMERICAN RESCUE PLAN (HOME-ARP) PROGRAM FUNDS  
(CCCCC Apartments)

This LOAN AGREEMENT FOR THE USE OF COC BUILD PROGRAMFUNDS  
(Cathedral Palms Senior Apartments) ("Agreement") is made and entered into this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023 by and between the COUNTY OF RIVERSIDE, a political  
subdivision of the State of California ("COUNTY"), and \_\_\_\_\_, a California  
limited partnership ("BORROWER"). The COUNTY and BORROWER may be individually  
referred to herein as a "Party" and collectively as the "Parties." This Agreement is for the use of  
funding under U.S. Department of Housing and Urban Development Continuum of Care (CoC)  
Builds in accordance with Title 24 part 4m subpart B of the Code of Federal Regulations  
(collectively, "CoC Builds"), and is made and entered into as of the Effective Date (defined  
herein).

RECITALS:

WHEREAS, the COUNTY applied for funding to HUD under Notice of Funding  
Opportunity (NOFO) FR-6800-N-25A and was awarded \$\$\$\$\$ for the development of  
permanent supportive housing. The purpose of the CoC Program is to expand the supply of  
permanent supportive housing through new construction, acquisition, or rehabilitation;

1 WHEREAS, the Act provides that COC BUILDS funds shall be administered through the  
2 CoC Program to address the need for homelessness assistance and supportive services;

3 WHEREAS, BORROWER is proposing to utilize COC BUILDS funds as permanent  
4 indebtedness for a multi-family affordable rental housing project consisting of two hundred  
5 twenty four (224) rental housing units including two (2) residential manager's units, to be rented  
6 to and occupied by homeless, at risk of homelessness (the "Project"), situated on Landau  
7 Boulevard in Cathedral City, also identified as Assessor's Parcel Numbers ("APNs") \_\_\_\_\_,  
8 as more specifically described in the legal description attached hereto as **Exhibit A** and  
9 incorporated herein by this reference ("Property");

10 WHEREAS, a total of \_\_\_\_\_ of the units will be reserved as COC BUILDS assisted  
11 units which shall be rented to and occupied by Qualified COC BUILDS Households (as defined  
12 below) (the "COC BUILDS Assisted Units");

13  
14 WHEREAS, the purpose of this Agreement is, among other things, for COUNTY  
15 to provide financial assistance to BORROWER in the maximum amount of \_\_\_\_\_ (\$2,000,000)  
16 (the "Loan Amount") of COC BUILDS funds as permanent financing for the Project, as more  
17 fully described herein; and

18 WHEREAS, the COC BUILDS assisted activities described herein are intended to  
19 accomplish the objectives required under the Act.

20 NOW, THEREFORE, based upon the foregoing Recitals and for good and  
21 valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties, the  
22 COUNTY and BORROWER hereby agree as follows:

23 1. PURPOSE. The aforementioned Recitals are true and correct and  
24 incorporated herein by this reference. COUNTY has agreed to lend no more than a maximum  
25 total amount of (\$ ) of COC BUILDS funds (collectively, the "Loan") to  
26 BORROWER upon the satisfaction of the terms and conditions set forth herein, including but  
27 not limited to the conditions precedent to distribution of Loan funds set forth in **Section 12**  
28 below. BORROWER shall undertake and complete the COC BUILDS activities required herein

and as set forth in **Exhibit A**, and shall utilize the COC BUILDS Funds as required herein and pursuant to the Act and COC BUILDS rules and regulations. The Project will serve people that are facing housing insecurity, homelessness or the risk of homelessness, with a \_\_\_\_\_ units reserved as COC BUILDS Assisted Units. During the Compliance Period (as defined in **Section 15** below), the \_\_\_\_\_ COC BUILDS Assisted Units shall be rented to and occupied by households that qualify as homeless, at risk of homelessness, or another qualifying population pursuant to Section III of HUD Notice CPD-21-10: Requirements for the Use of Funds in the CoC Program issued September 13, 2021 (the “COC BUILDS Notice”), as further specified on **Exhibit J** (“Qualified COC BUILDS Households”), for an affordable rent pursuant to 24 CFR Section 92.252, **Sections 19 and 20** below, **Exhibit A**, and the Covenant Agreement attached hereto as **Exhibit G** and incorporated herein by this reference. To remain a Qualified COC BUILDS Household, such household shall occupy their respective unit within the Project as their principal residence.

2. **BORROWER’S OBLIGATIONS.** Upon and following the Effective Date (defined in **Section 55** below), BORROWER hereby agrees to undertake and complete the following activities within the time periods set forth herein and in **Exhibit A**:

- a. Satisfy the conditions precedent to distribution of the Loan funds set forth in **Section 12** below.
- b. Operate the Project in such a manner so that the COC BUILDS Assisted Units will remain affordable to Qualified COC BUILDS Households for the Compliance Period as defined in **Section 15** below without regard to (i) the term of the promissory note or (ii) any transfer of ownership.
- c. Maintain the Project in compliance with applicable local, state, federal laws, codes and regulations as further described in **Section 18** below until the expiration of the Term of this Agreement set forth in **Section 7** below and the Compliance Period set forth in **Section 15** below.

3. **RESERVED.**



1           4.     LOAN. Subject to BORROWER's satisfaction of the conditions precedent  
2 to disbursement of the Loan set forth in **Section 12** below, COUNTY shall provide financing to  
3 BORROWER in the form of a loan in the amount of \$2,000,000, pursuant to the following terms  
4 and conditions:

5           a.   Term of Loan. The maturity date of the Loan shall be the later to occur  
6 of (i) December 31, 2079 or (ii) fifty-five (55) years from the  
7 recordation of the Covenant Agreement (as defined below) in the  
8 Official Records (the "Loan Term"). The term, "Official Records"  
9 used herein shall mean the Official Records of the Recorder's Office  
10 of the County of Riverside.

11          b.   Principal. The total amount of the Loan shall not exceed the Loan  
12 Amount, and shall be evidenced by a Promissory Note, substantially  
13 conforming in form and substance to the Promissory Note attached  
14 hereto as **Exhibit C** and incorporated herein by this reference ("Note"),  
15 which note shall be secured by a Deed of Trust and Assignment of  
16 Rents, substantially conforming in form and substance to the Deed of  
17 Trust and Assignment of Rents attached hereto as **Exhibit B** and  
18 incorporated herein by this reference ("Deed of Trust").

19          c.   Interest. The interest rate shall be three percent (3%) simple interest  
20 per annum.

21          d.   Repayment. The terms of the Note shall be as follows:

22           1. Fifty percent (50%) of the Project's Residual Receipts (as defined  
23 in **Section 4(d)(3)** below) shall be used towards the payment of  
24 certain loans secured by the Project, which shall include the Loan  
25 and the NPLH Home Loan (as defined below) (collectively  
26 "Residual Receipts Loans"). The payment of 50% of the Residual  
27 Receipts shall be allocated to the Residual Receipts Loans on a pro  
28 rata basis (i.e. allocated in proportion to the share of each Residual

1                   Receipts Loan in the total amount of Residual Receipts Loans),  
2                   until the Note is repaid in full; and the remaining fifty percent  
3                   (50%) of the Project's Residual Receipts will be retained for  
4                   distribution by BORROWER.

5                   2. Any remainder of the Project's Residual Receipts will be paid in  
6                   accordance with the cash flow "waterfall" provisions of Section  
7                   11.03 of Borrower's limited partnership agreement.

8                   3. The term "Residual Receipts" used herein shall mean all money  
9                   and income from the Project remaining annually after the payment  
10                  of all normal and necessary expenses of operation of the Project,  
11                  including but not limited to the following:

12                         (1) Payment of principal and interest and other  
13                         mandatory payments on amortized loans and  
14                         indebtedness senior to the Loan which have been  
15                         approved in writing by COUNTY (collectively, the  
16                         "Senior Debt");

17                         (2) Utility fees and costs not paid by tenants;

18                         (3) insurance on the Project;

19                         (4) ad valorem taxes and assessment payments;

20                         (5) management fees, expenses and costs, as well as the  
21                         cost of social programs at the Project and  
22                         compliance monitoring/reporting, which total  
23                         initially \$70 per Unit per month, which management  
24                         fee shall be increase annually by an amount not to  
25                         exceed the greater of (i) three percent (3%) or the  
26                         increase in the Consumer Price Index for Riverside-  
27                         San Bernadino-Ontario, CA area ("CPI"), and any  
28                         accrued and unpaid fees from prior years';

(6) auditing and accounting fees;

(7) operating expenses (any expense reasonably and normally incurred in carrying out the Project's day-to-day activities, which shall include administration, on-site management costs, utilities, on-site staff payroll, payroll taxes, and maintenance);

(8) deposits to replacement reserves, limited to \$500.00 per unit per year for all units in the Project;

(9) All other fees and expenses which may be permitted by the annual budget approved by COUNTY.

4. Operating expenses will be considered "normal and necessary" if incurred generally for similarly structured, financed and restricted rental properties operated by similar entities. Payment shall be applied first to accrued interest and thereafter to principal. BORROWER shall annually provide COUNTY with an accounting acceptable to COUNTY, documenting the calculation of Residual Receipts for the previous calendar year ending December 31. This accounting shall be made on or before [ ] together with the payment of Residual Receipts.

e. Prepayment. Prepayment of principal and/or interest under the Note may occur at any time without penalty; provided, however (i) the requirements of **Section 18**, Compliance with Laws and Regulations, shall remain in full force and effect for the term of the Agreement specified in **Section 7** below; and (ii) the affordability requirements set forth in the Covenant Agreement, attached hereto as **Exhibit G** (the "Covenant Agreement"), shall remain in effect until the expiration of the Compliance Period as set forth in **Section 15** below.

1 f. Compliance and Affordability Period. The requirements of **Section 18**,  
2 Compliance with Laws and Regulations, shall remain in full force and  
3 effect for the term of the Agreement specified in **Section 7** below; and  
4 (ii) the affordability requirements set forth in the Covenant Agreement,  
5 shall remain in effect until the expiration of the Compliance Period as  
6 set forth in **Section 15** below.

7 g. Security. The full and timely payment and performance of the  
8 obligations of BORROWER in connection with the Loan, including its  
9 obligations under this Agreement and the Covenant Agreement, shall  
10 be secured by, among other things, a Deed of Trust, Assignment of  
11 Leases and Rents, Security Agreement and Fixture Filing substantially  
12 conforming in form and substance to the Deed of Trust, Assignment of  
13 Leases and Rents, Security Agreement and Fixture Filing attached  
14 hereto as **Exhibit B** and incorporated herein by this reference (“Deed  
15 of Trust”) to be recorded in the Official Records.

16 5. SECURITY. The Deed of Trust shall be in an eighth priority lien position.  
17 Lien priority, including applicable regulatory agreements, shall be as follows: (1) first priority  
18 shall be the Regulatory Agreement and Declaration of Restrictive Covenants by and between  
19 California Municipal Finance Authority and Borrower (the “Bond Regulatory Agreement”) and  
20 recorded on July 23, 2020; (2) second priority shall be the senior regulatory agreement for the  
21 benefit of the State of California Department of Housing and Community Development (“HCD”) in  
22 connection with the NPLH Loan (as defined below) and to be recorded substantially  
23 concurrently herewith (the “NPLH Senior Regulatory Agreement”); (3) third priority shall be the  
24 COC BUILD Covenant Agreement for the benefit of the COUNTY; (4) fourth priority shall be  
25 deed(s) of trust for the benefit of JPMorgan Chase Bank, N.A. (“Chase”) securing a permanent  
26 loan for the Project in an amount up to \$7,000,000 (“Chase Permanent Loan”); (5) fifth priority  
27 shall be the junior regulatory agreement for the benefit of HCD in connection with the NPLH  
28 Loan (as defined below) and to be recorded substantially concurrently herewith (the “NPLH

Junior Regulatory Agreement”); (6) sixth priority shall be the deed of trust securing the HCD No Place Like Home Loan in an amount up to \$7,712,905 (“NPLH Loan”); (7) seventh priority shall be the Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants in favor of the Cathedral City recorded July 23, 2020 (the “City Regulatory Agreement”); (8) eighth priority shall be the COC BUILD Deed of Trust for the benefit of the COUNTY; (9) ninth priority shall be the deed of trust securing the National Community Renaissance of California (“NCRC”) Seller Carryback Loan in an amount of \$13,447,000 (“Seller Carryback Loan”), (10) tenth priority shall be the deed of trust securing the NCRC Seller Cash Loan in the amount of \$1,165,125 (“Seller Cash Loan”); (11) eleventh priority shall be the deed of trust securing the NCRC Sponsor Loan in the amount of \$1,603,598 (“Sponsor Loan”); (12) twelfth priority shall be the HOME Covenant Agreement for the benefit of the COUNTY and recorded September 8, 2020 (the “HOME Covenant Agreement”); (13) thirteenth priority shall be the Agreement; and (14) fourteenth priority shall be the Tax Credit Regulatory Agreement for the benefit of the California Tax Credit Allocation Authority (the “Tax Credit Regulatory Agreement”). The Chase Permanent Loan and NPLH Loan shall be referred to individually as a “Senior Lien” or collectively as the “Senior Liens”.

6. BORROWER shall cause the holders of the Senior Liens or any other COUNTY approved senior lien holder to execute and record in the Official Records, a Subordination Agreement, substantially in a form and of substance as approved by the COUNTY’s Board of Supervisors, which, among other things, grants the COUNTY notice and opportunity to cure events of default under the Senior Lien documents. Except as otherwise expressly provided in this Agreement, approvals required of the COUNTY shall be deemed granted by the written approval of the Director for the Department of Housing and Workforce Solutions or designee (“Director”). Notwithstanding the foregoing, the Director may, in their sole discretion, refer to the governing body of the COUNTY any item requiring COUNTY approval; otherwise, “COUNTY approval” means and refers to approval by the Director or designee. The Director or designee shall have the right to make non-substantive changes to the attachments to this Agreement in order to ensure that all such attachments are consistent with the terms and

provisions of this Agreement.

7. TERM OF AGREEMENT. This Agreement shall become effective upon the Effective Date, as defined in **Section 55** below, and unless terminated earlier pursuant to the terms hereof, shall continue in full force and effect until the later to occur of (i) December 31, 2079 or (ii) fifty-five (55) years from the recordation of the Covenant Agreement in the Official Records (“Term of Agreement”).

8. BORROWER’S REPRESENTATIONS. BORROWER represents and warrants to COUNTY as follows:

a. Authority. BORROWER is a duly organized limited partnership in good standing under the laws of the State of California. The copies of the documents evidencing the organization of BORROWER, which have been delivered to COUNTY, are true and complete copies of the originals, amended to the date of this Agreement. BORROWER has full right, power and lawful authority to enter into this Agreement and accept the Loan and undertake all obligations as provided herein. The execution, performance, and delivery of this Agreement by BORROWER have been fully authorized by all requisite actions on the part of BORROWER.

b. No Conflict. To the best of BORROWER’s knowledge, BORROWER’s execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under contract, agreement or order to which BORROWER is a party or by which it is bound.

c. No Bankruptcy. BORROWER is not the subject of a bankruptcy proceeding.

d. Prior to Closing. BORROWER shall, upon learning of any fact or condition which would cause any of the warranties and

1 representations in this **Section 8** not to be true as of Closing,  
2 immediately give written notice of such fact or condition to  
3 COUNTY. Such exception(s) to a representation shall not be  
4 deemed a breach by BORROWER hereunder, but shall constitute  
5 an exception which COUNTY shall have the right to approve or  
6 disapprove if such exception would have an effect on the value  
7 and/or operation of the Project.

8 9. RESERVED.

9 10. FORCE MAJEURE DELAYS. “Force Majeure” means event(s) beyond  
10 the reasonable control of BORROWER, and which could not have been reasonably anticipated,  
11 which prevent(s) BORROWER from complying with any of its obligations under this  
12 Agreement, including, but not limited to: acts of God, acts of war, acts or threats of terrorism,  
13 civil disorders, strikes, labor disputes, pandemics such as COVID-19, flood, fire, explosion,  
14 earthquake, acts of the Federal Government, acts of the other party, epidemics, quarantine  
15 restrictions, freight embargoes or other similar acts.

16 “Force Majeure Delay” is delay due to Force Majeure that, in each case, (i)  
17 materially adversely affects the performance by BORROWER of its obligations hereunder, (ii)  
18 is not reasonably foreseeable and is beyond BORROWER reasonable control, (iii) despite the  
19 exercise of reasonable diligence, cannot be prevented, avoided or removed by BORROWER and  
20 is not attributable to the negligence, willful misconduct or bad faith of BORROWER, and (iv) is  
21 not the result of the failure of BORROWER to perform any of its obligations under this  
22 Agreement. Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have  
23 occurred unless BORROWER has notified COUNTY in writing of such occurrence of Force  
24 Majeure within fifteen (15) days after such occurrence and has provided COUNTY with the  
25 details of such event and the length of the anticipated delay within an additional fifteen (15) days  
26 thereafter. BORROWER shall diligently attempt to remove, resolve, or otherwise eliminate such  
27 event, keep COUNTY advised with respect thereto, and shall commence performance of its  
28 obligations hereunder immediately upon such removal, resolution or elimination. During the

1 occurrence and continuance of a Force Majeure Delay, BORROWER shall be excused from  
2 performance of its obligations under this Agreement to the extent the Force Majeure prevents  
3 BORROWER from performing such obligations.

4 11. RESERVED.

5 12. CONDITIONS PRECEDENT TO DISTRIBUTION OF LOAN FUNDS.

6 COUNTY, through its Housing & Workforce Solutions Agency ("HWS"), shall: (1) make  
7 disbursements of the Loan to BORROWER subject to BORROWER's satisfaction of the  
8 conditions precedent set forth below, and (2) monitor the Project to ensure compliance with  
9 applicable federal regulations and the terms of this Agreement. COUNTY shall not disburse any  
10 Loan funds pursuant to this Agreement until the following conditions precedent have been  
11 satisfied:

- 12 a. BORROWER executes this Agreement and delivers it to COUNTY for recordation in the  
13 Official Records;
- 14 b. BORROWER executes the Note, substantially conforming in form and substance to the  
15 Promissory Note attached hereto as Exhibit C and delivers to COUNTY;
- 16 c. BORROWER submits written evidence to COUNTY that BORROWER has obtained  
17 sufficient financing commitments necessary for permanent financing of the Project;
- 18 d. BORROWER provides COUNTY with evidence of insurance as required herein;
- 19 e. BORROWER executes the Deed of Trust, substantially conforming in form and substance  
20 to the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture  
21 Filing attached hereto as **Exhibit B**, in recordable form, and delivers such document to  
22 the County of Riverside for recordation in the Official Records;
- 23 f. BORROWER executes the Covenant Agreement, substantially conforming in form and  
24 substance to the Covenant Agreement attached hereto as **Exhibit G** and incorporated  
25 herein by this reference, in recordable form, and delivers it to the County of Riverside for  
26 recordation in the Official Records;
- 27 g. COUNTY executes and records the Requests for Notice of Default conforming in form  
28 and substance to **Exhibit H** attached hereto;



- 1 h. BORROWER provides, at its expense, an ALTA lender's policy in favor of COUNTY,  
2 insuring the Deed of Trust as an eighth priority lien against the Property junior only to the  
3 Senior Liens identified in **Section 5**;
- 4 i. Reserved;
- 5 j. BORROWER is not in default under the terms of this Agreement or any other agreement  
6 related to the financing of the Project;
- 7 k. Pursuant to 24 CFR, Part 5, BORROWER agrees to verify that BORROWER, and its  
8 principals, or any/all persons, contractors, consultants, businesses, etc. ("Developer  
9 Associates"), with whom BORROWER is conducting business with respect to the Project,  
10 are not presently debarred, proposed for debarment, suspended, declared ineligible, or  
11 voluntarily excluded from participation or from receiving federal contracts or federally  
12 approved subcontracts or from certain types of federal financial and nonfinancial  
13 assistance and benefits with the Excluded Parties Listing System ("EPLS"). EPLS records  
14 are located at [www.sam.gov](http://www.sam.gov); and
- 15 l. BORROWER shall search and provide a single comprehensive list of Developer  
16 Associates (individuals and firms) and print and maintain evidence of the search results  
17 of each Developer Associate as verification of compliance with this requirement as  
18 provided in **Exhibit I**, Contractor Debarment Certification Form, which is attached hereto  
19 and incorporated herein by this reference.

20 13. RESERVED

21 14. DISTRIBUTION OF FUNDS. Any disbursement of funds is expressly  
22 conditioned upon the satisfaction of conditions set forth in **Section 12**. COUNTY shall deposit  
23 the sum specified in **Section 1** into escrow upon receipt of escrow instructions and wire.

24 15. TERMS OF AFFORDABILITY. The COC BUILDS Assisted Units shall  
25 remain occupied and rented to Qualified COC BUILDS Households for an affordable rent  
26 pursuant to **Sections 19 and 20** below, **Exhibit A**, and the Covenant Agreement attached hereto  
27 as **Exhibit G** until the later of (i) December 31, 2079 or (ii) fifty-five (55) years from the  
28 recordation of the Covenant Agreement in the Official Records ("Compliance Period").

1           16.    INSURANCE.   Without limiting or diminishing BORROWER's  
2 obligation to indemnify or hold COUNTY harmless, BORROWER shall procure and maintain  
3 or cause to be maintained, at its sole cost and expense, the following insurance coverages during  
4 the Term of this Agreement.

5           a.    Worker's Compensation Insurance.

6           If BORROWER has employees as defined by the State of  
7 California, BORROWER shall maintain statutory Workers'  
8 Compensation Insurance (Coverage A) as prescribed by the laws  
9 of the State of California. Policy shall include Employers' Liability  
10 (Coverage B) including Occupational Disease with limits not less  
11 than \$1,000,000 per person per accident. The policy shall be  
12 endorsed to waive subrogation in favor of The County of Riverside,  
13 and, if applicable, to provide a Borrowed Servant/Alternate  
14 Employer Endorsement.

15          b.    Commercial General Liability Insurance.

16          Commercial General Liability insurance coverage, including but  
17 not limited to, premises liability, contractual liability, products and  
18 completed operations liability, personal and advertising injury, and  
19 cross liability coverage, covering claims which may arise from or  
20 out of BORROWER's performance of its obligations hereunder.  
21 Policy shall name the County of Riverside, its Agencies, Boards,  
22 Districts, Special Districts, and Departments, their respective  
23 directors, officers, Board of Supervisors, employees, elected or  
24 appointed officials, agents or representatives as Additional Insured.  
25 Policy's limit of liability shall not be less than \$2,000,000 per  
26 occurrence combined single limit. If such insurance contains a  
27 general aggregate limit, it shall apply separately to this agreement  
28 or be no less than two (2) times the occurrence limit.

1 c. Vehicle Liability Insurance.

2 If vehicles or mobile equipment are used in the performance of the  
3 obligations under this Agreement, then BORROWER shall  
4 maintain liability insurance for all owned, non-owned or hired  
5 vehicles so used in an amount not less than \$1,000,000 per  
6 occurrence combined single limit. If such insurance contains a  
7 general aggregate limit, it shall apply separately to this agreement  
8 or be no less than two (2) times the occurrence limit. Policy shall  
9 name the County of Riverside, its Agencies, Boards, Districts,  
10 Special Districts, and Departments, their respective directors,  
11 officers, Board of Supervisors, employees, elected or appointed  
12 officials, agents or representatives as Additional Insured or provide  
13 similar evidence of coverage approved by COUNTY's Risk  
14 Manager.

15 d. General Insurance Provisions – All Lines.

16 1) Any insurance carrier providing insurance coverage  
17 hereunder shall be admitted to the State of California and have an  
18 A M BEST rating of not less than A: VIII (A:8) unless such  
19 requirements are waived, in writing, by COUNTY's Risk Manager.  
20 If COUNTY's Risk Manager waives a requirement for a particular  
21 insurer such waiver is only valid for that specific insurer and only  
22 for one policy term.

23 2) BORROWER's insurance carrier(s) must declare its  
24 insurance self-insured retentions. If such self-insured retentions  
25 exceed \$500,000 per occurrence such retentions shall have the prior  
26 written consent of COUNTY's Risk Manager before the  
27 commencement of operations under this Agreement. Upon  
28 notification of self-insured retention unacceptable to COUNTY,

1 and at the election of COUNTY's Risk Manager, BORROWER's  
2 carriers shall either: (a) reduce or eliminate such self-insured  
3 retention as respects this Agreement with COUNTY, or (b) procure  
4 a bond which guarantees payment of losses and related  
5 investigations, claims administration, and defense costs and  
6 expenses.

7 3) BORROWER shall cause BORROWER's insurance  
8 carrier(s) to furnish the County of Riverside with copies of the  
9 Certificate(s) of Insurance and Endorsements effecting coverage as  
10 required herein, and 2) if requested to do so orally or in writing by  
11 COUNTY's Risk Manager, provide copies of policies including all  
12 Endorsements and all attachments thereto, showing such insurance  
13 is in full force and effect. Further, said Certificate(s) and policies  
14 of insurance shall contain the covenant of the insurance carrier(s)  
15 that thirty (30) days written notice shall be given to the County of  
16 Riverside prior to any material modification, cancellation,  
17 expiration or reduction in coverage of such insurance. In the event  
18 of a material modification, cancellation, expiration, or reduction in  
19 coverage, this Agreement shall terminate forthwith, unless the  
20 County of Riverside receives, prior to such effective date, another  
21 Certificate of Insurance and copies of endorsements, including all  
22 endorsements and attachments thereto evidencing coverage's set  
23 forth herein and the insurance required herein is in full force and  
24 effect. BORROWER shall not commence operations until  
25 COUNTY has been furnished Certificate(s) of Insurance and  
26 copies of endorsements and if requested, copies of policies of  
27 insurance including all endorsements and any and all other  
28 attachments as required in this Section. An individual authorized

1 by the insurance carrier on its behalf shall sign the original  
2 endorsements for each policy and the Certificate of Insurance.

3 4) It is understood and agreed to by the parties hereto that  
4 BORROWER's insurance shall be construed as primary insurance,  
5 and COUNTY's insurance and/or deductibles and/or self-insured  
6 retention's or self-insured programs shall not be construed as  
7 contributory.

8 5) If, during the term of this Agreement or any extension  
9 thereof, there is a material change in the scope of services; or, there  
10 is a material change in the equipment to be used in the performance  
11 of the scope of work which will add additional exposures (such as  
12 the use of aircraft, watercraft, cranes, etc.); or, the term of this  
13 Agreement, including any extensions thereof, exceeds five (5)  
14 years COUNTY reserves the right to adjust the types of insurance  
15 required under this Agreement and the monetary limits of liability  
16 for the insurance coverage's currently required herein, if; in  
17 COUNTY's Risk Manager's reasonable judgment, the amount or  
18 type of insurance carried by BORROWER has become inadequate.

19 6) BORROWER shall pass down the insurance obligations  
20 contained herein to all tiers of subcontractors working under this  
21 Agreement.

22 7) The insurance requirements contained in this Agreement  
23 may be met with a program(s) of self-insurance acceptable to  
24 COUNTY.

25 8) BORROWER agrees to notify COUNTY of any claim  
26 by a third party or any incident or event that may give rise to a claim  
27 arising from the performance of this Agreement.

28 17. FINANCIAL AND PROJECT RECORDS. BORROWER shall maintain

1 financial, programmatic, statistical, and other supporting records of its operations and financial  
2 activities in accordance with the requirements of COC BUILDS and the CoC Program, and the  
3 regulations as amended and promulgated thereunder, which records shall be open to inspection  
4 and audit by authorized representatives of COUNTY, HUD and the Comptroller General of the  
5 United States, during regular working hours. COUNTY, HUD, and the Comptroller General of  
6 the United States and any of their representatives have the right of access, with at least forty-  
7 eight (48) hours prior notice, to any pertinent books, documents, papers, or other records of  
8 BORROWER, in order to make audits, examinations, excerpts, and transcripts. Said records  
9 shall be retained for such time as may be required by the regulations of COC BUILDS and the  
10 CoC Program, but in no event no less than five (5) years after the Project completion date as  
11 evidenced by recordation of the Notice of Completion; except that records of individual tenant  
12 income verifications, Project rents, and Project inspections must be retained for the most recent  
13 five (5) year period, until five (5) years after the Compliance Period terminates. If any litigation,  
14 claim, negotiation, audit, or other action has been started before the expiration of the regular  
15 period specified, the records must be retained until completion of the action and resolution of all  
16 issues which arise from it, or until the end of the regular period, whichever is later.

17 18. COMPLIANCE WITH LAWS AND REGULATIONS. By executing this  
18 Agreement, BORROWER hereby certifies that it will adhere to and comply with all federal, state  
19 and local laws, regulations and ordinances. In particular, BORROWER shall comply with the  
20 following as they may be applicable to BORROWER in connection with the Loan:

- 21 a. COC BUILDS and its implementing regulations set forth pursuant  
22 to the Act and the COC BUILDS Notice, as amended, including the  
23 CoC Program and its implementing regulations set forth pursuant  
24 to Title II of NAHA, as amended. Since COC BUILDS is a  
25 component of the CoC Program, the HOME regulatory structure is  
26 the platform used to implement COC BUILDS. The regulations  
27 created by the Office of the Secretary of HUD that pertain to the  
28 CoC Program are contained within 24 CFR Part 92 – HOME

Investment Program. COC BUILDS is governed by CoC Program regulations except where specifically waived.

b. Section 92.350 Other Federal requirements and nondiscrimination.

As set forth in 24 CFR part 5, sub part A, BORROWER is required to include the following requirements: nondiscrimination and equal opportunity under Section 282 of NAHA; disclosure; debarred, suspended, or ineligible contractors; and drug-free workplace.

c. Section 92.351 Affirmative marketing and minority outreach program. BORROWER must adopt affirmative marketing

procedures and requirements. These must include:

- (1) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups).
- (2) Requirements and practices that BORROWER must adhere to in order to carry out the affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster).
- (3) Procedures to be used by BORROWER to inform and solicit applications from persons in the housing market area who are not likely to apply without special outreach (e.g., use of community organizations, employment centers, fair housing groups, or housing counseling agencies).
- (4) Records that will be kept describing actions taken by BORROWER to affirmatively market units and records to

1 assess the results of these actions.

2 (5) A description of how BORROWER will annually assess the  
3 success of affirmative marketing actions and what  
4 corrective actions will be taken where affirmative  
5 marketing requirements are not met.

6 (6) BORROWER must prescribe procedures to establish and  
7 oversee a minority outreach program to ensure the  
8 inclusion, to the maximum extent possible, of minorities  
9 and women, and entities owned by minorities and women,  
10 including, without limitation, real estate firms, construction  
11 firms, appraisal firms, management firms, financial  
12 institutions, investment banking firms, underwriters,  
13 accountants, and providers of legal services, in all contracts  
14 entered into by BORROWER with such persons or entities,  
15 public and private, in order to facilitate the activities of  
16 COUNTY to provide affordable housing authorized under  
17 this Act or any other Federal housing law. Section 24 CFR  
18 85.36(e) provided affirmative steps to assure that minority  
19 business enterprises and women business enterprises are  
20 used when possible in the procurement of property and  
21 services. The steps include:

22 (i) Placing qualified small and minority businesses and  
23 women's business enterprises on solicitation lists.

24 (ii) Assuring that small and minority businesses, and  
25 women's business enterprises are solicited  
26 whenever they are potential sources.

27 (iii) Dividing total requirements, when economically  
28 feasible, into smaller tasks or quantities to permit



maximum participation by small and minority business, and women's business enterprises.

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises.

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in (i) through (v) above of this section.

d. Section 92.352 Environmental review. The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR Parts 50 and 58.

e. Section 92.353 Displacement, relocation, and acquisition. The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the implementing regulations at 24 CFR Part 42. BORROWER must ensure that it has taken all reasonable steps to minimize the displacement of persons as a result of this project assisted with HOME Funds.

f. Section 92.355 Lead-based paint. Housing assisted with COC BUILDS funds is subject to the lead-based paint requirements of

24 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.). The lead-based paint provisions of 24 CFR 982.401 (j), except 24 CFR 982.401 (j)(1)(i), also apply, irrespective of the applicable property standard under §92.251.

- g. Section 92.354 Labor. Every contract for the construction of housing that includes twelve (12) or more units assisted with COC BUILDS funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332). BORROWER must apply most current wage rate determination at the date of execution of this Agreement.
- h. Section 92.356 Conflict of Interest. In the procurement of property and services by BORROWER, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 85.42, respectively shall apply. Section 92.356 shall cover all cases not governed by 24 CFR 85.36 and 24 CFR 84.42.
- i. Section 504 of the Rehabilitation Act of 1973; Housing accessibility requirement at 24 CFR Part 8, implementing Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). The design and construction of multi-family dwellings as defined at 24 CFR 100.201 must comply with the requirements set forth in 24 CFR 100.205 implementing the Fair Housing Act. Dwelling units must be designed and constructed in accordance with the Uniform

1 Federal Accessibility Standards (UFAS) will be deemed to comply  
2 with the Section 504 regulation.

3 (1) 24 CFR Part 8.22 New construction—housing  
4 facilities. For new construction of multi-family  
5 projects, 5 percent (5%) of the units (but not less  
6 than one unit) must be accessible to individuals with  
7 mobility impairments, and an additional 2 percent  
8 (2%) of the units (but not less than one unit) must  
9 be accessible to individuals with sensory  
10 impairments.

11 (2) 24 CFR Part 8.23 Alterations of existing housing  
12 facilities. If alterations are undertaken to a project  
13 that has 15 or more units and the cost of the  
14 alterations is 75 percent or more of the replacement  
15 cost of the completed facility, then the provisions of  
16 §8.22 shall apply. Alterations to dwelling units in a  
17 multifamily housing project shall, to the maximum  
18 extent feasible, be made to be readily accessible to  
19 and usable by individuals with handicaps. If  
20 alterations of single elements or spaces of a  
21 dwelling unit, when considered together, amount to  
22 an alteration of a dwelling unit, the entire dwelling  
23 unit shall be made accessible. Once 5 percent (5%)  
24 of the dwelling units in a project are readily  
25 accessible to and usable by individuals with  
26 mobility impairments, then no additional elements  
27 of dwelling units, or entire dwelling units, are  
28 required to be accessible under this paragraph.

1 Alterations to common areas or parts of facilities  
2 that affect accessibility of existing housing facilities  
3 shall, to the maximum extent feasible, be made to  
4 be accessible to and usable by individuals with  
5 handicaps. For purposes of this paragraph, the  
6 phrase to the maximum extent feasible shall not be  
7 interpreted as requiring that a recipient make a  
8 dwelling unit, common area, facility or element  
9 thereof accessible if doing so would impose undue  
10 financial and administrative burdens on the  
11 operation of the multifamily housing project.

12 j. Model Energy Code published by the Council of American  
13 Building Officials.

14 k. Section 3 of the Housing and Urban Development Act of 1968. To  
15 the greatest extent feasible, opportunities for training and  
16 employment arising from COC BUILDS funds will be provided to  
17 low-income persons residing in the program service area. To the  
18 greatest extent feasible, contracts for work to be performed in  
19 connection with COC BUILDS funds will be awarded to business  
20 concerns that are located in or owned by persons residing in the  
21 program service area as outlined in the Riverside County HHPWS  
22 Section 3 Contract Requirements attached hereto as **Exhibit D**.  
23 Contracts funded from Section 3 covered funding sources must  
24 abide by the Section 3 Clause prescribed at 24 CFR 135.38. All  
25 contracts subject to the requirements of Section 3 must include the  
26 Section 3 Clause verbatim that is contained at 24 CFR 135.38  
27 attached hereto as **Exhibit D-2**, which is attached hereto and by this  
28 reference incorporated herein.

1                   1. Section 106 of the National Historic Preservation Act of 1966  
2                   (NHPA). Consultation with concerned Native American tribes  
3                   must continue under HUD regulation 24 CFR Part 50 and 58, and  
4                   Section 106 of the National Historic Preservation Act and its  
5                   implementing regulations 36 CFR Part 800 for possible impacts on  
6                   historic properties. Historic properties include archeological sites,  
7                   burial grounds, sacred landscapes or features, ceremonial areas,  
8                   traditional cultural places and landscapes, plant and animal  
9                   communities, and buildings and structures with significant tribal  
10                  association.

11               m. Section 92.358 Consultant Activities. No person providing  
12               consultant services in an employer-employee type relationship  
13               shall receive more than a reasonable rate of compensation for  
14               personal services paid with HOME funds.

15               n. BORROWER shall carry out its activity pursuant to this  
16               Agreement in compliance with all federal laws and regulations  
17               described in Subpart E of Part 92 of the Code of Federal  
18               Regulations, except that:

- 19                   1. BORROWER does not assume COUNTY'S environmental  
20                   responsibilities described at 24 CFR Part 92.352; and
- 21                   2. BORROWER does not assume COUNTY's responsibility  
22                   for initiating the review process under the provisions of 24  
23                   CFR Part 92.352

24               o. Uniform Administrative Requirements of 24 CFR 92.505 and 24  
25               CFR Part 200 as now in effect and as may be amended from time  
26               to time. Federal awards expended as a recipient or a subrecipient,  
27               as defined by HUD, would be subject to single audit. The payments  
28               received for goods or services provided as a vendor would not be

1 considered Federal awards.

2 p. BORROWER shall include written agreements that include all  
3 provisions of **Section 18** if BORROWER provides HOME funds  
4 to for-profit owners or developers, non-profit owners or  
5 developers, sub-recipients, homeowners, homebuyers, tenants  
6 receiving tenant-based rental assistance, or contractors.

7 q. Immigration requirements of Federal Register, Vol. 62, No. 221,  
8 Department of Justice Interim Guidance on Verification of  
9 Citizenship, Qualified Alien Status and Eligibility Under Title IV  
10 of the Personal Responsibility and Work Opportunity  
11 Reconciliation Act of 1996 ("PRWORA"). Final Attorney  
12 General's Order issued pursuant to PRWORA is specified under  
13 Federal Register Vol. 66, No. 10, Department of Justice Final  
14 Specification of Community Programs Necessary for Protection of  
15 Life or Safety Under Welfare Reform Legislation.

16 r. BORROWER shall comply with all applicable local, state and  
17 federal laws in addition to the above mentioned laws.

18 19. INCOME TARGETING REQUIREMENTS. BORROWER shall set aside  
19 sixty-eight (68) studio units to be designated as COC BUILDS Assisted Units which shall be  
20 rented to and occupied by Qualified COC BUILDS Households.

21 20. RENT LIMITATIONS. BORROWER shall comply with the rent  
22 limitations set forth under the COC BUILDS Notice and 24 CFR 92.252 of the CoC Program.  
23 The units reserved for Qualified COC BUILDS Households shall be rented at Low HOME rent  
24 levels as published by HUD. The COC BUILDS Assisted Units shall be a "floating" designation  
25 on the Property such that the requirements of this Agreement will be satisfied so long as the total  
26 number of COC BUILDS Assisted Units and bedroom size remains the same throughout the  
27 Compliance Period. The maximum monthly allowances for utilities and services (excluding  
28 telephone) shall not exceed the utility allowance as described below. The COC BUILDS Assisted

Units may overlap with the units subject to the NPLH Regulatory Agreement. Rent limitations hereunder shall apply to the portion of rent paid by a tenant, and nothing herein shall limit BORROWER from accepting rental assistance in excess of such tenant-paid rent, to the extent permitted by the applicable rental assistance program and federal law. Notwithstanding the foregoing, if a unit occupied by a Qualified COC BUILDS Household receives a federal or state project-based rental subsidy and the Qualified COC BUILDS Household pays as a contribution to rent no more than 30% of the Qualified COC BUILDS Household's adjusted income, such unit may be rented at the rent permissible under the federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program), and (ii) if a Qualified COC BUILDS Household receives tenant-based rental assistance, the unit occupied by such Qualified COC BUILDS Household may be rented at the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program).

a. Utility Allowance: Owners are required to complete initial Utility Allowance (UA) calculations and submit their calculations for review and approval to the COUNTY prior to implementation, annually by June 1st. The following methods below are acceptable methodologies for calculating UA's:

- (a) HUD Utility Schedule Model (HUSM), UA based on HUD's model.
- (b) Utility Company Estimate, UA based on estimated obtained from a local utility company for each of the utilities used in the project.
- (c) LIHTC Agency Estimate, UA approved by the LIHTC agency based on its actual usage methodology.
- (d) Energy Consumption Model (Engineer Model), UA based upon on an energy and water and sewage consumption and analysis model prepared by a third party licensed engineer or to qualified professional.

b. Reserved.

c. HOME Rent Limitations: Effective June 15, 2023, HUD published HOME Rent Limits for the County of Riverside. In order to calculate net rent to be charged, an

1 applicable utility allowance must be subtracted from the gross rents listed. The BORROWER  
2 shall use the HUD Utility Schedule Model (“HUSM”) to establish maximum monthly  
3 allowances for utilities and services to be used by the BORROWER in calculating Rents. The  
4 HUSM and use instructions can be found at:  
5 <https://www.huduser.gov/portal/resources/utilallowance.html>.

6 d. Approval: The BORROWER shall have submitted to the COUNTY  
7 for review and written approval, all proposed rents for the COC BUILDS Assisted Units prior to  
8 the Effective Date. Low HOME rent limitations for COC BUILDS Assisted Units reserved for  
9 Qualified COC BUILDS Households shall be as set forth under 24 CFR 92.252, subject to the  
10 provisions of Section 20 hereof, and such units shall be rented and occupied by Qualified COC  
11 BUILDS Household applicants at the HOME rent levels for the County of Riverside, which are  
12 published periodically by HUD, subject to the provisions of Section 20 hereof. If during the re-  
13 certification process a Qualified COC BUILDS Household’s income falls between 51% and 80%  
14 Area Median Income then the High HOME rent limit shall apply pursuant to 24 CFR 92.252(a).  
15 If during the recertification process a household income falls above 80% of the Area Median  
16 Income then household shall pay the lesser of 30% of the adjusted income or Market rent pursuant  
17 to 24 CFR 92.252(i)(2).

18 e. Float-up: Notwithstanding any other covenant or the Covenant  
19 Agreement to the contrary the Parties agree that the following shall apply to the COC BUILDS  
20 Assisted Units:

21 (a) COUNTY agrees that, upon BORROWER’S request and County’s written  
22 approval, which will not be unreasonably withheld, the maximum tenant household  
23 income and maximum annual rent for COC BUILDS Assisted Units may be increased to  
24 amounts necessary to make operation of the Project financially feasible as determined by  
25 the BORROWER, including the payment of all required operating costs and debt service,  
26 but in no event may (a) the maximum tenant income limitation exceed 60 percent of AMI  
27 or, (b) the maximum annual rent limitation exceed 30 percent of 60 percent of AMI.

28 (b) In the case of increases due to a foreclosure of any approved financing or deed in



1 lieu thereof, the above increases may continue until such time, if any, that the rental  
2 assistance or equivalent operating subsidy is restored. Notwithstanding anything to the  
3 contrary in this section, the BORROWER may not displace tenant households and must  
4 use good faith efforts to reduce the effect of rent increases permitted to be imposed on  
5 existing tenant households by (a) the use of operating and transition reserves to the extent  
6 such funds exist and are available, and (b) the use of other subsidy sources available that  
7 would mitigate the rent increases.

8 (c) If Rent increases on the COC BUILDS Assisted Units are necessary, after  
9 exhausting all transition reserve funds such increases shall only be permitted to the  
10 minimum extent required for financial feasibility, as reasonably determined by  
11 BORROWER and approved by COUNTY, which approval shall not, in any event, be  
12 increased to an amount in excess of 30 percent of 60 percent of AMI, adjusted for  
13 household size for the number of bedrooms. The COUNTY shall be notified at least  
14 eighteen (18) months in advance of any Rent increase the COC BUILDS Assisted Units.

15 (d) In order to enact an increase in the maximum household income and rents for a  
16 Restricted Unit for the Project, the BORROWER must submit a written request to the  
17 COUNTY which shall outline a plan with an explanation of the fiscal necessity of  
18 adjusting the maximum household income and the rents charged for the COC BUILDS  
19 Assisted Units. The plan shall provide the following items along with any additional  
20 requirements from the COUNTY:

- 21 1. An explanation of the efforts the BORROWER has made to secure other rental  
22 subsidies to sustain overall project operations;
- 23 2. An explanation of the fiscal necessity of adjusting the maximum household  
24 income and the rents charged for the COC BUILDS Assisted Units;
- 25 3. A process for increasing the Project rent for all affected units (both COC BUILDS  
26 Assisted Units and non-restricted units) and make reasonable efforts to continue  
27 to market and rent Project units to members of the target population originally  
28 contemplated, as well as ensuring that any increases to the household income limit

are applied, as much as possible, only to vacant units as they become available. This portion of the plan shall discuss changes in both maximum household incomes and rents and;

4. The plan for continuing, throughout the Compliance Period, to apply for other subsidies that will allow a return to all Project Units to members of the target population and Rents originally contemplated.

21. TENANT PROTECTIONS. During the Compliance Period, BORROWER shall adhere to the tenant protections and selection standard set forth in 24 CFR 92.253, as may be amended from time to time, and the following requirements:

a. Provide written lease agreement for not less than one year, unless by mutual agreement between the tenant and BORROWER. COUNTY shall review the initial form of the lease agreement prior to BORROWER executing any leases and, provided that BORROWER uses the approved lease form, BORROWER shall be permitted to enter into residential leases without COUNTY's prior written consent.

b. Prohibited Lease Terms. The rental agreement/lease may not contain any of the following provisions:

(1) Agreement to be sued. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of BORROWER in a lawsuit brought in connection with the lease.

(2) Treatment of property. Agreements by tenant that BORROWER may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. BORROWER may dispose of this personal property in accordance with State law.

- 1 (3) Excusing BORROWER from responsibility. Agreement by  
2 the tenant not to hold BORROWER or BORROWER's  
3 agents legally responsible for any action or failure to act,  
4 whether intentional or negligent.
- 5 (4) Waiver of notice. Agreement of the tenant that  
6 BORROWER may institute a lawsuit without notice to the  
7 tenant.
- 8 (5) Waiver of legal proceeding. Agreement by the tenant that  
9 the BORROWER may evict the tenant or household  
10 members without instituting a civil court proceeding in  
11 which the tenant has the opportunity to present a defense,  
12 or before a court decision on the rights of the parties.
- 13 (6) Waiver of a jury trial. Agreement by the tenant to waive any  
14 right to a trial by jury.
- 15 (7) Waiver of right to appeal court decision. Agreement by the  
16 tenant to waive the tenant's right to appeal, or to otherwise  
17 challenge in court, a court decision in connection with the  
18 lease.
- 19 (8) Tenant chargeable with cost of legal actions regardless of  
20 outcome. Agreement by the tenant to pay attorneys' fees or  
21 other legal costs even if the tenant wins in a court  
22 proceeding by BORROWER against the tenant. The tenant,  
23 however, may be obligated to pay costs if the tenant loses.
- 24 (9) Mandatory supportive services. Agreement by the tenant  
25 (other than a tenant in transitional housing) to accept  
26 supportive services that are offered.

27 c. Violence Against Women Reauthorization Act of 2013. (Pub. L. 113–  
28 4, 127 Stat. 54) (“VAWA 2013”). VAWA 2013 reauthorizes and

1 amends the Violence Against Women Act of 1994, as previously  
2 amended, (title IV, sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C.  
3 13925 et seq.) VAWA 2013, among other things, bars eviction and  
4 termination due to a tenant’s status as a victim of domestic violence,  
5 dating violence, or stalking, and requires landlords to maintain  
6 survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who  
7 is a survivor of domestic violence, dating violence, sexual assault, and  
8 stalking from being denied assistance, tenancy, or occupancy rights  
9 based solely on criminal activity related to an act of violence  
10 committed against them. It extends housing protections to survivors  
11 of sexual assault, and adds “intimate partner” to the list of eligible  
12 relationships in the domestic violence definition. Protections also now  
13 cover an “affiliated individual,” which includes any lawful occupant  
14 living in the survivor’s household, or related to the survivor by blood  
15 or marriage including the survivor’s spouse, parent, brother, sister,  
16 child, or any person to whom the survivor stands in loco parentis.  
17 VAWA 2013 allows a lease bifurcation so a tenant or lawful occupant  
18 who engages in criminal activity directly relating to domestic  
19 violence, dating violence, sexual assault, or stalking against an  
20 affiliated individual or other individual, or others may be evicted or  
21 removed without evicting or removing or otherwise penalizing a  
22 victim who is a tenant or lawful occupant. If victim cannot establish  
23 eligibility, BORROWER must give a reasonable amount of time to  
24 find new housing or establish eligibility under another covered  
25 housing program. A Notice of Rights under VAWA 2013 for tenants  
26 must be provided at the time a person applies for housing, when a  
27 person is admitted as a tenant of a housing unit, and when a tenant is  
28 threatened with eviction or termination of housing benefits. Tenants

1 must request an emergency transfer and reasonably believe that they  
2 are threatened with imminent harm from further violence if the tenant  
3 remains in the same unit. The provisions of VAWA 2013 that are  
4 applicable to HUD programs are found in title VI of VAWA 2013,  
5 which is entitled "Safe Homes for Victims of Domestic Violence,  
6 Dating Violence, Sexual Assault, and Stalking." Section 601 of  
7 VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.)  
8 to add a new chapter entitled "Housing Rights."

9 22. FEDERAL REQUIREMENTS. BORROWER shall comply with the  
10 provisions of COC BUILDS, the CoC Program and any amendments thereto and all applicable  
11 federal regulations and guidelines now or hereafter enacted pursuant to the Act or NAHA.

12 23. SALE, ASSIGNMENT OR OTHER TRANSFER OF THE PROJECT.  
13 BORROWER hereby covenants and agrees not to sell, assign, transfer or otherwise dispose of  
14 the Project or any portion thereof without obtaining the prior written consent of the COUNTY,  
15 which consent shall be conditioned solely upon receipt by the COUNTY of reasonable evidence  
16 satisfactory to the COUNTY in its reasonable discretion, that transferee has assumed in writing  
17 and in full, and is reasonably capable of performing and complying with the BORROWER'S  
18 duties and obligations under this Agreement, provided, however BORROWER shall not be  
19 released of all obligations hereunder which accrue from and after the date of such sale.  
20 Notwithstanding anything to the contrary contained herein, upon written notice to COUNTY,  
21 BORROWER may (i) lease for occupancy of all or any of the COC BUILDS Assisted Units in  
22 accordance with this Agreement; (ii) grant easements or permits to facilitate the development  
23 and operation of the Property in accordance with this Agreement; (iii) transfer the  
24 BORROWER'S limited partnership interest; (iv) remove and replace the BORROWER'S  
25 general partner for cause in accordance with BORROWER'S amended and restated limited  
26 partnership agreement (v) make transfers pursuant to that certain Purchase Option and Right of  
27 First Refusal (collectively a "Permitted Transfer"). All Permitted Transfers shall be subject to  
28 reasonable review of documentation by the COUNTY. The parties hereto acknowledge that

1 “Affiliate” for purposes of this section means, as to any Person (as defined below), any general  
2 partnership, limited partnership, corporation, joint venture, trust, business trust, cooperative,  
3 association, limited liability company or individual (collectively, a “Person”) that (A) directly or  
4 indirectly controls or is controlled by (such as any partnership or limited liability company in  
5 which the Person, directly or indirectly, serves as a general partner or managing member,  
6 respectively) or is under common control with the specified Person; (B) is an officer or director  
7 of, commissioner of, partner in, member of or trustee of, or serves in a similar capacity with  
8 respect to, the specified Person or of which the Specified Person is an officer, director, member,  
9 partner or trustee, or with respect to which the specified Person serves in a similar capacity; or  
10 (C) is the beneficial owner, directly or indirectly, of 10% or more of any class of equity securities  
11 of the specified Person or of which the specified Person is directly or indirectly the owner of  
12 10% or more of any class of equity securities. The term “control” (including the term “controlled  
13 by” and “under common control with”) means the possession, direct or indirect, of the power to  
14 direct or cause the direction of the management and policies of a Person, whether through the  
15 ownership of voting securities, by contract or otherwise.

16 24. INDEPENDENT CONTRACTOR. BORROWER and its agents, servants  
17 and employees shall act at all times in an independent capacity during the term of this Agreement,  
18 and shall not act as, shall not be, nor shall they in any manner be construed to be agents, officers,  
19 or employees of COUNTY.

20 25. NONDISCRIMINATION. BORROWER shall abide by 24 CFR 570.602  
21 which requires that no person in the United States shall on the grounds of race, color, national  
22 origin, religion, or sex be excluded from participation in, be denied the benefits of, or be  
23 subjected to discrimination under any program or activity receiving Federal financial made  
24 available pursuant to the Act. The prohibitions against discrimination of the basis of disability  
25 under Section 504 shall apply to programs or activities receiving Federal financial assistance  
26 under Title I programs. The policies and procedures necessary to ensure enforcement of Section  
27 109 are codified in 24 CFR Part 6. In addition, BORROWER shall not discriminate on the basis  
28 of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in the

1 solicitation, selection, hiring or treatment of any contractors or consultants, to participate in  
2 subcontracting/subconsulting opportunities. BORROWER understands and agrees that violation  
3 of this clause shall be considered a material breach of this Agreement and may result in  
4 termination, debarment or other sanctions. This language shall be incorporated into all contracts  
5 between BORROWER and any contractor, consultant, subcontractor, subconsultants, vendors  
6 and suppliers. BORROWER shall comply with the provisions of the California Fair Employment  
7 and Housing Act (Government Code Sections 12900 et seq.), the Federal Civil Rights Act of  
8 1964 (P.L. 88-352), as amended, and all Administrative Rules and Regulations issued pursuant  
9 to said Acts and Orders with respect to its use of the Property.

10 BORROWER herein covenants by and for itself, its successors and assigns, and all persons  
11 claiming under or through them, that this Agreement is made and accepted upon and subject to the  
12 following conditions: There shall be no discrimination against or segregation of any person or  
13 group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the  
14 Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and  
15 paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code,  
16 in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall  
17 the transferee itself or any person claiming under or through him or her, establish or permit any  
18 such practice or practices of discrimination or segregation with reference to the selection, location,  
19 number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

20 BORROWER, its successors and assigns, shall refrain from restricting the rental, sale, or  
21 lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual  
22 orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and  
23 contract entered into with respect to the Property, or any portion thereof, after the date of this  
24 Agreement shall contain or be subject to substantially the following nondiscrimination or  
25 nonsegregation clauses:

- 26 a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs,  
27 executors, administrators, and assigns, and all persons claiming under or through them, that  
28 there shall be no discrimination against or segregation of, any person or group of persons

on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

b) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

c) In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or



1 segregation with reference to the selection, location, number, use, or occupancy, of tenants,  
2 lessees, sublessees, subtenants, or vendees of the land.”

3 In addition to the obligations and duties of BORROWER set forth herein, BORROWER shall,  
4 upon notice from COUNTY, promptly pay to COUNTY all fees and costs, including  
5 administrative and attorneys’ fees, incurred by COUNTY in connection with responding to or  
6 defending any discrimination claim brought by any third party and/or local, state or federal  
7 government entity, arising out of or in connection with this Agreement or the Covenant Agreement  
8 attached hereto.

9 26. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 10 a. BORROWER and its assigns, employees, agents, consultants, officers and elected and  
11 appointed officials shall become familiar with and shall comply with the conflict of interest  
12 provisions in OMB Circular A-110, 24 CFR 85.36, 24 CFR 84.42, 24 CFR 92.356 and Policy  
13 Manual #A-11, attached hereto as **Exhibit E** and by this reference incorporated herein.
- 14 b. BORROWER understands and agrees that no waiver or exception can be granted to the  
15 prohibition against conflict of interest except upon written approval of HUD pursuant to 24  
16 CFR 92.356(d). Any request by BORROWER for an exception shall first be reviewed by  
17 COUNTY to determine whether such request is appropriate for submission to HUD. In  
18 determining whether such request is appropriate for submission to HUD, COUNTY will  
19 consider the factors listed in 24 CFR 92.356(e).
- 20 c. Prior to any funding under this Agreement, BORROWER shall provide COUNTY with a list  
21 of all employees, agents, consultants, officers and elected and appointed officials who are in  
22 a position to participate in a decision-making process, exercise any functions or  
23 responsibilities, or gain inside information with respect to the COC BUILDS activities funded  
24 under this Agreement. BORROWER shall also promptly disclose to COUNTY any potential  
25 conflict, including even the appearance of conflict that may arise with respect to the COC  
26 BUILDS activities funded under this Agreement.
- 27 d. Any violation of this section shall be deemed a material breach of this Agreement, and the  
28 Agreement shall be immediately terminated by COUNTY.

1                   27.    RESERVED.

2                   28.    PROJECT MONITORING AND EVALUATION.

3                   a.       Tenant Checklist. BORROWER shall submit a Tenant Checklist  
4 Form to COUNTY, as shown in **Exhibit F** which is attached hereto and by this reference is  
5 incorporated herein and may be revised by COUNTY, summarizing the racial/ethnic  
6 composition, number and percentage of very low-income and low-income households who are  
7 tenants of the COUNTY COC BUILDS Assisted Units. The Tenant Checklist Form shall be  
8 submitted prior to the Effective Date and thereafter, on a semi-annual basis on or before March  
9 31st and September 30th. BORROWER shall maintain financial, programmatic, statistical and  
10 other supporting records of its operations and financial activities in accordance with the  
11 requirements of the COC BUILDS and CoC Program under 24 CFR 92.508, including the  
12 submission of Tenant Checklist Form. Except as otherwise provided for in this Agreement,  
13 BORROWER shall maintain and submit records to COUNTY within ten business days of  
14 COUNTY's request which clearly documents BORROWER's performance under each  
15 requirement of the COC BUILDS and the CoC Program. A list of document submissions and  
16 timeline are shown in **Exhibit A** and such list may be amended from time to time subject to  
17 HUD and COUNTY reporting requirements.

18                   b.       Inspections. Pursuant to 24 CFR 92.501(d)(ii), during the  
19 Compliance Period, COUNTY must perform on-site inspections of COC BUILDS Assisted  
20 Units, upon 72 hours advance written notice to BORROWER, to determine compliance with the  
21 property standards of 24 CFR 92.251 and to verify the information submitted by the owners in  
22 accordance with such requirements. The on-site inspections must occur within 12 months after  
23 the Covenant Agreement and at least once every 3 years thereafter during the Compliance Period.  
24 If there are observed deficiencies for any of the inspectable items in the property standards  
25 established by COUNTY, in accordance with the inspection requirements of 24 CFR 92.252, a  
26 follow-up on-site inspection to verify that deficiencies are corrected must occur within 12  
27 months. COUNTY may establish a list of non-hazardous deficiencies for which correction can  
28 be verified by third party documentation (e.g., paid invoice for work order) rather than re-

1 inspection. Health and safety deficiencies must be corrected immediately, in accordance with the  
2 inspection requirements of 24 CFR 92.252. COUNTY must adopt a more frequent inspection  
3 schedule for properties that have been found to have health and safety deficiencies.

4 c. Income Certification. The income of a tenant must be determined  
5 initially and each sixth year of affordability in accordance with 24 CFR 92.203 (a)(1)(i). In  
6 addition, annually between each sixth year of affordability BORROWER must re-examine each  
7 tenant's annual income under 24 CFR 92.203 (a) (1) (ii).

8 29. MONITORING FEE. BORROWER shall not be required to pay an annual  
9 compliance monitoring fee to the COUNTY.

10 30. ACCESS TO PROJECT SITE. COUNTY and/or HUD shall have the right  
11 to access the Project site and the Property during normal business hours, and upon completion  
12 of the Project upon 48 hours written notice to BORROWER, to review the operation of the  
13 Project in accordance with this Agreement subject to the rights of tenants.

14 31. EVENTS OF DEFAULT. The occurrence of any of the following events  
15 shall constitute an "Event of Default" under this Agreement:

- 16 a. Monetary Default. (1) BORROWER's failure to pay when due any  
17 sums payable under this Agreement or the Covenant Agreement;  
18 (2) BORROWER's or any agent of BORROWER's use of COC  
19 BUILDS funds for uses other than those uses permitted under this  
20 Agreement or for uses inconsistent with terms and restrictions set  
21 forth in this Agreement; (3) BORROWER's or any agent of  
22 BORROWER's failure to make any other payment of any  
23 assessment or tax due under this Agreement, and /or (4) default  
24 under the terms of any Senior Lien documents or any other  
25 instrument or document secured against the Property;
- 26 b. Non-Monetary Default. (1) Discrimination by BORROWER or  
27 BORROWER's agent(s) on the basis of characteristics prohibited  
28 by this Agreement or applicable law; (2) the imposition of any

1 encumbrances or liens on the Project without COUNTY's prior  
2 written approval that are prohibited under this Agreement or that  
3 have the effect of reducing the priority or invalidating the lien of  
4 the Deed of Trust; (3) BORROWER's failure to obtain and  
5 maintain the insurance coverage required under this Agreement; (4)  
6 any material default under this Agreement, the Deed of Trust,  
7 Covenant Agreement, or any document executed by the County in  
8 connection with this Agreement, and /or (5) a default under the  
9 terms of any Senior Lien documents or any other instrument or  
10 document secured against the Property or the Project;

11 c. General Performance of Loan Obligations. Any substantial or  
12 continuous or repeated breach by BORROWER or BORROWER's  
13 agents of any material obligations of BORROWER under this  
14 Agreement;

15 d. General Performance of Other Obligations. Any substantial or  
16 continuous or repeated breach by BORROWER or BORROWER's  
17 agents of any material obligations of BORROWER related to the  
18 Project imposed by any other agreement with respect to the  
19 financing, development, or operation of the Project; whether or not  
20 COUNTY is a party to such agreement; but only following any  
21 applicable notice and cure periods with respect to any such  
22 obligation;

23 e. Representations and Warranties. A determination by COUNTY  
24 that any of BORROWER's representations or warranties made in  
25 this Agreement, any statements made to COUNTY by  
26 BORROWER, or any certificates, documents, or schedules  
27 supplied to COUNTY by BORROWER were false in any material  
28 respect when made, or that BORROWER concealed or failed to

disclose a material fact to COUNTY.

f. Damage to Project. In the event that the Project is materially damaged or destroyed by fire or other casualty, and BORROWER receives an award or insurance proceeds sufficient for the repair or reconstruction of the Project, and BORROWER does not use such award or proceeds to repair or reconstruct the Project.

g. Bankruptcy, Dissolution and Insolvency. BORROWER or general partner, co-general partner or manager of BORROWER's, (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after such filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after such filing; (4) insolvency; or (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

32. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Formal notices, demands and communications between the COUNTY and the BORROWER shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the COUNTY and the BORROWER, as designated in **Section 53** below. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this **Section 32**. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service),

1 shall be deemed received on the documented date of receipt by the recipient; and any notice that  
2 is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed  
3 received on the date of delivery thereof.

4 a. Subject to the Force Majeure Delay, as provided in **Section 10**, failure or  
5 delay by BORROWER to perform any term or provision of this Agreement constitutes a default  
6 under this Agreement. BORROWER must immediately commence to cure, correct or remedy  
7 such failure or delay and shall complete such cure, correction or remedy with reasonable  
8 diligence.

9 b. COUNTY shall give written notice of default to BORROWER, specifying  
10 the default complained of by COUNTY. Failure or delay in giving such notice shall not  
11 constitute a waiver of any default, nor shall it change the time of default. Except as otherwise  
12 expressly provided in this Agreement, any failures or delays by COUNTY in asserting any of  
13 its rights and remedies as to any default shall not operate as a waiver of any default or of any  
14 such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall  
15 not deprive COUNTY of its right to institute and maintain any actions or proceedings which it  
16 may deem necessary to protect, assert or enforce any such rights or remedies.

17 c. If a monetary event of default occurs, prior to exercising any remedies  
18 hereunder, COUNTY shall give BORROWER written notice of such default. BORROWER  
19 shall have a period of thirty (30) days after such notice is given within which to cure the default  
20 prior to exercise of remedies by COUNTY.

21 d. If a non-monetary event of default occurs, prior to exercising any remedies  
22 hereunder, COUNTY shall give BORROWER written notice of such default. If the default is  
23 reasonably capable of being cured within thirty (30) days, BORROWER shall have such period  
24 to effect a cure prior to exercise of remedies by COUNTY. If the default is such that it is not  
25 reasonably capable of being cured within thirty (30) days, and BORROWER (i) initiates  
26 corrective action within said period, and (ii) diligently, continually, and in good faith works to  
27 effect a cure as soon as possible, then BORROWER shall have such additional time as is  
28 reasonably necessary to cure the default prior to exercise of any remedies by the injured party,

1 but in no event no more than sixty (60) days from the date of the notice of default. In no event  
2 shall COUNTY be precluded from exercising remedies if its security becomes or is about to  
3 become materially jeopardized by any failure to cure a default or the default is not cured within  
4 sixty (60) days after the first notice of default is given.

5 e. Any cure tendered by BORROWER's limited partner, Chase, or affiliate  
6 shall be accepted or rejected on the same basis as if tendered by BORROWER.

7 33. COUNTY REMEDIES. Upon the occurrence of an Event of Default, after  
8 notice and opportunity to cure, COUNTY'S obligation to disburse funds shall terminate, and  
9 COUNTY shall also have the right, but not the obligation to, in addition to other rights and  
10 remedies permitted by this Agreement or applicable law, proceed with any or all of the  
11 following remedies in any order or combination COUNTY may choose in its sole discretion:

12 a. Terminate this Agreement, in which event the entire Loan amount  
13 as well as any other monies advanced to BORROWER by  
14 COUNTY under this Agreement including administrative costs,  
15 shall immediately become due and payable to COUNTY at the  
16 option of COUNTY.

17 b. Bring an action in equitable relief (1) seeking the specific  
18 performance by BORROWER of the terms and conditions of this  
19 Agreement, and/or (2) enjoining, abating, or preventing any  
20 violation of said terms and conditions, and/or (3) seeking  
21 declaratory relief.

22 c. Demand immediate full repayment of the Loan, as well as any other  
23 monies advanced to BORROWER by COUNTY under this  
24 Agreement.

25 d. Enter the Project and take any remedial actions necessary in its  
26 judgment with respect to hazardous materials that COUNTY deems  
27 necessary to comply with hazardous materials laws or to render the  
28 Project suitable for occupancy, which costs shall be due and payable

1 by BORROWER to COUNTY.

2 e. Enter upon, take possession of, and manage the Project, either in  
3 person, by agent, or by a receiver appointed by a court, and collect  
4 rents and other amounts specified in the assignment of rents in the  
5 Deed of Trust and apply them to operate the Project, as provided for  
6 by the Deed of Trust.

7 f. Pursue any other remedies allowed at law or in equity.

8 34. RESERVED.

9 35. BORROWER'S WARRANTIES. BORROWER represents and warrants  
10 (1) that it has access to professional advice and support to the extent necessary to enable  
11 BORROWER to fully comply with the terms of this Agreement, and to otherwise carry out the  
12 Project, (2) that it is duly organized, validly existing and in good standing under the laws of the  
13 State of California, (3) that it has the full power and authority to undertake the Project and to  
14 execute this Agreement, (4) that the persons executing and delivering this Agreement are  
15 authorized to execute and deliver such documents on behalf of BORROWER and (5) that  
16 neither BORROWER nor any of its principals is presently debarred, suspended, proposed for  
17 debarment, declared ineligible, or voluntarily excluded from participation in connection with  
18 the transaction contemplated by this Agreement.

19 36. BORROWER'S CERTIFICATION. BORROWER certifies, to the best of  
20 its knowledge and belief, that:

21 a. No federally appropriated funds have been paid or will be paid, by or on behalf of the  
22 undersigned, to any person for influencing or attempting to influence an officer or  
23 employee of any agency, a member of Congress, an officer or employee of Congress, or  
24 an employee of a member of Congress in connection with the awarding of any federal  
25 contract, the making of any federal grant, the making of any federal loan, the entering into  
26 of any cooperative agreement, and the extension, continuation, review, amendment, or  
27 modification of any federal contract, grant, loan, or cooperative agreement.

28 b. If any funds other than federally appropriated funds have been paid or will be paid to any



1 person for influencing or attempting to influence an officer or employee of any agency, a  
2 member of Congress, an officer or employee of Congress, or an employee of a member of  
3 Congress in connection with this federal contract, grant, loan, or cooperative agreement,  
4 the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to  
5 Report Lobbying," in accordance with its instructions.

- 6 c. The undersigned shall require that the language of this certification be included in the  
7 award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and  
8 contracts under grants, loans, and cooperative agreements) and that BORROWER shall  
9 certify and disclose accordingly. This certification is a material representation of fact upon  
10 which reliance was placed when this transaction was made or entered into.

11 37. HOLD HARMLESS AND INDEMNIFICATION. BORROWER shall  
12 indemnify and hold harmless the County of Riverside, its Agencies, Boards, Districts, Special  
13 Districts and Departments, their respective directors, officers, Board of Supervisors, elected and  
14 appointed officials, employees, agents and representatives (collectively the "Indemnified  
15 Parties") from any liability whatsoever, based or asserted upon any acts or omissions of  
16 BORROWER, its officers, employees, subcontractors, agents or representatives arising out of  
17 their performance under this Agreement, including but not limited to property damage, bodily  
18 injury, or death or any other element of any kind or nature whatsoever arising from the  
19 performance of BORROWER, its officers, agents, employees, subcontractors, agents or  
20 representatives under this Agreement, except in the event of the gross negligence or willful  
21 misconduct of the Indemnified parties; provided however, any gross negligence or willful  
22 misconduct of Indemnitees will only affect the duty to indemnify for the specific act found to be  
23 gross negligence or willful misconduct, and will not preclude a duty to indemnify for any act or  
24 omission of BORROWER. BORROWER shall defend, at its sole expense, all costs and fees  
25 including, but not limited, to attorney fees, cost of investigation, defense and settlements or  
26 awards, the County of Riverside, its Agencies, Districts, Special Districts and Departments, their  
27 respective directors, officers, Board of Supervisors, elected and appointed officials, employees,  
28 agents and representatives in any claim or action based upon such alleged acts or omissions.

1 With respect to any action or claim subject to indemnification herein by BORROWER,  
2 BORROWER shall, at their sole cost, have the right to use counsel of their own choice and shall  
3 have the right to adjust, settle, or compromise any such action or claim without the prior consent  
4 of COUNTY; provided, however, that any such adjustment, settlement or compromise in no  
5 manner whatsoever limits or circumscribes BORROWER's indemnification to COUNTY as set  
6 forth herein.

7 BORROWER's obligation hereunder shall be satisfied when BORROWER has provided  
8 to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action  
9 or claim involved.

10 The specified insurance limits required in this Agreement shall in no way limit or  
11 circumscribe BORROWER's obligations to indemnify and hold harmless COUNTY herein from  
12 third party claims.

13 In the event there is conflict between this clause and California Civil Code Section 2782,  
14 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not  
15 relieve BORROWER from indemnifying COUNTY to the fullest extent allowed by law.

16 BORROWER's obligations set forth in this **Section 37** shall survive the expiration or  
17 earlier termination of this Agreement.

18 38. TERMINATION.

19 a. BORROWER. BORROWER may terminate this Agreement prior to  
20 disbursement of any Loan funds by COUNTY in accordance with the applicable COC BUILDS  
21 or CoC Program regulations.

22 b. COUNTY. Notwithstanding the provisions of **Section 38(a)**, COUNTY  
23 may suspend or terminate this Agreement upon written notice to BORROWER of the action being  
24 taken and the reason for such action in the event one of the following events occur:

- 25 1. In the event BORROWER fails to perform the covenants  
26 herein contained at such times and in such manner as  
27 provided in this Agreement after the applicable notice and  
28 cure provision hereof; or

2. In the event there is a conflict with any federal, state or local law, ordinance, regulation or rule rendering any material provision, in the judgment of COUNTY of this Agreement invalid or untenable; or

3. In the event the COC BUILDS funding from HUD identified in **Section 1** above is terminated or otherwise becomes unavailable.

c. This Agreement may be terminated or funding suspended in whole or in part for cause. Cause shall be based on the failure of BORROWER to materially comply with either the terms or conditions of this Agreement after the expiration of all applicable notice and cure provisions hereof. Upon suspension of funding, BORROWER agrees not to incur any costs related thereto, or connected with, any area of conflict from which COUNTY has determined that suspension of funds is necessary.

d. Upon expiration or earlier termination of this Agreement, BORROWER shall transfer to COUNTY any unexpended Loan funds in its possession at the time of expiration of the Agreement as well as any accounts receivable held by BORROWER which are attributable to the use of COC BUILDS funds awarded pursuant to this Agreement.

39. **AFFORDABILITY RESTRICTIONS.** COUNTY and BORROWER, on behalf of its successors and assigns, hereby declare their express intent that the restrictions set forth in this Agreement shall continue in full force and effect for the duration of the Compliance Period (as defined in **Section 15** above). Each and every contract, deed or other instrument hereafter executed covering and conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such restrictions, regardless of whether such restrictions are set forth in such contract, deed or other instrument. BORROWER shall execute and record as a lien against the Property, a Covenant Agreement, substantially conforming in form and substance to the Covenant Agreement attached hereto as **Exhibit G** and incorporated herein by this reference, setting forth the affordability use and income restriction required in this Agreement.

1a. Float-up: Notwithstanding any other covenant or the Covenant Agreement to the contrary the Parties agree that the following shall apply to the COC BUILDS Assisted Units:

(a) COUNTY agrees that, upon BORROWER'S request and County's written approval, which will not be unreasonably withheld, the maximum tenant household income and maximum annual rent for COC BUILDS Assisted Units may be increased to amounts necessary to make operation of the Project financially feasible as determined by the BORROWER, including the payment of all required operating costs and debt service, but in no event may (a) the maximum tenant income limitation exceed 60 percent of AMI or, (b) the maximum annual rent limitation exceed 30 percent of 60 percent of AMI.

(b) In the case of increases due to a foreclosure of any approved financing or deed in lieu thereof, the above increases may continue until such time, if any, that the rental assistance or equivalent operating subsidy is restored. Notwithstanding anything to the contrary in this section, the BORROWER may not displace tenant households and must use good faith efforts to reduce the effect of rent increases permitted to be imposed on existing tenant households by (a) the use of operating and transition reserves to the extent such funds exist and are available, and (b) the use of other subsidy sources available that would mitigate the rent increases.

(c) If Rent increases on the COC BUILDS Assisted Units are necessary, after exhausting all transition reserve funds such increases shall only be permitted to the minimum extent required for financial feasibility, as reasonably determined by BORROWER and approved by COUNTY, which approval shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent of AMI, adjusted for household size for the number of bedrooms. The COUNTY shall be notified at least eighteen (18) months in advance of any Rent increase the COC BUILDS Assisted Units.

(d) In order to enact an increase in the maximum household income and rents for a Restricted Unit for the Project, the BORROWER must submit a written request to the COUNTY which shall outline a plan with an explanation of the fiscal necessity of adjusting the maximum household income and the rents charged for the COC BUILDS

1 Assisted Units. The plan shall provide the following items along with any additional  
2 requirements from the COUNTY:

- 3 1. An explanation of the efforts the BORROWER has made to secure other rental  
4 subsidies to sustain overall project operations;
- 5 2. An explanation of the fiscal necessity of adjusting the maximum household  
6 income and the rents charged for the COC BUILDS Assisted Units;
- 7 3. A process for increasing the Project rent for all affected units (both COC BUILDS  
8 Assisted Units and non-restricted units) and make reasonable efforts to continue  
9 to market and rent Project units to members of the target population originally  
10 contemplated, as well as ensuring that any increases to the household income limit  
11 are applied, as much as possible, only to vacant units as they become available.  
12 This portion of the plan shall discuss changes in both maximum household  
13 incomes and rents and;
- 14 4. The plan for continuing, throughout the Compliance Period, to apply for other  
15 subsidies that will allow a return to all Project Units to members of the target  
16 population and Rents originally contemplated.

17  
18 40. MECHANICS LIENS AND STOP NOTICES. If any claim of mechanics  
19 lien is filed against the Project or a stop notice affecting the Loan is served on COUNTY,  
20 BORROWER must, within twenty (20) calendar days of such filing or service, either pay and  
21 fully discharge the lien or stop notice, obtain a release of the lien or stop notice by delivering to  
22 COUNTY a surety bond in sufficient form and amount, or provide COUNTY with other  
23 assurance reasonably satisfactory to COUNTY that the lien or stop notice will be paid or  
24 discharged.

25 41. ENTIRE AGREEMENT. It is expressly agreed that this Agreement  
26 embodies the entire agreement of the parties in relation to the subject matter hereof, and that no  
27 other agreement or understanding, verbal or otherwise, relative to this subject matter, exists  
28 between the parties at the time of execution.

1           42.    AUTHORITY TO EXECUTE. The persons executing this Agreement or  
2 exhibits attached hereto on behalf of the parties to this Agreement hereby warrant and represent  
3 that they have the authority to execute this Agreement and warrant and represent that they have  
4 the authority to bind the respective parties to this Agreement to the performance of its obligations  
5 hereunder.

6           43.    WAIVER. Failure by a party to insist upon the strict performance of any  
7 of the provisions of this Agreement by the other party, or the failure by a party to exercise its  
8 rights upon the default of the other party, shall not constitute a waiver of such party's rights to  
9 insist and demand strict compliance by the other party with the terms of this Agreement  
10 thereafter.

11           44.    INTERPRETATION AND GOVERNING LAW. This Agreement and any  
12 dispute arising hereunder shall be governed by and interpreted in accordance with the laws of  
13 the State of California. This Agreement shall be construed as a whole according to its fair  
14 language and common meaning to achieve the objectives and purposes of the parties hereto, and  
15 the rule of construction to the effect that ambiguities are to be resolved against the drafting party  
16 shall not be employed in interpreting this Agreement, all parties having been represented by  
17 counsel in the negotiation and preparation hereof.

18           45.    JURISDICTION AND VENUE. Any action at law or in equity arising  
19 under this Agreement or brought by a party hereto for the purpose of enforcing, construing or  
20 determining the validity of any provision of this Agreement shall be filed in the Superior Courts  
21 of Riverside County, State of California, and the parties hereto waive all provisions of law  
22 providing for the filing, removal or change of venue to any other court or jurisdiction.

23           46.    SEVERABILITY. Each paragraph and provision of this Agreement is  
24 severable from each other provision, and if any provision or part thereof is declared invalid, the  
25 remaining provisions shall nevertheless remain in full force and effect.

26           47.    MINISTERIAL ACTS. COUNTY's Director of Housing & Workforce  
27 Solutions or designee(s) are authorized to take such ministerial actions as may be necessary or  
28 appropriate to implement the terms, provisions, and conditions of this Agreement as it may be

1 amended from time to time by both parties.

2 48. MODIFICATION OF AGREEMENT. COUNTY or BORROWER may  
3 consider it in its best interest to change, modify or extend a term or condition of this Agreement,  
4 provided such change, modification or extension is agreed to in writing by the other party. Any  
5 such change, extension or modification, which is mutually agreed upon by COUNTY and  
6 BORROWER shall be incorporated in written amendments to this Agreement. Such  
7 amendments shall not invalidate this Agreement, nor relieve or release COUNTY or  
8 BORROWER from any obligations under this Agreement, except for those parts thereby  
9 amended. No amendment to this Agreement shall be effective and binding upon the parties,  
10 unless it expressly makes reference to this Agreement, is in writing, is signed and acknowledged  
11 by duly authorized representatives of all parties, and approved by the COUNTY.

12 49. RESERVED.

13 50. RESERVED.

14 51. EXHIBITS AND ATTACHMENTS. Each of the attachments and exhibits  
15 attached hereto is incorporated herein by this reference.

16 52. MEDIA RELEASES. BORROWER agrees to allow COUNTY to provide  
17 input regarding all media releases regarding the Project. Any publicity generated by  
18 BORROWER for the Project must make reference to the contribution of COUNTY in making the  
19 Project possible. COUNTY's name shall be prominently displayed in all pieces of publicity  
20 generated by BORROWER, including flyers, press releases, posters, signs, brochures, and public  
21 service announcements. BORROWER agrees to cooperate with COUNTY in any COUNTY-  
22 generated publicity or promotional activities with respect to the Project.

23 53. NOTICES. All notices, requests, demands and other communication  
24 required or desired to be served by either party upon the other shall be addressed to the respective  
25 parties as set forth below or the such other addresses as from time to time shall be designated by  
26 the respective parties and shall be sufficient if sent by United States first class, certified mail,  
27 postage prepaid, or express delivery service with a receipt showing the date of delivery.

COUNTY

BORROWER

Director, Riverside County  
Housing &  
Workforce Solutions  
3403 10th Street, Suite 300  
Riverside, CA 92501

54. COUNTERPARTS. This Agreement may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

55. EFFECTIVE DATE. The effective date of this Agreement is the date the parties execute the Agreement ("Effective Date"). If the parties execute the Agreement on more than one date, then the last date the Agreement is executed by a party shall be the Effective Date.

56. FURTHER ASSURANCES. BORROWER shall execute any further documents consistent with the terms of this Agreement, including documents in recordable form, as the COUNTY may from time to time find necessary or appropriate to effectuate its purposes in entering into this Agreement.

57. NONLIABILITY OF COUNTY OFFICIALS AND EMPLOYEES. No member, official, employee or consultant of the COUNTY shall be personally liable to the BORROWER, or any successor in interest, in the event of any default or breach by the COUNTY or for any amount which may become due to the BORROWER or to its successor, or on any obligations under the terms of this Agreement.

58. CONSTRUCTION AND INTERPRETATION OF AGREEMENT.

a. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of



1 this Agreement, this Agreement shall not be interpreted or construed against the party preparing  
2 it, and instead other rules of interpretation and construction shall be utilized.

3           b.       If any term or provision of this Agreement, the deletion of which  
4 would not adversely affect the receipt of any material benefit by any party hereunder, shall be  
5 held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this  
6 Agreement shall not be affected thereby and each other term and provision of this Agreement  
7 shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the  
8 parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid, or  
9 unenforceable, there be added as a part of this Agreement an enforceable clause or provision as  
10 similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

11           c.       The captions of the articles, sections, and subsections herein are  
12 inserted solely for convenience and under no circumstances are they or any of them to be treated  
13 or construed as part of this instrument.

14           d.       References in this instrument to this Agreement mean, refer to and  
15 include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are  
16 hereby incorporated herein by this reference) or other documents expressly incorporated by  
17 reference in this instrument. Any references to any covenant, condition, obligation, and/or  
18 undertaking “herein,” “hereunder,” or “pursuant hereto” (or language of like import) means, refer  
19 to, and include the covenants, obligations, and undertakings existing pursuant to this instrument  
20 and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly  
21 incorporated by reference in this instrument.

22           e.       As used in this Agreement, and as the context may require, the  
23 singular includes the plural and vice versa, and the masculine gender includes the feminine and  
24 vice versa.

25           59.    TIME OF ESSENCE. Time is of the essence with respect to the  
26 performance of each of the covenants and agreements contained in this Agreement.

27           60.    BINDING EFFECT. This Agreement, and the terms, provisions, promises,  
28 covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties

1 hereto and their respective heirs, legal representatives, successors and assigns.

2 61. NO THIRD PARTY BENEFICIARIES. The parties to this Agreement  
3 acknowledge and agree that the provisions of this Agreement are for the sole benefit of COUNTY  
4 and BORROWER, and not for the benefit, directly or indirectly, of any other person or entity,  
5 except as otherwise expressly provided herein.

6 62. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS.

7 a. This Agreement shall be executed in three duplicate originals each  
8 of which is deemed to be an original. This Agreement, including all attachments hereto and  
9 exhibits appended to such attachments shall constitute the entire understanding and agreement of  
10 the parties.

11 b. This Agreement integrates all of the terms and conditions  
12 mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements  
13 between the parties with respect to all or any part of the Property.

14 c. All waivers of the provisions of this Agreement must be in writing  
15 and signed by the appropriate authorities of the COUNTY or the BORROWER, and all  
16 amendments hereto must be in writing and signed by the appropriate authorities of the COUNTY  
17 and the BORROWER. This Agreement and any provisions hereof may be amended by mutual  
18 written agreement by the BORROWER and the COUNTY.

19  
20 (SIGNATURES ON THE NEXT PAGE)  
21  
22  
23  
24  
25  
26  
27  
28

1                   IN WITNESS WHEREOF, COUNTY and BORROWER have executed this  
2 Agreement as of the dates written below.  
3

4 COUNTY:

BORROWER:

5 COUNTY OF RIVERSIDE, a political  
6 subdivision of the State of California  
7  
8  
9  
10

11 By: \_\_\_\_\_  
12 Heidi Marshall, Director  
13 Housing & Workforce Solutions  
14

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

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

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

16 APPROVED AS TO FORM:  
17 MINH C. TRAN, County Counsel  
18

19 By: \_\_\_\_\_  
20 Amrit P. Dhillon, Deputy County Counsel

21 **(Signatures need to be notarized)**  
22  
23  
24  
25  
26  
27  
28

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2023, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis  
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

**EXHIBIT “A”**

**Borrower:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Project Title:** \_\_\_\_\_  
**Location:** \_\_\_\_\_

**Project Description:**

		Qualified Builds Units	CoC	

## LEGAL DESCRIPTION OF PROPERTY

## **EXHIBIT “B”**





EXEMPT RECORDING FEE CODE 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10th Street, Suite 300  
Riverside, CA 92501  
Attn.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY  
AGREEMENT AND FIXTURE FILING**

This DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING is made this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, a California limited partnership (“Trustor”), whose address is \_\_\_\_\_. The trustee is First American Title (“Trustee”). The beneficiary is the County of Riverside, a political subdivision of the State of California, (hereinafter called “Beneficiary”), whose address is 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501.

**RECITALS**

A. Trustor is the owner of the real property located in the City of Cathedral City, County of Riverside, State of California more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (such interest in real property is hereafter referred to as the “Subject Property”).

B. County made a Loan to Trustor in the amount of \$\_\_\_\_\_ (the “Loan”) of funds made available under Section 3205 of the American Rescue Plan Act of 2021 (the “Act”) and the implementing rules (HUD CPD-21-10 issued September 13, 2021) and regulations thereto (24 CFR Part 92) (collectively, “COC BUILDS”), as evidenced by that certain Loan Agreement for the Use of CoC Build Program Funds by and between Trustor and Beneficiary, dated as of the date hereof (the “Loan Agreement”) (capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement).

C. In connection with the Loan, Beneficiary and Trustor entered into a Covenant Agreement dated as of the date hereof (the “Covenant Agreement”), pursuant to which, Trustor is obligated, among other requirements, to restrict a portion of the Subject Property’s use and occupancy to housing for the “homeless,” those “at risk of homelessness” or other “qualifying populations” within the meaning of the COC BUILDS program or within the meaning of Title II of the Cranston-Gonzalez National Affordable Housing Act (the “HOME Act”), as amended (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR Part 92) (collectively, the “CoC Program”).

NOW, THEREFORE, TRUSTOR IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "Trust Estate"):

- (A) The Subject Property;
- (B) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "Improvements");
- (C) All tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");
- (D) All rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");
- (E) All present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and
- (F) All present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the Ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage

to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "Personal Property"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9334 and 9502(b) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

(a) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

(a) that certain Promissory Note in favor of the Beneficiary ("County" therein) executed by Trustor ("Borrower" therein) of even date herewith (the "Note") in the principal amount of \$2,000,000;

(b) that certain Loan Agreement for the Use of CoC Build Program Funds dated \_\_\_\_\_ and recorded in the Official Records ("Official Records") of the County of Riverside concurrently herewith, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) (the "Loan Agreement"); and

(c) that certain Covenant Agreement dated \_\_\_\_\_ and recorded concurrently herewith in the Official Records, between Trustor ("Borrower" therein) and Beneficiary ("County" therein) ("Covenant Agreement").

(b) payment of indebtedness of the Trustor to the Beneficiary not to exceed \$2,000,000 (the "Loan") according to the terms of the Note.

Said Note, Loan Agreement and Covenant Agreement (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. The Note, Loan Agreement and Covenant Agreement as used herein shall mean, refer to and include the Note, Loan Agreement and Covenant Agreement, as well as any riders, exhibits,

addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference).

Pursuant to the Loan Agreement, the maturity date of the Loan shall be the later to occur of (i) December 31, 2079 or (ii) fifty-five (55) years from recordation of the Notice of Completion for the last building completed as part of the Project (as defined in the Loan Agreement) ("Loan Term").

TRUSTOR COVENANTS that the Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the fee interest of the Property. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

**AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:**

1. That Trustor shall pay the Note at the time and in the manner provided therein, and perform all obligations of Trustor as set forth in the Loan Agreement and Covenant Agreement at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the property for any purpose other than the use set forth in the Loan Agreement and Covenant Agreement.

3. That the Secured Obligations are incorporated in and made a part of this Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Loan Agreement and Covenant Agreement.

4a. That upon default hereunder or under any of the Secured Obligations and after giving notice and opportunity to cure, Beneficiary shall be entitled to the appointment of receiver by any court having jurisdiction, without notice, to take possession and protect the Property described herein and operate same and collect the rents, profits and income therefrom.

5. **Payment of Principal and Interest; Prepayment and Late Charges.** Trustor shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any late charges due under the Note.

6. **Taxes and Insurance.** Trustor shall pay before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Deed of Trust, directly to

the person owed payment. Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

**7. Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under **Section 5** shall be applied: first, to interest due; second, to principal due; and last, to any late charges due under the Note.

**8. Prior Deeds of Trust; Charge; Liens.** Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Deed of Trust, and leasehold payments or ground rents, if any, subject to applicable cure periods directly to the person owed payment. Trustor shall pay these obligations in the manner provided in **Section 6**.

a. Except for the liens permitted in writing by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Deed of Trust unless Trustor: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien; or (3) bond around the lien (4) secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Deed of Trust. Except for the liens approved herein, if Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Deed of Trust, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy such lien or take one or more of the actions set forth above within 30 days of the giving of notice.

**9. Priority of Deed of Trust.** The Deed of Trust shall be in a eighth priority lien position. Lien priority shall be as follows: (1) first priority shall be the Regulatory Agreement and Declaration of Restrictive Covenants by and between California Municipal Finance Authority and Borrower (the "Bond Regulatory Agreement") and recorded on July 23, 2020; (2) second priority shall be the senior regulatory agreement for the benefit of the State of California Department of Housing and Community Development ("HCD") in connection with the NPLH Loan (as defined below) and to be recorded substantially concurrently herewith (the "NPLH Senior Regulatory Agreement"); (3) third priority shall be the COC BUILD Covenant Agreement for the benefit of the COUNTY; (4) fourth priority shall be deed(s) of trust for the benefit of JPMorgan Chase Bank, N.A. ("Chase") securing a permanent loan for the Project in an amount up to \$[7,000,000] ("Chase Permanent Loan"); (5) fifth priority shall be the junior regulatory agreement for the benefit of HCD in connection with the NPLH Loan (as defined below) and to be recorded substantially concurrently herewith (the "NPLH Junior Regulatory Agreement"); (6)

sixth priority shall be the deed of trust securing the HCD No Place Like Home Loan in an amount up to \$[7,712,905] ("NPLH Loan"); (7) seventh priority shall be the Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants in favor of the Cathedral City recorded July 23, 2020 (the "City Regulatory Agreement"); (8) eighth priority shall be the COC BUILD Deed of Trust for the benefit of the COUNTY; (9) ninth priority shall be the deed of trust securing the National Community Renaissance of California ("NCRC") Seller Carryback Loan in an amount of \$[13,447,000] ("Seller Carryback Loan"), (10) tenth priority shall be the deed of trust securing the NCRC Seller Cash Loan in the amount of \$[1,165,125] ("Seller Cash Loan"); (11) eleventh priority shall be the deed of trust securing the NCRC Sponsor Loan in the amount of \$[1,603,598] ("Sponsor Loan"); (12) twelfth priority shall be the HOME Covenant Agreement for the benefit of the COUNTY and recorded September 8, 2020 (the "HOME Covenant Agreement"); (13) thirteenth priority shall be the COC BUILD Loan Agreement for the benefit of the COUNTY; and (14) fourteenth priority shall be the Tax Credit Regulatory Agreement for the benefit of the California Tax Credit Allocation Authority (the "Tax Credit Regulatory Agreement"). The JPMorgan Chase Permanent Loan and the NPLH Loan shall be referred to individually as a "Senior Loan" or collectively as the "Senior Loans."

Beneficiary hereby agrees to execute any and all documents necessary to effectuate such priority, including, but not limited to subordination agreements first approved as to form and content by Beneficiary and Beneficiary's legal counsel.

**10. Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary reasonably requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with **Section 12.**

a. All insurance policies and renewals shall be reasonably acceptable to Beneficiary and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Trustor complies with the insurance requirements under this Deed of Trust and the Loan Agreement. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier, the Senior Lien Holder, if any, and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Senior Lien Holder, if any, or the Trustor.

b. Unless Beneficiary and Trustor otherwise agree in writing and subject to the rights of senior lenders, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary

to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under **Section 27** the Property is acquired by Beneficiary, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

d. Notwithstanding the above, the Beneficiary's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of a Senior Lien Holder, if any, to collect and apply such proceeds in accordance with a Senior Lien Holder Deed of Trust.

**11. Preservation, Maintenance and Protection of the Property; Leaseholds; Trustor's Loan Application.** Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property; normal wear and tear excepted. Trustor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust or Beneficiary's security interest. Trustor may cure such a default and reinstate, as provided in **Section 23**, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of the Trustor's interest in the Property or other material impairment of the lien created by this Deed of Trust or Beneficiary's security interest. Trustor shall also be in default if Trustor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the Loan, including, but not limited to representations concerning Trustor's use of Property for affordable housing. If this Deed of Trust is on a leasehold, Trustor shall comply with all provisions of the lease. If Trustor acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

a. The Trustor acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting a portion of the Property's use to housing for the "homeless," those "at risk of homelessness" or other "qualifying populations" within the meaning of the COC BUILDS Program. The use and occupancy restrictions may limit the Trustor's ability to rent the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary to the remedies provided in **Section 27** hereof.

**12. Protection of Beneficiary's Rights in the Property.** If Trustor fails to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect Beneficiary's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to notice to Trustor and any applicable grace periods or cure periods, Beneficiary may do and pay for whatever is necessary to protect the value of the Property and Beneficiary's rights in the Property. Beneficiary's actions may include paying any sums secured by a lien which has priority over this Deed of Trust, appearing in court, paying reasonable attorneys' fees, and entering on the Property

to make repairs. Although Beneficiary may take action under this **Section 12**, Beneficiary does not have to do so.

a. Any amounts disbursed by Beneficiary under this **Section 12** shall become additional debt of Trustor secured by this Deed of Trust. Unless Trustor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Beneficiary to Trustor requesting payment.

13. **Reserved.**

14. **Inspection.** Beneficiary or its agent may make reasonable entries upon and inspections of the Property. Beneficiary shall give Trustor at least forty-eight (48) hours advanced notice in connection with an inspection specifying reasonable cause for the inspection.

15. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary, subject to the terms of a Senior Lien Holder Deed of Trust, if any.

a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing, the sums secured by this Deed of Trust shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the Project.

c. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

d. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in **Sections 5 and 6** or change the amount of such payments.

16. **Forbearance By Beneficiary Not a Waiver.** Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.



17. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Beneficiary and Trustor, subject to the provisions of **Section 22**. Trustor's covenants and agreements shall be joint and several.

18. **Loan Charges.** If the loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Trustor which exceeded permitted limits will be promptly refunded to Trustor. Beneficiary may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Trustor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

19. **Notices.** Any notice to Trustor provided for in this Deed of Trust shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary. All such notices to Trustor shall also be provided to the investment limited partner at the address set forth in the Loan Agreement. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to such other address the Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given as provided in this Section.

20. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and the laws of the State of California. In the event that any provision or clause of this Deed of Trust, the Note or Covenant Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust, the Note or the Covenant Agreement which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust, the Note and the Covenant Agreement are declared to be severable. Any action at law or in equity arising under this Deed of Trust or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Superior Court of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

21. **Trustor's Copy.** Trustor shall be given one conformed copy of the Note and of this Deed of Trust.

22. **Transfer of the Property or a Beneficial Interest in Trustor.** Except as otherwise allowed under the Loan Agreement, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for housing for the "homeless" or those "at risk of homelessness" within the meaning of the COC BUILDS Program) Beneficiary may, at its option, require immediate payment in full of all Secured

Obligations secured by this Deed of Trust. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. Nothing in this Deed of Trust shall be deemed to require Beneficiary's approval of a transfer of a limited partnership or non-managing member interest in the Trustor or of a conveyance of an easement interest in the Property for utility purposes.

a. If Beneficiary exercises the aforementioned option, Beneficiary shall give Trustor and the Senior Lien Holder, prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Deed of Trust. If Trustor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Trustor.

b. Notwithstanding anything to the contrary contained herein, upon written notice to Beneficiary, Trustor may (i) lease for occupancy of all or any of the COC BUILDS Assisted Units in accordance with this Agreement; (ii) grant easements or permits to facilitate the development and operation of the Property in accordance with the Loan Agreement; (iii) transfer the Trustor's limited partnership interest; (iv) remove and replace the Trustor's general partner(s) for cause in accordance with the Trustor's amended and restated agreement of limited partnership; and (v) make transfers pursuant to that certain Purchase Option and Right of First Refusal Agreement (collectively a "Permitted Transfer"). All Permitted Transfers shall be subject to reasonable review of documentation by the Beneficiary.

23. **Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Deed of Trust, the Loan Agreement, the Note and Covenant Agreement as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Trustor, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under **Section 22**.

24. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Deed of Trust) may be sold one or more times without prior notice to Trustor. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Deed of Trust. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Trustor will be given written notice of the change in accordance with **Section 19** above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

25. **No Assignment.** The Note and this Deed of Trust shall not be assigned by Trustor without the Beneficiary's prior written consent and the consent of the Senior Lenders.

26. **Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

a. Trustor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified in writing by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental Law.

b. As used in this **Section 26**, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials, excluding household products in normal quantities. As used in this **Section 26**, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

27. **Acceleration; Remedies.** Beneficiary shall give notice to Trustor prior to acceleration following Trustor's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, which shall not be more than thirty (30) calendar days from the date of the mailing of the notice for a monetary default, or a date, which shall not be more than thirty (30) calendar days from the mailing of the notice for a non-monetary default, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the Secured Obligations secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, and the Senior Lien Holder or the investor limited partner have not cured the default within that same period, subject to any non-recourse provisions set forth in **Section 8** of the Note, then Beneficiary at its option may require immediate payment in full of all Secured Obligations secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided in this **Section 27**, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

a. If Beneficiary invokes the power of sale, Beneficiary or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Trustor, the investor limited partner, the Senior Lien Holder and to the other persons prescribed by applicable law. Trustee shall give

notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Deed of Trust; and (c) any excess to the person or persons legally entitled to it.

28. **Release.** Upon payment of all sums secured by this Deed of Trust, Beneficiary shall release this Deed of Trust without charge to Trustor. Trustor shall pay any recordation costs. The lien of the Covenant Agreement shall not be released or reconveyed until the expiration of the term set forth therein notwithstanding the payment of all sums secured by this Deed of Trust.

29. **Substitute Trustee.** Beneficiary, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

30. **Modifications of Senior Loan Documents.** Any agreement or arrangement, in which a Senior Lender waives, postpones, extends, reduces, or modifies any provisions of the Senior Lien Holder Deed of Trust or any other Senior Lien Holder loan documents, including any provisions requiring the payment of money, shall require the prior written approval of Beneficiary, such approval not to be unreasonably conditioned or denied.

31. **Prohibition against tenancy under foreclosure.** Notwithstanding anything to the contrary set forth in this Deed of Trust or in any documents secured by this Deed of Trust or contained in any subordination agreement, the Beneficiary acknowledges and agrees that, in no event will any action be taken which violates Section 42(h)(6)(E)(ii) of the U.S. Internal Revenue Code of 1986, as amended, regarding prohibitions against evicting, terminating tenancy or increasing rent of tenants for a period of three (3) years after acquisition of a building by foreclosure or deed-in-lieu of foreclosure.

32. **General Partner Change.** Except as otherwise provided in the Loan Agreement, the withdrawal, removal, and/or replacement of a non-Affiliate general partner of the Trustor pursuant to the terms of the Partnership Agreement shall not constitute a default under any of the Secured Obligations, and any such actions shall not accelerate the Secured Obligations, provided that any required substitute general partner is reasonably acceptable to Beneficiary and is selected with reasonable promptness, subject to Section 22.b above. Any proposed general partner replacement shall have the qualifications and financial responsibility as reasonably determined by Beneficiary necessary and adequate to fulfill the obligations undertaken in the Loan Agreement, as amended.

33. **Removal, Demolition or Alteration of Personal Property and Fixtures.** Except to the extent permitted by the following sentence, no personal property or fixtures shall be removed, demolished or materially altered without the prior written consent of the Beneficiary. Trustor may remove and dispose of, free from the lien of this Deed of Trust, such personal property and fixtures as from time to time become worn out or obsolete, providing that, (a) the same is done in the ordinary course of business, and (2) either (i) at the time of, or prior to, such removal, any such personal property or fixtures are replaced with other personal property or fixtures which are free from liens other than encumbrances permitted hereunder and which have a value at least equal to that of the replaced personal property and fixtures (and by such removal replacement Trustor shall be deemed to have subjected such replacement personal property and fixtures to the lien of this Deed of Trust), or (ii) such personal property and fixtures may not require replacement if functionally, economically or operationally obsolete and so long as the fair market value of and operational efficiency of the Project is not reduced or adversely effected thereby.

**[Remainder of Page Blank]**

**[Signatures on Following Page]**

**BY SIGNING BELOW, TRUSTOR accepts and agrees to the terms and covenants contained in this Deed of Trust.**

TRUSTOR:

By:

By:

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

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

**(Signature needs to be notarized)**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2023, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis  
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature





## **EXHIBIT “A”**

### LEGAL DESCRIPTION OF PROPERTY

## EXHIBIT “C”

**PROMISSORY NOTE**  
**Interest: 3% per annum**

\$ \_\_\_\_\_

**Riverside, CA**

In installments as hereafter stated, for value received, \_\_\_\_\_, a California limited partnership (“Borrower”), promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”), or order, at 3403 10<sup>th</sup> Street, Suite 300, Riverside, CA 92501, the sum of \_\_\_\_\_ (U.S. \$ \_\_\_\_\_) (the “Loan” or “Note Amount”) which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note (“Note”) is given in accordance with that certain Loan Agreement for the Use of HOME American Rescue Plan Program Funds executed by COUNTY and Borrower, dated as of \_\_\_\_\_ and recorded in the Official Records of the County of Riverside (“Official Records”) on or about the date hereof (the “Loan Agreement”). Except to the extent otherwise expressly defined in this Note, all capitalized terms shall have the meanings ascribed to such terms in the Loan Agreement. The Note is secured by a Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County dated \_\_\_\_\_ and recorded on or about the date hereof in the Official Records (the “Deed of Trust”). The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the Loan Agreement and the following terms:

- (1) The Loan evidenced by this Note and secured by the Deed of Trust is being made pursuant to Section 3205 of the American Rescue Plan Act of 2021 (the “Act”) and the implementing rules (HUD CPD-21-10 issued September 13, 2021) and regulations thereto (24 CFR Part 92) (collectively, “COC BUILDS”). Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on rent and occupancy required under the COC BUILDS Program and the HOME Investment Partnerships Program and the regulations issued thereunder (Title II, the Cranston-Gonzales National Affordable Housing Act, Public Law No. 101-625, 104 Stat. 4079 (1990), (24 C.F.R. Part 92) (the “CoC Program”), the Loan Agreement and that certain Covenant Agreement dated on or about the date hereof and recorded concurrently herewith in the Official Records, between Borrower and the COUNTY).
- (2) The Loan will accrue simple interest at a rate of three percent (3%) per annum, except in the case of default as hereinafter provided, and shall be repaid on an annual basis from the Project’s Residual Receipts as defined herein.
- (3) This Note shall be repaid according to the following: Fifty percent (50%) of the Project’s Residual Receipts shall be used towards the payment of Residual Receipts Loans (as defined in the Loan Agreement. The payment shall be split pro-rata between each Residual Receipts Loan based on the percentage of each respective loan amount according to its share of the total amount of all such loans, until the Note is repaid in full; and fifty percent (50%) of the Project’s Residual Receipts will be retained for distribution by Borrower.

- (4) The term “Residual Receipts” used herein shall mean all money and income from the Project remaining annually after the payment of all normal and necessary expenses of operation of the Project, including but not limited to the following:
1. payments of principal and interest and other mandatory payments on amortized loans and indebtedness senior to the Loan, which have been approved in writing by COUNTY (collectively, the Senior Debt”);
  2. utility fees and costs not paid by tenants;
  3. insurance on the Project;
  4. ad valorem taxes and assessment payments;
  5. management fees, expenses and costs, as well as the cost of social programs at the Project and compliance monitoring/reporting, which shall total initially \$70 per Unit per month, which management fee shall be increased annually by an amount not to exceed the greater of (i) three percent (3%) or (ii) the increase in the Consumer Price Index for Riverside-San Bernadino-Ontario, CA area (“CPI”), and any accrued and unpaid fees from prior years’ auditing and accounting fees;
  6. operating expenses (any expense reasonably and normally incurred in carrying out the Project’s day-to-day activities, which shall include administration, on-site management costs, utilities, on-site staff payroll, payroll taxes, and maintenance;
  7. reserves for repair and replacement of the Project; in an annual amount of \$500 per rental unit per year;
  8. all other feed and expenses which may be permitted by the annual budget approved by the County.
- (5) Operating expenses will be considered “normal and necessary” if incurred generally for similarly structured, financed and restricted rental properties operated by similar entities. Payment shall be applied first to accrued interest and thereafter to principal. Borrower shall annually provide the County with an accounting acceptable to the County, documenting the calculation of Residual Receipts for the previous calendar year ending December 31. This accounting shall be made on or before [\_\_\_\_\_] together with the payment of Residual Receipts.
- (6) All outstanding principal along with accrued interest shall be due upon maturity of the Loan Agreement, which shall be the later to occur of (i) December 31, 2079 or (ii) fifty-five (55) years from the recordation of the Covenant Agreement in the Official Records (the “Loan Term”). All outstanding principal along with accrued interest shall be due upon the maturity date of the Note and the expiration of the Loan Term.

- (7) The Loan evidenced by this Note is secured by that certain Deed of Trust and Assignment of Rents executed by Borrower for the benefit of the County, dated on or about the date hereof and recorded in the Official Records of the County of Riverside on or about the date hereof ("Deed of Trust").
- (8) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium, provided however notwithstanding such prepayment, Borrower shall be required to adhere to the affordability restrictions contained in the Covenants until the expiration of the term contained therein.
- (9) Subject to the provisions and limitations of this Paragraph 9, the obligation to repay the Note Amount is a nonrecourse obligation of Borrower and its partners. Neither Borrower nor its partners shall have any personal liability for repayment of the Note Amount, except as provided in this Paragraph 9. The sole recourse of the County shall be the exercise of its rights against the Property (or any portion thereof) and any related security for the Loan; provided, however, that the foregoing shall not (i) constitute a waiver of any other obligation evidenced by this Note or the Deed of Trust; (ii) limit the right of the COUNTY to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (iii) release or impair either this Note or the Deed of Trust; (iv) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (v) prevent or in any way hinder the COUNTY from exercising, or constitute a defense, an affirmative defense, a counterclaim or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; or (vi) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Deed of Trust. Notwithstanding the first sentence of this Paragraph 9, the COUNTY may recover directly from Borrower or, unless otherwise prohibited by any applicable law, from any other party: (a) any damages, costs and expenses incurred by the COUNTY as a result of fraud, misrepresentation or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general partner of such member or general partner; (b) any damages, costs and expenses incurred by the COUNTY as a result of any misappropriation of funds provided to pay costs as described in the Loan Agreement, rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds; (c) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (d) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (e) any and all amounts owing by Borrower pursuant to any indemnity set forth in the Loan Agreement and/or Deed of Trust or the indemnification regarding Hazardous Substances pursuant to the Loan

Agreement and/or Deed of Trust, and (f) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

- (10) The occurrence of any of the following events shall constitute an "Event of Default" under this Note after notice and opportunity to cure pursuant to the terms set forth in the Loan Agreement:

a. Monetary Default. (1) Borrower's failure to pay when due any sums payable under the Note or any advances made by COUNTY under this Agreement, (2) Borrower's or any agent of Borrower's use of Loan funds for costs other than those costs permitted under the Loan Agreement or for uses inconsistent with terms and restrictions set forth in this Agreement, (3) Borrower's or any agent of Borrower's failure to make any other payment of any assessment or tax due under the Loan Agreement, and /or (4) default past any applicable notice and cure period under the terms of: (1) the Regulatory Agreement and Declaration of Restrictive Covenants by and between California Municipal Finance Authority and Borrower (the "Bond Regulatory Agreement") and recorded on July 23, 2020; (2) the senior regulatory agreement for the benefit of the State of California Department of Housing and Community Development ("HCD") in connection with the NPLH Loan (as defined below) and to be recorded substantially concurrently herewith (the "NPLH Senior Regulatory Agreement"); (3) the COC BUILD Covenant Agreement for the benefit of the COUNTY; (4) the deed(s) of trust for the benefit of JPMorgan Chase Bank, N.A. ("Chase") securing a permanent loan for the Project in an amount up to \$[7,000,000] ("Chase Permanent Loan"); (5) the junior regulatory agreement for the benefit of HCD in connection with the NPLH Loan (as defined below) and to be recorded substantially concurrently herewith (the "NPLH Junior Regulatory Agreement"); (6) the deed of trust securing the HCD No Place Like Home Loan in an amount up to \$[7,712,905] ("NPLH Loan"); (7) the Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants in favor of the Cathedral City recorded July 23, 2020 (the "City Regulatory Agreement"); (8) the COC BUILD Deed of Trust for the benefit of the COUNTY; (9) the deed of trust securing the National Community Renaissance of California ("NCRC") Seller Carryback Loan in an amount of \$[13,447,000] ("Seller Carryback Loan"), (10) the deed of trust securing the NCRC Seller Cash Loan in the amount of \$[1,165,125] ("Seller Cash Loan"); (11) the deed of trust securing the NCRC Sponsor Loan in the amount of \$[1,603,598] ("Sponsor Loan"); (12) the HOME Covenant Agreement for the benefit of the COUNTY and recorded September 8, 2020 (the "HOME Covenant Agreement"); (13) the COC BUILD Loan Agreement for the benefit of the COUNTY; and (14) the Tax Credit Regulatory Agreement for the benefit of the California Tax Credit Allocation Authority (the "Tax Credit Regulatory Agreement") [Note: Sponsor Loan may be re-conveyed since this amount was intended to fund developer fee that is no longer supportable due to 50% Test limitations on depreciable basis] and (15) any other instrument or document secured against the Property];;

b. Non-Monetary Default – Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by this Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Project without COUNTY's prior written approval that are prohibited under this agreement or that have the effect of reducing the priority or invalidating the lien of the Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the Loan Agreement, (4) any material default under the Loan Agreement, Deed of Trust with Assignment of Rents, Covenant Agreement, Note, or any document executed by the County in connection with this Agreement, and/or (4) default past any applicable notice and cure period under the terms of the Deed of

Trust or any other instrument or document secured against the Property;

c. General Performance of Loan Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on Borrower imposed in the Loan Agreement; and

d. General Performance of Other Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not COUNTY is a party to such agreement.

- (11) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY. Borrower shall have thirty (30) calendar days from the mailing of the notice for a monetary default, by which such action to cure must be taken. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.
- (12) Any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
- (13) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect without the conflicting provision, and to this end the provisions of the Note are declared to be severable.
- (14) Borrower hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note.
- (15) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the HOME Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the

United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.

- (16) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
- (17) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (18) The COUNTY may, in its sole and absolute discretion, assign its rights under this Note and its right to receive repayment of the Note Amount without obtaining the consent of Borrower.
- (19) Except as otherwise permitted in the Loan documents, in no event shall Borrower assign or transfer any portion of this Note or any rights herein without the prior express written consent of the COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the Loan Agreement or this Note, except for in the event of a Permitted Transfer of the Project as such term is defined in the Loan Agreement. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.
- (20) Except as to the permitted deeds of trust identified herein, Borrower shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to the Deed of Trust without the prior written approval of the COUNTY in its sole and absolute discretion.
- (21) The relationship of Borrower and the COUNTY pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.
- (22) (a) Formal notices, demands and communications between the County and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented

date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

(b) The address of the COUNTY for purposes of receiving notices pursuant to this Note shall be 34303 10<sup>th</sup> Street, Suite 300, Riverside, California 92501, Attention: Director of Housing, Homelessness Prevention & Workforce Solutions. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.

I The address of Borrower for purposes of receiving notices pursuant to this Note is CP Senior Apartments, L.P., c/o National Community Renaissance of California, 9692 Haven Avenue, Suite 100, Rancho Cucamonga, CA 91730, Attention: CEO/CFO ([spontell@nationalcore.org](mailto:spontell@nationalcore.org)/[mfinn@nationalcore.org](mailto:mfinn@nationalcore.org)), with a copy to National Community Renaissance of California, 9692 Haven Avenue, Suite 100, Rancho Cucamonga, CA 91730, Attention: General Counsel ([rdiaz@nationalcore.org](mailto:rdiaz@nationalcore.org)) with a copy to:

Klein Hornig LLP  
1325 G Street NW  
Suite 770  
Washington, DC 2005  
Attn: Jed D'Abravanel  
Email: [jdabravanel@kleinhornig.com](mailto:jdabravanel@kleinhornig.com)

Redstone Equity Partners  
90 Park Avenue, 28th Floor  
New York, NY 10016  
Attention: President & General Counsel

- (23) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (24) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (25) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year first set forth above.

TRUSTOR:

By:

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

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

**EXHIBIT “D”**

**RIVERSIDE COUNTY**

**SECTION 3**

**24 CFR PART 75**

**ECONOMIC OPPORTUNITIES FOR  
LOW-AND VERY LOW-INCOME PERSONS**

**CONTRACT REQUIREMENTS**

## RIVERSIDE COUNTY

### Section 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

### Section 75.3 Applicability

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

**(2) Section 3 projects. (i) Section 3 projects means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.**

(ii) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless

of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(c) Indian and Tribal preferences. Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of this part.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

## **Section 75.5 Definitions.**

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5. The following definitions also apply to this part:

**1937 Act** means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

**Contractor** means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

**Labor hours** means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

**Low-income person** means a person as defined in Section 3(b)(2) of the 1937 Act.

**Material supply contracts** means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

**Professional services** means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

**Public housing financial assistance** means assistance as defined in §75.3(a)(1).

**Public housing project** is defined in 24 CFR 905.108.

**Recipient** means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

**Section 3 business concern** means:

(1) A business concern meeting at least one of the following criteria, documented within the last six-month period:

- (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
- (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

**Section 3 project** means a project defined in §75.3(a)(2).

**Section 3 worker** means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

**Section 8-assisted housing** refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

**Service area or the neighborhood of the project** means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

**Small PHA** means a public housing authority that manages or operates fewer than 250 public housing units.

**Subcontractor** means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

**Subrecipient** has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

**Targeted Section 3 worker** has the meanings provided in §§75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

**Very low-income person** means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

**YouthBuild programs** refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

## **Subpart C—Additional Provisions for Housing and Community Development Financial Assistance**

### **§75.19 Requirements.**

(a) *Employment and training.* (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the project,  
and

(ii) Participants in YouthBuild programs.

(b) *Contracting*. (1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

**§75.21 Targeted Section 3 worker for housing and community development financial assistance.**

(a) *Targeted Section 3 worker*. A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in §75.5; or

(ii) A YouthBuild participant.

(b) [Reserved]

**§75.23 Section 3 safe harbor.**

(a) *General*. Recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary if they:

(1) Certify that they have followed the prioritization of effort in §75.19; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

(b) *Establishing benchmarks*. (1) HUD will establish Section 3 benchmarks for Section 3 workers or Targeted Section 3 workers or both through a document published in the FEDERAL REGISTER. HUD may establish a single nationwide benchmark for Section 3 workers and a single nationwide benchmark for Targeted Section 3 workers, or may establish multiple benchmarks based on geography, the nature of the Section 3 project, or other variables. HUD will update the benchmarks through a document published in the FEDERAL REGISTER, subject to public

comment, not less frequently than once every 3 years. Such notice shall include aggregate data on labor hours and the proportion of recipients meeting benchmarks, as well as other metrics reported pursuant to §75.25 as deemed appropriate by HUD, for the 3 most recent reporting years.

(2) In establishing the Section 3 benchmarks, HUD may consider the industry averages for labor hours worked by specific categories of workers or in different localities or regions; averages for labor hours worked by Section 3 workers and Targeted Section 3 workers as reported by recipients pursuant to this section; and any other factors HUD deems important. In establishing the Section 3 benchmarks, HUD will exclude professional services from the total number of labor hours as such hours are excluded from the total number of labor hours to be reported per §75.25(a)(4).

(3) Section 3 benchmarks will consist of the following two ratios:

(i) The number of labor hours worked by Section 3 workers divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

(ii) The number of labor hours worked by Targeted Section 3 workers as defined in §75.21(a), divided by the total number of labor hours worked by all workers on a Section 3 project in the recipient's program year.

### **§75.25 Reporting.**

(a) *Reporting of labor hours.* (1) For Section 3 projects, recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to §75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or



contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) *Additional reporting if Section 3 benchmarks are not met.* If the recipient's reporting under paragraph (a) of this section indicates that the recipient has not met the Section 3 benchmarks described in §75.23, the recipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued. Such qualitative efforts may, for example, include but are not limited to the following:

(1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

(2) Provided training or apprenticeship opportunities.

(3) Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).

(4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

(5) Held one or more job fairs.

(6) Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, child care).

(7) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

(8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.

(9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

(10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

(11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

(12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

(13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) *Reporting frequency.* Unless otherwise provided, recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, on all projects completed within the reporting year in a manner consistent with reporting requirements for the applicable HUD program.

#### **§75.27 Contract provisions.**

(a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

(b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

### **Subpart D—Provisions for Multiple Funding Sources, Recordkeeping, and Compliance**

#### **§75.29 Multiple funding sources.**

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to §75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(1) For housing and community development financial assistance, a Targeted Section 3 worker is any worker who meets the definition of a Targeted Section 3 worker in either subpart B or C of this part; and

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

(b) If a housing rehabilitation, housing construction, or other public construction project is subject to Section 3 because the project is assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds in §75.3(a)(2), the recipient or

recipients must follow subpart C of this part, and must report to the applicable HUD program office, as prescribed by HUD.

### **§75.31 Recordkeeping.**

(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

(A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(C) An employer's certification that the worker is employed by a Section 3 business concern; or

(D) A worker's certification that the worker is a YouthBuild participant.

(ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:

(A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(B) An employer's certification that the worker is employed by a Section 3 business concern; or

(C) A worker's self-certification that the worker is a YouthBuild participant.

(c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.

(d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

### **§75.33 Compliance.**

(a) *Records of compliance.* Each recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

(b) *Complaints.* Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

(c) *Monitoring.* HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found.

**RIVERSIDE COUNTY**  
**SECTION 3 BUSINESS CONCERN CERTIFICATION FOR CONTRACTING**

**Instructions:** Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

**Business Information**

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Name of Business Owner \_\_\_\_\_

Phone Number of Business Owner \_\_\_\_\_

Email Address of Business Owner \_\_\_\_\_

**Preferred Contact Information**

☐ Same as above

Name of Preferred Contact \_\_\_\_\_

Phone Number of Preferred Contact \_\_\_\_\_

**Type of Business (select from the following options):**

☐ Corporation

☐ Partnership

☐ Sole Proprietorship

☐ Joint Venture

**Select from *ONE* of the following three options below that applies:**

☐ At least 51 percent of the business is owned and controlled by low- or very low-income persons (*Refer to income guidelines on page 2*).

☐ At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

☐ Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (*Refer to definition on page 2*).

**Business Concern Affirmation**

I affirm that the above statements (on the frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to [insert name of recipient/grantee] may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

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

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

\*Certification expires within six months of the date of signature.

Information regarding Section 3 Business Concerns can be found at 24 CFR 75.5

**FOR ADMINISTRATIVE USE ONLY**

Is the business a Section 3 business concern based Upon their certification? ☐ YES ☐ NO

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**

## Riverside County Section 3 Income Limits

2023 HOME - Effective June 15, 2023 HUD RIVERSIDE-SAN BERNARDINO CA MSA								
HOME INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% Limits	\$19,600	\$22,400	\$25,200	\$27,950	\$30,200	\$32,450	\$34,700	\$36,900
50% Limits Very Low-Inc	\$32,650	\$37,300	\$41,950	\$46,600	\$50,350	\$54,100	\$57,800	\$61,550
60% Limits	\$39,180	\$44,760	\$50,340	\$55,920	\$60,420	\$64,920	\$69,360	\$73,860
80% Limits Low-Inc	\$52,200	\$59,650	\$67,100	\$74,550	\$80,550	\$86,500	\$92,450	\$98,450

### Section 3 Worker Definition:

- i. A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- ii. Employed by a Section 3 business concern; or
- iii. A YouthBuild participant.

### Targeted Section 3 Worker Definition:

- iv. Employed by a Section 3 business concern or
- v. Currently meets or when hired met at least one of the following categories as documented within the past five years:
  - o A resident of public housing; or
  - o A resident of other public housing projects or Section 8-assisted housing; or
  - o A YouthBuild participant.

2023 HOME - Effective June 15, 2023 HUD RIVERSIDE-SAN BERNARDINO CA MSA								
HOME INCOME	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% Limits	\$19,600	\$22,400	\$25,200	\$27,950	\$30,200	\$32,450	\$34,700	\$36,900
50% Limits Very Low-Inc	\$32,650	\$37,300	\$41,950	\$46,600	\$50,350	\$54,100	\$57,800	\$61,550
60% Limits	\$39,180	\$44,760	\$50,340	\$55,920	\$60,420	\$64,920	\$69,360	\$73,860
80% Limits Low-Inc	\$52,200	\$59,650	\$67,100	\$74,550	\$80,550	\$86,500	\$92,450	\$98,450


A new hire is qualified as a Section 3 resident if he/she resides in Riverside or San Bernardino County and his/her total family income is less than the family income shown above for his/her household size.

## Prohibition Against Conflicts of Interest

### **EXHIBIT “E”**

#### § 92.356 Conflict of interest.

(a) **Applicability.** In the procurement of property and services by participating jurisdictions, State recipients, and sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) **Conflicts prohibited.** No persons described in **paragraph (c)** of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(c) **Persons covered.** The conflict of interest provisions of **paragraph (b)** of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of COUNTY, State recipient, or sub-recipient which are receiving HOME funds.

(d) **Exceptions: Threshold requirements.** Upon the written request of the recipient, HUD may grant an exception to the provisions of **paragraph (b)** of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of COUNTY's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) **Factors to be considered for exceptions.** In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of **paragraph (d)** of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

- g. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- h. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- i. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- j. Whether the interest or benefit was present before the affected person was in a position as described in **paragraph (c)** of this section;
- k. Whether undue hardship will result either to COUNTY or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
- l. Any other relevant considerations.

Owners/Participants and Developers.

- (1) No owner, developer, or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
- (2) Exceptions. Upon written request of owner or developer, COUNTY may grant an exception to the provisions of **paragraph (f)(1)** of this section on a case-by-case basis when it determines that the exception will serve to further the purpose of the CoC Program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, COUNTY shall consider the following factors:
  - (i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
  - (iii) Whether the tenant protection requirements of § 92.253 are being observed;
  - (iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and
  - (v) Any other factor relevant to COUNTY's determination, including the timing of the requested exception.



Community Development Block Grant  
Policy Manual, I.D. # A-11

TOPIC: CONFLICT OF INTEREST CODED  
RIVERSIDE COUNTY  
DEPARTMENT OF HOUSING AND  
WORKFORCE SOLUTIONS  
DATE: MARCH 1999

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

- 1) No employee, officer, or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.
- 2) Such a conflict will arise when:
  - i) The employee, officer or agent;
  - ii) Any member of the immediate family;
  - iii) His/Her partners; or
  - iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.
- 3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.
- 4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial interest in a business if their financial interest exceeds the following:
  - i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
  - ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
  - iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
  - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
  - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of **Section 4**, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.

## Exhibit F: Sample Tenant Checklist

Project Name:

Address:

Insert a check mark for each item that is relevant to the family below

Unit No.	Tenant Name	Move In Date	Move Out Date	Rent Amount	Family Size	No. of BRs	Utility Allowance	Tenant Portion	Section 8 Subsidy	Recert. Date	Tenant Income	% of Median	Non-Hisp.	Hisp.	Am. Ind (AIAN)	Asn	Blk	N.Haw Pc Islan	WHT	AIAN & WHT	ASN & WHT	BLK & WHT	AIAN & BLK	Two or more Races

Prepared by:

Title:

Phone Number:

Problems or questions please call, Nicole Sanchez at 760.863.2541.

If you would like this form prepared on Microsoft Excel e-mailed to you, please contact [nisanchez@rivco.org](mailto:nisanchez@rivco.org)

# **EXHIBIT “G”**

Covenant Agreement

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

Order No.  
Escrow No.

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing and Workforce Solutions  
3403 10th Street, Suite 300  
Riverside, CA 92501  
Attn:

SPACE ABOVE THIS LINE FOR RECORDERS USE

**COVENANT AGREEMENT  
(Cathedral Palms Senior Apartments)**

This Covenant Agreement (Cathedral Palms Senior Apartments) (“Covenant”) is made and entered into as of the day of \_\_\_\_\_, 2023 by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California (“COUNTY”), and \_\_\_\_\_, a California limited partnership (“OWNER”).

**RECITALS**

WHEREAS, OWNER owns that certain real property located on located on Landau Boulevard in Cathedral City also identified as Assessor’s Parcel Numbers \_\_\_\_\_ described in the legal description attached hereto as **Exhibit A** and incorporated herein by this reference (the “Property”);

WHEREAS, on \_\_\_\_\_ COUNTY and OWNER entered into that certain Loan Agreement for the Use of HOME American Rescue Plan Program Funds dated \_\_\_\_\_ and recorded in the Official Records of the County of Riverside (“Official Records”) concurrently herewith (the “Loan Agreement” or “Agreement”) which provides for, among other things, permanent financing for the Property, also known as “Cathedral Palms Senior Apartments,” a multi-family affordable housing project consisting of two hundred twenty four (224) rental housing units, including two (2) which shall be designated as a managers unit, of which sixty-eight (68) units shall be rented to and occupied by Qualified COC BUILDS

Households (as defined below) (the “COC BUILDS Assisted Units”) (collectively the “Project”). Capitalized terms not defined herein shall have the meaning ascribed to them in the Loan Agreement;

WHEREAS, the COUNTY is providing funding under Section 3205 of the American Rescue Plan Act of 2021 (the “Act”) and the implementing rules (HUD CPD-21-10 issued September 13, 2021) and regulations thereto (24 CFR Part 92) (collectively, “COC BUILDS”);

WHEREAS, the Act provides that COC BUILDS funds shall be administered through the CoC Program (as defined below) to address the need for homelessness assistance and supportive services;

WHEREAS, the COUNTY was qualified by the United States Department of Housing and Urban Development (“HUD”) as an “Urban County” and an approved participating jurisdiction that has received funds from HUD pursuant to the HOME Investment Partnerships Act and HOME Investment Partnerships (“HOME”) Program, which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (“NAHA”), as amended (commencing at 42 U.S.C. 12701 et seq.), and the implementing regulations thereto (24 CFR Part 92) (collectively, the “CoC Program”). The purpose of the CoC Program is to expand the supply of decent, safe, sanitary, and affordable housing with primary attention to rental housing, for very low-income and low-income families; to strengthen public-private partnerships to carry out affordable housing programs; and to provide for coordinated assistance to participants in the development of affordable low-income housing;

WHEREAS, pursuant to the Loan Agreement, COUNTY loaned to Owner \$2,000,000 of funds made available pursuant to the COC BUILDS Program (the “Loan”), as permanent financing for the Project, as more fully described in the Loan Agreement. The Loan is evidenced by a Promissory Note executed by OWNER, in favor of COUNTY dated on or about the date hereof (“Loan Note”) and secured by that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by OWNER, for the benefit of COUNTY and recorded in the Official Records concurrently herewith (“Deed of Trust”);

WHEREAS, pursuant to the Loan Agreement, OWNER has agreed to ensure the COC BUILDS Assisted Units are rented to and occupied by qualified households that are homeless, at risk of homelessness or otherwise qualify under the COC BUILDS program, or are qualified low income households consistent with the COC BUILDS requirements as set forth more specifically below; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OWNER, on behalf of itself and its successors, assigns, and each successor in interest to the Property or any part thereof, hereby declares as follows:

1) RESTRICTIONS. The recitals set forth above are true and correct and incorporated herein. This Covenant shall continue in full force and effect for the later of (i) December 31, 2079 or (ii) fifty-five (55) years from the recordation of the Covenant Agreement (“Term” or “Compliance Period”). For the duration of the Term, the Property shall be held, sold and conveyed, subject to the following covenants, conditions, and restrictions:

a) Sixty-eight (68) rental units within the Project shall be restricted as COC BUILDS Assisted-Units rented to and occupied by households that qualify as homeless, at risk of homelessness or another qualifying population pursuant to Section III of HUD Notice CPD-21-10: Requirements for the Use of Funds in the CoC Build Program issued September 13, 2021 (the “COC BUILDS Notice”) (“Qualified COC BUILDS Households”). The COC BUILDS Assisted Units shall be a “floating” designation on the Property such that the requirements of this Agreement will be satisfied so long as the total number of COC BUILDS Assisted Units remains the same throughout the Compliance Period and the substituted COC BUILDS Assisted Unit is comparable in terms of size, features, and number of bedrooms to the originally designates COC BUILDS Assisted Unit;

b) COC BUILDS Assisted Units shall be rented to and occupied by Qualified COC BUILDS Households at Low HOME rent levels as published by HUD. Low HOME rents including utility allowance for Qualified COC BUILDS Households shall be the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the

unit. COUNTY shall review and approve proposed rents to the extent required under this section. COUNTY shall review and approve proposed rents to the extent required under this section. OWNER shall ensure the COC BUILDS Assisted Units are rented to qualified applicants at the described rent levels herein. The maximum monthly allowances for utilities and services (excluding telephone) shall not exceed the utility allowance as described below. Notwithstanding the foregoing, (i) if a unit occupied by a Qualified COC BUILDS Household receives a federal or state project-based rental subsidy and the Qualified COC BUILDS Household pays as a contribution to rent no more than 30% of the Qualified COC BUILDS Household's adjusted income, such unit may be rented at the rent permissible under the federal or state project-based rental subsidy program (i.e., the tenant rental contribution plus the rental subsidy allowable under that program), and (ii) if a Qualified COC BUILDS Household receives tenant-based rental assistance, the unit occupied by such Qualified COC BUILDS Household may be rented at the rent permissible under the applicable rental assistance program (i.e., the tenant rental contribution plus the rental subsidy allowable under that rental assistance program). Rent for the COC BUILDS Assisted Units, including utilities, shall be in accordance with TCAC rent requirements.

c) Utility Allowance: Owners are required to complete initial Utility Allowance (UA) calculations and submit their calculations for review and approval to the County prior to implementation, annually by June 1st. The following methods below are acceptable methodologies for calculating UA's:

- i. HUD Utility Schedule Model (HUSM), UA based on HUD's model.
- ii. Utility Company Estimate, UA based on estimated obtained from a local utility company for each of the utilities used in the project.
- iii. LIHTC Agency Estimate, UA approved by the LIHTC agency based on its actual usage methodology.
- iv. Energy Consumption Model (Engineer Model), UA based upon on an energy and water and sewage consumption and analysis model prepared by a third-party licensed engineer or qualified professional.

d) OWNER shall comply with the terms of COC BUILDS, the CoC Program, the Loan Note, the Loan Agreement, Deed of Trust and any other instrument secured against the Property.

e) Float-up: Notwithstanding any other covenant or the Covenant Agreement to the contrary the Parties agree that the following shall apply to the COC BUILDS Assisted Units:

- (1) COUNTY agrees that, upon BORROWER'S request and County's written approval, which will not be unreasonably withheld, the maximum tenant household income and maximum annual rent for COC BUILDS Assisted Units may be increased to amounts necessary to make operation of the Project financially feasible as determined by the BORROWER, including the payment of all required operating costs and debt service, but in no event may (a) the maximum tenant income limitation exceed 60 percent of AMI or, (b) the maximum annual rent limitation exceed 30 percent of 60 percent of AMI.
- (2) In the case of increases due to a foreclosure of any approved financing or deed in lieu thereof, the above increases may continue until such time, if any, that the rental assistance or equivalent operating subsidy is restored. Notwithstanding anything to the contrary in this section, the BORROWER may not displace tenant households and must use good faith efforts to reduce the effect of rent increases permitted to be imposed on existing tenant households by (a) the use of operating and transition reserves to the extent such funds exist and are available, and (b) the use of other subsidy sources available that would mitigate the rent increases.
- (3) If Rent increases on the COC BUILDS Assisted Units are necessary, after exhausting all transition reserve funds such increases shall only be permitted to the minimum extent required for financial feasibility, as reasonably determined by BORROWER and approved by COUNTY, which approval shall not, in any event, be increased to an amount in excess of 30 percent of 60 percent of AMI, adjusted for household size for the number of bedrooms. The COUNTY shall be notified at least eighteen (18) months in advance of any Rent increase the COC BUILDS



Assisted Units.

- (4) In order to enact an increase in the maximum household income and rents for a Restricted Unit for the Project, the BORROWER must submit a written request to the COUNTY which shall outline a plan with an explanation of the fiscal necessity of adjusting the maximum household income and the rents charged for the COC BUILDS Assisted Units. The plan shall provide the following items along with any additional requirements from the COUNTY:
    - (a) An explanation of the efforts the BORROWER has made to secure other rental subsidies to sustain overall project operations;
    - (b) An explanation of the fiscal necessity of adjusting the maximum household income and the rents charged for the COC BUILDS Assisted Units;
    - (c) A process for increasing the Project rent for all affected units (both COC BUILDS Assisted Units and non-restricted units) and make reasonable efforts to continue to market and rent Project units to members of the target population originally contemplated, as well as ensuring that any increases to the household income limit are applied, as much as possible, only to vacant units as they become available. This portion of the plan shall discuss changes in both maximum household incomes and rents and;
    - (d) The plan for continuing, throughout the Compliance Period, to apply for other subsidies that will allow a return to all Project Units to members of the target population and Rents originally contemplated.
- 2) SENIOR PRIORITY. Notwithstanding anything to the contrary contained in the Loan Agreement, including any of its attachments, this Covenant Agreement shall be in third priority lien position junior to the Bond Regulatory Agreement and senior to all other security instruments, including but not limited to the following liens: (1) the Tax Credit Regulatory Agreement, (2) the NPLH Senior Regulatory Agreement, (3) the COC BUILD Covenant Agreement for the benefit of the COUNTY, (4) the deed of trust for the benefit of JPMorgan Chase Bank, N.A. (“Chase”), (5) the NPLH Junior Regulatory Agreement, (6) a deed of trust with respect

to the NPLH Loan, (7) the City Regulatory Agreement the Deed of Trust, (8) the COC BUILD deed of trust for the benefit of the COUNTY (9) a deed of trust with respect to the Seller Carryback Loan, (10) a deed of trust with respect to the Seller Cash Loan, and (11) a deed of trust with respect to the Sponsor Loan..

3) COMPLIANCE WITH LAWS AND REGULATIONS. During the Term of this Covenant, OWNER, for itself and on behalf of its successors and assigns, shall adhere to and comply with all federal, state and local laws, regulations and ordinances, including, but not limited to the following:

a) The Act, COC BUILDS Program, NAHA, the CoC Program and the implementing regulations thereto, 24 CFR Part 92, as both shall be amended from time to time, including, but not limited to, 24 CFR 92.356, 24 CFR 92.358, 24 CFR 92.253, 24 CFR 92.252, 24 CFR 92.255, 24 CFR 92.256, 24 CFR 92.350, Subpart F, Subpart H, and its implementing regulations set forth in the Final Rule, as it now exists and may hereafter be amended.

b) Other Federal requirements and nondiscrimination. As set forth in 24 CFR part 5, OWNER is required to include the following requirements: nondiscrimination and equal opportunity under Section 282 of NAHA; disclosure; debarred, suspended, or ineligible contractors; and drug-free workplace.

c) 24 CFR Section 92.351 Affirmative marketing and minority outreach program. OWNER must adopt affirmative marketing procedures and requirements. These must include:

(1) Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the affirmative marketing policy (e.g., the use of the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners, and written communication to fair housing and other groups).

(2) Requirements and practices that OWNER must adhere to in order to carry out the affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster).

(3) Procedures to be used by OWNER to inform and solicit applications from persons in the housing market area who are not likely to apply without special outreach (e.g., use of community organizations, employment centers, fair housing groups, or housing counseling agencies).

(4) Records that will be kept describing actions taken by OWNER to affirmatively market units and records to assess the results of these actions.

(5) A description of how OWNER will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

(6) OWNER must prescribe procedures to establish and oversee a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by OWNER with such persons or entities, public and private, in order to facilitate the activities of COUNTY to provide affordable housing authorized under the Act and NAHA. Section 24 CFR 85.36(e) provided affirmative steps to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services. The steps include:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises.

- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises.
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

10) TENANT PROTECTIONS. OWNER shall provide protection to the tenants of the COUNTY COC BUILDS Assisted Units in accordance with the requirements set forth at 24 CFR 92.253 and described as follows:

a) Provide written lease agreement for not less than one year, unless by mutual agreement between the tenant and OWNER. COUNTY shall review the initial form of the lease agreement prior to OWNER executing any leases and, provided that OWNER uses the approved lease form, OWNER shall be permitted to enter into residential leases without COUNTY's prior written consent.

b) Prohibited Lease Terms. The rental agreement/lease may not contain any of the following provisions:

- (1) *Agreement to be sued*. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of OWNER in a lawsuit brought in connection with the lease.
- (2) *Treatment of property*. Agreements by tenant that OWNER may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. OWNER may dispose of this personal property in accordance with State law.
- (3) *Excusing OWNER from responsibility*. Agreement by the tenant not to hold OWNER or OWNER's agents legally responsible for

any action or failure to act, whether intentional or negligent.

- (4) *Waiver of notice.* Agreement of the tenant that OWNER may institute a lawsuit without notice to the tenant.
- (5) *Waiver of legal proceeding.* Agreement by the tenant that the OWNER may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- (6) *Waiver of a jury trial.* Agreement by the tenant to waive any right to a trial by jury.
- (7) *Waiver of right to appeal court decision.* Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- (8) *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the tenant to pay attorneys' fees or other legal costs even if the tenant wins in a court proceeding by OWNER against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- (9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

c) Violence Against Women Reauthorization Act of 2013. (Pub. L. 113-4, 127 Stat. 54) ("VAWA 2013"). VAWA 2013 reauthorizes and amends the Violence Against Women Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Pub. L. 103-322, 42 U.S.C. 13925 et seq.) VAWA 2013, among other things, bars eviction and termination due to a tenant's status as a victim of domestic violence, dating violence, or stalking, and requires landlords to maintain survivor-tenant confidentiality. VAWA 2013 prohibits a tenant who is a survivor of domestic violence, dating violence, sexual assault, and stalking from being denied

assistance, tenancy, or occupancy rights based solely on criminal activity related to an act of violence committed against them. It extends housing protections to survivors of sexual assault, and adds "intimate partner" to the list of eligible relationships in the domestic violence definition. Protections also now cover an "affiliated individual," which includes any lawful occupant living in the survivor's household, or related to the survivor by blood or marriage including the survivor's spouse, parent, brother, sister, child, or any person to whom the survivor stands in loco parentis. VAWA 2013 allows a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, or others may be evicted or removed without evicting or removing or otherwise penalizing a victim who is a tenant or lawful occupant. If victim cannot establish eligibility, OWNER must give a reasonable amount of time to find new housing or establish eligibility under another covered housing program. A Notice of Rights under VAWA 2013 for tenants must be provided at the time a person applies for housing, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination of housing benefits. Tenants must request an emergency transfer and reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit. The provisions of VAWA 2013 that are applicable to HUD programs are found in title VI of VAWA 2013, which is entitled "Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking." Section 601 of VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e et seq.) to add a new chapter entitled "Housing Rights."

11) MAINTENANCE OF THE IMPROVEMENTS. OWNER, on behalf of itself and its successors, assigns, and each successor in interest to the Property and Project or any part thereof hereby covenants to and shall protect, maintain, and preserve the Property in compliance with all applicable federal and state law and regulations and local ordinances. In addition, OWNER, its successors and assigns, shall maintain the improvements on the Property in the same aesthetic and sound condition (or better) as the condition of the Property at the time of the recordation of the Covenant Agreement for the Project, reasonable wear and tear excepted. This standard for the quality of maintenance of the Property shall be met whether or not a specific item of maintenance

is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the Property, on-site walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices in good working order. In the event OWNER, its successors or assigns fails to maintain the Property in accordance with the standard for the quality of maintenance, the COUNTY or its designee shall have the right but not the obligation to enter the Property upon reasonable notice to OWNER, correct any violation, and hold OWNER, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property.

12) NONDISCRIMINATION. OWNER shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or treatment of any contractors or consultants, to participate in subcontracting/subconsulting opportunities. OWNER understands and agrees that violation of this clause shall be considered a material breach of this Lease and may result in termination, debarment or other sanctions. This language shall be incorporated into all contracts between OWNER and any contractor, consultant, subcontractor, subconsultants, vendors and suppliers. OWNER shall comply with the provisions of the California Fair Employment and Housing Act (Government Code Sections 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended, and all Administrative Rules and Regulations issued pursuant to said Acts and Orders with respect to its use of the Property.

OWNER herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that this Covenant is made and accepted upon and subject to the

following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the Property.

OWNER, its successors and assigns, shall refrain from restricting the rental, sale, or lease of the Property or any portion thereof, on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry of any person. Every deed, lease, and contract entered into with respect to the Property, or any portion thereof, after the date of this Agreement shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

b) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through



him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

c) In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

In addition to the obligations and duties of OWNER set forth herein, OWNER shall, upon notice from COUNTY, promptly pay to COUNTY all fees and costs, including administrative and attorneys’ fees, incurred by COUNTY in connection with responding to or defending any discrimination claim brought by any third party and/or local, state or federal government entity, arising out of or in connection with the Agreement or this Covenant.

13) INSURANCE. Without limiting or diminishing OWNER’s obligation to indemnify or hold COUNTY harmless, OWNER shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage’s during the term of this Covenant.

- a) Worker's Compensation Insurance. If OWNER has employees as defined by the State of California, OWNER shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.
- b) Commercial General Liability Insurance. Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of OWNER's performance of its obligations hereunder. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.
- c) Vehicle Liability Insurance. If vehicles or mobile equipment are used in the performance of the obligations under this Covenant, then OWNER shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured or provide similar evidence of coverage approved by County's Risk Manager ("Risk Manager").
- d) General Insurance Provisions – All Lines.
  - i) Any insurance carrier providing insurance coverage hereunder shall be

admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by Risk Manager. If Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- ii) OWNER's insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of Risk Manager. Upon notification of self-insured retention unacceptable to COUNTY, and at the election of Risk Manager, OWNER's carriers shall either: (a) reduce or eliminate such self-insured retention, or (b) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- iii) OWNER shall cause OWNER's insurance carrier(s) to furnish the County of Riverside with copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by Risk Manager, provide copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. OWNER shall not continue operations until COUNTY has been furnished Certificate(s) of Insurance and copies of endorsements and if requested, copies of policies of insurance including all endorsements and any and all other attachments as required herein. An individual authorized by the insurance carrier to do so, on its behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.
- iv) It is understood and agreed to by the parties hereto that OWNER's insurance

shall be construed as primary insurance, and COUNTY's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

- v) If, during the term of this Covenant or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.), then COUNTY reserves the right to adjust the types of insurance required under this Covenant and the monetary limits of liability for the insurance coverage's currently required herein, if; in Risk Manager's reasonable judgment, the amount or type of insurance carried by OWNER has become inadequate.
- vi) OWNER shall pass down the insurance obligations contained herein to all tiers of subcontractors.
- vii) OWNER agrees to notify COUNTY in writing of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of the Agreement.

14) HOLD HARMLESS/INDEMNIFICATION. OWNER shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of OWNER, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of OWNER, its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement, except in the event of the gross negligence or willful misconduct of the Indemnities; provided however, any gross negligence or willful misconduct of the Indemnitees will only affect OWNER's duty to indemnify for the specific act found to be gross negligence

or willful misconduct, and will not preclude a duty to indemnify for any act or omission of OWNER. OWNER shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions. With respect to any action or claim subject to indemnification herein by OWNER shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes OWNER's indemnification to Indemnitees as set forth herein. OWNER's obligation hereunder shall be satisfied when OWNER has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe OWNER's obligations to indemnify and hold harmless the Indemnitees herein from third party claims. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve OWNER from indemnifying the Indemnitees to the fullest extent allowed by law. The indemnification set forth in this paragraph 14 shall survive the expiration and earlier termination of this Covenant.

15) NOTICES. All Notices provided for in this Covenant shall be deemed received when personally delivered, or two (2) days following mailing by certified mail, return receipt requested. All mailing shall be addressed to the respective parties at their addresses set forth below, or at such other address as each party may designate in writing and give to the other party:

COUNTY

Director, Riverside County  
Housing &  
Workforce Solutions  
3404 10th Street, Ste. 300  
Riverside, CA 92501

OWNER

16) REMEDIES. COUNTY shall have the right, in the event of any breach of any such agreement or covenant, to exercise all available rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

17) TERM. The non-discrimination covenants, conditions and restrictions contained in Section 6 of this Covenant shall remain in effect in perpetuity. Every other covenant, condition and restriction contained in this Covenant shall continue in full force and effect for the Term, as defined in **Section 1** of this Covenant.

18) NOTICE AND CURE. Prior to exercising any remedies hereunder, the COUNTY shall give OWNER notice of such default pursuant to section 9 above. Any monetary default shall be cured within thirty (30) days of delivery of written notice. Except as otherwise set forth herein, if a non-monetary default is reasonably capable of being cured within thirty (30) days of delivery of such notice of default, OWNER shall have such period to effect a cure prior to exercise of remedies by COUNTY. If the non-monetary default is such that it is not reasonably capable of being cured within thirty (30) days of delivery of such notice of default, and OWNER (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then OWNER shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the COUNTY; but in no event no later than sixty (60) days from delivery of such notice of default, subject to force majeure (including government restrictions, pandemics, and acts of God). COUNTY, upon providing OWNER with any notice of default under this Covenant, shall, within a reasonable time, provide a copy of such default notice to a Permitted Lender who has given written notice to COUNTY of its interest in the Property and Project. From and after such notice has been delivered to a Permitted Lender and the Owner's limited partner, such Permitted Lender shall have the same period for remedying the default complained of as the cure period provided to OWNER pursuant to this Section 18. COUNTY shall accept performance by a Permitted Lender or limited partner of Owner as if the same had been done by OWNER.

If a violation of any of the covenants or provisions of this Covenant remains uncured after

the respective time period set forth in this Section 18, COUNTY and its successors and assigns, without regard to whether COUNTY or its successors and assigns is an owner of any land or interest therein to which these covenants relate, may institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by OWNER of its obligations hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

19) SALE, ASSIGNMENT OR TRANSFER OF THE PROJECT OR PROPERTY.

OWNER hereby covenants and agrees not to sell, transfer, assign or otherwise dispose of the Project, the Property or any portion thereof, without obtaining the prior written consent of COUNTY, which consent shall be conditioned upon (a) a COUNTY determination that transferee is a qualified and experienced operator of low income housing and (b) solely upon receipt by the COUNTY of reasonable evidence satisfactory to the County in its sole discretion, that the transferee has assumed all of BORROWER'S duties and obligations under this COVENANT. Notwithstanding anything to the contrary contained herein, upon written notice to COUNTY, BORROWER may (i) lease for occupancy all or any of the COC BUILDS Assisted Units in accordance with this COVENANT; (ii) grant easements or permits to facilitate the development or operation of the Property in accordance with this Covenant; (iii) transfer the BORROWER'S limited partnership interest; (iv) remove and replace the BORROWER'S general partner(s) for cause in accordance with BORROWER'S amended and restated agreement of limited partnership; and (v) make transfers pursuant to that certain Purchase Option and Right of First Refusal Agreement (collectively a "Permitted Transfer").

20) AMENDMENTS OR MODIFICATIONS. This Covenant may be changed or modified only by a written amendment signed by authorized representatives of both parties.

21) GOVERNING LAW; VENUE; SEVERABILITY. This Covenant shall be governed by the laws of the State of California. Any legal action related to the performance or

interpretation of this Covenant shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Covenant is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way

22) BINDING EFFECT. The rights and obligations of this Covenant shall bind and inure to the benefit of the respective heirs, successors and assigns of the parties.

23) PERMITTED MORTGAGES. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or in any way impair the lien or charge of any deed of trust or mortgage permitted by the Loan Agreement or the lien or charge of a deed of trust made by OWNER for the benefit of any lender first approved in writing by the COUNTY ( each, a “Permitted Lender”) and nothing herein or in the Loan Agreement shall prohibit or otherwise limit the exercise of a Permitted Lender’s rights and remedies thereunder, including a foreclosure or deed-in-lieu of foreclosure and subsequent transfer thereafter.

24) SEVERABILITY. In any event that any provision, whether constituting a separate paragraph or whether contained in a paragraph with other provisions, is hereafter determined to be void and unenforceable, it shall be deemed separated and deleted from the agreement and the remaining provisions of this Agreement shall remain in full force and effect.

25) PROJECT MONITORING AND EVALUATION.

- a) Tenant Checklist. OWNER shall submit a Tenant Checklist Form to COUNTY, as shown in **Exhibit F** of the Loan Agreement, which form may be revised by COUNTY, summarizing the racial/ethnic composition, number and percentage of very low-income households who are tenants of the HOME Assisted Units. The Tenant Checklist Form shall be submitted prior to the date hereof, on a semi-annual basis on or before March 31 and September 30. OWNER shall maintain financial, programmatic, statistical and other supporting records of its operations and financial activities in accordance with the requirements of COC BUILDS and the CoC Program, including the submission of Tenant



Checklist Form. Except as otherwise provided for in this Covenant and in the Loan Agreement, OWNER shall maintain and submit records to COUNTY within ten (10) business days of COUNTY's request which clearly documents OWNER's performance under each requirement of COC BUILDS and the CoC Program.

- b) Inspections. Pursuant to 24 CFR 92.501(d)(ii), during the Compliance Period, COUNTY must perform on-site inspections of COC BUILDS Assisted Units to determine compliance with the property standards of 24 CFR 92.251 and to verify the information submitted by the owners in accordance with such requirements. The on-site inspections must occur within 12 months after the effective date of this Covenant Agreement and at least once every 3 years thereafter during the Compliance Period. If there are observed deficiencies for any of the inspectable items in the property standards established by COUNTY, in accordance with the inspection requirements of 24 CFR 92.252, a follow-up on-site inspection to verify that deficiencies are corrected must occur within 12 months. COUNTY 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. Health and safety deficiencies must be corrected immediately, in accordance with the inspection requirements of 24 CFR 92.252. COUNTY must adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.

26) ACCESS TO PROJECT SITE. Representatives of the COUNTY and HUD shall have the right of access to the Property, upon 24 hours' written notice to OWNER (except in the case of an emergency, in which case COUNTY and/or HUD shall provide such notice as may be practical under the circumstances), without charges or fees, during normal business hours to review the operation of the Project in accordance with this Covenant and the Agreement.

27) COUNTERPARTS. This Covenant may be signed by the different parties hereto in counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

28) Recitals. The Recitals set forth above are true and correct and incorporated herein

by this reference.

29) This Covenant and the Agreement set forth and contain the entire understanding and agreement of the parties hereto. There are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements, which are not contained or expressly referred to within this Covenant, and the Agreement, including all amendments and modifications to the Agreement.

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[remainder of page intentionally blank]

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, COUNTY and OWNER have executed this Covenant as of the dates written below.

COUNTY:

OWNER:

COUNTY OF RIVERSIDE, a political  
subdivision of the State of California

By:

By: \_\_\_\_\_  
Heidi Marshall, Director  
Housing & Workforce Solutions

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

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

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

APPROVED AS TO FORM:  
MINH C. TRAN, County Counsel

By: \_\_\_\_\_  
Amrit P. Dhillon, Deputy County Counsel

**(COUNTY and OWNER signatures need to be notarized)**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2023, before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis  
of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

## **EXHIBIT “A”**

LEGAL DESCRIPTION OF PROPERTY

## **EXHIBIT “H”**

Request for Notices

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing & Workforce Solutions  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501  
Attn:

SPACE ABOVE THIS LINE FOR RECORDERS USE

### REQUEST for NOTICE UNDER SECTION 2924b CIVIL CODE

In accordance with Civil Code, Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust dated \_\_\_\_\_, 2023 and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by CP SENIOR APARTMENTS, L.P., a California limited partnership, as Trustor in which JPMorgan Chase Bank, N.A., a national banking association is named as Beneficiary, and First American Title as Trustee, and describing land referred to in this Report is situated in the County of Riverside, Cathedral City, State of California, and is described as follows:

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

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

#### LEGAL DESCRIPTION

All notices to be mailed to:

Attn: Director  
Riverside County  
Housing & Workforce Solutions  
3403 10<sup>th</sup> Street, Ste. 300  
Riverside, California 92501

Request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust

**NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.**

RIVERSIDE COUNTY  
HOUSING & WORKFORCE SOLUTIONS

\_\_\_\_\_  
Michael F. Walsh, Deputy Director

NO FEE FOR RECORDING PURSUANT  
TO GOVERNMENT CODE SECTION 6103

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of Riverside  
Housing & Workforce Solutions  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501

Attn:

SPACE ABOVE THIS LINE FOR RECORDERS USE

### REQUEST for NOTICE UNDER SECTION 2924b CIVIL CODE

In accordance with Civil Code, Section 2924b, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust dated \_\_\_\_\_, 2023 and recorded concurrently herewith in the Official Records of the County of Riverside, California, executed by \_\_\_\_\_, a California limited partnership, as Trustor in which the California Department of Housing and Community Development, is named as Beneficiary, and First American Title as Trustee, and describing land referred to in this Report is situated in the County of Riverside, Cathedral City, State of California, and is described as follows:

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

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

#### LEGAL DESCRIPTION

All notices to be mailed to:

Attn: Director  
Riverside County  
Housing & Workforce Solutions  
3403 10<sup>th</sup> Street, Ste. 300  
Riverside, California 92501

Request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust

**NOTICE: A copy of any notice of default and of any notice of sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.**

RIVERSIDE COUNTY  
HOUSING & WORKFORCE SOLUTIONS

\_\_\_\_\_  
Michael F. Walsh, Deputy Director





# Exhibit I

## Sample

### Contractor Debarment Certification Form

#### Excluded Parties Lists System (EPLS)

The purpose of EPLS is to provide a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits.

The EPLS was established to ensure that agencies solicit offers from, award contracts, grants, or financial or non-financial assistance and benefits to, and consent to subcontracts with responsible contractors/vendors only and not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion action) that party from participation in an affected program.

In July 2012, all records from CCR/FedReg, ORCA, and EPLS, active or expired, were moved to the System for Award Management (SAM). SAM is a Federal Government owned and operated free web site that consolidates the capabilities in CCR/FedReg, ORCA, and EPLS.

The County of Riverside requires that each contractor/vendor hold the required federal/state/local license for the service provided.

Please complete the following verification process for each contractor/vendor:

- STEP 1: Visit <https://www.sam.gov/portal/public/SAM/>
- STEP 2: Under "Search Records", enter the company name and press enter.
- STEP 3: Click "Print" on the Search Results page.
- STEP 4: Repeat steps 2 & 3 for variations of the name of contractor/vendor (individual last name or firm).
- STEP 5: Attach print out of search results to this certification as supporting documentation.
- STEP 6: Attach to this certification as supporting documentation a copy of contractor/vendor license for the service provided.

By signing below COC BUILDS Recipient, developer name, has verified the contractor/vendor known as, name of contractor/vendor, was not listed in the Excluded Parties Lists System and has the required contractor/vendor license as of date of verification.

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DEVELOPER SIGNATURE

# Exhibit J

## Qualifying COC BUILDS Households

Any individual or family who meets the criteria for one of the “Qualified Populations” specified below shall be a “Qualified COC BUILDS Household”:

1. **Homeless**, as defined in 24 CFR 91.5 Homeless (1), (2), or (3):
  - a. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    - i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or, camping ground;
    - ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
    - iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
  - b. An individual or family who will imminently lose their primary nighttime residence, provided that:
    - i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
    - ii. No subsequent residence has been identified; and
    - iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing.
  - c. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
    - i. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C.

1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

- ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
- iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
- iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

2. **At risk of Homelessness**, as defined in 24 CFR 91.5 At risk of homelessness:

- a. An individual or family who:
  - i. Has an annual income below 30 percent of median family income for the area, as determined by HUD;
  - ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this Exhibit; and
  - iii. Meets one of the following conditions:
    - 1. (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
    - 2. Is living in the home of another because of economic hardship;
    - 3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
    - 4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;
  6. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
  7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.
- b. A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
  - c. A child or youth who does not qualify as “homeless” under this Exhibit but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.
3. **Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**, as defined by HUD.

For COC BUILDS, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

- a. Domestic violence, which is defined in 24 CFR 5.2003 includes felony or misdemeanor crimes of violence committed by:
  - i. A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the

relationship, and the frequency of interaction between the persons involved in the relationship);

- ii. A person with whom the victim shares a child in common;
  - iii. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  - iv. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving COC BUILDS funds; or
  - v. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- b. Dating violence which is defined in 24 CFR 5.2003 means violence committed by a person:
- i. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - ii. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - 1. The length of the relationship;
    - 2. The type of relationship; and
    - 3. The frequency of interaction between the persons involved in the relationship.
- c. Sexual assault which is defined in 24 CFR 5.2003 means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.
- d. Stalking which is defined in 24 CFR 5.2003 means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- i. Fear for the person's individual safety or the safety of others; or
  - ii. Suffer substantial emotional distress.
- e. Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:
- i. Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
  - ii. Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of

force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

4. **Other Populations** where providing supportive services or assistance under section 212(a) of NAHA (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:
- a. **Other Families Requiring Services or Housing Assistance to Prevent Homelessness** is defined as households (i.e., individuals and families) who have previously been qualified as "homeless" as defined in 24 CFR 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
  - b. **At Greatest Risk of Housing Instability** is defined as household who meets either paragraph (i) or (ii) below:
    - i. has annual income that is less than or equal to 30% of the area median income, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
    - ii. has annual income that is less than or equal to 50% of the area median income, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the "At risk of homelessness" definition established at 24 CFR 91.5:
      - 1. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
      - 2. Is living in the home of another because of economic hardship;
      - 3. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
      - 4. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
      - 5. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

6. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
7. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.