



Contract Number

24-395

SAP Number

Community Development and Housing Department

<p>Department Contract Representative</p> <p>Telephone Number</p>	<p>Carrie Harmon</p> <p>(909) 382-3983</p>
<p>Contractor</p>	<p>HHCA RE2421, LLC and Helping Hearts California, LLC</p>
<p>Contractor Representative</p> <p>Telephone Number</p>	<p>Josh LaBarge</p> <p>(909)931-9763</p>
<p>Contract Term</p>	<p>5/21/2024-6/30/2034</p>
<p>Original Contract Amount</p>	<p>\$360,180</p>
<p>Amendment Amount</p>	<p></p>
<p>Total Contract Amount</p>	<p>\$360,180</p>
<p>Cost Center</p>	<p></p>

HHIP (HOUSING AND HOMELESSNESS INCENTIVE PROGRAM) LOAN AGREEMENT

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County ("County") received an allocation of Housing and Homelessness Incentive Program ("HHIP") funds from Molina Healthcare of California, a California health plan organization, to fund eligible activities as specified in Contract No. 24-145.

WHEREAS, HHCA RE2421, LLC, a California limited liability company is the owner of specified real property located at 2421 Kern Street, in the unincorporated area of the County (the "Property") as more fully described in the attached Exhibit A, incorporated herein by this reference. The Property is improved with a ten (10) shelter bed residential rehabilitation facility, HHCA RE2421, LLC, a California limited liability company which and Helping Hearts California, LLC, a California limited liability company (collectively, the "Contractor") intends to expand by an additional twenty beds, with one (1) of the total beds at the Property designated as a floating HHIP Bed (the "Development"). Nothing in this Agreement shall prevent the Contractor from adding additional beds at its own sole cost and expense.

WHEREAS, Contractor wishes to accept from the County and the County wishes to extend to Contractor a loan of up to Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) (the "HHIP Loan") to

fund the Development. The HHIP Loan will be evidenced by this Agreement and will be subject to the terms and conditions set forth in this Agreement.

WHEREAS, Pursuant to the California Environmental Quality Act and its implementing guidelines ("CEQA"), CEQA does not impose any conditions on the County's consideration and approval of this Agreement because the Development consists of the rehabilitation of existing improvements and such developments are exempt from CEQA under the class 2 categorical exemption.

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

- A.1 "Agreement" means this HHIP (Housing and Homelessness Incentive Program) Loan Agreement.
- A.2 "County Loan Documents" means this Agreement, the Regulatory Agreement, the Promissory Note, the Deed of Trust, and any other document or agreement evidencing the HHIP Loan funding.
- A.3 "Deed of Trust" means that certain Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing, of even date herewith, among Contractor as Trustor, Commonwealth Title Insurance Company, as Trustee, and the County as Beneficiary, that will encumber the Property to secure performance of the covenants of the County Loan Documents. The form of the Deed of Trust is attached hereto as Exhibit D and incorporated herein by this reference.
- A.4 "Eligible Participants" means Molina Healthcare Plan members who are at risk of, have recently been, or are currently experiencing homelessness.
- A.5 "Financing Budget" means the financing plan approved by the County as of the date of this Agreement and attached to this Agreement as Exhibit B and incorporated herein by this reference.
- A.6 "HHIP Beds" means the one (1) bed which are funded by the HHIP Loan.
- A.7 Reserved.
- A.8 Reserved.
- A.9 "HHIP Loan" made from the County to the Contractor pursuant to the terms of this Agreement in an amount not to exceed Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180).
- A.10 "Homeless Household" means individuals and families who are experiencing homelessness as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.
- A.11 "Parties" means the County and Contractor.
- A.12 "Promissory Note" means the Promissory Note securing the repayment of the HHIP Loan, in the form attached as Exhibit H.
- A.13 "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants that will be recorded against the Contractor's fee interest in the Property. The form of the Regulatory Agreement is attached hereto as Exhibit E and incorporated herein by this reference.
- A.14 "Schedule of Performance" means the schedule of obligations to be performed by the Contractor associated with the expansion of the Development attached hereto as Exhibit F and incorporated herein by this reference.

- A.13. "Term" means the term of this Agreement, which commences on the date of execution by the County of this Agreement and continues for ten years from completion of the improvements.

B. HHIP FUNDING PROVISIONS

B.1 HHIP Loan.

- (a) Upon satisfaction of the conditions set forth in Section B.6 of this Agreement, the County shall loan to the Contractor the HHIP Loan in the principal amount not to exceed Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) for the purposes set forth in Section B.5 of this Agreement. The obligation to repay the HHIP Loan shall be evidenced by the Promissory Note in the form provided by the County.

- B.2 **Security.** Contractor shall secure its obligation to repay the HHIP Loan as evidenced by the Note in the event of Default by executing the Deed of Trust and recording it as a lien against the Property in a lien position approved by the County. The Regulatory Agreement must be recorded in a lien position approved by the County and may not be subordinated except: (1) if required by HCD's applicable regulations, to a deed of trust benefiting HCD and securing an HCD loan and the regulatory agreement between Contractor and HCD evidencing an HCD loan; and (2) to the regulatory agreement associated with the HHAP Grant provided by the County pursuant to the HHAP Grant Agreement. Any such subordination shall be made pursuant to a subordination agreement that is acceptable to the County.

B.3 Repayment of HHIP Loan.

- (a) The HHIP Loan shall be repaid commencing on May 1, 2026, and on May 1st of each calendar year thereafter through the tenth (10th) year anniversary of the Completion Date, Contractor shall make repayment of the HHIP Loan in an amount of Forty Seven Thousand Two Hundred Thirteen Dollars (\$47,213). Payments shall be credited first against accrued interest and then against outstanding principal.
- (b) All principal and interest on the HHIP Loan shall be due on the earliest of: (1) a Transfer of the Development (or any portion thereof) other than a Transfer as permitted or approved by the County; (2) the occurrence of a Default for which the County exercise their right to cause the HHIP Loan indebtedness to become immediately due and payable, or for which the HHIP Loan indebtedness is automatically specified to become immediately due and payable; or (3) the expiration of the repayment term specified in subsection (a) above.
- (c) The HHIP Loan may be prepaid at any time without prepayment premium or penalty; provided, however, the Regulatory Agreement and Deed of Trust (as security for the Regulatory Agreement) shall remain in effect for the entire Term, regardless of any payment or prepayment.

B.4. Interest.

- (a) Subject to subsection (b) below, the outstanding principal balance of the HHIP Loan shall accrue simple interest at the rate of five and one quarter percent (5.25%) per annum, commencing on the date of disbursement.
- (b) In the event of a Default, interest on the HHIP Loan shall begin to accrue, as of the date of Default and continuing until such time as the outstanding balance of the HHIP Loan is repaid in full or the Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

B.5. Use of HHIP Loan Funding.

- (a) Contractor shall use the HHIP Loan funds as acquisition funding or as refinancing of an acquisition loan.

- (b) The Contractor shall use the HHIP Loan funds solely for the purpose of funding the refinancing of the acquisition loan consistent with the Financing Budget for the Development. The Contractor shall not use the HHIP Loan funds for any other purpose with the prior written consent of the County.
- (c) Any costs to be paid for with the HHIP Loan funds must be eligible uses consistent with the Molina Healthcare of California's Housing and Homelessness Incentive Program. None of the HHIP Loan funds may be used for costs associated with activities in violation of any law or for any activities not consistent with the HHIP program requirements. The Contractor's failure to comply with the requirements of this Section B.5. shall constitute a Default under Section E, below.
- (d) The Contractor shall not use the HHIP Loan funds to supplant any other funds provided by the County to the Contractor under any other agreement. The Contractor shall include a term in every subaward and contract that prohibits the subrecipient or contractor from using the HHIP Loan funds to supplant funding provided by the County directly or indirectly to the subrecipient or contractor.
- (e) The County reserves the right to request additional information and clarification to determine the reasonableness and eligibility of all costs to be paid with HHIP Loan funds made available by this Agreement. If Contractor uses the HHIP Loan funds to pay for ineligible activities, Contractor shall be required to reimburse these funds to the County within thirty (30) days of the request.

B.6. Conditions Precedent to HHIP Funding Disbursement.

- (a) The disbursements made pursuant to this section may not exceed the amount of the HHIP Loan and shall only be requested at such time as they are needed by the Contractor to pay eligible costs. The County will disburse the HHIP Loan subject to the conditions precedent set forth in subsection (b) below.
- (b) The County shall not be obligated to make any disbursements of the HHIP Loan or take any other action under the Agreement unless the following conditions precedent are satisfied prior to each such disbursement of the HHIP Loan:
 - (1) There exists no Default nor any act, failure, omission, or condition that would constitute an event of Default under this Agreement;
 - (2) The Contractor shall provide the County with a certified copy of the Contractor's organizational documents and an authorizing resolution authorizing execution of this Agreement and the transactions contemplated by this Agreement, and any agreements required pursuant to this Agreement;
 - (3) The County has approved any necessary updates to the Scope of Work and Financing Budget, if necessary;
 - (4) Contractor has executed and delivered to County all County Loan Documents, and any other documents, instruments, and policies required under this Agreement;
 - (5) The Deed of Trust and the Regulatory Agreement have been recorded against the Contractor's interest in the Property;
 - (6) Contractor has furnished the County with evidence of insurance meeting the requirements under this Agreement; and

- (7) A title insurer reasonable acceptable to the County is unconditionally and irrevocable committed to issuing an LP-10 2006 ALTA Lender's Policy of title insurance insuring the priority of the Deed of Trust in the amount of the HHIP Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require. The Contractor shall provide whatever documentation (including an indemnification agreement), deposits or surety that is reasonably required by the title company in order for the Deed of Trust to be senior in lien priority to any mechanics liens in connection with any early start of construction that has occurred prior to the recordation of the Deed of Trust against the Property in the Office of the Recorder of San Bernardino County; and
- (8) The County has received a written reimbursement draw request, in the form attached as Exhibit G, from Contractor, including (1) certification that the conditions set forth in Section B.6(b) have been satisfied, (2) certification that the proposed use of funds is consistent with the approved Financing Budget, (3) the amount of funds needed, and, (4) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (1) certification by the Contractor's architect reasonably acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Property and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County. The County will make best efforts to fund draw requests within thirty (30) days from receipt of a complete draw request. If a draw request includes reimbursement for costs to be incurred, then the Contractor shall provide proof of payment for such costs within fifteen (15) days of the disbursement of County Grant funds.

- B.7 Return of Capital Contribution.** The Contractor agrees and acknowledges that the County is providing the HHIP Loan funding to allow for the Development to operate in conformance with the Regulatory Agreement for the longest feasible time. The Contractor further agrees and acknowledges that it will not be allowed to refinance any loan or mortgage encumbering the Property with results in the Contractor receiving any cash out.
- B.8 Non-Recourse.** Neither Contractor, nor Contractors' governing board members, supervisors, directors, officers, employees, agents, or successors and assigns shall have any direct or indirect personal liability for payment of the principal of, and interest on, the HHIP Loan funding. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, or interest on, the HHIP Loan and defaults by Developer in the performance of its covenants under the Deed of Trust shall be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the County thereunder, or (b) be deemed in any way to impair the right of the County to assert the unpaid principal amount of the outstanding balance of the HHIP Loan as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.
- B.9 Schedule of Performance.** Contractor shall perform the tasks described in the Schedule of Performance in Exhibit F no later than the dates set forth in the Schedule of Performance. The Schedule of Performance may be modified in writing by Contractor and the County Executive Officer on behalf of the County without the need for formal amendment of this Agreement or further approval by the Board of Supervisors.
- B.10 Permits and Approvals.** Contractor shall obtain all permits and approvals necessary for completion of the Scope of Work no later than the date set forth in the Schedule of Performance.

- B.11. Construction Bonds.** The Contractor shall deliver to the County copies of labor and material bonds and performance bonds for the completion of the Scope of Work in an amount equal to one hundred percent (100%) of the scheduled cost of the construction of the expansion of the Development. The bonds required under this Section shall be issued by a surety licensed to do business in California and acceptable to the County. Such bonds must name the County as a co-obligee.
- B.12. Commencement of Construction.** Contractor shall cause the Commencement of Construction in the Scope of Work no later than the date set forth in the Schedule of Performance.
- B.13. Completion of Construction.** The Contractor shall diligently prosecute to completion the construction of the Scope of Work no later than the date set forth in the Schedule of Performance, unless the County and the Contractor agree to extend such date in writing.
- B.14. Construction Pursuant to Plans and Laws; Prevailing Wages; Accessibility.**
- (a) **Changes.** Contractor shall construct the Development in accordance with the Scope of Work and the terms and conditions of the land use permits and approvals and building permits. Contractor shall request consent from the County prior to making any material changes in the work required to be performed under this Agreement, including any material additions, changes, or deletions to the Scope of Work. Consent to any additions, changes, or deletions to the work does not relieve or release Contractor from any other obligations under this Agreement, or relieve or release Contractor or its surety from any surety bond.
 - (b) **Compliance with Laws.** The Contractor shall cause all work performed in connection with the Development to be performed in compliance with all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter including without limitation and to the extent applicable, all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work will proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and Contractor shall be responsible to the agency for the procurement and maintenance thereof, as may be required of Contractor and all entities engaged in work on the Development.
 - (c) **Prevailing Wages.** To the extent required by law, in the initial construction of the Development, Contractor shall and shall cause its respective contractors and subcontractors to pay prevailing wages in performing the development activities as may be required under Labor Code Sections 1720 et seq. (the "Prevailing Wage Requirements"), and the implementing regulations of the Department of Industrial Relations (the "DIR"), to employ apprentices as required by Labor Code Sections 1777.5 et seq., and the implementing regulations of the DIR and comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., 1810-1815, and implementing regulations of the DIR. To the extent Prevailing Wage Requirements are applicable, Contractor shall and shall cause its respective contractors and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Section 1720 et seq., and that apprentices have been employed as required by Labor Code Section 1777.5 et seq., and shall, from time to time upon the request of the County provide to the County such records and other documentation reasonably requested by the County. To the extent Prevailing Wage Requirements are applicable, Contractor shall post the applicable prevailing rates of per diem wages at the Development site. To the extent Prevailing Wage Requirements are applicable, Contractor shall cause its respective contractors and subcontractors to be registered as set forth in Labor Code Section 1725.5. In addition, and only to the extent Prevailing Wage Requirements are applicable, Contractor shall cause its respective contractors and subcontractors to do all of the following:

- a. All calls for bids, bidding materials, and the construction contract documents for the Development must specify that: (i) No contractor or subcontractor may be listed on a bid proposal nor be awarded a contract for the Development unless registered with the DIR pursuant to Labor Code Section 1725.5; and (ii) the Development is subject to compliance monitoring and enforcement by the DIR;
- b. To the extent required by law: (i) Contractor is required to provide the County all information required by Labor Code Section 1773.3 as set forth in the DIR's online form PWC-100 within two (2) days of the award of the contract (<https://www.dir.ca.gov/pwc100ext/>); (ii) Contractor shall cause its respective contractors to post job site notices, as prescribed by applicable DIR regulations; and (iii) Contractor shall cause its respective contractors to furnish payroll records required by Labor Code Section 1776 directly to the Labor Commissioner, at least monthly in the electronic format prescribed by the Labor Commissioner.
- (d) Contractor shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County and its Board members, officers and employees against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Contractor, its contractors and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Section 1720 et seq., to employ apprentices pursuant to Labor Code Sections 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and the implementing regulations of the DIR in connection with the performance of the development activities or any other work undertaken or in connection with the Property. The requirements in this subsection survive the repayment of the HHIP Loan, and the reconveyance of the Deed of Trust.
- (e) A weekly certified payroll submitted through LCP Tracker is required during the term of construction of the Development, and provide the County with all information required by Labor Code Section 1773.3, and any identified payment issues have been resolved, and that Contractor is working diligently to resolve any such issues.
- (f) For purposes of this section, the "initial construction" of the Development shall mean the work required in order to construct such improvements and obtain the Certificate of Completion for the Development.
- (g) Accessibility Requirements. The Contractor shall construct the Development to comply with all applicable federal and state disabled persons accessibility requirements including but not limited to the Federal Fair Housing Act, Section 504 of the Construction Act of 1973, Title II and/or Title III of the Americans with Disabilities Act of 1990, Title 24 of the California Code of Regulations and the Uniform Federal Accessibility Standards ("UFAS"), as applicable. Contractor shall submit a certification from the architect or an approved Certified Access Specialist certifying that the Development has been constructed in compliance with this Agreement or has provided the County with other evidence that the Development, as built, complies with Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.) and the UFAS.

B.15. Equal Opportunity.

- (a) During the construction of the Development there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, or source of income, in the hiring, firing, promoting or demoting of any person engaged in the construction work.

- (b) In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, program participants shall not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. A faith-based organization that is a recipient or subrecipient of County funds is eligible to use such funds as provided under the regulations of this part without impairing its independence, autonomy, expression of religious beliefs, or religious character. Such organization will retain its independence from federal, state, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or in any manner prohibited by law. Among other things, faith-based organizations may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a County funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

B.16. Progress Reports.

- (a) From the date of commencement of construction and until such time as Contractor has received a Certificate of Completion for the Development, Contractor shall provide the County with monthly progress reports regarding the status of the construction of the Development. The progress reports must include a certification that the expenditures submitted to the County meet HHIP eligible expenses requirements. The County shall have no obligation to advance or pay Contractor with any funds other than HHIP Loan funds the County receives from Molina Healthcare of California. Contractor attests that by submitting a monthly expenditures report to the County that Contractor has completed all due diligence necessary and verified eligibility for HHIP Loan funding. Contractor shall be required to repay the County for non-eligible expenditures that may be inadvertently processed by the County.
- (b) The Contractor shall provide any information reasonably requested by the County in connection with the Development.

B.17. Construction Responsibilities.

- (a) Contractor is responsible for the coordination and scheduling of the work to be performed so that commencement and completion of the construction of the Development will take place in accordance with this Agreement.
- (b) Contractor is solely responsible for all aspects of Contractor's conduct in connection with the Development, including (but not limited to) the quality and suitability of the Plans and Specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Development is solely for the purpose of determining whether Contractor is properly discharging its obligations to the County, and may not be relied upon by Contractor or by any third parties as a warranty or representation by the County as to the quality of the design or construction of the Development.

- B.18. Certificates of Completion.** Promptly after completion of the Development, and upon written request from the Contractor, in accordance with the provisions of this Agreement relating solely to the obligations of the Contractor to construct the Development, the County will provide the

Contractor with one or more Certificates of Completion for the Development if the County determines that the Contractor's various obligations with regard to completion of the Development under this Agreement have been met. If upon the written request from the Contractor, the County determines, in its sole discretion, that the Contractor is not entitled to a Certificate of Completion, the County shall within twenty (20) days of such request, provide such Contractor with a written response stating with specificity the obligations required to be completed as a condition for issuing the Certificate of Completion. Such Certificates of Completion shall be conclusive evidence that the covenants in this Agreement with respect to the obligations of Contractor to construct the portions of the Development described in such certificate and the dates for the beginning and completion thereof have been met; provided, however, such certifications shall not be conclusive evidence regarding Contractor's satisfaction of the prevailing wage requirements of this Agreement. Such certifications and determinations shall not constitute evidence of compliance with or satisfaction of any obligation of the Contractor to any holder of a deed of trust securing money loaned to finance any portion of the Development or any part thereof and shall not be deemed a notice of completion under the California Civil Code.

B.19. Mechanics Liens, Stop Notices, and Notices of Completion.

- (a) If any claim of lien is filed against the Property or a stop notice affecting the County Loan is served on the County or any other lender or other third party in connection with the Development, then Contractor shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to the County that the claim of lien or stop notice will be paid or discharged.
- (b) If Contractor fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section or obtain a surety bond, then in addition to any other right or remedy, the County may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at Contractor's expense. Alternatively, the County may require Contractor to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Contractor.
- (c) Contractor shall file a valid notice of cessation or notice of completion upon cessation of construction work on the Development for a continuous period of thirty (30) days or more, and take all other steps necessary to forestall the assertion of claims of lien against the Property. Contractor authorizes the County, but the County has no obligation, to record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Development.

B.20. Inspections.

- (a) The Contractor shall permit and facilitate, and shall require its contractors to permit and facilitate, observation and inspection of the Development by the County and by public authorities during reasonable business hours upon forty-eight (48) hours' prior written notice for the purposes of determining compliance with this Agreement, provided, however, that nothing in this Agreement shall entitle the County to enter an occupied unit in the Development without notice to the occupant thereof, which the Contractor shall deliver on behalf of the County, and permission from such occupant to the extent such permission is required by law. Such inspections do not relieve the Contractor, or its contractors, from any applicable requirement to obtain other County inspections in connection with the construction of the Development.

(b) After the completion of an inspection the County shall deliver a copy of the inspection report to the Contractor. If the County determines as a result of such inspection that there are any life-threatening health and safety related deficiencies, Contractor has the obligation to correct such deficiencies immediately. If the County determines as a result of the inspection that there are any deficiencies for any of the inspectable items in the Development, the Contractor shall correct such deficiencies within fifteen (15) days from the delivery of the inspection report or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Contractor must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible. In addition, the Contractor acknowledges that the County may re-inspect the Development to verify all deficiencies have been corrected or rely on third party documentation submitted by the Contractor for non-hazardous deficiencies.

B.21. Approved Financing Plan. As of the date of this Agreement, the County has approved the approved Financing Budget set forth in Exhibit B. Grantee agrees that no change shall be made to Contractor's Financing Budget without first obtaining County approval, except that the Contractor may at its reasonable discretion reallocate funds between specified line items, so long as the amount being reallocated from any one particular line item does not exceed ten percent (10%) of the budget allocation for such line item. Contractor shall submit any proposed or required amendments to the approved Financing Budget, along with evidence that the changes to the approved Financing Budget are reasonable and necessary, to the County for approval within fifteen (15) days of the date Contractor receives information indicating that actual costs of the Development materially vary or will vary from the costs shown on the approved Financing Budget, which approval shall not be unreasonably withheld or delayed. Written consent of the County will be required to amend the approved Financing Budget. The County will make best efforts to respond in writing within seven (7) days after receipt of a proposed amendment to the approved Financing Budget.

B.22. Compliance with Agreement. Contractor shall comply with the terms of this Agreement, the Regulatory Agreement, and any breach by Contractor under the County Loan Documents shall be considered a Default under this Agreement. Notwithstanding anything to the contrary, the repayment of the HHIP Loan pursuant to Section B.3, shall have no effect on the Regulatory Agreement which shall remain in full force and effect for the term specified therein.

B.23. Financial Accountings and Audits. During the Term, from time to time as reasonably requested by the County, Contractor shall make available for examination during normal business hours to County all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and shall permit County to audit, examine, and make excerpts or transcripts from such records. County may make audits of any conditions relating to this Agreement.

B.24. Information. Contractor shall provide any information reasonably requested by the County in connection with the HHIP Loan, including (but not limited to) any information required by Molina Healthcare of California in connection with Contractor's use of the HHIP Loan funding.

B.25. Records.

(a) Contractor shall keep and maintain at the principal place of business of the Contractor set forth in Section I below, or elsewhere with the County's written consent, full, complete and appropriate books, records and accounts relating to the Development. Books, records and accounts relating to Contractor's compliance with the terms, provisions, covenants and conditions of this Agreement are to be kept and maintained in accordance with generally accepted accounting principles consistently applied and are to be consistent with requirements of this Agreement. All such books, records, and accounts are to be open to and available for inspection and copying by the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Copies of all tax returns and other reports that Contractor may be required to furnish to any governmental

agency are to be open for inspection by the County at all reasonable times at the place that the books, records and accounts of Contractor are kept. Contractor shall preserve such records for a period of not less than five (5) years after the creation of such records. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the HHIP Loan is pending at the end of the record retention period stated herein, then Contractor shall retain the records until such action and all related issues are resolved. The records are to include all invoices, receipts, and other documents related to expenditures from the HHIP Loan.

- (b) Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to services performed and expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all litigation, claims, federal audits, negotiation or other actions that involve any of the records cited, whichever occurs later. Contractor shall retain records for non-expendable property acquired with funds under this Agreement for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after the displaced person has received final payment.
- (c) The County shall notify Contractor of any records it deems insufficient. Contractor has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Contractor must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

B.26. Audits.

- (a) Each year, Contractor shall provide the County with a copy of Contractor's annual audit, which is to include information on all of Contractor's activities, and not just those pertaining to the Development.
- (b) In addition, the County and Molina Healthcare of California may, at any time, audit all of Contractor's books, records, and accounts pertaining to the Development. Any such audit is to be conducted during normal business hours at the principal place of business of Contractor wherever records are kept. Immediately after the completion of an audit, the County shall deliver a copy of the results of the audit to Contractor.

B.27. Fees and Taxes. Contractor shall be solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Development to the extent owned by Contractor, and shall pay such charges prior to delinquency. However, Contractor shall not be required to pay and discharge any such charge so long as: (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings; and (b) if requested by the County, Contractor deposits with the County any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect the County from the consequences of the contest being unsuccessful.

B.28. Notice of Litigation. Contractor shall promptly notify the County in writing of any litigation materially affecting Contractor or the Development and of any claims or disputes that involve a material risk of such litigation.

B. 29. Nondiscrimination. Contractor covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age (except for lawful senior housing in accordance with state and federal law), familial status, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of

the property, nor may Contractor or any person claiming under or through Contractor 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, subtenants, occupants, sublessees or vendees in the property.

B.30. Transfer.

- (a) This Agreement is entered into solely for the purpose of acquisition funding for the Development and its subsequent use in accordance with the terms hereof. The Contractor recognizes that the qualifications and identity of Contractor are of particular concern to the County. The Contractor further recognizes that it is because of such qualifications and identity that the County is entering into this Agreement with the Contractor and that limited Transfers are permitted only as provided in this Agreement. Contractor shall only be allowed to transfer the Property and assign its rights, duties, and obligations under this Agreement to a wholly controlled affiliate of Contractor or Helping Hearts California, LLC.
- (b) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (1) any rights and/or duties under this Agreement; or (2) any interest in the Contractor, including any merger, consolidations, sale, or lease of all or substantially all of the assets of Contractor.
- (c) No Transfer shall be permitted during the Term, except to the extent that the Contractor transfers the property to a special purpose entity affiliated and controlled by Contractor, and so long as Contractor remains liable for performance under this Agreement. Any unauthorized Transfer shall automatically cancel the County's obligations to provide the HHIP Loan funds to Contractor after the date of an unauthorized Transfer.

B.31. Hazardous Materials.

- (a) Contractor shall keep and maintain the Property in compliance with, and may not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Contractor may not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in rehabilitation of Developments like the Improvements.
- (b) Contractor shall immediately advise the County in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other government or regulatory actions instituted, completed or threatened against Contractor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against Contractor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Contractor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" under the provision of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

- (c) The County has the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Contractor. Contractor shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (i) all foreseeable consequential damages; (ii) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (iii) all reasonable costs and expenses incurred by the County in connection with clauses (i) and (ii), including but not limited to reasonable attorneys' fees and consultant's fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties). This obligation to indemnify will survive termination of this Agreement.
- (d) Without the County's prior written consent, which shall not be unreasonably withheld, Contractor may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's reasonable judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Contractor shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Contractor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Contractor establishes to the reasonable satisfaction of the County that there is no reasonable alternative to such remedial action that would result in less impairment of the County's security hereunder; or (iv) the action has been agreed to by the County.
- (e) Contractor hereby acknowledges and agrees that (i) this Section is intended as the County's written request for information (and Contractor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.
- (f) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1) and Contractor is in default of its obligations to the County, then, without

otherwise limiting or in any way affecting the County's or the trustee's rights and remedies, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against Contractor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Contractor will be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Contractor knew or should have known of the activity by such lessee, occupant, or user that caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees and other professional service fees and costs, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) or the maximum rate permitted by law, until paid, will be payable to the County upon its demand made at any time following the conclusion of such action.

B.32. Maintenance and Damage. During the course of rehabilitation and construction, Contractor shall maintain the Development in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if Contractor has not cured such condition within thirty (30) days after receiving a County notice of such a condition, then in addition to any other rights available to the County, the County has the right to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals.

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments.

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability.

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

C.4 No Third-Party Beneficiaries.

There shall be no third-party beneficiaries to this Agreement.

C.5 Attorney's Fees and Costs.

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel.

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and

not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall provide the results of the background check of each individual to the County. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address.

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law.

This Contract shall be governed by and construed according to the laws of the State of California.

C.9 Compliance with County Policy.

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Agreement.

C.10 Confidentiality.

Contractor shall protect from unauthorized use or disclosure the names and other identifying information concerning persons receiving Services pursuant to this Agreement, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement, except as may otherwise be required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact.

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Approval.

Whenever this Agreement calls for County approval, consent, or waiver, the written approval, consent, or waiver of the County Chief Executive Officer shall constitute the approval, consent, or waiver of the County, without further authorization required from the County Board of Supervisors. The County hereby authorizes the County Chief Executive Officer, or the designee

of the County Chief Executive Officer, to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the County. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies. The County Chief Executive Officer, or the designee of the County Chief Executive Officer, is also hereby authorized to approve, on behalf of the County, requests by Contractor for reasonable extensions of time deadlines set forth in this Agreement. The County shall not unreasonably delay in reviewing and approving or disapproving any proposal by Contractor made in connection with this Agreement.

C.13 Reserved.

C.14 Debarment and Suspension.

Contractor certifies that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Drug and Alcohol-Free Workplace.

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Agreement, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- C.15.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.15.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.15.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Agreement and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

C.16 Duration of Terms.

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Agreement.

C.17 Employment Discrimination.

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry,

physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Reserved.

C.19 Improper Influence.

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration.

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Agreement.

The County, by written notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution.

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability.

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Agreement are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications.

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Agreement. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Agreement.

C.24 Material Misstatement/Misrepresentation.

If during the course of the administration of this Agreement, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Agreement may be immediately terminated. If this Agreement is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants.

The parties to this Agreement mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure.

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Agreement; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Agreement. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.27 Reserved.

C.28 Reserved.

C.29 Reserved.

C.30 Air, Water Pollution Control, Safety and Health.

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Agreement.

C.31 Records.

Contractor shall maintain all records and books pertaining to the delivery of services under this Agreement and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Agreement shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.32 Relationship of the Parties.

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.33 Release of Information.

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

C.34 Representation of the County.

In the performance of this Agreement, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

C.35 Strict Performance.

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Contractor or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Contractor to perform any obligations under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the County to any act or omission by Contractor shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the County's written consent to future waivers.

C.36 Discretion Retained By County.

The County's execution of this Agreement in no way limits the discretion of the County in the permit and approval process in connection with the Development.

C.37 Reserved.

C.38 Reserved.

C.39 Time of the Essence.

Time is of the essence in performance of this Agreement and of each of its provisions.

C.40 Venue.

The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

C.41 Conflict of Interest.

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the

employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.42 Former County Administrative Officials.

Contractor agrees to provide, or has already provided, information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.43 Disclosure of Criminal and Civil Procedures.

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.44 Authority of Contractor.

Contractor warrants and represents to the County that it is a duly organized, validly existing California limited liability company and has the authority to own its property and carry on its business as now being conducted. Contractor warrants and represents that it has the full power to execute and deliver this Agreement and to accept the HHIP Loan funds contemplated hereunder, and to perform and observe the terms and provisions of the Agreement.

C.45 Force Majeure.

In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; or court order; or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event shall the County be required to agree to cumulative delays in excess of one hundred eighty (180) days.

C.46 Iran Contracting Act.

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

C.47 Prevailing Wage Laws.

By its execution of this Agreement, Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work..." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws. See Attachment A, which is attached and incorporated by reference, for additional information regarding Prevailing Wage Laws. Contractor shall comply with all applicable terms and conditions in Attachment A. The applicable general prevailing wage determinations are on file with the County and are available to any interested party on request. Contractor shall post a copy of the applicable prevailing wage determinations at the job site.

C.48 Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County shall be personally liable to Contractor in the event of any default or breach by the County.

C.49 Executive Order N-6-22 Russia Sanctions.

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

C.50 Campaign Contribution Disclosure (SB 1439).

Contractor has disclosed to the County using Attachment B - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date this Agreement was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Contract.

In the event of a proposed amendment to this Agreement, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

D. TERM OF CONTRACT.

This Contract is effective as of May 21, 2024 and continuing for the entire term of the Regulatory Agreement may be terminated earlier in accordance with provisions of this Agreement.

E. DEFAULT AND REMEDIES.

E.1 Events of Default. Each of the following shall constitute a "Default" by Contractor under this Agreement:

- (a) Failure to Comply with the Regulatory Agreement. Failure of Contractor to comply with the Regulatory Agreement, subject to all applicable notice and cure rights provided therein.
- (b) Failure to Make Payment. Any failure to pay, in full, any payment required under the Note when due following written notice by the County of such failure and five (5) days opportunity to cure.
- (c) Breach of Covenants. Failure by Contractor to duly perform, comply with, or observe any of the conditions, terms, or covenants of this Agreement, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the County to the Contractor, or if the breach cannot be cured within thirty (30) days, the Contractor shall not be in breach so long as Contractor is diligently undertaking to cure such breach and such breach is cured within ninety (90) days or such other date agreed to by the County in writing at its

sole and absolute discretion; provided, however, that if a different period or notice requirement is specified under any other section of this Section E, the specific provisions shall control.

- (d) Insolvency. A court having jurisdiction shall have made or entered any decree or order: (1) adjudging Contractor to be bankrupt or insolvent; (2) approving as properly filed a petition seeking reorganization of Contractor or seeking any arrangement for Contractor under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction; (3) appointing a receiver, trustee, liquidator, or assignee of Contractor in bankruptcy or insolvency or for any of their properties; or (4) directing the winding up or liquidation of Contractor if any such decree or order described in clauses (1) to (4), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days; or Contractor shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive.
- (e) Assignment; Attachment. Contractor shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution.
- (f) Suspension; Termination. Contractor shall have voluntarily suspended its business.
- (g) Liens on Property. There shall be filed any claim of lien (other than liens approved in writing by County) against the Development, the Property, or any part thereof, or any interest or right made appurtenant thereto and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days, without discharge or satisfaction thereof or provision therefor (including, without limitation, the posting of bonds) satisfactory to County.
- (h) Condemnation. The condemnation, seizure, or appropriation of all or the substantial part of the Property or the Development, by an entity other than the County.
- (i) Unauthorized Transfer. Any Transfer other than as permitted by Section B.30.
- (j) Representation or Warranty Incorrect. Any Contractor representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with this Agreement, proving to have incorrect in any material respect when made and having a material adverse effect on the Development.

E.2 Remedies. The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the County or automatically where so specified, relieve the County of any obligation to make or continue the HHIP Loan and shall give the County the right to proceed with any and all remedies in law or equity, including suit for recovery of any HHIP Loan funds which Contractor has not utilized in compliance with this Agreement:

- (a) Repayment of HHIP Loan Funding. The County may demand Contractor repay the County any outstanding principal on the HHIP Loan, together with any accrued interest thereon, to become immediately due and payable. County may proceed to enforce payment of the indebtedness by foreclosure under the Deed of Trust. Contractor waives all right to presentment, demand, protest or notice of protest or dishonor. Contractor is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorneys' fees) paid or incurred by the County in connection with the repayment of the HHIP Loan funding which shall be part of the Secured Obligation enforced only by foreclosure under the Deed of Trust.

(b) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Contractor to perform its obligations and covenants under this Agreement and the Regulatory Agreement or to enjoin acts on things that may be unlawful or in violation of the provisions of this Agreement.

E.3 Right of Contest. Contractor shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

E.4 Remedies Cumulative. No right, power, or remedy given to the County by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Contractor and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

F. FISCAL PROVISIONS

F.1 The maximum amount of the HHIP Loan under this Agreement shall not exceed \$360,180, all of which is funded by an allocation of Housing and Homelessness Incentive Program funds from Molina Healthcare of California, a California health plan organization, and shall be subject to availability of other funds to the County.

F.2 Contractor shall submit written reimbursement draw requests, in the form attached as Exhibit G, including: (1) certification that the conditions set forth in Section B.6 continue to be satisfied, (2) certification that the proposed use of funds is consistent with the approved Financing Budget; (3) the amount of funds need, and (4) where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with improvements on the Property, the written request must be accompanied by: (1) certification by the Contractor's architect reasonable acceptable to the County that the work for which disbursement is requested has been completed (although the County reserves the right to inspect the Property and make an independent evaluation); and (2) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County. The County will make best efforts to fund draw requests within forty-five (45) days from receipt of a complete draw request. If a draw request includes reimbursement for costs to be incurred, then the Contractor shall provide proof of payment for such costs within fifteen (15) days of the disbursement of the HHIP Loan funds.

F.3 Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

F.4 Funds made available under this Agreement shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Agreement. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Agreement, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782. The provisions of this Section shall survive the expiration of the Term.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

G.3 Waiver of Subrogation Rights

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

G.5 Severability of Interests

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

- G.11** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- G.11.1** Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- G.11.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
- a. Premises operations and mobile equipment.
 - b. Products and completed operations.
 - c. Broad form property damage (including completed operations).
 - d. Explosion, collapse and underground hazards.
 - e. Personal injury.
 - f. Contractual liability.
 - g. \$2,000,000 general aggregate limit.

- G.11.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- G.11.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

- G.11.5** Builders’ Risk/Property Insurance. Builders’ Risk insurance during the course of construction, and upon completion of construction, property insurance covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance must be obtained if required by applicable federal regulations.

- G.11.6** Commercial Crime. Commercial crime insurance covering all officers and employees, for loss of HHIP Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County as a Loss Payee, as it interests may appear.

- G.11.7** Construction contracts for projects over Three Million Dollars (\$3,000,000) and less than Five Million Dollars (\$5,000,000) require limits of not less than Five Million Dollars (\$5,000,000) in General Liability and Auto Liability coverage.

H. RIGHT TO MONITOR AND AUDIT.

- H.1** The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Agreement. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation,

monitoring, and evaluation of this Agreement and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Agreement or until all pending County, State and Federal audits are completed, whichever is later.

I. NOTICES.

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County
Community Development and Housing
560 E. Hospitality Lane, Suite 200
San Bernardino, CA 62415-0043
Attn: Director

HHCA RE 2421, LLC
3105 E. Guasti Rd. Suite 100
Ontario, CA 91761

Helping Hearts California, LLC
3105 E. Guasti Rd. Suite 100
Ontario, CA 91761

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

J. ENTIRE AGREEMENT.

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

K. ELECTRONIC SIGNATURES.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

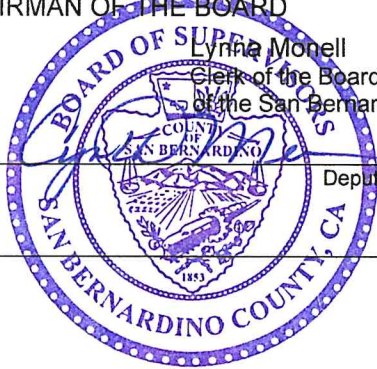
IN WITNESS WHEREOF, San Bernardino County and the Contractor have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

► Dawn Rowe
Dawn Rowe, Chair, Board of Supervisors

Dated: MAY 21 2024
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By Lynna Monell
Clerk of the Board of Supervisors of the San Bernardino County
Deputy



HHCA RE2421, LLC,
a California limited liability company
(Print or type name of corporation, company, contractor, etc.)

By ► [Signature]
(Authorized signature - sign in blue ink)

Name Joshua LaBarge
(Print or type name of person signing contract)

Title Member
(Print or Type)

Dated: 05-15-2024
Address 3105 E. Cresti Road #100
Ontario, CA 91761

HELPING HEARTS CALIFORNIA, LLC,
a California limited liability company
(Print or type name of corporation, company, contractor, etc.)

By [Signature]
(Authorized signature - sign in blue ink)

Name Joshua LaBarge
(Print or type name of person signing contract)

Title Member
(Print or Type)

Dated: 05-15-2024
Address 3105 E. Cresti Road #100
Ontario, CA 91761

FOR COUNTY USE ONLY

Approved as to Legal Form
► [Signature]
Suzanne Bryant, Deputy County Counsel
Date 5.16.24

Reviewed for Contract Compliance
► _____
Date _____

Reviewed/Approved by Department
► _____
Carrie Harmon, Director
Date _____

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WEST 105 FEET OF THE NORTH 318 FEET OF LOT 391, TRACT 2258, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 32, PAGES 72 TO 77 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY.

APN: **0263-151-25-0-000**

EXHIBIT B

FINANCING BUDGET

PROJECT DEVELOPMENT BUDGET			
DEVELOPMENT COST	Total Project Costs	Residential Costs	Comments and explanation of basis changes
LAND COST/ACQUISITION			
Land Cost or Value	\$0	\$0	
Demolition	\$0	\$0	
Legal	\$0	\$0	
Loan Payoff	\$360,180	\$360,180	Loan Payoff
Total Land Cost or Value	\$360,180	\$360,180	
Existing Improvements Cost or Value	\$0	\$0	
Off-Site Improvements	\$0	\$0	
Total Acquisition Cost	\$0	\$0	
Total Land Cost / Acquisition Cost	\$360,180	\$360,180	New Loan
Predevelopment Interest/Holding Cost	\$0	\$0	
Assumed, Accrued Interest on Existing Debt (Rehab/Acq)	\$0	\$0	
Excess Purchase Price Over Appraisal	\$0	\$0	
REHABILITATION			
Site Work	\$0	\$0	
Structures	\$0	\$0	
General Requirements	\$0	\$0	
Contractor Overhead	\$0	\$0	
Contractor Profit	\$0	\$0	
Prevailing Wages	\$0	\$0	
General Liability Insurance	\$0	\$0	
Other: Asbestos Clearance	\$0		
Other: Modular Unit	\$0	\$0	
Other: Appliances	\$0	\$0	
Other: (Specify)	\$0	\$0	
Total Rehabilitation Costs	\$0	\$0	
Total Relocation Expenses			
NEW CONSTRUCTION			
Site Work	\$0	\$0	
Structures	\$0	\$0	
General Requirements	\$0	\$0	
Contractor Overhead	\$0	\$0	
Contractor Profit	\$0	\$0	
Prevailing Wages	\$0	\$0	
General Liability Insurance	\$0	\$0	
Other: (Specify)	\$0	\$0	
Other: (Specify)	\$0	\$0	
Other: (Specify)	\$0	\$0	
Other: (Specify)	\$0	\$0	
Total New Construction Costs	\$0	\$0	
ARCHITECTURAL FEES			
Design	\$0	\$0	
Supervision	\$0	\$0	
Total Architectural Costs	\$0	\$0	
Total Survey & Engineering	\$0	\$0	
CONSTRUCTION INTEREST & FEES			
Construction Loan Interest	\$0	\$0	
Origination Fee	\$0	\$0	
Credit Enhancement/Application Fee	\$0	\$0	
Bond Premium	\$0	\$0	
Cost of Issuance	\$0	\$0	
Title & Recording	\$0	\$0	
Taxes	\$0	\$0	
Insurance	\$0	\$0	
Other: (Specify)	\$0	\$0	
Other: (Specify)	\$0	\$0	
Other: (Specify)	\$0	\$0	

Total Construction Interest & Fees	\$0	\$0
PERMANENT FINANCING		
Loan Origination Fee	\$0	\$0
Credit Enhancement/Application Fee	\$0	\$0
Title & Recording	\$0	\$0
Taxes	\$0	\$0
Insurance	\$0	\$0
Other: (Specify)	\$0	\$0
Other: (Specify)	\$0	\$0
Total Permanent Financing Costs	\$0	\$0
Subtotals Forward	\$360,180	\$360,180
LEGAL FEES		
Legal Paid by Applicant		\$0
Other: (Specify)	\$0	\$0
Total Attorney Costs	\$0	\$0
RESERVES		
Operating Reserve	\$0	\$0
Operating Subsidy	\$0	\$0
Replacement Reserve	\$0	\$0
Transition Reserve	\$0	\$0
Rent Reserve	\$0	\$0
Other	\$0	\$0
Other: (Specify)	\$0	\$0
Other: (Specify)	\$0	\$0
Total Reserve Costs	\$0	\$0
CONTINGENCY COSTS		
Construction Hard Cost Contingency	\$0	\$0
Soft Cost Contingency	\$0	\$0
Total Contingency Costs	\$0	\$0
OTHER PROJECT COSTS		
TCAC App/Allocation/Monitoring Fees	\$0	
Environmental Audit	\$0	\$0
Local Development Impact Fees	\$0	\$0
Permit Processing Fees	\$0	\$0
Capital Fees	\$0	
Marketing	\$0	
Furnishings	\$0	\$0
Start Up Costs	\$0	\$0
Accounting/Reimbursable	\$0	\$0
Appraisal Costs	\$0	
Other: (Specify)		
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Total Other Costs	\$0	\$0
SUBTOTAL PROJECT COST	\$360,180	\$360,180
DEVELOPER COSTS		
Developer Overhead/Profit	\$0	\$0
Consultant/Processing Agent	\$0	\$0
Project Administration	\$0	\$0
Broker Fees Paid to a Related Party	\$0	
Construction Oversight by Developer	\$0	\$0
Other: (Specify)		
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Other: (Specify)	\$0	
Total Developer Costs	\$0	\$0
TOTAL PROJECT COST	\$360,180	\$360,180

EXHIBIT C

SCOPE OF WORK

Expansion Objective:

- Expand the current facility to accommodate not less than 20 additional beds that will at least one (1) unit at the expanded property to be made available for occupancy by HHIP Program eligible homeless persons. Nothing in this Agreement shall prohibit the Developer from adding additional beds (not funded by the County).

Expansion Scope:

- Rehabilitate and update the existing Kern facility to accommodate the proposed population, which will include interior and exterior improvements.
- Prepare onsite and offsite improvements, landscape, and hardscape.
- Replace entire perimeter fencing.
- Add concrete drives, parking space, courtyards, exterior gathering space, patio covers, gazebos, garden area.
- Procure and install two 5 bedrooms+, 3 bathroom+ manufactured houses, approximately 2000 square feet each. All procurement must comply with the County procurement procedures.
- Redesign and install septic system to accommodate the new and existing structures to treat sewage onsite.
- Complete with security camera system, fire life safety systems, and fob access systems.

Development Timeline:

- Entitlements: 6 months
- Development: 6 months
- Total time estimated for project: 20 months.

EXHIBIT D

Deed of Trust

DEED OF TRUST WITH ASSIGNMENT OF RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING
(2421 Kern Street)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of May 21, 2024, by and among HHCA RE2421, LLC, a California limited liability company and Helping Hearts California, LLC, a California limited liability company (collectively, "Trustor"), Commonwealth Title Insurance Company, a California corporation ("Trustee"), for the benefit of the San Bernardino County, a political subdivision of the State of California ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's fee interest in the property located in the 2421 Kern Street, San Bernardino County, State of California, that is described in the attached Exhibit A, incorporated herein by this reference (the "Property").

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said Property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent

Beneficiary has an interest in such awards for taking as provided in Paragraph 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or will be attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, leases, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security" to have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (collectively, the "Secured Obligations"):

(a) Payment to Beneficiary of all sums at any time owing under or in connection with the HHIP Loan Agreement (defined in Article 1 below), until the HHIP Loan has been repaid, and any other amounts owing under the County Loan Documents. Said HHIP Loan and other payments shall be due and payable as provided in the HHIP Loan Agreement or other County Loan Documents, as applicable. The HHIP Loan Agreement and all its terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced; and

(b) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein; and

(c) Performance of every obligation, covenant or agreement of Trustor contained herein and in the County Loan Documents (defined in Article 1 below).

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE 1
DEFINITIONS

Section 1.1 In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

- (a) "County Loan Documents" means this Deed of Trust, the Promissory Note, the HHIP Loan Agreement, the Regulatory Agreement, and any and all other debt or security instruments between Trustor and the Beneficiary relating to the Property.
- (b) "HHIP Loan Agreement" means that certain HHIP (Housing and Homelessness Incentive Program) Loan Agreement by and between the Trustor and the Beneficiary dated as of May 21, 2024, as may be amended from time to time.
- (c) "HHIP Loan" means the Housing and Homeless Incentive Program loan in the amount of up Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) provided by Beneficiary pursuant to the terms and conditions of the HHIP Loan Agreement. Upon repayment of the HHIP Loan under the HHIP Loan Agreement, the Deed of Trust shall only secure the HHIP Grant and performance under the Regulatory Agreement.
- (d) "Promissory Note" means the Promissory Note securing the repayment of the HHIP Loan.
- (e) "Regulatory Agreement" means that certain Regulatory Agreement and Declaration of Restrictive Covenants (HHIP Loan) dated as of May 21, 2024, between the Beneficiary and Trustor, to be recorded against the Property.

ARTICLE 2
MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

- (a) The Trustor agrees that at all times prior to full payment and performance of the Secured Obligations, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.
- (b) Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security of any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file or record any notices of

completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the County Loan Documents; provided, however, that Beneficiary shall exercise its rights as agent of Trustor only in the event that Trustor shall fail to take, or shall fail to diligently continue to take, those actions as hereinbefore provided.

- (c) Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary shall specify upon laborers, material suppliers, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained shall require Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of San Bernardino County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

Section 2.2 Granting of Easements. Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those as approved, in writing, by Beneficiary, such approval shall not be unreasonably withheld, conditioned or delayed.

Section 2.3 Assignment of Rents.

- (a) As part of the consideration for the indebtedness evidenced by the County Loan Documents, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary any and all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Trustor hereby authorizes Beneficiary or Beneficiary's agents to, upon an uncured event of Default, collect the aforesaid rents and revenues and hereby directs each resident of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the County Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such breach has occurred, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the County Loan Documents which continues beyond any applicable cure period, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section as the same becomes due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor shall contain a statement that Beneficiary exercises its rights to such rents.

Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each resident of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each resident therefor, delivered to each resident personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said resident to inquire further as to the existence of a default by Trustor.

- (b) Trustor hereby covenants that, except to senior mortgage lenders approved by Beneficiary, Trustor has not executed any prior assignment of said rents, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenants that Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.
- (c) Upon the Trustor's breach of any covenant or agreement of Trustor in the County Loan Documents, which continues beyond any applicable cure period, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.
- (d) All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the County Loan Documents shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this Deed of Trust. Beneficiary or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Beneficiary shall not be liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section.

- (e) If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes shall become part of the Secured Obligations secured by this Deed of Trust pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in Section 3.3 hereof.
- (f) Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Beneficiary under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Deed of Trust ceases to secure the Secured Obligations.

ARTICLE 3.
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

- (a) Trustor shall pay, or cause to be paid, at least fifteen (15) days prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as: (1) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings; and (2) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (2) of the first sentence of this paragraph, the provisions of this Section shall not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.
- (b) In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by the Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, shall become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

- (a) Trustor agrees to provide insurance conforming in all respects to that required under the County Loan Documents during the course of construction and following completion, and at all times until all Secured Obligations secured hereunder are fulfilled and this Deed of Trust reconveyed.
- (b) All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, shall be delivered to the Beneficiary upon demand therefor at any time prior to Trustor's satisfaction of the Secured Obligations.

Section 3.3 Advances. In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the County Loan Documents, the Beneficiary, after at least seven (7) days prior notice to Beneficiary, may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become part of the Secured Obligations (together with interest as set forth below) and shall be secured hereby, which amounts Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

ARTICLE 4 CASUALTY OR CONDEMNATION

Section 4.1 Casualties. Subject to the rights of Senior Lenders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of (i) the taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain, (ii) any damage to or destruction of the Property or any part thereof by insured casualty, and (iii) any other injury or damage to all or any part of the Property (collectively, the "Funds") are hereby assigned to and shall be paid to the Beneficiary by a check made payable to the Beneficiary to the extent of the unpaid principal and interest on the HHIP Loan. The Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary shall determine at its sole option. The Beneficiary shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Beneficiary may be released to Trustor upon such conditions as the Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust. The rights of the Beneficiary under this Section 4.1 are subject to the rights of any Senior Lender. The Beneficiary shall release the Funds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that Trustor (taking into account the Funds) has sufficient funds to rebuild the improvements in substantially the form they existed prior to the casualty or condemnation.

ARTICLE 5
AGREEMENTS AFFECTING THE PROPERTY; FURTHER ASSURANCES;
PAYMENT OF GRANT AND INTEREST

Section 5.1 Other Agreements Affecting Property. The Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the County Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Attorneys' Fees and Expenses. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Deed of Trust or the Loan Agreement, each party, including the prevailing party in such action, shall bear its own costs and expenses, including reasonable attorneys' fees in such action. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

Section 5.3 Payment of the County HHIP Funding. Upon a default under the County Loan Documents, Trustor shall be required to repay to the Beneficiary the amount of the outstanding HHIP Loan and any other payments as set forth in the County Loan Documents in the amounts and by the times set out therein. Beneficiary's sole recourse for the repayment of the outstanding balance and default interest, if any, of the HHIP Loan shall be from the sale of the Property or the Security.

Section 5.4 Personal Property. To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code.

Section 5.5 Financing Statement. The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security, subject to the rights of Senior Lenders. The Trustor agrees to perform all acts which the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the HHIP Loan in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument.

Section 5.6 Operation of the Security. Trustor shall operate the Security in full compliance with the County Loan Documents.

Section 5.7 Inspection of the Security. At any and all reasonable times, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect the Security provided, however, that any such inspection shall not unreasonably disturb any tenants or other occupants of the Property. Beneficiary shall give Trustor not less than seventy-two hours (72) notice prior to requiring the inspection of the interior of individual tenant units.

ARTICLE 6 HAZARDOUS WASTE

Section 6.1 Hazardous Waste.

- (a) Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily kept and used in and about a multi-family residential property or construction site.
- (b) Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of: (1) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (2) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (1) and (2) above are hereinafter referred to as "Hazardous Materials Claims"); and (3) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" (as defined in California Health and Safety Code Section 25117.4) under the provision of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.
- (c) Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Trustor. Trustor shall indemnify and hold harmless Beneficiary and its Board members, directors, officers, employees, agents, successors and

assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (1) all foreseeable consequential damages; (2) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (3) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (1) and (2), including but not limited to reasonable attorneys' fees.

- (d) Without Beneficiary's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed, Trustor shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's reasonable judgment, impair the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken.
- (e) Beneficiary agrees not to withhold, condition, or delay its consent, where such consent is required hereunder, if either: (1) a particular remedial action is ordered by a court of competent jurisdiction; (2) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (3) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (4) the action has been agreed to by Beneficiary.
- (f) Trustor hereby acknowledges and agrees that: (1) this Article is intended as the Beneficiary's written request for information (and Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5; and (2) each representation and warranty in this Deed of Trust or any of the other County Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.
- (g) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to: (1) waive its lien on such environmentally impaired or affected portion of the Property; and (2) exercise: (i)

the rights and remedies of an unsecured creditor, including reduction of its claim against Trustor to judgment, and (ii) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Trustor shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the highest rate permitted by law, shall be added to the indebtedness secured by this Deed of Trust and shall be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

- (h) Trustor is aware that California Civil Code Section 2955.5(a) provides as follows: "No lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property."

ARTICLE 7 EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default. The following shall constitute events of default ("Events of Default") following the expiration of any applicable notice and cure periods: (1) failure of Trustor to comply with the Regulatory Agreement, subject to all applicable notice and cure rights provided therein; (2) failure to make any payment or perform any of Trustor's other covenants, agreements, or obligations under the County Loan Documents, including, without limitation, the provisions concerning discrimination, which default shall not be cured within the times and in the manner provided therein.

Section 7.2 Acceleration of Maturity. If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, repay the Beneficiary the outstanding principal of the HHIP Loan, together with any accrued interest thereon, to become immediately due and payable, upon written notice by the Beneficiary to Trustor (or automatically where so specified in the County Loan Documents), and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right. The Beneficiary may proceed to enforce payment of the indebtedness only by foreclosure under the Deed of Trust. Trustor waives all right to presentment, demand, protest or notice of protest or dishonor. Trustor is liable to pay the Beneficiary on demand all reasonable expenses, costs and fees paid or incurred by the Beneficiary in connection with the repayment of the HHIP Loan, which shall be a part of the Secured Obligation enforced only by foreclosure under this Deed of Trust.

Section 7.3 The Beneficiary's Right to Enter and Take Possession. If an Event of Default shall have occurred and be continuing, the Beneficiary may:

- (a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any Event of Default or Notice of Sale (as defined below) hereunder or invalidate any act done in response to such Default or pursuant to such Notice of Sale and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;
- (b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;
- (c) Deliver to Trustee a written declaration of default, and a written notice of election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of San Bernardino County; or
- (d) Exercise all other rights and remedies provided herein, in the instruments by which Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the Secured Obligations.

Section 7.4 Foreclosure By Power of Sale.

- (a) Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall deliver the Notice of Sale to the Trustee, and shall deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.
- (b) Upon receipt of such Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without

any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale, and Trustor hereby covenants to warrant and defend the title of the Trustee and/or the Beneficiary.

- (c) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (1) the unpaid HHIP Loan; (2) all other Secured Obligations owed to Beneficiary under the County Loan Documents; (3) all other sums then secured hereby; and (4) the remainder, if any, to Trustor.
- (d) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative. No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

- (a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. Beneficiary's express or implied consent to a breach by Trustor, or a waiver of any obligation of Trustor hereunder shall not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by Trustor.

(b) If the Beneficiary: (1) grants forbearance or an extension of time for the payment or performance of any Secured Obligation; (2) takes other or additional security or the payment of any sums secured hereby; (3) waives or does not exercise any right granted in the County Loan Documents; (4) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the County Loan Documents; (5) consents to the granting of any easement or other right affecting the Security; or (6) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security. The Beneficiary shall have power to: (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust; (b) preserve or protect its interest (as described in this Deed of Trust) in the Security; and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.9 Trustee May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Trustor, its creditors or its Property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

Section 7.10 Waiver. Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any Secured Obligations or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

ARTICLE 8 MISCELLANEOUS

Section 8.1 Amendments. This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee. Upon written request of Beneficiary stating that all Secured Obligations have been forgiven or paid, and all obligations under the County Loan Documents have been performed in full, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

(a) If at any time after the execution of this Deed of Trust it shall become necessary or convenient for one of the parties hereto to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally or by depositing the same in the registered United States mail, return receipt requested, postage prepaid and

(1) if intended for Beneficiary shall be addressed to:

Community Development and Housing Department
San Bernardino County
560 E. Hospitality Lane, Suite 200
San Bernardino, CA 92415-0043
Attn: Community Development and Housing Director

with copy to: Goldfarb & Lipman, LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Rafael Yaquian

(2) if intended for Trustor shall be addressed to:

HHCA RE2421, LLC
c/o Helping Hearts California, LLC
3105 E. Guasti Rd., Suite 100
Ontario, CA 91761
Attn: Christal Hampton, Executive Director

Helping Hearts California, LLC
3105 E. Guasti Rd., Suite 100
Ontario, CA 91761
Attn: Christal Hampton, Executive Director

with copy to: Fennemore
550 E. Hospitality Lane, Suite 350
San Bernardino, CA 92408
Attn: Kevin K. Randolph

(b) Any notice, demand or communication shall be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed in the manner herein specified, on the delivery date or date delivery is refused by the addressee, as shown on the return receipt. Either party may change its address at any time by giving written notice of such change to Beneficiary or Trustor as the case may be, in the manner provided herein, at least ten (10) days prior to the date such change is desired to be effective.

Section 8.4 Successors and Joint Trustors. Where an obligation created herein is binding upon Trustor, the obligation shall also apply to and bind any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of Trustor and a transferee, such obligation shall be deemed to be a joint and several obligation of Trustor and such transferee. Where Trustor is more than one entity or person, all obligations of Trustor shall be deemed to be a joint and several obligation of each and every entity and person comprising Trustor.

Section 8.5 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions. Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law and Venue. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California. Each party waives any law, statute (including, but not limited to, Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claims concerning the Agreement, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino.

Section 8.8 Gender and Number. In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage. Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10 Actions. Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

Section 8.14 Non-Recourse. Neither Trustor, nor any member of Trustor, shall have any direct or indirect personal liability for payment of the principal of, and interest on, the HHIP Loan or the performance of the covenants of Trustor under this Deed of Trust. The sole recourse of Beneficiary with respect to the principal of, and default interest, if any, on the outstanding balance of the HHIP Loan, and defaults by Trustor in the performance of its covenants under this Deed of Trust, shall be to the Security described herein, and in no event shall Beneficiary be entitled to, or seek, a deficiency judgment.

[Signature Page Follows]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the first date written above.

TRUSTOR:

HCCA RE2421, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

Helping Hearts California, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

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)
)
COUNTY OF _____)

On _____, 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.

Name: _____
Notary Public

EXHIBIT A

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WEST 105 FEET OF THE NORTH 318 FEET OF LOT 391, TRACT 2258, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 32, PAGES 72 TO 77, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY.

APN: 0263-151-25-0-000

EXHIBIT E

REGULATORY AGREEMENT

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS

(2421 Kern Street)

REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS
(2421 Kern Street)

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is dated as of May 21, 2024 ("Effective Date"), and is made and recorded by and between San Bernardino County, a political subdivision of the State of California (the "County") and HHCA RE2421, LLC, a California limited liability company and Helping Hearts California, LLC, a California limited liability company (collectively, the "Contractor").

RECITALS

A. Capitalized terms used but not defined in these recitals are as defined in Article 1 of this Agreement.

B. The County received an allocation of Housing and Homelessness Incentive Program ("HHIP") funds from Molina Healthcare of California, a California health plan organization, to fund eligible activities.

C. Contractor and County are parties to that certain HHIP (Housing and Homelessness Incentive Program) Loan Agreement, of even date herewith, under which the County agreed to provide Contractor a loan of up to Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) (the "HHIP Loan") to fund the Development.

D. HHCA RE2421, LLC owns that certain real property located at 2421 Kern Street, in the unincorporated area of the County, as further described on the attached Exhibit A incorporated herein (the "Property"). The Property is improved with a ten (10) shelter bed residential rehabilitation facility, which Contractor intends to expand by twenty (20) beds, with one (1) of the total beds at the Property designated as a floating HHIP bed required under this Agreement (the "Development").

NOW, THEREFORE, in consideration of the foregoing recitals, incorporated herein by this reference, and the covenants and promises contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Contractor declares as follows:

ARTICLE 1
DEFINITIONS

Section 1.1. Definitions.

When used in this Agreement, the following terms have the following meanings:

- (a) "Agreement" means this Regulatory Agreement and Declaration of Restrictive Covenants.
- (b) "Completion Date" means the date a certificate of occupancy is issued for the Development.
- (c) "Eligible Participants" Molina Healthcare of California Plan members who are at risk of, have recently been, or are currently experiencing homelessness.
- (d) "HHIP Loan" has the meaning set forth in Recital C, above.
- (e) "Homeless Household" means housing for individuals and families who are experiencing homelessness, as defined in Section 578.3 of Title 24 of the Code of Federal Regulation(e).

- (f) "Housing First" has the meaning set forth in Section 8255 of the Welfare and Institutions Code.
- (g) "HUD" means the United States Department of Housing and Urban Development.
- (h) "Term" means the term of this Agreement which commences as of the Effective Date and ends twenty (20) years after the Completion Date.

ARTICLE 2
AFFORDABILITY AND OCCUPANCY COVENANTS

Section 2.1. Occupancy Requirements.

During the entire Term, one (1) bed in the Development will be occupied by, or, if vacant, available for occupancy by, Eligible Participants consistent with the terms of this Agreement. The Contractor will make the one (1) bed available to Eligible Participants in accordance with Housing First principles. This is an approach that offers permanent, affordable housing as quickly as possible for individuals and families experiencing homelessness, and then provides the supportive services and connections to the community-based supports people need to avoid returning to homelessness. The Development must align and comply with the core components of Housing First as defined in California Welfare and Institutions Code Section 8255(b). If the project service funding is terminated, the Grantee must notify the County in writing immediately. Parties agree that if services funding is unavailable to the Grantee for reasons other than the Grantee's Default, then the Grantee will not be in Default under this Agreement. The Contractor will make every effort to find alternative subsidies for financing services that would maintain the population targeting requirements in this Agreement. Upon documenting to the County satisfaction unsuccessful efforts to identify and obtain alternative resources, and where termination occurs through no fault of the Contractor, the parties agree to meet and confer for a period of at least ninety (90) days, from the date of the written notice to the County, to determine if there are any mutually acceptable alternatives that are consistent with the HHIP program.

Section 2.2 Accessibility.

The Development will be operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements.

ARTICLE 3
OPERATION OF THE DEVELOPMENT

Section 3.1 Residential Use.

During the Term, the Development will be operated as a shelter or transitional housing and shall at all times include the one (1) bed in compliance with the terms of this Agreement including those attached here to as Exhibit B, incorporated herein by this reference and the HHIP (Housing and Homelessness Incentive Program) Loan Agreement.

Section 3.2 Management Responsibility.

The Contractor is responsible for all management functions with respect to the Development and shall keep the property in decent, safe, sanitary, tenantable condition and

repair, and to permit no waste thereof. The County shall have no responsibility over management of the Development. Contractor shall retain a professional property management company, approved by the County in its reasonable discretion, to perform its management duties hereunder. A resident manager shall also be required. The Contractor shall submit to the County an initial proposed Management Plan. The County shall approve or disapprove the proposed Management Plan in writing within fifteen (15) business days following the County's receipt of the proposed Management Plan, which approval shall not be unreasonably denied, conditioned or delayed. If the proposed Management Plan is disapproved by the County, the County shall deliver a written notice to Contractor setting forth, in reasonable detail, the reasons for such disapproval. Contractor shall have fifteen (15) business days following the receipt of such notice to submit a revised Management Plan modified any way necessary to ensure that such policies comply with the provisions of this Agreement. The County's approval of the amendments to the Management Plan shall not be unreasonably withheld, conditioned or delayed.

Section 3.3 Management Agent.

Contractor shall cause the Development to be managed by an experienced management agent reasonably acceptable to the County (as approved, the "Management Agent"), with a demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing. Contractor shall provide the necessary professional staff to meet the needs of the Eligible Participants. Helping Hearts California LLC is pre-approved as the initial Management Agent. Contractor shall submit for the County's approval the identity of any proposed change to the Management Agent. The Contractor shall also submit such additional information about the background, experience and financial condition of any proposed Management Agent as is reasonably necessary for the County to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, the County shall approve the proposed Management Agent by notifying the Contractor in writing.

Section 3.4 Periodic Performance Review. The County reserves the right to conduct a periodic review of the management practices and financial status of the Development within thirty (30) days after each anniversary of the occupancy date. The purpose of each periodic review will be to enable the County to determine if the Development is being operated and managed in accordance with the requirements and standards of this Agreement. Contractor shall cooperate with the County in such reviews.

Section 3.5 Replacement of Management Agent.

- (a) If, as a result of a periodic review, the County determines in its reasonable judgment that Development is not being operated and managed in accordance with any of the requirements and standards of this Agreement or the HHIP Loan Agreement, the County shall deliver notice to the Contractor of such operational issues which notice shall describe the County's findings with specificity and the County may in same notice, notify the Contractor its intention to cause replacement of the Management Agent. Within thirty (30) days of receipt by Contractor of such written notice, County staff and Contractor, and any partners of the Contractor, shall meet in good faith to consider methods for improving the financial and operating status of the Development, including, without limitation, replacement of the Management Agent.

- (b) If, after such meeting, County staff recommends in writing the replacement of the Management Agent, with the reasonable concurrence of the partners of the Contractor, the Contractor shall promptly dismiss the then Management Agent, and shall appoint as the Management Agent a person or entity meeting the standards for a Management Agent set forth in subsection (a) above and approved by the County pursuant to subsection (a) above.

Any contract for the operation or management of the Development entered into by the Contractor shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute a Developer Event of Default under this Regulatory Agreement, and the County may enforce this provision through legal proceedings as specified in Section 3.9.

Section 3.6 Nondiscrimination. During the performance of this Agreement, Contractor and its subrecipients shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, gender identity, gender expression, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), genetic information, marital status, military and veteran status, and denial of medical and family care leave or pregnancy disability leave. Contractors and Sub Contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subrecipients shall comply with the provisions of California's laws against discriminatory practices relating to specific groups: the California Fair Employment and Housing Act (FEHA) (Gov. Code § 12900 et seq.); the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.); and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code, §§ 11135 - 11139.5), all as amended from time to time.

Section 3.7 Notice of Expiration of Term. Prior to the expiration of the Term, Contractor shall provide by first-class mail, postage prepaid, a notice to all residents containing the information and meeting the requirements set forth in California Government Code Sections 65863.10 and 65863.11, as such may be amended from time to time. If the Development is to be sold within the Term, Contractor shall provide the County with a notice of right of first refusal within the one hundred eighty (180) day period that qualified entities may purchase the Development.

Section 3.8 Covenants to Run With the Land. The County hereby declares its express intent that the provisions this Agreement shall run with the land and shall bind all successors in title to the Development; provided, however, that on the expiration of the Term, said covenants and restrictions expire.

Section 3.9 Enforcement by the County. Subject to Section E of the HHIP Loan Agreement, if the Contractor fails to perform any obligation under this Agreement, and fails to cure the default within the cure period specified there in or as applicable thirty (30) days after the County provided notice in writing of the default or, if the default cannot be cured within thirty (30) days, failed to commence to cure within thirty (30) days and thereafter diligently pursue such cure and complete such cure within sixty (60) days, the County shall have the right to enforce this Agreement by any remedy provided by law; including but not limited to an action at law or equity to compel Contractor's performance of its obligations hereunder, and/or for damages.

Section 3.10 Records. Contractor shall maintain complete, accurate and current records

pertaining to the Development, and shall permit any duly authorized representative of the County and Molina Healthcare of California Plan to inspect records, including records pertaining to Eligible Participants. All occupant lists, applications and waiting lists relating to the Development are to be at all times: (a) separate and identifiable from any other business of Contractor; (b) maintained as required by the County, in a reasonable condition for proper audit; and (c) subject to examination during business hours by representatives of the County. Contractor shall retain copies of all materials obtained or produced with respect to occupancy for a period of at least five (5) years.

ARTICLE 4 MISCELLANEOUS

Section 4.1 Governing Law and Venue. This Agreement is governed by the laws of the State of California and venued in San Bernardino County, California. Each party waives any law, statute (including, but not limited to, Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claims concerning the Agreement, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino.

Section 4.2 Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 4.3 Waiver of Requirements. Any of the requirements of this Agreement may be expressly waived by the County in writing, but no waiver by the County of any requirement of this Agreement shall, or shall be deemed to, extend to or affect any other provision of this Agreement.

Section 4.4 Recording and Filing. The County and Contractor shall cause this Agreement, and all amendments and supplements to it, to be recorded against the Property in the Official Records of the County of San Bernardino, in a lien position approved by the County, and over all other agreements, covenants, liens, or other matters of record on the Property unless approved by the County in writing.

Section 4.5 Amendments. This Agreement may be amended only by a written instrument duly recorded in the Official Records of the County of San Bernardino.

Section 4.6 Parties Bound. Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and shall bind Contractor and its successors and assigns in the Property and the Development for the entire Term, and the benefit hereof shall inure to the benefit of County and its successors and assigns.

Section 4.7 Attorneys' Fees. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, each party, including the prevailing party in such action, shall bear its own costs and expenses, including reasonable attorneys' fees in such action. This paragraph shall not apply to those costs and attorney's fees directly arising from a

third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

Section 4.8 Subordination. This Agreement shall be recorded in a lien position acceptable to the County and shall not be subordinated to any lien or encumbrance proposed to be recorded against the Property.

Section 4.9 Notice. All notices given or certificates delivered under this Agreement shall be in writing and be deemed received on the delivery or refusal date shown on the delivery receipt, if:
(a) personally delivered by a commercial service which furnishes signed receipts of delivery; or
(b) mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

County:

Community Development and Housing Department
San Bernardino County
560 East Hospitality Lane, Suite 200
San Bernardino, CA 92415-0043
Attn: Community Development and Housing Director

with copy to:

Goldfarb & Lipman, LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Rafael Yaquian

Contractor:

HHCA RE2421, LLC
3105 E. Guasti Rd., Suite 100
Ontario, CA 91761
Attn: Christal Hampton, Executive Director

Helping Hearts California, LLC
3105 E. Guasti Rd., Suite 100
Ontario, CA 91761
Attn: Christal Hampton, Executive Director

with copy to:

Fennemore
550 E. Hospitality Lane, Suite 350
San Bernardino, CA 92408
Attn: Kevin K. Randolph

Section 4.10 Assignment by the County. The County may assign its rights and obligations under this Agreement to any instrumentality of the County or other public entity.

Section 4.11 Hold Harmless. Contractor will indemnify and hold harmless (without limit as to amount) the County and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and

against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of, or relating in any manner to the Development, or the Contractor's performance or non-performance under this Agreement, and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent caused by the gross negligence or willful misconduct of the County or any Indemnitees. The provisions of this section shall survive expiration or other termination of this Agreement and the provisions of this section shall remain in full force and effect.

Section 4.12 Term. The provisions of this Agreement shall apply to the Development for the entire Term.

Section 4.13 Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the HHIP Loan and the operation of the Development.

Section 4.14 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts, and all of which taken together shall constitute this Agreement.

[Signatures on following page.]

WHEREAS, this Agreement has been entered into by the undersigned as of the date first written above.

COUNTY:

SAN BERNARDINO COUNTY, a political subdivision of the State of California

By: _____
Luther Snoke, Chief Executive Officer

APPROVED AS TO LEGAL FORM:

TOM BUNTON
County Counsel

By: _____
Suzanne Bryant, Deputy County Counsel

CONTRACTOR:

HCCA RE2421, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

Helping Hearts California, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

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)
)
COUNTY OF _____)

On _____, 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.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WEST 105 FEET OF THE NORTH 318 FEET OF LOT 391, TRACT 2258, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 32, PAGES 72 TO 77
INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY.
APN: **0263-151-25-0-000**

EXHIBIT B

A. Coordinated Entry System (CES)

The CES is a referral process that currently coordinates with the County Continuum of Care. All those participating will need to apply to participate with the Homeless Management Information System (HMIS).

1. Contractor must work to ensure the screening, assessment, and referral of Eligible Participants are consistent with the eligible uses under HHIP.
2. Contractor agrees to receive referrals from CES prior to providing services with the exception of individuals receiving emergency assistance. In such cases, immediate services can be provided, but individuals and/or families must be referred by Contractor to CES for assessment and prioritization within seventy-two (72) hours. Contractor understands that individuals and/or families may not be referred to Contractor and may be referred to another service provider based upon the CES assessment.

B. Data Reporting

1. Contractor will submit to the County detailed reports containing information listed below:
2. Contractor will submit detailed reports containing, at minimum, the following information:
 - Amount awarded to Contractor with activity(ies) identified;
 - Contract expenditures;
 - Unduplicated number of homeless persons and households served by HHIP Loan;
 - Unduplicated number of persons and households at imminent risk of homelessness served by HHIP Loan funds;
 - Number of instances of service;
 - Increases in capacity for new and existing programs;
 - Number of unsheltered homeless persons and homeless households becoming sheltered; and
 - Number of homeless persons and homeless households entering permanent housing.
 - Number of homeless persons and households successfully exited from HHIP (i.e., in permanent housing) that remain in permanent housing 12 months post-exit from HHIP-3.
 - Number of persons and households at imminent risk of homelessness successfully exited from HHIP (i.e., in permanent housing) that remain in permanent housing 12 months post-exit from HHIP.
3. Breakdowns will be expected for each activity (i.e. services, capital improvements, rental assistance, etc.) and program type (i.e. emergency shelter, rapid re-housing, outreach, etc.) for the supplemental reporting requirements listed above, when applicable. The same information will also be requested specifically for the following subpopulations, based on priorities defined by the U.S. Department of Housing and Urban Development:
 - Chronically homeless
 - Homeless veterans
 - Unaccompanied homeless youth

- Homeless persons in families with children
4. Counts by subpopulation will not be required in cases where that information is unavailable, but is expected in cases where client information is entered in the Homeless Management Information System (HMIS).

C. Homeless Management Information System (HMIS)

HMIS is a local database application used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness in the County. Contractor must ensure that data on all persons served are entered into the countywide HMIS. HMIS is managed and operated by the County OHS. HMIS technical and data standards are set forth in the Final 2017 HMIS Data Standards, on file with the County.

1. Contractor shall enter into a Memorandum of Understanding (MOU) with the HMIS Lead Agency where the Contractor agrees to share HMIS data with other agencies, unless prohibited by law.
2. Contractor is required to work with County (OHS) staff to ensure the timely and accurate set-up of their HMIS program profile and to ensure the HMIS program profile is setup in a manner that accurately captures the data pertinent to Contractor's program. Contractor's program profile must be setup prior to Contractor submitting their first HHIP Disbursement Request form.
3. Contractor shall submit a copy of HMIS reports, in a form to be provided by the County, with the quarterly expenditure reports. In the case of Domestic Violence service providers or other agencies prohibited from entering data into HMIS, documentation from the HMIS lead agency certifying that the Contractor is using a comparable database shall be delivered to the County. The contact information for the "HMIS Lead Agency" is:

HMIS Lead
 San Bernardino County
 Office of Homeless Services
 560 E. Hospitality Lane, Suite 200
 San Bernardino CA 92415-0044
 Phone: 909-386-1924

4. Contractor must ensure all required data elements, as listed below, are entered into the HMIS system for Eligible Participants, in a timely manner, and is inputted no later than two (2) working days after program entry. Services rendered to clients must be entered into HMIS no later than two (2) working days from date of service(s). All clients who exit the program must have an updated status in HMIS within two (2) working days from actual exit date. Failure to meet the above data inputting requirements will constitute a violation of the terms and conditions of this Agreement. Contractor will be notified by County (OHS) staff, and if not rectified, the Agreement may be terminated at the County's sole and absolute discretion.
5. In addition to the timely entry of HMIS data, Contractor is required to enter accurate and complete data. The County will ensure Contractor adheres to Data Quality Standards, as established by HUD, and data entry requirements, as set forth in the HMIS MOU and the OHS Policy Handbook. The Data Quality Standards assess the data quality and completeness of the following Data Elements entered:
 1. Client Demographic Data

- a) Name
 - b) Social Security Number
 - c) Date of Birth
 - d) Race
 - e) Ethnicity
 - f) Gender
 - g) Veteran Status
2. Universal Data
- a) Disabling Condition
 - b) Project Start Date
 - c) Project Exit Date
 - d) Destination
 - e) Relationship to Head of Household
 - f) Client Location
 - g) Housing Move-in Date
 - h) Living Situation
3. Common Program Specific Data Elements
- a) Income and Sources
 - b) Non-Cash Benefits
 - c) Health Insurance
 - d) Disability Elements
 - e) Physical Disability
 - f) Developmental Disability
 - g) Chronic Health Condition
 - h) HIV/AIDS
 - i) Mental Health Problem
 - j) Substance Abuse
 - k) Domestic Violence
 - l) Contact
 - m) Date of Engagement
 - n) Bed-Night Date
 - o) Housing Assessment Disposition
4. Data Timeliness
- a) Entry Timeliness
 - b) Exit Timeliness
6. According to Data Quality Standards, Contractor is required to have a five-percent (5%) or less error rate to ensure data accuracy and less than a five-day lapse in timeliness for entry of data at time of client entry, services are rendered, and client exit. Any performance benchmarks not meeting these standards will be captured on Contractor's HMIS Data Quality Report Sample, see Exhibit 5. The report will be generated by Contractor and submitted quarterly with expenditure reports. OHS will review reports and data deficiencies, if any, will be identified and discussed with Contractor to determine methods to remediate and/or improve data quality scores.
7. If Contractor continues to not meet data entry and data quality benchmarks, as established by HUD and set forth in the HMIS MOU and the OHS Policy Handbook, County may terminate Agreement as set forth in CORRECTION OF PERFORMANCE DEFICIENCIES Section.
8. Contractor agrees to provide the County and/or the State access to HMIS data collected and entered into HMIS, upon request, and to participate in any statewide data initiative

as directed by the State including, but not limited to, a statewide data integration environment.

Program Roster Report	SAMPLE	Agency Name Active within 06/01/2023 thru 06/30/2023
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Housing Move-in: Undefined = Unknown HoH or adjusted Move-in is Null, = Non PH Project, A: Assessments, S: Services, CN: Case Notes
 You can find more information about adjusted Move-In Date at the [Help Center Article](#)
 Head of Household (HoH) Unique Identifiers are listed in bold text. Household members are grouped together with the HoH

Client	Unique Identifier	Birth Date	Age At Entry	Current Age	Enroll Date	Exit Date	LOS	Housing Move-in	A	S	CN	Assigned Staff
Program: Sample Project Name												
Client 1	ABC12345	99/99/9999	43	45	09/30/2021	-	639	undefined	1	0	0	A Admin
Client 2	DEF12345	11/11/1111	57	66	07/11/2014	-	3,277	07/11/2014	10	0	0	A Admin
Client 3	GHI12345	22/22/2222	47	56	08/15/2014	-	3,242	08/15/2014	10	0	0	A Admin
Client 4	JKL12345	33/33/3333	23	26	04/03/2020	-	1,184	undefined	5	0	0	A Admin
Client 5	MNO12345	44/44/4444	36	48	03/08/2011	-	4,498	03/08/2011	13	0	0	A Admin
Client 6	PQR11111	66/66/6666	47	61	03/10/2010	-	4,861	03/10/2010	11	0	0	A Admin
Client 7	STU12345	55/55/5555	53	64	05/05/2012	-	4,074	05/05/2012	12	0	0	A Admin
Client 8	VWX22222	77/77/7777	53	56	12/30/2019	-	1,279	12/30/2019	4	0	0	A Admin
Client 9	YZ123456	88/88/8888	55	58	11/24/2020	-	949	undefined	3	0	0	A Admin
Client 10	BAC11111	-	-	-	05/10/2023	-	52	undefined	0	0	0	A Admin
Client 11	CAD22222	10/10/1010	60	60	05/18/2023	-	44	05/18/2023	0	0	0	A Admin

Number of Enrollments: 11
 Number of Unique Clients: 11
 Number of Households: 10

HMIS Data Quality Report [FY 2023]

Agency Name

CoC Category Filter: Agency CoC
Date Range: 10/01/2022 thru 06/30/2023

Q3. Universal Data Elements		
Program Applicability: All Projects		
Data Element	Error Count	% of Error Rate
Veteran Status (3.7)	0	0%
Project Start Date (3.10)	0	0%
Relationship to Head of Household (3.15)	0	0%
Client Location (3.16)	0	0%
Disabling Condition (3.8)	0	0%

Q4. Income and Housing Data Quality		
Program Applicability: All Projects		
Data Element	Error Count	% of Error Rate
Destination (3.12)	1	0.12%
Income and Sources (4.2) at Start	0	0%
Income and Sources (4.2) at Annual Assessment	0	0%
Income and Sources (4.2) at Exit	0	0%
Non-Cash Benefits (4.3) at Start	0	0%
Non-Cash Benefits (4.3) at Annual Assessment	0	0%
Non-Cash Benefits (4.3) at Exit	0	0%

Q5. Chronic Homeless							
Program Applicability: ES, SH, Street Outreach, TH & PH(All)							
Starting into project type	Count of total records	Missing time in institution (3.9.17.2)	Missing time in housing (3.9.17.2)	Approximate Date started (3.9.17.3)	Number of times (3.9.17.4)	Number of months (3.9.17.5)	% of records unable to calculate
				Missing	DK/R/missing	DK/R/missing	
ES, SH, Street Outreach	0			0	0	0	0%
TH	0	0	0	0	0	0	0%
PH (all)	512	0	0	0	0	0	0%
Total	512						0%

HMIS Data Quality Report [FY 2023]

Agency Name

CoC Category Filter: Agency CoC
Date Range: 10/01/2022 thru 06/30/2023

Q6. Timeliness		
Program Applicability: All Projects		
Time for Record Entry	Number of Project Start Records	Number of Project Exit Records
0 days	518	634
1-3 days	352	81
4-6 days	33	49
7-10 days	4	22
11+ days	12	37

Q7. Inactive Records: Street Outreach and Emergency Shelter			
Program Applicability: Street Outreach & ES-Night By Night			
Data Element	# of Records	# of Inactive Records	% of Inactive Records
Contact (Adults and Heads of Household in Street Outreach or ES-NbN)	0	0	0%
Bed Night (All clients in ES-NbN)	0	0	0%

Programs Included in Dataset

Agency	Program Name
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D. Program Participant Eligibility

Contractor shall ensure that:

1. Eligible Participants meet the Homeless definition as defined in Section 578.3 of Title 24 of the Code of Federal Regulations:
2. Eligible Participants are Molina Healthcare of California Plan members who are at risk of, have recently been, or are currently experiencing homelessness.
3. Contractor coordinates Program enrollment and services in collaboration with CES.

E. Job Training and Employment

Contractor agrees to refer Eligible Participants that are eligible for job training and employment services to the San Bernardino County Workforce Development Department (WDD). Contractor also agrees to refer eligible "work ready" clients to the County's Community Employment Pathways (CEP) program for job placement services. Number of participants who have been referred to WDD and CEP will be reported on a quarterly basis by Contractor.

F. Staffing Requirements

Contractor shall provide the necessary professional staff to meet the needs of the homeless population following the Housing First model (e.g., case managers, clinicians, medical staff, peer advocates, employment specialists, and eligibility specialists). Contractor must have the readiness capacity to immediately perform and administer homeless efforts through Grant Funding.

G. Equipment and Other Property

All equipment, materials, supplies or property of any kind (including vehicles, publications, copyrights, etc.) purchased with HHIP funds received under the terms of this Agreement which has a life expectancy of one (1) year or more shall be the property of the County and shall be subject to the provisions of this paragraph. The disposition of equipment or property of any kind shall be determined by the County when the Agreement is terminated. Additional terms are as follows:

1. The purchase of any furniture or equipment which was not included in Contractor's approved budget, shall require the prior written approval of the County, and shall fulfill the provisions of this Agreement which are appropriate and directly related to Contractor's services or activities under the terms of the Agreement. The County may refuse approval for any cost resulting from such items purchased, which are incurred by Contractor, if prior written approval has not been obtained from the County.
2. Before equipment purchases made by Contractor are approved by the County, Contractor must submit paid vendor receipts identifying the purchase price, description of the item, serial numbers, model number and location where equipment will be used during the term of this Agreement.
3. Contractor shall submit an inventory of equipment purchased under the terms of this Agreement as part of the expenditures report for the month in which the equipment is purchased. Contractor must also maintain an inventory of equipment purchased that, at a minimum, includes the description of the property, serial number or other identification number, title holder, acquisition date, cost of the equipment, location, use and condition of the property, and ultimate disposition data. A physical inventory of the property must be reconciled annually. Equipment should be adequately maintained and a control system in place to prevent loss, damage, or theft. Equipment with cost exceeding County's capitalization threshold of \$5,000 must be depreciated.
4. No costs incurred prior to the Agreement commencement date shall be eligible for reimbursement with HHIP funds.

5. Upon termination of this Agreement, Contractor will provide a final inventory to the County and shall at that time query the County as to requirements, including the manner and method in returning equipment to the County. Final disposition of such equipment shall be in accordance with instructions from the County.

H. Closeout

6. Contractor shall submit a closeout report including a narrative of the project outcomes, an inventory of all equipment and property acquired or improved by HHIP funds, and a final financial report, upon termination or completion of the services specified in this Agreement.
7. Contractor agrees to adhere to and comply with all the closeout procedures detailed below; including, but not limited to the following:
 - a. Disposition of Program assets shall be determined by the County when the Agreement is terminated.
 - b. Contractor shall submit within forty-five (45) days after the date of expiration of this Agreement, all financial, performance, and other reports required by this Agreement; and in addition, will cooperate in a Program audit by the County.
 - c. Any unobligated/unexpended funds disbursed in advance to Contractor shall be returned to the County within thirty (30) days after the expiration of the Agreement term, or in accordance with Section B.3.5.h, whichever occurs first. This term shall survive the expiration of the contract.
 - d. Contractor must account for any real and personal property acquired with HHIP-3 funds.
 - e. Closeout will remain pending until all requirements are met and all outstanding issues with the Contractor have been resolved to the satisfaction of the County.

EXHIBIT F

SCHEDULE OF PERFORMANCE

This Schedule of Performance summarizes the schedule for various activities under the HHIP Loan Agreement to which this Exhibit F is attached. The description of items in this Schedule of Performance is meant to be descriptive only and shall not be deemed to modify in any way the provisions of the Agreement to which such items relate.

Whenever this Schedule of Performance requires the submission of plans or other documents at a specific time, such plans or other documents, as submitted, shall be complete and adequate for review by the County or other applicable governmental entity within the time set forth herein. Prior to the time set forth for each particular submission, the Contractor shall consult with County staff informally as necessary concerning such submission in order to assure that such submission will be complete and in a proper form within the time for submission set forth herein.

Item	Obligation/Duty	Date of Completion
1.	<u>Submission of Organizational Documents.</u> Grantee has delivered to the County a copy of Grantee's organizational documents and a corporate resolution authorizing Grantee's execution of this Agreement and the transactions contemplated by this Agreement	Deemed completed.
2.	<u>Land Use Entitlements.</u> Grantee shall cause the land use entitlements and all permits and approvals for the necessary for the completion of the Scope of Work.	No later than August 31, 2024.
3.	<u>Submission of Proof of Insurance.</u> Grantee must furnish to County proof of insurance required under §4.10	Within three (3) days of the Effective Date, and then again three (3) days prior to commencement of construction of the Housing Improvements.
4.	<u>Submission of Construction Bonds.</u> Grantee shall obtain and submit proof of labor and material bond and performance and payment bond for Scope of Work.	Not later than seven (7) days prior to the proposed Commencement of Construction.
5.	<u>Submission of Construction Contract.</u> Grantee shall submit proposed Construction Contract for the Scope of Work.	Not later than seven (7) days prior to the proposed Commencement of Construction of Scope of Work.
6.	<u>Close of Escrow.</u> County Revocable Grant Deed of Trust and Regulatory Agreement are recorded against Grantee's fee interest in the Property.	At least 3 business days prior to submission of first draw of Grant Funds.
7.	<u>Commence Construction.</u>	On or before March 1, 2025.

	Grantee shall commence construction of the Scope of Work.	
8.	<u>Completion of Construction.</u> Grantee shall diligently complete construction of the Scope of Work.	No later than March 31, 2026.
9.	<u>Certificate of Occupancy.</u> County issues Certificate of Occupancy.	Within 5 business days of completion of construction for the Scope of Work
10.	<u>Prevailing Wages/Accessibility.</u> To the extent applicable the Grantee has submitted copies of all certified payrolls to the County, and any identified payment issues have been resolved, or Grantee is working diligently to resolve any such issues. Grantee shall submit a certification from the architect <u>or</u> an approved Certified Access Specialist certifying that the Development has been constructed in compliance with this Agreement or has provided the County with other evidence that the Development, as built, complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794, <u>et seq.</u>) and the Uniform Federal Accessibility Standards	Within ninety (90) days of completion of construction of the Scope of Work.

EXHIBIT G

REIMBURSEMENT DRAW REQUEST

County of San Bernardino Community Development and Housing Agency
 Project: Kern St.
 Developer: HHCA RE2421
 Entity to Be Paid: Draw (Invoice) Request #1
 Lead Project Manager:

<u>Budget Category</u>	<u>Vendor</u>	<u>Date Paid</u>	<u>Invoice #</u>	<u>Method of Payment</u>	<u>Description</u>	<u>Amount Paid</u>
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

Total Reimbursement Requested This Draw **0**

Prepared By: Print Name: Date:	Approved By: Print Name: Date:
Project Draw Dashboard Total Loan/Award Amount: Current Draw Request: % of Current Draw Cumulative Draws: Remaining Funds Available: % of Funds Drawn To Date:	
Internal Use Only: Invoice Number _____ Invoice Date _____ OK to Pay? <input type="checkbox"/> Sufficient Balances? <input type="checkbox"/> Contract Number: _____ WBSE: _____ WBSE: _____ WBSE: _____ IDIS Activity #: _____	
Finance Use Only: Vendor: _____ Vendor ID No: _____ PO No.: _____ Draw / Voucher: _____ Text Fold: _____ Interfund Transfer to other County Department: _____ From Cost Center: _____ GL Debit: _____ To Cost Center: _____ GL Credit: _____ AP Document No.: _____ GL: _____ AR Document No.: _____ GL: _____ AP Processor Date: _____ Initial: _____ AR Processor Date: _____ Initial: _____	
Project Manager _____ (Signature/Date)	Executive _____ (Signature/Date)

ATTACHMENT A

PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. Determination of Prevailing Rates:

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

a. Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
- iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;

- iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
 - v. Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.
- b. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

6. Limits on Hours of Work:

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Senate Bill 854 (Chapter 28, Statutes of 2014) and Senate Bill 96 (Chapter 28, Statutes of 2017) Requirements:

- a. Contractor shall comply with Senate Bill 854 and Senate Bill 96. The requirements include, but are not limited to, the following:
 - i. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).
 - ii. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5.
 - iii. This project is subject to compliance monitoring and enforcement by the DIR.
 - iv. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
 - v. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all public works projects.
 - 1) The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - 2) The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner.
 - 3) The certified payroll records must be in a format prescribed by the Labor Commissioner.
 - vi. Registration with the DIR and the submission of certified payroll records to the Labor Commissioner are not required if the public works project is \$25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is \$15,000 or less when the project is for maintenance work.

- b. Labor Code section 1725.5 states the following:

"A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e),

whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

c. Labor Code section 1771.1 states the following:

"(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work."

d. Labor Code section 1771.4 states the following:

"a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.”

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

b. Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

a. Submit Contract Award Information (DAS-140):

i. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.

ii. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice.*

iii. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.

iv. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.

- v. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.
- b. Employ Registered Apprentices
 - i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
 - ii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
 - iii. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
 - iv. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
 - v. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
 - vi. Only "registered" apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
- c. Make Training Fund Contributions
 - i. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
 - ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
 - iii. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
 - iv. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
 - v. The "training" contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

- a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
 - i. When the Contractor holds a sole proprietor license ("Owner-Operator") and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
 - ii. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
 - iii. When the Contractor has a direct contract with the Public Agency that is under \$30,000.
 - iv. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
 - v. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

- a. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:

- i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
 - ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
 - iii. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
 - iv. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.
- b. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

- a. The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.



ATTACHMENT B

Campaign Contribution Disclosure (SB 1439)

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: _____

2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?

Yes If yes, skip Question Nos. 3-4 and go to Question No. 5 No

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: _____

4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s):

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No If no, please skip Question No. 10.

Yes If yes, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Agreement is being considered and for 12 months after a final decision by the County.

EXHIBIT H
PROMISSORY NOTE

PROMISSORY NOTE

\$360,180

San Bernardino, California
May 21, 2024

FOR VALUE RECEIVED, HHCA RE2421, LLC, a California limited liability company and Helping Hearts California, LLC, a California limited liability company (collectively, the "Borrower"), promise to pay to San Bernardino County, a political subdivision of the State of California (the "County"), or order, the principal sum of up to Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) (the "HHIP Loan"), or so much as is disbursed to Borrower, plus interest thereon pursuant to Section 2 below.

1. Borrower's Obligation. This promissory note (the "Note") evidences the Borrower's obligation to pay the County the principal amount of up to Three Hundred Sixty Thousand One Hundred Eighty Dollars (\$360,180) for funds loaned to the Borrower by the County pursuant to that certain HHIP (Housing and Homelessness Incentive Program) Loan Agreement between, the Borrower and the County dated as of May 21, 2024, as such may be amended (the "Loan Agreement"). All capitalized terms not otherwise defined in this Note shall have the meanings set forth in the Loan Agreement.

2. Interest.

(a) Interest Rate. Subject to the provisions of Section (b) below, the outstanding principal balance of the HHIP Loan be 5.25% simple interest.

(b) Default Rate. In the event of a Default, interest on the HHIP Loan shall begin to accrue, as of the date of Default and continuing until such time as the HHIP Loan funds are repaid in full or the Default is cured, at the default rate of the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

3. Term and Repayment Requirements.

(a) The term of the County Loan shall commence on the date of this Note and shall expire ten (10) years from the Completion Date (as defined in the Loan Agreement), but in no event later than December 31, 2036.

(b) This Note shall be due and payable as set forth in Section B.3 of the Loan Agreement. Repayment of this Note shall be non-recourse to the Borrower pursuant to Section B.8 of the Loan Agreement.

4. No Assumption. This Note shall not be assumable by the successors and assigns of Borrower without the prior written consent of the County as provided in the Loan Agreement.

5. Security. This Note is secured by the Deed of Trust recorded against the Property.

6. Terms of Payment.

(a) All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) All payments on this Note shall be paid to the County at 560 E. Hospitality Lane, Suite 200, San Bernardino, CA 92415-0043 Attention: Community Development and Housing Director or to such other place as the County may from time to time designate in writing.

(c) All payments on this Note shall be without expense to the County, and the Borrower agrees to pay all costs and expenses, including reconveyance fees, incurred in connection with the payment of this Note and the release of any security hereof.

(d) Notwithstanding any other provision of this Note, or any instrument securing the obligations of the Borrower under this Note, if, for any reason whatsoever, the payment of any sums by the Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that the County may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall the Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

(e) The obligations of Borrower under this Note are absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

7. Default.

(a) Any of the following shall constitute an Event of Default under this Note:

(1) Any failure to pay, in full, any payment required under this Note when due following written notice by the County of such failure and five (5) days opportunity to cure;

(2) Any failure in the performance by the Borrower of any term, condition, provision or covenant set forth in this Note subject to the notice and cure period set forth in Section E of the Loan Agreement; and

(3) The occurrence of any Event of Default under the Loan Agreement, the Deed of Trust, the Regulatory Agreement, or other instrument securing

the obligations of the Borrower under this Note or under any other promissory notes hereafter issued by the Borrower to the County pursuant to the Loan Agreement or the Deed of Trust, subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of such an Event of Default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note shall at the option of the County become immediately due and payable upon written notice by the County to the Borrower without further demand.

(c) The County's failure to exercise the remedy set forth in Subsection 7(b) above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by the County of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of the County, except as and to the extent otherwise provided by law.

8. Waivers.

(a) The Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. The Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that the County may accept further security or release any security for this Note, all without in any way affecting the liability of the Borrower.

(b) No extension of time for payment of this Note or any installment hereof made by agreement by the County with any person now or hereafter liable for payment of this Note shall operate to release, discharge, modify, change or affect the original liability of the Borrower under this Note, either in whole or in part.

(c) The obligations of the Borrower under this Note shall be absolute and the Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

(a) All notices to the County or the Borrower shall be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as the County and the Borrower may hereinafter designate.

(b) The Borrower promises to pay all costs and expenses, incurred by the County in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

(f) This document, together with the County Documents (as defined in the Loan Agreement), contains the entire agreement between the parties as to the HHIP Loan. This Note may not be modified except upon written consent of the parties.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the first date written above.

BORROWER:

HHCA RE2421, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____

Helping Hearts California, LLC, a California limited liability company

By: _____

Name: _____

Its: _____

Date: _____