

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



**Contract Number**

**25-687**

**SAP Number**

## Department of Behavioral Health

<b>Department Contract Representative</b>	<u>Diana Barajas</u>
<b>Telephone Number</b>	<u>(909) 388-0862</u>
<b>Contractor</b>	<u>Horne, LLP Third-Party</u>
	<u>Administrator for CDSS</u>
<b>Contractor Representative</b>	<u>Alethia Thomas</u>
<b>Telephone Number</b>	
<b>Contract Term</b>	<u>Upon Execution through a minimum</u>
	<u>of 30 years</u>
<b>Original Contract Amount</b>	<u>\$10,515,038</u>
<b>Amendment Amount</b>	<u>N/A</u>
<b>Total Contract Amount</b>	<u>\$10,515,038</u>
<b>Cost Center</b>	
<b>Grant Number (if applicable)</b>	

### Briefly describe the general nature of the contract

Performance Deed of Trust, Security Agreement and Fixture Filing, and Declaration of Restrictions between San Bernardino County and the State of California, represented by the California Department of Social Services, to restrict the use of certain portions of County-owned real property (Assessor's Parcel Number 3105-191-11-0000), located at 13333 Palmdale Road in Victorville, for the provision of construction or rehabilitation of a residential adult and senior care facility, for a minimum of 30 years.

Program Funding Agreement ID: CCE-7120640339-208

#### FOR COUNTY USE ONLY

Approved by County Counsel

Dawn Martin  
Dawn Martin, County Counsel  
Date 9/4/2025

Reviewed for Contract Compliance

Michael Shin  
Michael Shin, Administrative Manager  
Date 9/4/2025

Reviewed/Approved by Department

Georgina Yoshioka  
Georgina Yoshioka, Director  
Date 9/4/2025

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Horne LLP (Horne)  
661 Sunnybrook  
Road, Suite 100,  
Ridgeland, MS 39157  
Attention: Alethia Thomas

NO FEE FOR RECORDING PURSUANT TO  
GOVERNMENT CODE SECTION 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DECLARATION OF RESTRICTIONS**

This Declaration of Restrictions (the "**Declaration**"), dated \_\_\_\_\_ for reference purposes, by San Bernardino County, a California County (the "**Owner**"), is hereby given to and on behalf of the Department of Social Services, a public agency of the State of California ("**CDSS**").

**RECITALS**

A. This Declaration affects Owner's interest in that certain real property commonly known as 13333 Palmdale Rd, located in the City of Victorville , County of San Bernardino, State of California, and the improvements thereon (the "**Property**"); as more particularly described and shown on Exhibit A attached hereto and depicted in yellow, and incorporated herein by this reference;

B. Owner and Horne LLP ("**Horne**"), as a contractor to CDSS, entered into that certain Program Funding Agreement, of even date herewith (the "**Program Funding Agreement**"), whereby Owner agreed to renovate or construct certain improvements on the Property and Horne agreed to disburse funds to Owner in accordance with the terms thereof (in an amount not to exceed Ten Million Five Hundred Fifteen Thousand Thirty-Eight Dollars (\$10,515,038) (the "**Program Funds**");

C. The Program Funds are provided pursuant to the Community Care Expansion Program, authorized under Welfare and Institutions Code Section 18999.97-18999.98, established by California Assembly Bill No. 172 (Chapter 696, Statutes of 2021), to fund the acquisition, construction, or rehabilitation of adult and senior care facilities that service applicants and recipients of Supplemental Security Income/State Supplementary Payment ("**SSI/SSP**") and Cash Assistance Program for Immigrants ("**CAPI**") applicants and recipients who are experiencing or are at risk of homelessness; and

D. This Declaration shall be secured by a Performance Deed of Trust, the form of which is set forth in Attachment J to the Program Funding Agreement, encumbering Owner's fee interest in the Property; and the Property shall be owned, held, used, maintained, and transferred pursuant to the covenants, conditions, restrictions, and limitations as further described herein.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner hereby covenants, agrees, and declares the following:

### **AGREEMENT**

1. **Use of Property.** Owner, for itself, and for its successors and assigns, hereby declares and covenants that for the term of this Declaration, all use of the Property, and any improvements thereon, shall be restricted to continuous, and lawful use in accordance with the uses described in Exhibit B, attached hereto and incorporated by this reference. Any such other use shall require the express prior written approval of Horne or CDSS in its sole and absolute discretion and the recording of a new Declaration of Restrictions reflecting the use(s) agreed upon which shall thereafter supersede this Declaration.

2. **Maintenance, Repair, and Improvement of the Property.** Owner agrees:

2.1. To keep the Property, and all improvements thereon, in decent, safe, and sanitary condition and repair, and to permit no waste thereof;

2.2. Not to commit or suffer to be done or exist on or about the Property any condition causing the Property to become less valuable, except in accordance with this Declaration;

2.3. Not to construct any buildings or improvements on the Property, other than the buildings and improvements contemplated as part of this Declaration, that would detrimentally affect the Property; or add to, remove, demolish or structurally alter any buildings or improvements included as part of the Property, now or hereinafter located on the Property;

2.4. To promptly repair, restore or rebuild any buildings or improvements on the Property that may be damaged or destroyed while subject to this Declaration;

2.5. To comply with all applicable laws affecting the Property, and not to suffer or permit any violations of any such applicable law, nor of any covenant, condition or restriction affecting the Property;

2.6. Not to initiate or acquiesce in any change in any zoning or other land use or legal classification which affects any of the Property without Horne or CDSS's prior written consent; and

2.7. Not to alter the use of all or any part of the Property without Horne or CDSS's prior written consent.

3. **Restrictions on Sale, Encumbrance, and Other Acts.**

3.1. Owner shall not, except with Horne or CDSS's prior written consent, make any sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, or transfer of the Property or of any of its interest in the Property.

3.2. If Horne or CDSS determine, in their sole and absolute discretion, to grant prior written consent for a sale, transfer or conveyance of the Property, such consent may impose terms and conditions, as necessary, to preserve or establish the fiscal integrity of the Property or to ensure compliance with this Declaration and/or Program Requirements.

3.3. Charges; Liens. Owner shall pay all taxes, assessments, and other charges, fines and impositions attributable to the Property, if any, by Owner making payment, when due, directly to the payee thereof. Owner shall promptly furnish to Horne or CDSS all notices of amounts due under this subsection, and where Owner makes direct payments, Owner shall promptly furnish to Horne or CDSS its receipts evidencing such payments. Owner shall pay when due all encumbrances, charges, and liens on the Property, and shall make payments on notes or other obligations secured by an interest in the Property, with interest in accordance with the terms thereof. Owner shall have the right to contest in good faith any claim or lien, or payment due thereunder, so long as Owner does so diligently and without prejudice to Horne or CDSS.

4. Building Permits. Owner agrees not to apply for or accept any permits for the construction of improvements on the Property that are inconsistent with the lawful operation of the Property, as such Property is described in this Declaration.

5. Hazard and Liability Insurance and Condemnation.

5.1. Owner shall keep the Property insured against loss by fire and such other hazards, casualties, liabilities, and contingencies, and in such amounts and for such periods as required by Horne and CDSS. All insurance policies and renewals thereof shall be issued by a carrier and in a form acceptable to Horne and CDSS.

5.2. In the event of any fire or other casualty to the Property or eminent domain proceedings resulting in condemnation of the Property or any part thereof, the Owner shall have the right to rebuild the Property and to use all available insurance or condemnation proceeds therefor; provided that, as determined by Horne or CDSS in its sole and absolute discretion: (a) such proceeds are sufficient to rebuild the Property in a manner that ensures continued operation in accordance with this Declaration; and (b) no material breach or default then exists under the Program Funding Agreement. If the casualty or condemnation affects only part of the Property and if total rebuilding is infeasible, then the insurance or condemnation proceeds may be used for partial rebuilding and/or partial repayment of the Program Funds. CDSS or Horne has the right but not the obligation to approve the plans and specifications for any major rebuilding, as well as the right but not the obligation to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement.

6. Covenants Run with the Land. The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to this Declaration. The foregoing Declaration is intended to constitute both equitable servitudes and covenants running with the land. Owner expressly acknowledges and agrees that the Declaration is a reasonable restraint on the Owner's right to own, use, maintain, and transfer the Property and any estate or interest therein and is not and shall not be construed to be an unreasonable restraint

on alienation. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property, or any portion thereof, shall be held conclusively to have been executed, delivered, and accepted subject to this Declaration, regardless of whether this Declaration is set forth in such contract, deed, or other instrument.

7. **Binding on Successors and Assigns.** The Declaration contained herein shall be binding upon all of Owner's successors, assigns and transferees to or of the Property, and upon all leases, tenants, contractors, agents, and persons claiming an interest in the Property, or claiming an interest by and through any of the foregoing. Any transferee or purchaser of the Property, or of any portion of, or interest in the Property, by the acceptance of a deed therefore, whether from the Owner or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the Property, shall by the acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to and accepted the covenants and restrictions set forth in this Declaration.

8. **Term of Declaration.** The covenants in this Declaration shall be binding, effective, and enforceable commencing upon the recordation of this Declaration in the official records of the county in the jurisdiction where the Property is located, and they shall continue in full force and effect for a period of not less than 30 years after the date of recording of this Declaration (the "**Restriction Period**"), regardless of any sale, assignment, transfer, or conveyance (including, without limitation, by foreclosure sale) of the Property or any portion thereof.

9. **Default, Remedies.** A default under this Declaration shall constitute a default under the Program Funding Agreement; and a default under this Declaration shall entitle CDSS or Horne to any rights, remedies, or damages available at law or in equity, including, but not limited to, those that are specified below. CDSS's or Horne's failure to exercise any specific right or remedy shall not be construed as a waiver of that or any right or remedy.

9.1. **Specific Performance.** The use, repair, and maintenance of the Property is of a special and unique kind and character, so that a breach of any material provision of this Declaration by the Owner would not have an adequate remedy at law. Therefore, Horne or CDSS's rights may be enforced by an action for specific performance and such other equitable relief as is provided by the laws of the State of California.

9.2. **Injunctive Relief.** In pursuing specific performance of the Declaration, Horne or CDSS shall be entitled to petition the court for injunctive relief to preserve Horne or CDSS's interests in the Property and its rights under this Declaration. Such injunctive relief may include a court order restraining any development of the Property that is inconsistent with the foregoing Declaration.

9.3. **Appointment of Receiver.** In conjunction with any other remedy available at law or in equity, Horne or CDSS may apply to a court of competent jurisdiction for the appointment of a receiver to take over and operate the Property in accordance with the requirements of this Declaration.

9.4. Notwithstanding the foregoing or anything to the contrary contained herein, CDSS shall be entitled to any rights, remedies, or damages available pursuant to that

certain Performance Deed of Trust executed by Owner, as Trustor, therein, on or about of even date herewith, and recorded in the official records of the county in the jurisdiction where the Property is located.

10. **Horne and CDSS Review and Inspection.**

10.1. At any time during the term of this Declaration and upon reasonable notice, Horne, CDSS, or their designees may, but are not obligated to, enter and inspect the Property, and inspect all records pertaining to the operation, repair, and maintenance of the Property. Upon request by Horne or CDSS, the Owner shall notify occupants of upcoming inspections in accordance with state law.

10.2. CDSS or Horne may, but is not obligated to, request any other information that it deems necessary to confirm compliance with this Declaration. The Owner shall provide such requested information within fourteen (14) calendar days of Horne's or CDSS's written request for the information.

10.3. During the Term of this Declaration, Owner shall submit to CDSS, or Horne, as required by Horne, or CDSS, in their sole discretion, written documentation, in a form and at a frequency acceptable to Horne, or CDSS, in their sole discretion, providing sufficient detail and with sufficient supporting information to permit Horne, or its designee, or CDSS, or its designee, to monitor and confirm that Owner's uses of the Property are in accordance with the uses described in this Declaration, including, Exhibit B, attached hereto.

10.4. CDSS or Horne shall not, by the fact of making or not making any entries or inspections, or by taking or failing to take any action in response thereto: (i) incur or undertake, or be deemed to incur or undertake, any obligation, duty, or liability whatsoever, whether to the Owner, or to any other person or entity; (ii) be deemed as approving or disapproving any matter, action, incident, or condition related to the Property; or (iii) be deemed as approving or disapproving any matter related to the compliance of the Property with this Declaration or other applicable laws. In no event or circumstance shall Horne's or CDSS's exercise or non-exercise of its discretion under this subsection constitute, or be deemed or interpreted as constituting, any termination, limitation, alteration, or waiver by Horne or CDSS of any right, benefit, or remedy under or with respect to this Declaration.

11. **Owner Representations.** Owner represents and warrants to Horne and CDSS that: (1) Owner has sufficient interest in the Property to support the operation of the Property in accordance with this Declaration; (2) to Owner's actual knowledge and belief, there are no agreements, contracts, covenants, conditions, or exclusions to which Owner (or its predecessor in interest) is a party which would, if enforced, prohibit or restrict the use of the Property in accordance with the terms of this Declaration; (3) Owner has the full right and authority to enter into this Declaration; (4) this Declaration constitutes a valid and legally binding obligation on Owner, enforceable in accordance with its terms; and (5) Owner is duly organized and authorized to do business in the State of California.

12. **Amendment, Modification.** Owner shall not amend, modify, waive, or release this Declaration, or any part of this Declaration, without the prior and express written consent of

an authorized representative of Horne or CDSS, which consent may be withheld, conditioned, or delayed in Horne's or CDSS's sole and absolute discretion. Any amendment, modification, waiver, or release without the prior and express written consent of Horne or CDSS shall be void.

13. **Severability**. Every provision of this Declaration is intended to be severable. If any provision of this Declaration is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

14. **Governing Law**. This Declaration shall be governed by and interpreted under the laws of the State of California.

15. **Recordation of Agreement**. This Declaration shall be recorded in the official records of the County of San Bernardino no later than \_\_\_\_ [DATE]. The Declaration shall be recorded, and shall remain, as a lien against the Property in first position over all other agreements, covenants, liens, or other matters of record on the Property.

**SIGNATURE ON FOLLOWING PAGE**

**IN WITNESS WHEREOF**, the Owner has caused this Declaration to be signed by its duly authorized representative, as of the day and year first written above.

OWNER:

San Bernardino County, a California County

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

Dawn Rowe

Its: Chair, Board of Supervisor

**All signatures must be acknowledged.**

ADD NOTARY ACKNOWLEDGEMENT



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
SAN BERNARDINO COUNTY )

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.

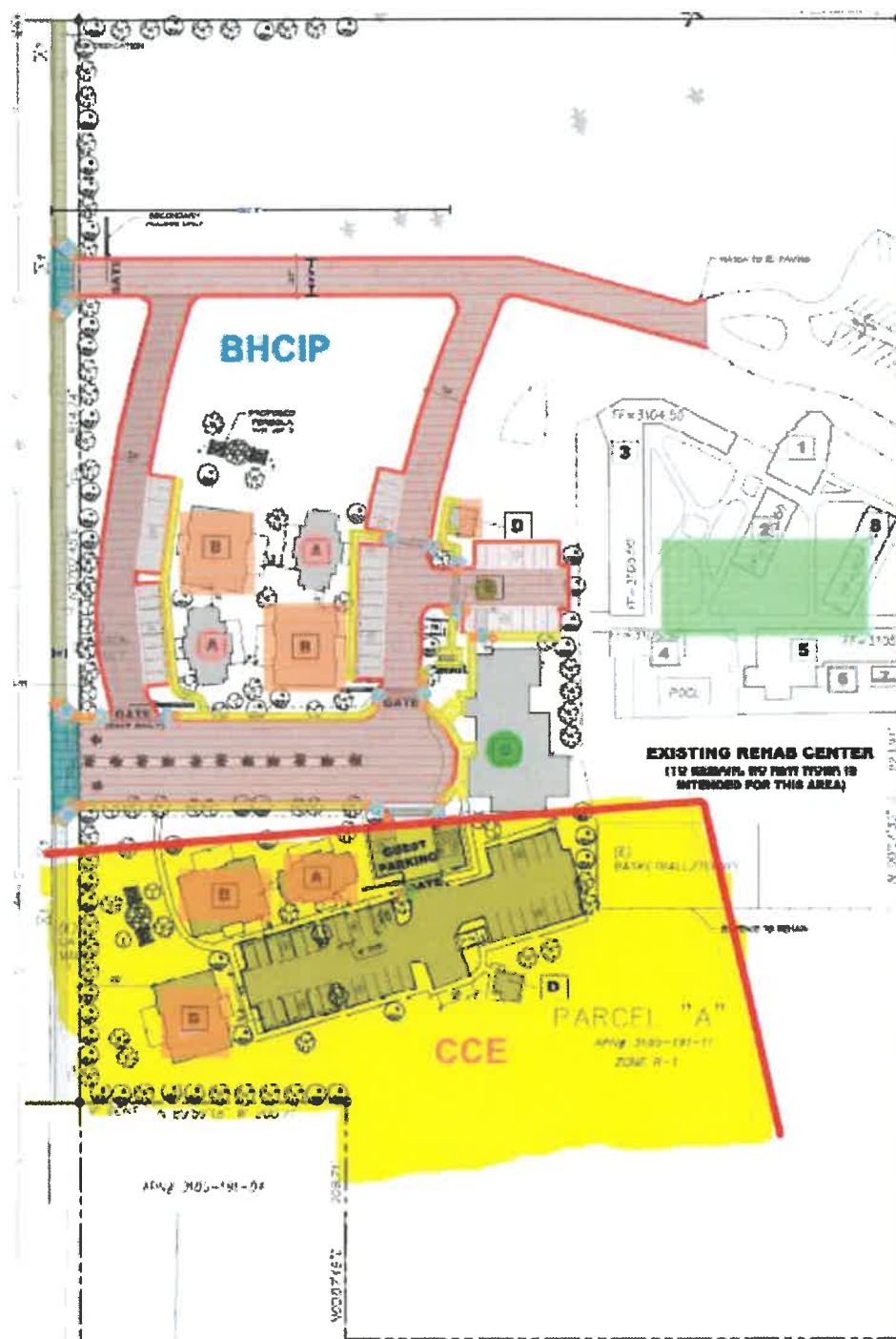
WITNESS my hand and official seal.

Name: \_\_\_\_\_  
Name: Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

**[TO BE INSERTED BY TITLE COMPANY]**



ATTACHMENT I-1

## DECLARATION OF RESTRICTIONS

I-10

**EXHIBIT "B"**  
**PROPERTY AND OPERATIONS**

A residential adult and senior care facility where 40 beds/units are prioritized for Qualified Residents experiencing or at risk of homelessness. For purposes of this Declaration, "Qualified Resident" shall have the meaning set forth in California Welfare and Institutions Code Section 18999.97(e) and "prioritized" shall mean a preferential interest in occupancy of each designated bed or unit.

If after applying best efforts to identify and enroll a Qualified Resident experiencing homelessness or at risk of homelessness for each designated bed or unit, no such person(s) is identified, the Owner may identify and enroll a Qualified Resident for each designated bed or unit; if after applying best efforts to identify and enroll a Qualified Resident for each designated bed or unit, the Owner also cannot identify and enroll a Qualified Resident, the Owner may enroll a non-Qualified Resident for the designated bed or unit.

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Horne LLP (Horne)  
661 Sunnybrook  
Road, Suite 100,  
Ridgeland, MS 39157  
Attention: Alethia Thomas

NO FEE FOR RECORDING PURSUANT TO  
GOVERNMENT CODE SECTION 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**PERFORMANCE DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE  
FILING**

THIS PERFORMANCE DEED OF TRUST, SECURITY AGREEMENT AND  
FIXTURE FILING ("Performance Deed of Trust") is made as of \_\_\_\_\_, 2025, by and  
among San Bernardino County, a California County ("Trustor"), First American Title  
Company, a California corporation ("Trustee"), and the Department of Social Services, a public  
agency of the State of California ("Beneficiary").

**RECITALS**

A. Trustor owns a fee title interest in that certain real property commonly known as  
13333 Palmdale Rd , located in the City of Victorville , County of San Bernardino, State of  
California, and the improvements thereon (the "Property"); as more particularly described and  
shown on Exhibit A attached hereto, and depicted in yellow, and incorporated herein by this  
reference;

B. Trustor and Horne LLP ("Horne"), as a contractor to CDSS, entered into that  
certain Program Funding Agreement, of even date herewith (the "Program Funding  
Agreement"), whereby Trustor agreed to renovate or construct certain improvements on the  
Property and Horne agreed to disburse funds to Trustor in accordance with the terms thereof (in  
an amount not to exceed Ten Million Five Hundred Fifteen Thousand Thirty-Eight  
Dollars (\$10,515,038) (the "Program Funds");

C. The Program Funds are provided pursuant to the Community Care Expansion  
Program, authorized under Welfare and Institutions Code Section 18999.97-18999.98,  
established by California Assembly Bill No. 172 (Chapter 696, Statutes of 2021), to fund the  
acquisition, construction, or rehabilitation of adult and senior care facilities that service  
applicants and recipients of Supplemental Security Income/State Supplementary Payment  
("SSI/SSP") and Cash Assistance Program for Immigrants ("CAPI") applicants and recipients,  
including those adults who are experiencing or are at risk of homelessness;

D. As a condition of receiving the Program Funds, the Beneficiary is requiring  
Trustor to execute and record against the Trustor's fee interest in the Property, a Declaration of  
Restrictions of even date herewith (the "Declaration of Restrictions") limiting the use of the

Property to certain restricted uses, as specified in the Declaration of Restrictions. The Declaration of Restrictions is required to be secured by this Performance Deed of Trust encumbering Trustor's fee interest in the Property; and

E. Trustor has agreed to execute and deliver to Beneficiary this Performance Deed of Trust as security for the performance of all obligations of Trustor under the Program Funding Agreement, and the Declaration of Restrictions (collectively, this Performance Deed of Trust, the Program Funding Agreement, and the Declaration of Restrictions shall be referred to herein as the "Program Documents") and any and all modifications, extensions, amendments, replacements thereto, and under any other instrument or agreement entered into by and between Beneficiary and Trustor related to the Property.

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Trustor hereby covenants, agrees, and declares the following:

## ARTICLE 1 GRANT OF SECURITY INTEREST

### Section 1.1 Grant of Security Interest.

By executing and delivering this Performance Deed of Trust, the Trustor irrevocably grants to the Trustee, in trust for the benefit of the Beneficiary as security for the performance of the obligations described in Section 1.2, with a power of sale, and subject to the terms of this Performance Deed of Trust, all of Trustor's interests, estates, rights, and claims in or to the Security whether the interest, estate, right, or claim is held by the Trustor as of the date of this Deed of Trust or arises in the future.

Security means:

- (a) Trustor's fee interest in the Property;
- (b) all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property;
- (c) 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;
- (d) 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;
- (e) all building materials and equipment now or hereafter delivered to said property and intended to be installed therein;
- (f) 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

ATTACHMENT J-1

PERFORMANCE DEED OF TRUST

J-2

Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

(g) 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;

(h) 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 shall be attached to said building or buildings in any manner; and

(i) 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, 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.

## Section 1.2 Secured Obligations.

The grant made in Section 1.1 is made as security for the following obligations of Trustor:

(a) Due, prompt and complete observance, performance and discharge of each and every obligation, covenant or agreement of Trustor contained herein and in the other Program Documents and any and all modifications, extensions, amendments, replacements thereto, and contained in any other instrument or agreement entered into between Beneficiary and Trustor relating to the Property, which documents are incorporated herein by reference; and

(b) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Performance 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.

ARTICLE 2  
MAINTENANCE AND MODIFICATION OF THE PROPERTY  
AND SECURITY

Section 2.1     Maintenance and Modification of the Property by Trustor.

The Trustor agrees that at all times prior to the expiration or early termination of the Program Documents, 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.

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 reasonably deems necessary or desirable to protect its interest in and to the Security or the Program 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, and all such rights of the Beneficiary shall be subject to the rights of senior lenders approved by the Beneficiary.

Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary shall specify upon laborers, materialmen, 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, upon written request of the Beneficiary, 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 required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those required by law and as approved, in writing, by Beneficiary, which approval shall not be unreasonably delayed, conditioned, or withheld.



### ARTICLE 3 TAXES AND INSURANCE; ADVANCES

#### Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching, 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: (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings; and (b) 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 (b) 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.

In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the 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 an additional obligation of Trustor to the Beneficiary and shall be secured hereby, and Trustor agrees to pay all such amounts.

#### Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to that required under the Program Documents during the course of any construction and operation of the improvements located on the Property, and at all times until all obligations secured hereunder fulfilled and all amounts secured have been paid, and this Performance Deed of Trust reconveyed.

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 the expiration of the Program Documents.

#### Section 3.3 Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Performance Deed of Trust or shall fail to keep the Security in accordance with the Program Documents, the Beneficiary, after at least seven (7) days prior notice to Trustor, 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 an additional obligation of the Trustor to the Beneficiary (together with interest as set forth below) and shall be secured hereby, which amounts the 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 DAMAGE, DESTRUCTION OR CONDEMNATION

##### Section 4.1 Awards and Damages.

Subject to the rights of senior mortgage lenders approved by the Beneficiary, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of: (a) taking of all or any part of or any interest in the Property by or under assertion of the power of eminent domain; (b) any damage to or destruction of the Property or in any part thereof by insured casualty; and (c) any other injury or damage to all or any part of the Property ("Funds") are hereby assigned to and shall be paid to the Beneficiary by a wire transfer or check made payable to the Beneficiary. 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 Performance 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, and Beneficiary agrees to release Funds to Trustor to rebuild the improvements located on the Property provided Trustor demonstrates to Beneficiary that such rebuilding is economically feasible. 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 Performance Deed of Trust. All rights of the Beneficiary under this Section are subject to the rights of any senior mortgage lender approved by the Beneficiary.

#### ARTICLE 5 AGREEMENTS AFFECTING THE PROPERTY; FURTHER ASSURANCES

##### 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 Program Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

##### Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined below) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the

Trustor in this Performance Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary; and any such amounts paid by the Beneficiary shall be added to the indebtedness secured by the lien of this Performance Deed of Trust, and shall bear interest from the date such expenses are incurred at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

### Section 5.3 Personal Property.

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

### Section 5.4 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. 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 Trustor's obligations under the Program Documents. 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 5.5 Operation of the Security.

The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Performance Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Program Documents.

### Section 5.6 Inspection of the Security.

At any and all reasonable times upon forty-eight (48) hours' notice, 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.

### Section 5.7 Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease,

sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it 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, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

## ARTICLE 6 HAZARDOUS WASTE

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 and lawfully kept and used in the rehabilitation and/or operation of the Property or as may be customarily kept and used in and about facilities such as the Property.

Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of (i) 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"); (ii) 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 (i) and (ii) above hereinafter referred to a "Hazardous Materials Claims"); and (iii) 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" 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.

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, defend, and hold harmless Beneficiary 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: (a) all foreseeable consequential damages; (b) 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 (c) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees.

Without Beneficiary's prior written consent, which shall not be unreasonably withheld, 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 judgement, 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. Beneficiary 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) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) 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 (iv) the action has been agreed to by Beneficiary.

The Trustor hereby acknowledges and agrees that: (i) this Article is intended as the Beneficiary's written request for information (and the Trustor'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 Performance Deed of Trust or any of the other Program 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 the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

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 Performance 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 (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment, and (b) 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), the 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 the 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 lesser of ten percent (10%) or the maximum rate permitted by law, until paid, shall be added to the indebtedness secured by this Performance 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.

The 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 following the expiration of any applicable notice and cure periods: (a) failure to observe or perform any of Trustor's covenants, agreements or obligations under this Performance Deed of Trust; (b) violation of any of the covenants, agreements or obligations under any of the other Program Documents; or (c) failure to make any payment or perform any of Trustor's other covenants, agreements, or obligations under any other debt instruments or regulatory agreement secured by the Property, which default shall not be cured within the times and in the manner provided therein.

### Section 7.2 The Beneficiary's Right to Enter and Take Possession.

All rights of the Beneficiary under this Section are subject to the rights of any senior mortgage lender approved by the Beneficiary. If an Event of Default shall have occurred 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 Default (as defined below) hereunder or invalidate any act done in response to such Event of Default or pursuant to such Notice of Default and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Performance 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 Performance 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 demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Default and Election to Sell"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the county in the jurisdiction where the Property is located; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the 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 obligations secured hereby, or provided by law.

(e) Notwithstanding the above, at its election, Beneficiary may exercise the remedies of specific performance or injunctive relief at any time in the event of a default under or breach of the terms of the Program Documents.

#### Section 7.3 Foreclosure By Power of Sale.

(a) Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall give notice to the Trustee (the "Notice of Sale") and shall deposit with Trustee this Performance Deed of Trust which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the performance obligations or sums due under the Program Documents are immediately required, or 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 from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required by law and by this Performance 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 Default and Election to Sell and after 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 the 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 such purchaser or purchasers.

(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) amounts due to Beneficiary with respect to the Program Documents,

including the amounts set forth in Section 6.2 above; (2) all other sums then secured hereby; and (3) 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 7.4 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 7.5 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Performance 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 7.6 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 Performance 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 the 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 the Trustor.

(b) If the Beneficiary (1) grants forbearance or an extension of time for the payment or performance of any of Trustor's obligations secured hereby; (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 Program Documents; (4) releases any part of the Security from the lien



of this Performance Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Program Documents; (5) consents to the granting of any easement or other right affecting the Security; (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 Performance Deed of Trust, or any other obligation of the 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 Performance Deed of Trust be altered thereby.

Section 7.7 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 Performance Deed of Trust; (b) preserve or protect its interest (as described in this Performance 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 7.8 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Trustee, 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 the Trustor hereunder after such date.

Section 7.9 Waiver.

The 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 sums owing under the Program Documents or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Performance Deed of Trust.

ARTICLE 8  
MISCELLANEOUS

Section 8.1 Amendments.

This instrument 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 obligations secured hereby have been performed in full, and upon surrender of this Performance 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.

If at any time after the execution of this Performance 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:

State of California  
California Department of Social Services  
744 P Street MS 8-4-70  
Sacramento, CA 95814  
Attention: Housing and Homelessness Division

with a copy to:

Horne LLP (Horne)  
400 Capitol Mall, Suite 1535  
Sacramento, CA 95814  
Attention: Geoffrey Ross and Dania Khan

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

**San Bernardino County**  
Georgina Yoshioka, Director  
303 E. Vanderbilt Way 4th Floor,  
San Bernardino, CA 92410  
Attn: Georgina Yoshioka

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.

Copies of notices to Trustor from the Beneficiary shall also be provided by the Beneficiary to any senior lender and any limited partner of Trustor who requests such notice in writing and provides the Beneficiary with written notice of its address in accordance with this Section.

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 Performance Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation shall be deemed to be joint and several obligations of the 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 obligations 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 Performance Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Performance 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 Performance 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 Performance Deed of Trust.

Section 8.7 Governing Law.

This Performance Deed of Trust shall be governed by and construed in accordance with the laws of the State of California. Any action brought claiming a breach of this agreement or interpreting this agreement shall be brought and venued in Sacramento County, California.

Section 8.8 Gender and Number.

In this Performance 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 Performance Deed of Trust. Mortgage.

Any reference in this Performance Deed of Trust to a mortgage shall also refer to a Performance Deed of Trust and any reference to a Performance 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 Performance Deed of 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 Performance 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 Performance Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee.

Trustee accepts this appointment when this Performance 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 Performance 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 Subordination.

Upon request by Trustor, Beneficiary (acting on Beneficiary's own behalf or through Horne, or any successor administrator) agrees to subordinate this Performance Deed of Trust to only the following liens, deeds of trust, and monetary encumbrances: (i) liens for property taxes and assessments; (ii) deeds of trust to secure payment obligations due on a current basis with respect to the Property or other security executed by Trustor for the benefit of a lender concurrently with or prior to the date of recording this Performance Deed of Trust; and such subordination may be evidenced by a separate subordination agreement recorded in the Official Records of the county in the jurisdiction where the Property is located.

**SIGNATURE ON FOLLOWING PAGE**

IN WITNESS WHEREOF, Trustor has executed this Performance Deed of Trust as of the day and year first above written.

TRUSTOR:

San Bernardino County, a California  
County

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

Name: Dawn Rowe, Chair Board of Supervisors

Its: \_\_\_\_\_

Date: \_\_\_\_\_

*[Signature must be notarized]*

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                     )  
   )  
SAN BERNARDINO COUNTY                )

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.

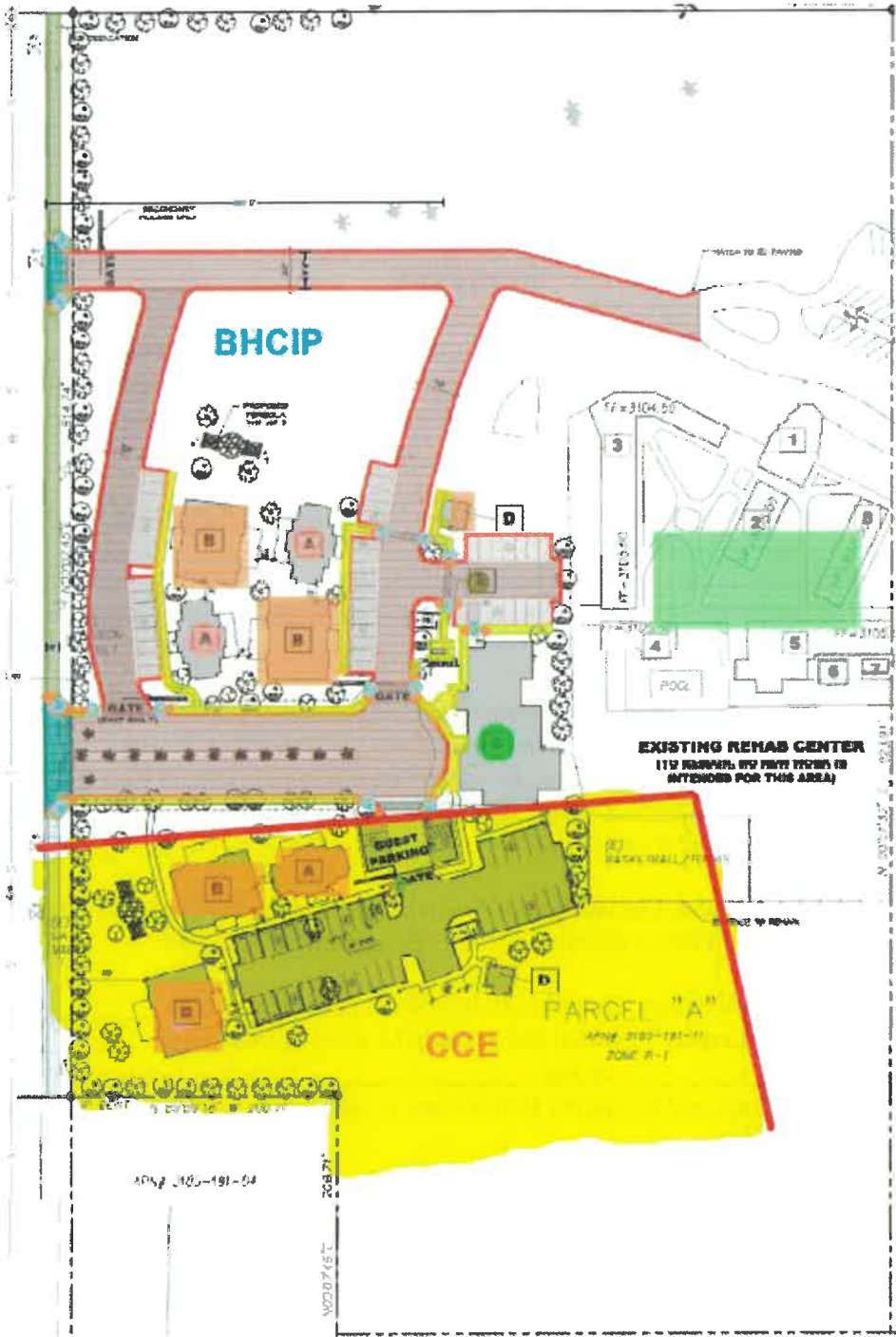
WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Name: Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

**[TO BE INSERTED BY TITLE COMPANY]**





**PERFORMANCE DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE  
FILING ADDENDUM**

This Performance Deed of Trust, Security Agreement and Fixture Filing Addendum (the “**Addendum**”) is made as of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”), by and between San Bernardino County, a California County (“**Trustor**”), First American Title Company, a California corporation (“**Trustee**”) and the Department of Social Services, a public agency of the State of California (“**Beneficiary**”).

**RECITALS**

A. Trustor and Horne LLP (“**Horne**”), as contractor to Beneficiary, entered into that certain Program Funding Agreement dated \_\_\_\_\_ (“**Agreement**”), pursuant to which Trustor was allocated funds pursuant to the Community Care Expansion Program (“**Program Funds**”) for the purposes of developing the project (“**Project**”).

B. Trustor and Beneficiary entered into a Declaration of Restrictions dated \_\_\_\_\_, and recorded on \_\_\_\_\_ as No. \_\_\_\_\_ (the “**Declaration of Restrictions**”), in the Official Records of \_\_\_\_\_ County, limiting the use of the Property to certain restricted uses, as specified in the Declaration of Restrictions.

C. Trustor entered into the Performance Deed of Trust, Security Agreement and Fixture Filing dated \_\_\_\_\_ and recorded on \_\_\_\_\_ as No. \_\_\_\_\_ (the “**Performance Deed of Trust**”) in the Official Records of San Bernardino County, as security for the performance of all obligations of Trustor under the Agreement and Declaration of Restrictions.

D. The Agreement, Declaration of Restrictions, and the Performance Deed of Trust are sometimes referred to in this Addendum as the “**Program Documents**”.

E. By this Addendum, Beneficiary intends to provide rights to \_\_\_\_\_ (the “**Senior Mortgage Lender**”), which has recorded a deed of trust dated \_\_\_\_\_, and recorded on \_\_\_\_\_ as No. \_\_\_\_\_, higher in lien priority to the Performance Deed of Trust and to subject Beneficiary to additional notice, timing, and approval rights of the Senior Lender.

F. Trustor and Beneficiary wish to modify and add to the terms of the Performance Deed of Trust as set forth in this Addendum, and this Addendum is incorporated in the Performance Deed of Trust by this reference.

G. Capitalized words used without definition in this Addendum shall have the same meaning as defined in the Performance Deed of Trust.

NOW, THEREFORE, Trustor hereby covenants, agrees, and declares as follows:

**1. STAND STILL PERIOD.** The Stand Still Period (the “**Stand Still Period**”) is the thirty (30) day period of time after Beneficiary provides notice to the Senior Mortgage Lender

following delivery of a notice of default from Beneficiary to Trustor under the Program Documents, as defined in the Performance Deed of Trust. Beneficiary is subject to the Stand Still Period prior to commencing foreclosure by power of sale in Section 7.3 of the Performance Deed of Trust or applying to any court having jurisdiction to appoint a receiver under Section 7.4 of the Performance Deed of Trust.

**2. CONSENT OF SENIOR MORTGAGE LENDER.** Beneficiary will obtain the consent of the Senior Mortgage Lender prior to commencing an action to foreclose the Performance Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants in the Performance Deed of Trust, under Section 7.2(b) of the Performance Deed of Trust. Beneficiary additionally will obtain the consent of the Senior Mortgage Lender prior to delivering to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold, under Section 7.2(c) of the Performance Deed of Trust.

**3. AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Addendum must be in writing and shall be made only if executed by Trustor.

**4. SEVERABILITY.** Every provision of this Addendum is intended to be severable. If any provision of this Addendum is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

**5. ADDENDUM CONTROLS.** In the event that any provisions of this Addendum and the Program Documents conflict, the terms of this Addendum shall control.

**[SIGNATURE BLOCK ON NEXT PAGE]**

**IN WITNESS WHEREOF**, Trustor has executed this Addendum as of the Effective Date.

TRUSTOR:

San Bernardino County, a California  
County

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

Name: Dawn Rowe, Chair Board of  
Supervisors

Its: \_\_\_\_\_

Date: \_\_\_\_\_

***[Signature must be notarized]***

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 SAN BERNARDINO                                 )

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: \_\_\_\_\_  
Name: Notary Public

**Attachment K**

**CONSTRUCTION CONTRACT ADDENDUM**

This Construction Contract Addendum is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between San Bernardino County, a California County ("**Owner**"), and \_\_\_\_\_ ("**Contractor**").

**RECITALS**

A. The Owner and Horne LLP ("**Horne**"), acting as program administrator for the California Department of Social Services ("**CDSS**") have entered into that certain Program Funding Agreement dated \_\_\_\_\_ ("**Agreement**"), pursuant to which Owner was allocated funds pursuant to the Community Care Expansion Program ("**Program Funds**") for the purposes of developing the Project.

B. Owner and Contractor have entered into a construction agreement dated \_\_\_\_\_ under which Contractor has agreed to undertake construction work on the Project (the "**Contract**").

C. Owner and Contractor wish to modify and add to the terms of the Contract as set forth in this Addendum, and Contractor agrees to be bound by the following provisions in the construction of said Project, in order to provide for certain terms required by Horne as a condition of providing the Program Funds for the Project. It is a condition to Horne providing the Program Funds that the Contractor agrees to be bound by the terms hereof.

NOW, THEREFORE, Owner and Contractor hereby agree as follows:

1. **OWNER'S OBLIGATIONS.** Owner agrees that any obligation imposed on Contractor by this Addendum does not waive, diminish, or alter any of Owner's obligations to Horne under the Agreement, and that the obligations of Contractor to Horne contained herein are in addition to those obligations of Owner to Horne or CDSS contained in the Agreement. Owner shall be solely responsible for satisfying its obligations to Contractor under the Contract.

2. **CONSENT TO ASSIGNMENT OF DEVELOPMENT RIGHTS.** Contractor consents to the assignment of its Contract with Owner to Horne, upon demand by Horne, and to any subsequent assignment of the Contract by Horne at the election of Horne. Contractor agrees that if there is a breach of the Agreement or any other Event of Default (as the term may be defined in the Agreement), Horne may elect to enforce the assignment and take over the Contract. Contractor agrees to continue to perform its obligations under the Contract and this Addendum for the benefit and account of Horne in the same manner as if performed for the benefit and account of Owner in the absence of the assignment at no additional cost to Horne, as long as Contractor continues to receive the compensation called for under the Contract. Contractor agrees that Horne shall not have any obligation under the Contract until Horne notifies it in writing of Horne's election to accept the assignment.

3. **ASSIGNMENT OF SUBCONTRACTS.** Contractor hereby consents to the assignment to Horne of all its interest in all subcontracts and agreements now or hereafter entered into by Contractor for performance of any part of the construction work required to be performed under the Contract, upon demand by Horne, and to any subsequent assignment, by Horne, at the election of Horne. The assignment will be effective upon acceptance by Horne in writing and only as to those subcontracts and agreements, which Horne designates in writing. Horne may accept said assignment at any time during the course of the construction work required to be performed under the Contract and prior to final completion of construction work required to be performed under the Contract in the event of an assignment to Horne, suspension, or termination of Contractor's rights under the Contract. Such assignment is part of the consideration to Owner for entering into the Contract with Contractor and may not be withdrawn prior to final completion of construction work required to be performed under the Contract. Contractor agrees that any subcontract entered by and between Contractor and a subcontractor in connection with the Contract or performance of the construction work required to be performed under the Contract shall expressly provide that such subcontract shall be assignable to Horne and that Horne subsequently may assign such subcontract.

4. **COMMENCEMENT AND COMPLETION OF CONSTRUCTION.** Contractor must begin construction of the Project by the date set for the commencement of construction in the Agreement. Contractor must diligently prosecute construction of the Project to completion and must complete construction of the Project by the completion date set forth in the Agreement. Incorporated herein are the Statement of Work, Performance Milestones and Payment Schedule from the Agreement.

5. **CONSTRUCTION BONDS.** Upon execution of the Contract and prior to commencement of construction, unless otherwise approved by Horne, or CDSS in its sole discretion, Contractor must obtain a labor and material (payment) bond and a performance bond, or a dual bond which covers both payment and performance obligations, with respect to the construction of the Project in a penal sum each of not less than one hundred percent (100%) of the scheduled cost of construction. Such bonds must be issued by a company which is authorized to transact surety insurance in California and which has assets exceeding its liabilities in an amount equal to or in excess of the bond amount. The bonds must name Horne and CDSS as obligees. Owner shall provide to Horne a copy of any and all such payment and performance bonds prior to commencement of construction of the construction work required to be performed under the Contract.

6. **CONTRACT WORK.** Contractor warrants and represents that it is licensed or otherwise authorized to perform the construction work specified in the Contract in the State of California. All construction work must be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work in the State of California. Contractor shall insert similar provisions in all subcontracts for work for the Project.

7. **QUALITY OF WORK.** Contractor must construct the Project in conformance with the plans and specifications and any modifications thereto approved by Horne. Contractor must construct the Project according to general industry standards and shall employ building materials of a quality suitable for the requirements of the Project and conforming to general

industry standards. Contractor must construct the Project in full conformance with applicable local, state, and federal statutes, regulations, and building and housing codes.

The parties acknowledge that Horne and CDSS are under no duty to review the Plans and Specifications or to inspect construction of the Project. Any review or inspection undertaken by Horne or CDSS of the Project is solely for the purpose of determining whether Owner and Contractor are properly discharging their obligations, and should not be relied upon by Owner, Contractor, or any third parties as a warranty or representation by Horne or CDSS as to the quality of the design or construction of the Project.

8. **ADDITIONS OR CHANGES IN WORK.** Horne must be notified no later than thirty (30) days of the execution of a change order by and between Owner and Contractor, of any changes in the work required to be performed under the Contract or this Addendum, including any substantial additions, changes, or deletions to the approved Plans and Specifications, which exceeds Twenty-Five Thousand Dollars (\$25,000). Contractor shall not allow subcontractors to mark-up any change order by more than fifteen percent (15%). Contractor shall provide Horne and Owner with an updated budget and schedule prior to the commencement of construction at the Project and at fifty percent (50%) completion of the Project showing all changes from the budget and schedule prepared prior to the issuance of the notice to proceed to Contractor.

9. **SITE INSPECTIONS.** Contractor shall permit and facilitate in person and remote observation and inspection of work at the job site by Horne and CDSS and their agents and by public authorities during reasonable business hours.

10. **AUDITS.** Contractor must make available for examination at reasonable intervals and during normal business hours to Horne and CDSS's representatives all books, accounts, reports, files, and other papers or property with respect to all matters covered by the Contract and this Addendum, and must permit these representatives to audit, examine, and make copies, excerpts, or transcripts from such records.

11. **NO DISCRIMINATION.** Contractor may not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, sexual preference, national origin, AIDS or AIDS-related conditions, involvement in the justice system, or disability in any phase of employment during construction. Contractor agrees to post in conspicuous places available to all employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

12. **PREVAILING WAGES.** All workers performing construction work for the Project employed by Contractor and by any of its subcontractors must be compensated in an amount no less than the general prevailing rate of per diem wages as determined by the California Department of Industrial Relations under California Labor Code Sections 1770, et seq., and implementing rules and regulations. Contractor must comply with, and must ensure that its subcontractors comply with, all reporting and recordkeeping requirements of the applicable prevailing wage statutes and regulations.

In the event of underpayment of wages by Contractor or by any subcontractor employed on the Project, Horne, in addition to other rights and remedies afforded by this Agreement, may:

(1) demand that any underpaying employer comply with these requirements; (2) demand that the underpaying employer pay the difference between the prevailing wage rate and the amount actually paid to workers; (3) withhold and/or pay any Program Funds as necessary to compensate workers the full wages required under this Agreement; and/or (4) pursue any lawful administrative or court remedy to enforce these requirements against the underpaying employer. Any underpaying employer shall comply with a demand to pay any amounts due under this section within ten calendar days of the demand.

Contractor must include the prevailing wage requirement in all subcontracts for work on this Project and must specify that Horne and CDSS are intended third party beneficiary of such provisions. Contractor must take reasonable measures to monitor and enforce the prevailing wage requirements imposed on its subcontractors, including withholding payments to those subcontractors who violate these requirements. In the event that Contractor fails to take the above measures, Contractor shall be liable for the full amount of any underpayment of wages, plus costs and attorneys' fees, as if Contractor was the actual employer.

**13. INSURANCE COVERAGE.** Contractor must have in full force and effect during the complete course of construction of the Project, insurance, providing coverage in the types and amounts set forth below:

**13.1** Worker's compensation insurance as required by the State of California.

**13.2** Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.

**13.3** Commercial general liability insurance of not less than \$1,000,000 per occurrence with an annual aggregate limit of \$5,000,000 for bodily injury and property damage liability combined. Such insurance can be provided pursuant to an umbrella policy. The commercial general liability insurance policy shall cover liabilities arising out of premises, operations, independent contractors, products, completed operations, personal and advertising injury, and liability assumed under an insured agreement. The commercial general liability insurance shall apply to each insured against whom claim is made or suit is brought subject to the Sponsor's limit of liability.

**14. NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No member, official, employee, or agent of Horne or CDSS shall be personally liable to Contractor for any obligation created under the terms of the Contract or this Addendum except in the case of actual fraud or willful misconduct by such person.

**15. INDEMNITY.** Notwithstanding the insurance requirements herein, Contractor hereby indemnifies, defends and holds, Horne and CDSS and their respective members, officers, officials, employees, and agents (collectively, the "Indemnified Parties"), harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) which an Indemnified Party may incur as a consequence of Contractor's failure to perform any obligations as and when required by the Contract or this



Addendum, any act or omission by Contractor or its subcontractors with respect to the Project, or any failure of any of Contractor's representations or warranties to be true and complete, except to the extent such losses are caused by the negligence or willful misconduct of the Indemnified Party. Contractor shall pay immediately upon the Indemnified Party's demand any amounts owing under this indemnity. The duty of Contractor to indemnify includes the duty to defend the Indemnified Party in any court action, administrative action, or other proceeding brought by any third party arising from the Project. Contractor's duty to indemnify the Indemnified Party shall survive the term of the Contract.

16. **HAZARDOUS MATERIALS.** Neither Contractor nor any of its subcontractors may use the real property upon which the Project is to be constructed (the "Project Property") or allow the Project Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Contractor shall immediately notify Horne and Owner in writing of: (a) the discovery of any concentration or amount of Hazardous Materials on or under the Project Property requiring notice to be given to any governmental agency under Hazardous Materials Laws; (b) any knowledge by Contractor that the Project Property does not comply with any Hazardous Materials Laws; (c) the receipt by Contractor of written notice of any Hazardous Materials claims; and (d) the discovery by Contractor of any occurrence or condition on the Project Property or on any real property located within 2,000 feet of the Project Property that could cause the Project Property to be designated as a "hazardous waste property".

17. **NOTICES; NOTICE OF DEFAULT TO HORNE.** If at any time after the execution of the Contract it shall become necessary or convenient for Contractor to serve any notice, demand, or communication upon Horne, such notice, demand or communication shall be in writing provided in accordance with the notice requirements of the Agreement. Contractor shall give Horne prior or concurrent written notice of any default or breach claimed by Contractor against Owner or any other party under the Contract. The notice shall describe the default and give Horne the option to cure said default within 30 calendar days. No termination of the Contract by Contractor shall be binding unless Horne has been given the required notice and has not cured the default within thirty (30) calendar days.

18. **REMEDIES.** The parties hereto agree that Horne, while not a party to the Contract, is an intended third party beneficiary of the obligations imposed on Contractor in this Addendum. In the event of any breach or violation of any agreement or obligation of Contractor under the Contract or this Addendum, Horne may proceed with any of the following remedies:

18.1 Bring an action in equitable relief seeking the specific performance by Contractor of the terms and conditions of the Contract or this Addendum, and/or enjoining, abating, or preventing any violation of said terms and conditions;

18.2 Order immediate stoppage of construction and demand that any condition leading to the default be corrected before construction may continue;

18.3 Enter the Project Property and take any actions necessary in its judgment to complete construction of the Project as permitted under the assignment of development rights;

18.4 Suspend disbursement of Program Funds for the Project until the breach or violation is corrected, or, if Owner had any concurrent obligation to perform on or ensure performance on the breached obligation, cancel the Program Funds commitment made to Owner and terminate Horne's obligation to disburse Program Funds to Owner;

18.5 Terminate the Contract; or

18.6 Pursue any other remedy allowed at law or in equity.

19. **GOVERNING LAW.** This Addendum shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

20. **DEFINITIONS.** Capitalized terms not defined in this Addendum shall have the same meaning as defined in the Agreement.

21. **ATTORNEYS' FEES AND COSTS.** In the event any legal action is commenced to interpret or to enforce the terms of this Addendum, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

22. **TIME.** Time is of the essence in the performance of this Addendum by Contractor.

23. **CONSENTS AND APPROVALS.** Any consent or approval required under this Addendum shall not be unreasonably withheld, delayed, or conditioned.

24. **BINDING UPON SUCCESSORS.** All provisions of this Addendum shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Addendum by Contractor without Horne's consent.

25. **RELATIONSHIP OF CONTRACTOR AND Horne.** Contractor understands that neither Horne nor CDSS undertakes or assumes any responsibility or duty to Contractor or to any third party. The relationship of Contractor and Horne/CDSS for this Project shall not be construed as a joint venture, equity venture, or partnership. Horne shall have no obligation to any party under the Contract but is an intended third party beneficiary of the obligations under this Addendum. Contractor shall have no authority to act as an agent of Horne or CDSS or to bind Horne or CDSS to any obligation.

26. **ASSIGNMENT.** Contractor may not assign any of its interests under the Contract or the Addendum to any other party, except with the prior written consent of Horne. Any unauthorized assignment shall be void.

27. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Addendum must be in writing and shall be made only if executed by Owner and Contractor and consented to in writing by Horne.

28. **SEVERABILITY.** Every provision of this Addendum is intended to be severable. If any provision of this Addendum is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

29. **ADDENDUM CONTROLS.** In the event that any provisions of this Addendum and the Contract conflict, the terms of this Addendum shall control.

**IN WITNESS WHEREOF,** the undersigned parties have executed this Construction Contract Addendum as of the date first written above.

**“CONTRACTOR”**

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

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

San Bernardino County, a California County **“OWNER”**

By: Dawn Rowe

Title: Chair, Board of Supervisors

Attachment L

**CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
COMMUNITY CARE EXPANSION PROGRAM  
CAPITALIZED OPERATING  
SUBSIDY RESERVE AGREEMENT**

This Capitalized Operating Subsidy Reserve Agreement (the “COSR Agreement”) is made and entered into \_\_\_\_\_, 2023, (the “Effective Date”), by and between \_\_\_\_\_, a \_\_\_\_\_ (enter the state of formation, and entity type) (“Sponsor”) and Horne LLP (“Horne”) acting as program administrator on behalf of the California Department of Social Services (“CDSS”). Horne and Sponsor may be referred to separately as a “Party” or collectively as “Parties.”

**RECITALS**

A. Horne is the third-party administrator of the CDSS Community Care Expansion Program (“CCE Program”) pursuant to that certain Standard Agreement with the California Department of Social Services, dated effective May 31, 2023, to facilitate program funding awards and to provide certain other services to CDSS. The agreement between CDSS and Horne shall hereinafter be referred to as the “Prime Contract” or “CDSS Contract”;

B. Horne and Sponsor entered into that certain Program Funding Agreement, on or about \_\_\_\_\_, (the “Program Funding Agreement”), in connection with Horne’s administration and disbursement of CCE Program Funds to Sponsor for the purpose of the acquisition, construction, renovation or other physical improvement of real property, infrastructure, or facilities to expand or preserve the capacity of residential adult and senior care facilities, for the benefit of Qualified Residents, as that term is defined in Welfare and Institutions Code Section 18999.97(e); and otherwise in accordance with the requirements of the CCE Program;

C. Pursuant to its Application, Sponsor was awarded Program funds in an amount not to exceed **ten million, five-hundred and fifteen thousand, and thirty-eight and No/100s Dollars (\$10,515,038.00)** (the “Program Funds”) to preserve or expand residential adult and senior care facilities, by the acquisition, construction, renovation or other physical improvement of real property, infrastructure, or facilities, as described in the SOW, as attached to the Program Funding Agreement (the “Project”), in accordance with the terms of the Program Funding Agreement and the requirements of the CCE Program;

D. Sponsor was awarded a Capitalized Operating Subsidy Reserve (“COSR”) in an amount not to exceed **\$0 (zero dollars) and No/100s Dollars (\$\_\_\_\_\_ .00)** (the “COSR Funds”) for the purpose of subsidizing operating costs related to the Project so that the Project can serve Qualified Residents. The COSR is available to subsidize operating costs for up to five (5) years from the date of commencement of operation of the Project, subject to the terms of this COSR Agreement and the requirements of the CCE Program or March 31, 2029, whichever date is earlier;

ATTACHMENT L

CAPITALIZED OPERATING SUBSIDY  
L-1

E. As a condition of the Program Funding Agreement, Sponsor has recorded against the real property, upon which the Project is to be constructed (the "Project Property"), a Declaration of Restrictions ("Declaration of Restrictions") restricting the use of the Project Property and the operation of the Project in compliance with the terms of the CCE Program for a period of 30 years, including the requirement that Sponsor give priority to Qualified Residents including those who are currently or formerly homeless or who are at risk of homelessness; and

F. Capitalized terms included herein, and not otherwise defined, shall be defined as provided in the Program Funding Agreement.

## AGREEMENT

NOW THEREFORE, based upon the foregoing, and in consideration of the terms, conditions and covenants hereinafter set forth, the Parties agree as follows:

1. COSR Administration. The COSR Funds shall be held and administered by Horne for the benefit of the Project.

2. Term of COSR Agreement.

2.1 This COSR Agreement shall commence on the Effective Date and shall automatically expire on June 30, 2029 (the "Expiration Date"); (the period from the Effective Date through the Expiration Date shall be referred to herein as the "Term"), unless earlier terminated upon the occurrence of any of the following, prior to the Expiration Date: (a) depletion of the COSR Funds; (b) the date of the fifth anniversary of the Completion Date; (c) termination of this COSR Agreement by Horne pursuant to Section 14.9 of this COSR Agreement; (d) the date of termination of the Program Funding Agreement by Horne if such termination is prior to the Expiration Date of the Program Funding Agreement; or (e) the date of expiration or early termination of the Declaration of Restrictions.

2.2 In the event that Horne terminates the Program Funding Agreement, any remaining COSR Funds held by Sponsor shall be returned to Horne or CDSS, at the direction of CDSS, and no further disbursement of COSR Funds shall be made to Sponsor.

2.3 Within thirty (30) days of the date of expiration or early termination of this COSR Agreement, Sponsor shall deliver to Horne or CDSS, at the direction of CDSS, any and all reports and documents required pursuant to Section 11.2 of this COSR Agreement.

2.4 Upon the expiration of the Prime Contract between Horne and CDSS, including any amendments or time extensions thereto, if this COSR Agreement has not otherwise been terminated in accordance with the termination provisions stated in this COSR Agreement, the COSR Agreement shall be automatically assigned to CDSS or its designee.

3. Initial Disbursement. An Initial Disbursement, as defined below, shall be permitted by Horne once all conditions specified in Section 9 of this COSR Agreement have been satisfied.

4. Definitions.

4.1 “Business Day” means Monday through Friday excluding state and federal holidays.

4.2 “Capitalized Operating Subsidy Reserve Funds (“COSR Funds”)” means the capitalized operating subsidy reserve held and administered in accordance with this COSR Agreement by Horne or CDSS to cover deficits in Operating Expenses attributable to the Project as a result of Sponsor prioritizing Qualified Residents in accordance with the CCE Program and the Declaration of Restrictions.

4.3 “Certificate of Occupancy” means a certificate, or equivalent, issued by a local building department to Sponsor that indicates that the Project has met all local code requirements and is ready for occupancy.

4.4 “Completion Date” means: (i) the date the Project receives its Certificate of Occupancy for new construction; (ii) the date the Notice of Completion, or equivalent, is recorded, for rehabilitation projects; (iii) the date of the close of escrow for Sponsor’s acquisition of Project Property, where no construction or rehabilitation is contemplated.

4.5 “Fiscal Year” means Sponsor’s twelve (12) month fiscal year.

4.6 “Gross Income” shall mean with respect to a particular calendar year all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by residents, Section 8 payments or other rental subsidy payments received, deposits forfeited by residents, all cancellation fees, the proceeds of business interruption or similar insurance; the proceeds of casualty insurance not used to rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period. Gross Revenue shall not include residents’ security deposits, loan proceeds, capital contributions or similar advances and insurance proceeds used to rebuild or repair the Project.

4.7 “Initial Disbursement” means the first (1st) advance of funds from the COSR Funds that may be released by Horne or CDSS upon the request of Sponsor following the Completion Date.

4.8 “Notice of Completion” shall have the same definition as set forth in California Civil Code §8182.

4.9 “Operating Expenses” with respect to a particular fiscal year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles or an acceptable equivalent approved by Horne or CDSS: property taxes and assessments imposed on the Project; staff costs, debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with development of the Project and approved by Horne or CDSS; premiums for property damage and liability insurance; utility services, including

water, sewer, and trash collection; maintenance and repair; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; extraordinary operating costs specifically approved in writing by Horne or CDSS; payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses approved in writing by the Horne or CDSS and not listed above. Operating Expenses shall not include the following: depreciation, amortization, depletion, or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Project.

4.10 “Qualified Resident” shall have the meaning set forth in Welfare and Institutions Code Section 18999.97(e).

## 5. Purpose and Uses of COSR Funds.

5.1 The COSR Funds are intended to cover approved Operating Expenses that exceed Gross Income as a result of the Project serving Qualified Residents as required by the CCE Program and the Declaration of Restrictions.

5.2 The amount of each disbursement from the COSR (each a “COSR Disbursement”) shall be determined in advance by Horne or CDSS for each Fiscal Year, as set forth in Section 9, below. At any time during the term of this COSR Agreement, Horne or CDSS may review, re-underwrite and adjust the COSR amount, or the disbursements thereunder, if it determines in its sole discretion, that COSR payments are not necessary or that the Gross Income is sufficient to cover all Project-related approved Operating Expenses or that such adjustment shall improve the long term viability of the COSR for the benefit of the Project.

5.3 The COSR Funds are estimated to last no more than five (5) years from the Completion Date, but in all events shall be fully expended or returned to the State by March 31, 2029, subject to the terms of this COSR Agreement and the requirements of the CCE Program, and as reflected in the Operating Budget and Cash Flow Projections attached hereto as Exhibit A.

## 6. Exhaustion of the COSR Funds:

6.1 If, based on prior disbursements of COSR Funds and Sponsor’s annual operating budget, Horne, CDSS or Sponsor determine that COSR Funds may be exhausted prior to the date of expiration of this COSR Agreement, Sponsor shall submit a plan to Horne and CDSS for addressing Operating Expense shortfalls after exhaustion of the COSR Funds at least twelve (12) months prior to the expected depletion of the COSR Funds. The plan shall include, but not be limited to, the following:

6.1.1 An explanation of the efforts Sponsor has made to secure additional sources of funds necessary to continue to serve Qualified Residents.

6.1.2 A process for increasing the Gross Income to cover Operating Expenses.

7. Calculation of COSR Funds Disbursements.

7.1 The amount of the COSR Funds disbursement shall be based on the difference between: (i) the anticipated Gross Income for the Project in any Fiscal Year; and (ii) estimated annual Operating Expenses for the Project for the Fiscal Year.

7.2 COSR Funds disbursement amounts shall be determined annually by Horne or CDSS in advance of each Fiscal Year based on Sponsor's annual operating budget as well as cash flow projections submitted to Horne or CDSS in a form approved by Horne or CDSS in accordance with Section 11.2.2 below at least ninety (90) days prior to the beginning of the Fiscal Year. Annual COSR Funds disbursements in the amount determined by Horne or CDSS are subject to Section 10 below.

7.3 The calculation of the Initial Disbursement shall be in accordance with Section 9, below.

7.4 The COSR Funds disbursements shall be reconciled with actual Gross Income and actual Operating Expenses at or prior to each Fiscal Year's end. Horne or CDSS may require more frequent reconciliation of the COSR Funds disbursements in its sole and absolute discretion.

7.5 If funds from any COSR Disbursement remain unused in any given year, those funds shall be applied toward the next Fiscal Year's COSR Disbursement, if any or returned to Horne if there is no COSR Disbursement for the subsequent Fiscal Year.

8. Ownership, Reduction or Termination of COSR Funds.

8.1 Sponsor acknowledges and agrees that it has no ownership interest in the COSR Funds.

8.2 Sponsor acknowledges and agrees that the COSR Funds may be reduced or reallocated by CDSS prior to depletion if the Project receives new or increased revenue beyond those identified in the original underwriting, and in the judgment of Horne or CDSS the Project no longer requires COSR Funds or if the COSR Funds will not be used prior to the date of expiration of this COSR Agreement, in the sole discretion of either Horne, CDSS, or its designee.

8.3 Sponsor acknowledges and agrees that the COSR Funds shall be reduced, suspended, or terminated and this Agreement may be terminated by Horne and CDSS under the following circumstances:

8.3.1 Sponsor ceases to prioritize applications from Qualified Residents for the Project.

8.3.2 Sponsor is in default under the Program Funding Agreement or the Declaration of Restrictions.

8.3.3 Sponsor misrepresents any information provided in requested reports or documentation.



8.3.4 Sponsor is in default under any loan agreement or promissory note secured by a deed of trust recorded against title to the Project Property or the Project.

9. Conditions for the Initial Disbursement.

9.1 After the Completion Date, as defined herein, Sponsor may request the Initial Disbursement of COSR Funds upon Horne's receipt and approval of the following:

9.1.1 Evidence that the Completion Date has occurred.

9.1.2 Evidence of insurance coverage meeting the requirements of the Program Funding Agreement.

9.1.3 An operating budget for the initial operation period which shall be defined as the period from the Completion Date to the end of Sponsor's Fiscal Year, provided, however, if six (6) or fewer months remain in the Fiscal Year of the year in which the Completion Date occurs, the initial operation period shall include the full Fiscal Year after the year in which the Completion Date occurs.

9.1.4 Updates to Exhibit A, reflecting any changes to the first year annual operating budget and long-term cash flow projections.

9.1.5 Other items deemed necessary by Horne or CDSS to determine the required amount of COSR Funds to be disbursed, or to meet the requirements of the CCE Program.

9.2 Sponsor shall provide a signed request for the Initial Disbursement of COSR Funds in a form provided by Horne at least twenty (20) Business Days prior to the requested date for disbursement of COSR Funds.

9.3 The Initial Disbursement of COSR Funds may include a per diem of the COSR Funds from the beginning of the month the Completion Date occurred through the remainder of the current Fiscal Year; provided, however, that if six (6) or fewer months remain in the current Fiscal Year, the Initial Disbursement may cover the remainder of the current Fiscal Year plus the next full Fiscal Year, not to exceed eighteen (18) months.

10. Subsequent Disbursement of COSR Funds.

10.1 Subsequent COSR Funds disbursements shall require: (i) Request for Disbursement (on a form provided by Horne or CDSS) at least twenty (20) Business Days prior to the requested date for disbursement of funds; (ii) approval by Horne or CDSS of Sponsor's annual operating budget showing projected Operating Expenses and Gross Income; (iii) reports as required in Section 11.2; and (iv) additional information as requested by Horne or CDSS.

10.2 All subsequent COSR Fund disbursements shall be subject to Sponsor's full compliance with all other terms and conditions of this COSR Agreement, the Program Funding Agreement, and the Declaration of Restrictions.

10.3 Notwithstanding the foregoing, all subsequent COSR Funds disbursements shall be conditioned upon COSR Funds remaining available for disbursement.

11. Sponsor's Ongoing Obligations.

11.1 Sponsor is required to give priority to applications from Qualified Residents for occupancy of the Project and to comply with the terms of the Declaration of Restrictions. The COSR Funds are intended to address shortfalls in Gross Income resulting from the acceptance of Qualified Residents for occupancy of the Project. Disbursement of the COSR Funds may be suspended or terminated if Sponsor ceases to serve Qualified Residents as required by the CCE Program, the Declaration of Restrictions, and the Program Funding Agreement.

11.2 Reporting:

11.2.1 Sponsor shall submit an annual operating budget of the Project's projected Operating Expenses and anticipated Gross Income ninety (90) days prior to the beginning of the Project's Fiscal Year, including a cash flow projection. The annual operating budget should reflect COSR Fund distributions requested by Sponsor for that year and any unexpended COSR Funds from prior disbursements. The annual operating budget shall also show whether the COSR Funds are expected to be exhausted during the coming fiscal year and if so, the annual operating budget shall include an explanation pursuant to Section 6.1 including a description of Sponsor's efforts to obtain alternative operating subsidies to replace the COSR Funds.

11.2.2 Sponsor shall submit an annual audit of the Project's actual Gross Income and Operating Expenses ninety (90) days after the end of the Project's Fiscal Year or, if approved by Home or CDSS for organizations with annual gross income of less than One Million Dollars (\$1,000,000), a credentialed accountant's certified financial statement that includes a balance sheet/statement of financial position or income statement/statement of activities. The annual audit or financial statement shall reflect the receipt of COSR Funds for that Fiscal Year, any unspent COSR Funds (that were previously distributed to Sponsor) at the end of the Fiscal Year, if applicable, and shall include a schedule of COSR Funds expenditures during the immediately preceding Fiscal Year.

11.2.3 Sponsor, contemporaneously with the submission of its annual operating budget, shall submit a report showing the number of Qualified Residents that applied for occupancy of the Project, the number of Qualified Residents that are currently occupying the Project and an explanation if any Qualified Residents were rejected for occupancy of the Project.

12. Cross-Default. A default under the Program Funding Agreement or the Declaration of Restrictions shall constitute a default under this COSR Agreement and a default under this COSR Agreement shall constitute a default under the Program Funding Agreement and the Declaration of Restrictions.

13. Third Party Beneficiaries. The State of California, represented by CDSS in this COSR Agreement, is a third party beneficiary of this COSR Agreement. This COSR Agreement shall not be construed so as to give any other person or entity, other than the Parties and CDSS, any legal or equitable claim or right. CDSS or another authorized department or agency representing

the State of California may enforce any provision of this COSR Agreement to the extent permitted by law as a third party beneficiary of this COSR Agreement.

14. Miscellaneous.

14.1 Dispute Resolution.

14.1.1 The Parties shall use reasonable efforts to resolve any dispute arising under this COSR Agreement within thirty (30) days pursuant to informal mediation before a retired judge with Judicial Arbitration and Mediation Services ("JAMS") in Los Angeles, California.

14.1.2 If the Parties cannot resolve a dispute arising under this COSR Agreement pursuant to Section 14.1.1, the Parties shall submit such dispute to arbitration in accordance with the provisions of the American Arbitration Association. The Parties shall conduct any arbitration in Los Angeles, California. The arbitrator's decision in any such arbitration shall be final, conclusive, and binding on the Parties.

14.1.3 TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES HEREBY UNCONDITIONALLY WAIVE ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY CLAIM ARISING OUT OF THIS COSR AGREEMENT.

14.1.4 For the avoidance of doubt, this Section 14.1 shall not apply to the State.

14.2 Attorneys' Fees. If a dispute arising out of this COSR Agreement is finally adjudicated, the non-prevailing party shall pay the prevailing party's reasonable expenses incurred in connection therewith, including reasonable arbitration costs and reasonable attorneys' fees. If multiple items are disputed and the final decision is split, then the Parties shall allocate such expenses pro rata as to each item. This Section 14.2 shall not apply to the State.

14.3 Waiver. Horne's failure to notify Sponsor of a breach or to insist on strict performance of any provision of this COSR Agreement shall not constitute waiver of such breach or provision.

14.4 Remedies. No remedy in this COSR Agreement is exclusive of any other remedy available under this COSR Agreement, at law or in equity. Horne may seek equitable relief, including an injunction, against Sponsor in connection with any breach or threatened breach of this COSR Agreement.

14.5 Limitation of Liability. Except as otherwise provided in this COSR Agreement, or by applicable law, Sponsor waives any right to seek, and Horne and CDSS shall not be liable for any special, consequential, or punitive damages; indirect, or incidental damages; or for any loss of goodwill, profits, data, or loss of use arising out of, resulting from, or in any way connected with the performance or breach of this COSR Agreement, even if Sponsor advises Horne or CDSS of the possibility of any such damages.

14.6 Relationship. Sponsor is an independent contractor with respect to Horne. This COSR Agreement is not intended to create a partnership, joint venture, employment, or fiduciary relationship between the Parties or between any Party hereto and CDSS.

14.7 Notices. Notices under this COSR Agreement must be (i) in writing, (ii) addressed to the receiving Party at the address described below (unless notice of a different address is given), and (iii) (A) if personally delivered to the recipient, notice is effective upon delivery, (B) if sent by a nationally recognized overnight courier service, notice is effective on the first business day following its timely deposit with such courier service, delivery fees for next business day delivery prepaid; no signature affirming receipt by the receiving party is required, the internal records of the courier service shall be accepted as sufficient evidence of the date of the deposit of the notice with the courier service, or (C) if sent by certified U.S. mail, notice is effective three (3) days after deposit thereof in the U.S. mail, postage prepaid, certified, return receipt requested. Counsel for a Party may send notice on behalf of its client.

Notices to Horne: Horne LLP (Horne)  
400 Capitol Mall, Suite 1535  
Sacramento, CA 95814  
Attention: Geoffrey Ross and Dania Khan

With a copy to:

State of California  
California Department of Social Services  
744 P Street MS 8-4-70  
Sacramento, CA 95814  
Attention: Housing and Homelessness Division

Notices to Sponsor: San Bernardino County  
303 E. Vanderbilt Way,  
San Bernardino, CA  
92410  
Attn: Georgina  
Yoshioka, Director

14.7.1 Notwithstanding the foregoing, the Parties may deliver any approval, disapproval, or request therefor via email. Such email notices and deliveries shall be valid and binding on the Parties, subject to the following:

14.7.1.1 Such email must be properly addressed to the other Party's Designated Representatives. For purposes of this COSR Agreement, "Designated Representative"

means initially (i) for Horne, Geoffrey Ross, [Geoffrey.Ross@horne.com](mailto:Geoffrey.Ross@horne.com) and [Dania.Khan@horne.com](mailto:Dania.Khan@horne.com) (ii) for Sponsor, [georgina.yoshioka@dbh.sbcounty.gov](mailto:georgina.yoshioka@dbh.sbcounty.gov) and [jennifer.alsina@dbh.sbcounty.gov](mailto:jennifer.alsina@dbh.sbcounty.gov). A Party may change a Designated Representative only upon notice to the other Party pursuant to the requirements of Section 14.7(iii)(A), (B) or (C).

14.7.1.2 If the sender receives a bounce-back, out-of-office or other automated response indicating non-receipt, the sender shall (i) re-attempt delivery until the other Party confirms receipt or (ii) deliver the item in accordance with Section 14.7(iii)(A), (B) or (C).

14.9 Termination. In addition to the grounds for termination of this COSR Agreement set forth in Sections 2 and 8 of this COSR Agreement, Horne may terminate this COSR Agreement upon thirty (30) days' notice if the Prime Contract is terminated by CDSS or if Horne is directed by CDSS to terminate this COSR Agreement. If the COSR Agreement is terminated pursuant to this Section 14.9, neither Horne nor CDSS shall be responsible for any disbursements pursuant to this COSR Agreement after the termination date or for any damages to Sponsor as a result of such termination.

14.10 Governing Law. The place of performance of this COSR Agreement is California and the laws of the State of California, shall govern the validity, performance, enforcement, and interpretation of this COSR Agreement. Any litigation or enforcement of an award must be brought in the appropriate state or federal court in the State of California, County of Sacramento. Each Party consents to personal and subject matter jurisdiction and venue in such courts and waives the right to change venue with respect to any such proceeding. The Parties acknowledge that all directions issued by the forum court, including injunction and other decrees, shall be binding and enforceable in all jurisdictions and countries.

14.11 Assignment. Sponsor shall not assign, delegate, or otherwise transfer this COSR Agreement, or its duties, or obligations in connection therewith, in whole or in part, without the prior written approval of Horne or CDSS. Horne's obligations under this COSR Agreement shall be assignable to CDSS or CDSS's designee upon CDSS's request without Sponsor's consent.

14.12 Transition of COSR. In the event that the Prime Contract expires or terminates prior to the disbursement of all COSR Funds awarded to Sponsor, CDSS, or its designee, at the sole discretion of CDSS, shall be responsible for any disbursement of COSR Funds due Sponsor under this COSR Agreement. Horne shall make commercially reasonable efforts to transition the COSR Funds and any reasonably necessary documentation related to the COSR Funds to CDSS or its designee at no cost to CDSS, provided, however, that Horne shall have no obligation to incur any liability, pay fees, charges, or reimbursement in connection with any wind-down or transition services.

14.13 Entire Agreement; Amendments. This COSR Agreement constitutes the entire agreement of the Parties with respect to its subject matter. It supersedes all oral or written agreements or communications between the Parties. No understanding, agreement, modification, change order, or other matter affecting this COSR Agreement shall be binding, unless in writing, signed by both Parties. No handwritten changes shall be effective unless initialed by each Party.

14.14 Counsel. The Parties, each, have reviewed and negotiated this COSR Agreement using such legal counsel as each has deemed appropriate.

14.15 Exhibits. The Attachments, Schedules, and Addenda, attached to this COSR Agreement are a part of this COSR Agreement and incorporated into this COSR Agreement by reference.

14.16 Partial Invalidity. If any part of this COSR Agreement is unenforceable, the remainder of this COSR Agreement and, if applicable, the application of the affected provision to any other circumstance, shall be fully enforceable.

14.17 Captions. The headings contained herein are for convenience only and are not intended to define, limit, or describe the scope or intent of any provision of this COSR Agreement.

14.18 Force Majeure. Neither Party shall be liable to the other for loss or damages due to failure or delay in rendering performance caused by circumstances beyond its reasonable control, if such failure could not have been overcome by the exercise of due diligence, due care, or foresight. Causes may include, but are not limited to, acts of God or a public enemy; wars; acts of terrorism; riots; fires; floods; epidemics; quarantine restrictions; labor disputes; strikes; defaults of subcontractors/vendors; failure/delays in transportation; unforeseen freight embargoes; unusually severe weather; or any law/order/regulation/request of a state or local government entity, the U.S. Government, or of any agency, court, commission, or other instrumentality of any such governments. Times of performance under this COSR Agreement may be appropriately extended for excused delays if the Party whose performance is affected promptly notifies the other of the existence and nature of such delay.

14.19 Publicity. Without prior written approval of the other, neither Party shall use the other's name or make reference to the other Party or any of its employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless disclosure of such materials is required by legal, accounting, or regulatory requirements beyond the disclosing Party's reasonable control. Use of either Party's name may be made in internal documents, annual reports, and proposals. This Section shall survive expiration/termination of this COSR Agreement. Notwithstanding the foregoing, the Sponsor agrees that the State may use and refer to the Sponsor and the Project in any publication, news release, advertising, speech, technical paper, or for any other purposes.

14.20 Notice of Litigation. Promptly, and in any event within one (1) Business Day after an officer or other authorized representative of Sponsor obtains knowledge thereof, Sponsor shall provide written notice to Home of (i) any litigation or governmental proceeding pending against Sponsor which could materially adversely affect the business, operations, property, assets, condition (financial or otherwise) or prospects of Sponsor and (ii) any other event which is likely to materially adversely affect the business, operations, property, assets, condition (financial or otherwise) or prospects of Sponsor.

14.21 Survival. Except as otherwise stated, sections that by their terms impose continuing obligations or establish continuing rights shall be deemed to survive the expiration or termination of this COSR Agreement.

14.22 Successors. This COSR Agreement shall be binding upon the Parties, their successors, and assigns.

14.23 Approvals. Whenever this COSR Agreement calls for a Party's approval, approval shall mean prior written approval (including via email), not to be unreasonably conditioned, delayed, or withheld, unless sole discretion is expressly noted.

14.24 Counterparts; Electronic Signatures. The Parties may sign this COSR Agreement in several counterparts, each of which constitutes an original, but all of which together constitute one instrument. Electronic signatures are valid and shall bind the Party delivering such signature.

***SIGNATURES ON THE FOLLOWING PAGE***

IN WITNESS WHEREOF, the Parties hereto have executed this COSR Agreement as of the day and year first above written.

**SPONSOR:**

**HORNE, LLP:**

By: \_\_\_\_\_  
Name: Dawn Rowe  
Title: Chair, Board of Supervisors

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT A**

Operating Budget and Cash Flow Projections  
(Per Cash Flow Proforma)

ATTACHMENT M

RFA



DHCS Behavioral Health Continuum  
Infrastructure Program Launch Ready Grant  
and  
CDSS Community Care Expansion Program  
  
Joint Request for Applications (RFA)

Contents

Part One: Overview .....3

1.1. Introduction to the Grant Opportunity and Funding .....3

1.2. Purpose and Program Objectives—State Priorities.....3

1.3. Authorizing and Applicable Law .....5

1.4. Timeline .....5

Part Two: Application, Submission, Award .....6

2.1. Total Grant Amounts.....6

2.2. Application Process.....6

BHCIP .....6

CCE.....	6
2.3. Pre-Application Consultations and TA .....	9
2.4. Application Scoring Criteria .....	9
2.5. Award Process.....	10
2.6. Appeals.....	11
Part Three: Program Requirements .....	11
3.1. Eligibility Criteria .....	11
3.2. Eligible Uses .....	12
3.3. Match .....	14
3.4. General Program Requirements .....	15
3.5. Pre-Development (CCE Only) .....	17
3.6. Budget Development.....	17
3.7. Capitalized Operating Subsidy Reserve (COSR) (CCE) .....	18
3.8. Accessibility and Non-Discrimination .....	18
3.9. State & Federal Prevailing Wage.....	19
3.10. Exemptions.....	19
3.11. California Environmental Quality Act (CEQA) Exemption (BHCIP Only).....	20
3.12. Low-Rent Housing Project Exemption .....	20
Part Four: Program Operations.....	21
4.1. Program Oversight and Reporting.....	21
4.2. Disbursement of Grant Funds .....	22
Part Five: Attachments .....	22

## Part One: Overview

### 1.1. INTRODUCTION TO THE GRANT OPPORTUNITY AND FUNDING

California Health and Human Services Agency (CalHHS) infrastructure funding, alongside significant new state and federal investments in homelessness, healthcare delivery reform, and the social safety net, is addressing historic gaps in the behavioral health and long-term care continuum to meet growing demand for services and supports across the life span.

The California Department of Health Care Services (DHCS) and California Department of Social Services (CDSS) are working in tandem to design and implement two new programs to support infrastructure projects: the Behavioral Health Continuum Infrastructure Program (BHCIP) and the Community Care Expansion (CCE) program. These investments will ensure care can be provided in the least restrictive settings by creating a wide range of options including outpatient alternatives, urgent care, peer respite, wellness centers, and social rehabilitation models. A variety of care placements can provide a vital off-ramp from intensive behavioral health service settings and transition individuals—including the most vulnerable and those experiencing or at risk of homelessness—to safe community living. Investing in adult and senior care facilities will divert Supplemental Security Income/State Supplementary Payment (SSI/SSP) and Cash Assistance Program for Immigrants (CAPI) applicants and recipients from homelessness as a key part of California’s strategic multi-agency approach to increase housing options for seniors and persons with disabilities.

DHCS was authorized through 2021 [legislation](#) to establish BHCIP and award approximately \$2.1 billion to construct, acquire, and expand properties and invest in mobile crisis infrastructure related to behavioral health. CDSS oversees CCE, which was established through [Assembly Bill \(AB\) 172](#) (Chapter 696, of Statutes 2021) as a companion effort focused on the acquisition, construction, and rehabilitation of adult and senior care facilities that serve SSI/SSP and CAPI applicants and recipients and other adults who are experiencing or at risk of homelessness.

These combined programs represent the largest such provision of resources for such infrastructure in the state’s history and an unprecedented opportunity to effect meaningful, sustainable change in the behavioral health and long-term care continuums in California.

### 1.2. PURPOSE AND PROGRAM OBJECTIVES—STATE PRIORITIES

Both BHCIP and CCE are designed to address the following State Priorities:

- Invest in behavioral health and community care options that advance racial equity
- Seek geographic equity of behavioral health and community care options
- Address urgent gaps in the care continuum for people with behavioral health conditions, including seniors, adults with disabilities, and children and youth
- Increase options across the life span that serve as an alternative to incarceration, hospitalization, homelessness, and institutionalization
- Meet the needs of vulnerable populations with the greatest barriers to access, including people experiencing homelessness and justice involvement

- Ensure care can be provided in the least restrictive settings to support community integration, choice, and autonomy
- Leverage county and Medi-Cal investments to support ongoing sustainability
- Leverage the historic state investments in housing and homelessness

DHCS is releasing BHCIP funds through six grant rounds targeting various gaps in the state's behavioral health facility infrastructure.

BHCIP Rounds 1 and 2 were released in 2021:

- Round 1: Mobile Crisis, \$205M (\$55M Substance Abuse and Mental Health Services Administration grant funding)
- Round 2: County and Tribal Planning Grants, \$16M

The remaining BHCIP rounds will be released in 2022:

- Round 3: Launch Ready, \$518.5M
- Round 4: Children & Youth, \$480.5M
- Round 5: Behavioral Health Needs Assessment Phase One, \$480M
- Round 6: Behavioral Health Needs Assessment Phase Two, \$480.7M

Round 3: Launch Ready (\$518.5M), will provide funding to construct, acquire, and rehabilitate real estate assets to expand the behavioral health continuum of treatment and service resources in settings that serve Medicaid (Medi-Cal) beneficiaries. Proposed behavioral health infrastructure projects must demonstrate they have been through a planning process and are ready for implementation. For Round 3: Launch Ready, applications will only be accepted from projects that are determined to be launch ready and are submitted according to the timeline in this RFA (Section 1.4). Awarded grant funds for Round 3: Launch Ready must be obligated by June 2024 and liquidated by December 2026.

The CCE program will provide \$805 million in funding for acquisition, construction, and rehabilitation to preserve and expand adult and senior care facilities that serve SSI/SSP and CAPI applicants and recipients, including those who are experiencing or at risk of homelessness.

#### CCE Capital Expansion

- Approximately 75 percent of funds (\$570,000,000) will be made available for capital expansion projects, including acquisition, construction, and rehabilitation of residential care settings. Grantees may be approved to use a portion of these funds to establish a capitalized operating subsidy reserve (COSR) for these projects, available for use for up to 5 years.
- Applications for CCE Capital Expansion project funding will be accepted on a project-by-project basis through this joint RFA and funded on a rolling basis until funds are exhausted. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded. A portion of the CCE budget includes Home and Community-Based Services (HCBS) funding that must be obligated by December 2023 and liquidated by June 2026, as well as State Fiscal Recovery Funds (SFRF) that

must be obligated by June 2024 and liquidated by December 2026. The exact timeline for obligation and liquidation of funds for each funded project will be provided in the grant award announcement.

### CCE Preservation, Including Capital Preservation

- Approximately 25 percent of the funds will be made available for rehabilitation to preserve settings that currently serve the target populations, including \$55 million for a COSR for existing licensed facilities, including but not limited to those facilities that receive preservation capital funding. These funds will be provided to counties and tribes through a direct-to-county and -tribe allocation process that will be announced separately from this joint RFA.

## 1.3. AUTHORIZING AND APPLICABLE LAW

BHCIP: [Welfare and Institutions Code, Division 5, Part 7](#)

CCE: [Welfare and Institutions Code, Division 9, Part 6](#), commencing with section 18999.97

## 1.4. TIMELINE

**Table 1a: Timeline for BHCIP Applications**

RFA release	January 31, 2022
Pre-application consultations	Beginning February 1, 2022; ongoing
Application portal open	February 15, 2022
Joint RFA informational webinar Please preregister.	February 10, 2022; 10:30 a.m.-12:00 p.m. PT
Frequently asked questions	Updated regularly and posted on <a href="#">website</a>
Deadline for questions	7 days prior to each application due date
Part One application due date*	March 31, 2022
Part Two application due date*	May 31, 2022
Part One Award announcements*	May/June 2022
Part Two Award announcements*	July/August 2022

\*See Section 2.2 Application Process (page 6)

**Table 1b: Timeline for CCE Applications**

RFA release	January 31, 2022
Pre-application consultations	Beginning February 1, 2022; ongoing
Application portal open	February 15, 2022
Joint RFA informational webinar Please preregister.	February 10, 2022; 10:30 a.m.-12:00 p.m. PT
Frequently asked questions	Updated regularly and posted on <a href="#">website</a>
Deadline for questions	Ongoing
Application due date	Accepted on a rolling basis until grant funds are exhausted
Award announcements	Beginning in March 2022 and ongoing
Evaluation of statewide funding redistribution	October 2022



## Part Two: Application, Submission, Award

### 2.1. TOTAL GRANT AMOUNTS

**BHCIP Launch Ready:** \$518,500,000 is available to construct, acquire, and rehabilitate real estate assets to expand the behavioral health continuum of treatment and service resources in settings that serve Medicaid (Medi-Cal) beneficiaries.

**CCE:** \$570,000,000 is available for acquisition, construction, and rehabilitation capital expansion projects (“expansion” projects) of residential care settings to expand the community care options that serve seniors and adults with disabilities experiencing or at risk of homelessness.

### 2.2. APPLICATION PROCESS

#### BHCIP

Round 3: Launch Ready will be composed of two application parts to balance the needs of projects capable of immediate expansion with applicants who require more time to develop their application. This will offer applicants two potential deadlines for submissions. Applicants in Part One will be evaluated competitively against each other. Round 3: Launch Ready Part One is intended for entities that can submit the application and necessary materials by March 31, 2022. Part One applicants will receive priority. Any remaining funds not awarded in Part One will be available for Part Two applicants. Part Two applicants will be evaluated competitively against each other.

Applications will be accepted electronically beginning February 15, 2022. Applications may not be hand-delivered or mailed. The application and attachments, along with instructions for submittal of the online application, can be found on the [Improving California’s Infrastructure website](#). No modified formats will be accepted. The cutoff date for all Part One applications is March 31, 2022, at 5:00 p.m. PT. The cutoff date for all Part Two applications is May 31, 2022, at 5:00 p.m. PT. Applications cannot be edited once submitted. It is the applicant’s responsibility to ensure that the submitted application is accurate. Reviewers may request additional clarifying information from the applicant.

#### CCE

CCE applications will be accepted and reviewed on a rolling basis until all grant funds are exhausted. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded.

Applications will be accepted electronically beginning February 15, 2022. Applications may not be hand-delivered or mailed. The application and attachments, along with instructions for submittal of the online application, can be found in the [Improving California’s Infrastructure website](#). No modified formats will be accepted. Applications cannot be edited once submitted. It is the applicant’s responsibility to ensure that the submitted application is accurate. Reviewers may request additional clarifying information from the applicant.

## **BHCIP and CCE application process**

The application is a public record that is available for public review pursuant to the California Public Records Act (CPRA) (Chapter 3.5 [commencing with Section 6250] of Division 7 of Title 1 of the Government Code). After final awards have been issued, DHCS or CDSS may disclose any materials provided by the applicant to any person making a request under the CPRA. Applicants are cautioned to use discretion in providing information not specifically requested, such as personal phone numbers and home addresses. If the applicant does provide such information, they will be waiving any claim of confidentiality and will have consented to the disclosure of submitted material upon request.

Reasonable Accommodations for BHCIP and CCE: For individuals with disabilities, DHCS or CDSS will provide assistive services such as reading or writing assistance and conversion of the RFA, questions/answers, RFA addenda, or other Administrative Notices in Braille, large print, audiocassette, or computer disk. To request copies of written materials in an alternate format, please send an email to [support@CCEprogram.com](mailto:support@CCEprogram.com).

DHCS and CDSS will prioritize completed applications by geographic distribution to ensure the equitable and fair distribution of funds (Table 2). Both programs will adopt a regional funding approach, similar to models used in other state-funded capital programs (e.g., Homekey). Counties are assigned to one of seven geographic regions, each with a specific funding amount reserved. The funding amount reserved was determined based on the program-specific methodology described below. Applicants within each region will compete against other applicants in that same region, thereby supporting geographic equity and funding disbursement across the state.

DHCS and CDSS will reserve up to 20 percent of the BHCIP Round 3 funds and CCE Capital Expansion funds to ensure funding is effectively used to address and support the needs of vulnerable populations and gaps within the care continuum, consistent with the State Priorities. For example, the discretionary set-aside may be used to fund high-scoring projects in regions that have met their funding reserve.

### Regional Funding Reserve Methodology

For BHCIP funding reserves, a ratio of available Launch Ready funding to the Behavioral Health Subaccount county allocations has been used, with 5 percent set aside for tribal entities.

For BHCIP, following an initial round of funding allocations (timeframes to be determined by DHCS), funds **may** be used for viable applications falling outside of the initial allocation priority schedules, geographical divisions, or other initial fund allocation restrictions.

The CCE regional funding reserve methodology was calculated using the distribution of adult and senior care facilities in counties across the state, the 2019 Homeless Point-in-Time count, and the proportion of SSI/SSP applicants and recipients across the state. Of the total amount of CCE funding provided under this RFA, 8 percent will be competitively awarded to small counties (populations of 200,000 or fewer) and 5 percent of funds will be reserved for tribal communities.



The RFA will be open to CCE applicants on a rolling basis. CDSS has established an initial priority application period from the release date of the CCE application through September 30, 2022. During this prioritization period, CDSS will group applications into one of the seven geographic regions, unless the application is prioritized for the rural or tribal entity set-asides. This timeframe will allow applicants time to prepare projects and seek relative technical assistance (TA). It also provides CDSS with additional data on the statewide need and interest. After September 30, 2022, CDSS reserves the right to stop grouping applications by geographic region, and instead deploy unused funds from any undersubscribed geographic region(s) to fund subsequent applications statewide.

**Table 2: Regions and Counties**

<b>Counties by Geographic Distribution</b>	<b>BHCIP Launch Ready Estimated Targeted Funding Levels (less 20% discretionary and 5% tribal set-asides) (Total available: \$394,060,000)</b>	<b>Community Care Expansion Estimated Targeted Funding Levels (less 20% discretionary and 5% tribal set-asides) (Total available: \$430,171,874)</b>
<b>Los Angeles County</b>	\$138,033,407	\$135,281,766
<b>Bay Area:</b> Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma	\$80,110,607	\$85,690,868
<b>Southern California:</b> Imperial, Orange, Riverside, San Bernardino, San Diego, Ventura	\$75,954,578	\$100,473,714
<b>San Joaquin Valley:</b> Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare	\$44,552,480	\$45,982,932
<b>Sacramento Area:</b> El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba	\$23,553,889	\$31,914,624
<b>Central Coast:</b> Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz	\$14,912,943	\$15,052,939

<b>Balance of State:</b> Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tuolumne	\$16,942,096	\$15,775,031
--	--------------	--------------

### 2.3. PRE-APPLICATION CONSULTATIONS AND TA

Horne LLP (Horne), a consulting and research firm focused on improving health and human services systems, is serving as the administrative entity for CCE. Horne assists state and local organizations to implement and evaluate a wide range of services focusing on mental health treatment and recovery, substance use disorder treatment and prevention, workforce development, homelessness, housing, long-term services and supports, and criminal justice.

Beginning on February 1, 2022, and as part of the RFA process, either the previous third-party administrator or Horne will provide a pre-application consultation and individual agency/county TA. In addition, Horne will offer ongoing general training and TA throughout the life of the project. Applicants are required to submit a request for a pre-application consultation and complete a survey to determine their understanding of the RFA requirements. These include facility siting, permit and licensing requirements, construction plans and launch readiness, oversight and management, match requirements, and budgeting practices. In addition, applicants will be required to discuss how their proposed project meets local and/or regional gaps identified through an assessment, as well as how it addresses the state's priorities. A Horne implementation specialist will work with applicants to support them in these areas by connecting them with subject matter experts in real estate, financing, and programmatic best practices serving the prioritized or target population to bring targeted TA to applicant and grantees. Additional information related to pre-application consultation and TA throughout the grant period can be found on the [training and technical assistance webpage](#).

The Round 2 funding via BHCIP consisted of a planning RFA for counties and tribes for BHCIP and CCE projects. For applicants who have received a BHCIP Round 2 Planning Grant, that grant will be considered during the TA planning process in order to leverage local planning already underway. **2.4. APPLICATION SCORING CRITERIA**

Applications for BHCIP and CCE must meet the following minimum criteria to be considered for award:

- Full and complete application
- Commitment to serve population and to address the gaps identified in the community
- Demonstrated match
- Completed pre-application consultation

- Attested to meet federal, state, and local laws
- Reasonable cost compared to projects within the same region
- Able to expend funds within the required timeline

CCE applicants will be awarded on a rolling basis. Projects that meet the minimum criteria will be eligible to be funded, until all grant funds are committed. BHCIP is a competitive application process. Funding decisions will be based on a variety of factors, including

- Alignment with the State Priorities described in 1.2, above;
- Alignment with local and/or regional needs, gaps, and priorities as described in 3.2, below;
- Alignment with needs and gaps described in the statewide assessment, [\*Assessing the Continuum of Care for Behavioral Health Services in California: Data, Stakeholder Perspectives, and Implications\*](#);
- Assurance that funds are invested throughout the state;
- Extent to which the project addresses gaps in underserved areas;
- Extent to which the project addresses gaps in underserved populations;
- Review of each project's proposed costs and a determination of reasonableness for the facility type, scope, budget, and schedule of rehabilitation or renovations proposed;
- Degree to which the applicant leverages local funding;
- Ability to use funds within the funding timeline;
- Degree to which the applicant demonstrates long-term sustainability of the proposed project;
- Proposed increase in the number of persons to be served by the expansion;
- Ability to meet match expectations; and
- Degree to which the proposed plan for serving the target population(s) demonstrates the use of established best practices.

Funds awarded pursuant to the program must be used to supplement, and not supplant, other funding available from existing local, state, or federal programs or from grants with similar purposes.

Real Estate Acquisition and Development experts under contract with Horne will conduct financial viability assessments of each applicant's project. Through review of the RFA pre-application consultation, interviews, and financial document review, they will assess long-term operational sustainability (i.e., once the capital project is complete and in use for its intended purpose). TA provided will not factor into the evaluation of the application submitted. Staff providing TA will not be scoring applications.

## 2.5. AWARD PROCESS

Successful applicants will receive an award letter and a Standard Agreement from Horne, the DHCS and CDSS administrative entity. The agreement must be signed, returned, and fully executed with Horne before initial funding will be awarded.

**BHCIP only:** Applications that are not funded during Round 3 may be considered for future funding rounds, subject to the requirements and priorities of those rounds. TA will be available to help applicants explore future BHCIP funding rounds, as well as other potential sources of funds to support the proposed projects.

**CCE only:** Applications that meet the minimum criteria outlined in Section 2.4, eligibility criteria described in Section 3.1, and the eligible uses requirements in Section 3.2 will be considered for funding until all available funds are fully obligated. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded. A portion of the CCE budget includes federal funding that must be obligated by June 2024 and liquidated by December 2026. The exact timeline for obligation and liquidation of funds for each funded project will be provided in the grant award announcement. Applicants that are not awarded initially will be provided TA for resubmission, subject to the availability of funds.

## 2.6. APPEALS

California law does not provide a protest or appeal process against award decisions made through an informal selection method. Applicants submitting a response to this RFA may not protest or appeal the award. All award decisions made by DHCS and CDSS shall be final. Applicants for CCE funds that fail to be awarded initially will be provided TA for resubmission, subject to the availability of funds.

## Part Three: Program Requirements

### 3.1. ELIGIBILITY CRITERIA

Eligible applicants for BHCIP Launch Ready and CCE funds include counties, cities, tribal entities (including 638s and urban clinics), nonprofit organizations, for-profit organizations, and other private organizations, including private real estate developers, whose projects reflect the State Priorities. Each of these entities may apply independently or may apply jointly with another eligible entity as a co-applicant. Co-applicants can include multi-county projects. As allowed or required by context, “applicant” shall be interpreted to include any of the foregoing entities, as well as that entity’s nonprofit or for-profit corporation co-applicant. Upon receiving an award of funds, the eligible applicant and any co-applicant(s) will, both individually and collectively, be referred to as the “grantee” for purposes of this RFA.

Applicants are encouraged to apply for funding from both programs (BHCIP and CCE), as applicable. See Section 3.2 for examples.

Applicants may submit applications with a variety of partners to encourage innovative, comprehensive local and regional approaches. For applicants with partners, including co-applicants, all proposed partners must submit letters of commitment with the application. The required match will be determined by the types of applicants. If a private organization has a collaboration with a county, for example, the project qualifies for the county match amount, as long as supporting documentation is submitted.

Proposed BHCIP Launch Ready projects need to expand community capacity for serving the behavioral health (mental health and substance use disorder [SUD]) population and must make a

commitment to serve Medi-Cal beneficiaries. Under CCE, projects need to expand capacity in residential care settings that serve seniors and adults with disabilities who require long-term care supports, with priority for people experiencing or at risk of homelessness who are applicants or recipients of SSI/SSP or CAPI benefits.

Private organizations that do not have prior experience must apply with a partner. These private organizations (including real estate developers) without related prior experience that are collaborating with nonprofit organizations, tribal entities, cities, or counties may apply, with the requirement that the private organization must have

- A Memorandum of Understanding (MOU) or other agreement with the nonprofit organization, tribal entity, city, or county to confirm the private organization's role in the project, including that they are working on behalf of the service provider, and
- Related prior experience, reflected in the successful development, ownership, or operation of a relevant project for individuals who qualify as members of the target population.

### 3.2. ELIGIBLE USES

Eligible facility types for BHCIP Launch Ready projects must expand the community continuum of behavioral health treatment resources to build new capacity or expand existing capacity for short-term crisis stabilization, acute and sub-acute care, crisis residential, community-based mental health residential, SUD residential, peer respite, mobile crisis, community and outpatient behavioral health services, and other clinically enriched longer-term treatment and rehabilitation options for persons with behavioral health disorders in an appropriate and least restrictive and least costly setting.

Eligible settings for CCE include residential settings that expand the long-term care continuum and serve the target population, including but not limited to licensed adult and senior care facilities, recuperative or respite care settings, and independent residential settings. Facilities funded by regional centers are not eligible for CCE funds.

Applicants will be expected to define the types of facilities or settings they will operate and populations they will serve. Evaluation criteria will be used by the state to ensure that a given project is serving its target population in line with the State Priorities. In addition, all applicants must share data to demonstrate project need. This may include, for example, a local county/tribal/provider needs assessment, a facility wait list, the number of comparable facilities in the area, or other quantifiable documentation. Applicants will be required to demonstrate how the proposed project will advance racial equity and will be required to certify that they will not exclude populations, including those who are justice involved, unless required by state law. In addition, BHCIP-funded behavioral health facilities, as applicable, must provide Medi-Cal behavioral health services and will be expected to have in place a contract with their county to ensure the provision of Medi-Cal services once the funded facility's expansion or construction is complete.

Applicants are encouraged to think broadly about how BHCIP and CCE funds together can be maximized to design person-centered projects based on the needs and gaps within their local



systems of care, coupled with the state's priorities. The following are examples of projects that could apply for both programs:

- An adult residential facility (ARF) applies for CCE funding to make the facility Americans with Disabilities Act (ADA) accessible and expand capacity to serve additional SSI/SSP or CAPI applicants and recipients. The provider also applies for BHCIP funds to add a day treatment, clubhouse, or peer-run/peer-operated center on their property.
- A residential care facility for the elderly (RCFE) applies for CCE funds to add additional beds to serve individuals who are experiencing homelessness and applies for BHCIP funds to add a behavioral health outpatient office within their network for their Medi-Cal population.
- A behavioral health crisis residential facility applies for BHCIP funding to expand facility capacity and CCE funding to create a residential setting that provides step-down residential support services for SSI/SSP or CAPI applicants and recipients at risk of homelessness.

The following facility types and subcategories may be considered for project funding through BHCIP or CCE, separately or together.

<b>Outpatient Services</b> (includes a variety of settings delivering clinical support services, but not overnight residential services)		
	<b>BHCIP</b>	<b>CCE</b>
Community wellness centers (including those that are youth focused)	<b>x</b>	
Hospital-based outpatient treatment (outpatient detoxification/withdrawal management)	<b>x</b>	
Intensive outpatient treatment	<b>x</b>	
Narcotic Treatment Programs (NTPs)	<b>x</b>	
NTP medication units	<b>x</b>	
Office-based outpatient treatment	<b>x</b>	
Sobering centers (funded under DMC-ODS and/or Community Supports)	<b>x</b>	

<b>Residential Clinical Programs</b> (includes a variety of settings primarily focused on delivering clinical services; also provide shelter and support, from overnight to many days, weeks, and months)		
	<b>BHCIP</b>	<b>CCE</b>
Acute inpatient hospitals—medical detoxification/withdrawal management (medically managed inpatient detoxification/withdrawal management facility)	<b>x</b>	
Acute psychiatric inpatient facilities	<b>x</b>	
Adolescent residential treatment facilities for SUD	<b>x</b>	
Adult residential treatment facilities for SUD	<b>x</b>	
Chemical dependency recovery hospitals	<b>x</b>	
Children's crisis residential programs (CCRPs)	<b>x</b>	

Community treatment facilities (CTFs)	<b>X</b>	
Crisis stabilization units (CSUs)	<b>X</b>	
General acute care hospitals (GACHs) and acute care hospitals (ACHs)	<b>X</b>	
Mental health rehabilitation centers (MHRCs)	<b>X</b>	
Psychiatric health facilities (PHFs)	<b>X</b>	
Short-term residential therapeutic programs (STRTPs)	<b>X</b>	
Skilled nursing facilities with special treatment programs (SNFs/STPs)	<b>X</b>	
Social rehabilitation facilities (SRFs)	<b>X</b>	

**Residential Support Programs** (BHCIP-funded facilities listed here are primarily focused on shelter and support services, from overnight to many months; funded facilities are required to serve Medi-Cal recipients. CCE will fund adult and senior care settings to provide care and support to seniors and adults with disabilities.)

	<b>BHCIP</b>	<b>CCE</b>
Peer respite	<b>X</b>	<b>X</b>
Recovery residence/sober living homes	<b>X</b>	<b>X</b>
Adult residential facilities (ARFs)		<b>X</b>
Residential care facilities for the elderly (RCFEs)		<b>X</b>
Permanent Supportive Housing that serves the needs of seniors and adults with disabilities (including models that provide site-based care, such as Program for All Inclusive Care for the Elderly [PACE] and the Assisted Living Waiver programs)		<b>X</b>
Other residential care settings that serve the target population, including recuperative care sites		<b>X</b>

Facility types that are not eligible for funding:

- Correctional settings
- Schools
- Facilities funded by regional centers (CCE only)

### 3.3. MATCH

Applicants will be required to provide matching funds as part of the project. Match requirements are set according to applicant type.

- Tribal entities = 5% match
- Counties, cities, and nonprofit providers = 10% match
- For-profit providers and/or private organizations = 25% match

In order to incentivize local partnerships while also helping to expedite projects, for-profit providers who partner with tribes, counties, cities, or nonprofit providers will be eligible for the lower match. For example, a sole proprietor operating a small ARF that has partnered with a county will have a match requirement of 10%.

Match in the form of cash and in-kind contributions—such as land or existing structures—to the real costs of the project will be allowed for both BHCIP and CCE. The state must approve the match source. Cash may come from

- [American Rescue Plan Act \(ARPA\)](#) funds granted to counties and cities,
- Local funding,
- [Mental Health Services Act \(MHSA\)](#) funds in the 3-year plan (considered “other local”),
- [Opioid Settlement Funds](#) for SUD facilities (BHCIP only),
- Foundation/philanthropic support,
- Loans or investments, or
- Other.

Real property in the form of publicly or privately owned or donated land and/or buildings owned may count as match. Examples include

- Unused city or county buildings,
- Buildings originally intended for another purpose,
- Surplus land,
- State property, and
- Land trust.

Services will not be allowed as match.

### 3.4. GENERAL PROGRAM REQUIREMENTS

To be eligible to receive funding, projects must meet the following requirements as they relate to the applicant and project types. Refer to Section 3.5 for additional information on eligible pre-development funding.

**Site control:** Applicant has clear control of the property to be acquired or rehabilitated, as evidenced by one of the following:

- Clear title with no encumbrances or limitations that would preclude the proposed use (fee title);
- Existing long-term lease for the required use restriction period, with provisions to make improvements on the property;
- A leasehold estate held by a tribal entity in federal tribal trust lands property, or a valid sublease thereof that has been or will be approved by the Bureau of Indian Affairs;
- Fully executed option to purchase, sales contract, or other enforceable agreement to acquire the property;
- A letter of intent (LOI) that outlines the terms of a sale or lease contract, providing that a fully executed option will be completed within 60 days; or
- Fully executed option to lease, or similar binding commitment from property owner to agree to a long-term lease for the required use restriction period.

### Permits



- Applicant documents understanding of approvals and permitting needed, and the capacity to obtain these approvals and permits, as evidenced by both of the following:
  - Providing detailed information regarding the site of the proposed capital project, including zoning, land use limitations, permissible “as of right” uses, and any approvals or variances that may be required and
  - Including a list of the approvals and permits required to complete the project as described in the construction plan (below), along with the sequences of these approvals and permits.
- Applicant commits to making initial required applications within 60 days of award, as applicable.

#### **Licensure/certification**

- Applicant provides documentation of all required certifications/licenses, including but not limited to those required by the appropriate department under CalHHS.
- For applicable projects that cannot be licensed/certified by the state and/or local level until they are completed, applicant will demonstrate that they understand the applicable licensing/certification timelines and requirements. Tribal entities that are exempt from state licensing and/or requirements must describe the basis for their exemption and their plan for meeting programmatic requirements. As part of the TA that will be made available, applicants may receive information and guidance about the licensure and certification process.

#### **Preliminary construction plans for proposed project, such as**

- Site plan (if applicable);
- Architectural drawings, blueprints, and/or other renderings;
- If no construction plan is yet in place, a valid cost estimate from an architect, licensed general contractor, or engineer.

#### **Acquisition and/or construction timeline**

- Acquisition should begin within approximately 6 months of award. Development must begin immediately after acquisition and be completed within the approved timeline. Applicant should provide a timeline from a licensed general contractor or construction manager to illustrate how this will be achieved.
- Applications for projects that can start sooner may be rated higher.

#### **Capacity to meet match requirements (see Section 3.3)**

#### **Approval and engagement**

- Organizational support is indicated by a letter from the CEO and/or board, county board of supervisors, or tribal council resolution, as applicable.

- Applicant provides documentation of active community engagement and support, particularly with people with lived experience. Insights from the community should be included in project planning, design, implementation, and evaluation. Examples may include survey results, notes taken during stakeholder engagement sessions, etc.
- **BHCIP Launch Ready only:** City, nonprofit, or private applicants must include a letter of support from their county behavioral health agency or, if a tribal facility, the tribal board at the time of application or within the grant decision period.
  - The letter must indicate that BHCIP grantees that operate Medi-Cal behavioral health services will have in place a contract with their county to ensure the provision of Medi-Cal services once the financed facility's expansion or construction is complete.

### Service use restriction

Applicants will be required to commit to a service use restriction as follows:

- BHCIP: Commitments to provision of services and building use restriction for entire 30-year period.
- CCE: Commitments to provision of services and building use restriction for 30 years for new facilities and a 20-year use restriction for capacity expansion for an existing facility.

### 3.5. Pre-DEVELOPMENT (CCE ONLY)

Prospective applicants that demonstrate viable projects via the pre-application consultation with real estate TA from the grant administrator or its Community Development Financial Institution (CDFI) partners may have the opportunity to apply for pre-development costs within the RFA using CCE funds only.

Examples may include but are not limited to:

- Hiring a development team (lawyer, architect, owner's representative or construction manager)
- Physical needs assessment
- Feasibility study
- Site plan
- Environmental survey (Phase 1 & 2 reports)
- Schematic and construction drawing and architectural plans
- Construction cost estimates
- Preliminary engineering/dry utilities
- Stakeholder coordination
- Preliminary development budgets
- Basic underwriting

### 3.6. BUDGET DEVELOPMENT

Applicants are required to submit a budget with their BHCIP Launch Ready and CCE applications to assist DHCS/CDSS in establishing reasonableness of the final amount awarded. Applicants are encouraged to use the BHCIP Launch Ready and CCE budget templates in Attachment A (Form 1) to create a budget and will be asked to insert the budget figures as part of the online application process. All items budgeted must be inclusive of all costs, including taxes and fees, in U.S. dollars. If an applicant has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the applicant may use its current NICRA. Alternatively, if the applicant does not have a NICRA, the applicant may elect to use a rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

### 3.7. CAPITALIZED OPERATING SUBSIDY RESERVE (COSR) (CCE)

CCE applicants may request a portion of their funds be used for a COSR. A COSR can be an essential component of development projects serving households with very low incomes. The COSR helps to ensure continued operations and long-term sustainability of capital projects like CCE. CCE projects wishing to use funds from the project development budget for a COSR will be required to create a Funding and Disbursement Agreement (FDA). The COSR can be used to cover operational costs associated with utilities, maintenance and repairs, taxes and insurance, and staff, among others. CCE COSR funds will be capitalized in the applicant's development budget, helping to mitigate risk among long-term project investors. A COSR is available for use for up to 5 years from the time operations in the new or expanded facility begin; future funding streams should be included in the project development budget, in the event that the facility carries an operating deficit after the 5-year CCE COSR timeframe ends.

### 3.8. ACCESSIBILITY AND NON-DISCRIMINATION

All developments shall adhere to the accessibility requirements set forth in California Building Code chapters 11A and 11B and the Americans with Disabilities Act, Title II. In addition, developments shall adhere to either the Uniform Federal Accessibility Standards (UFAS), 24 CFR Part 8, or the U.S. Department of Housing and Urban Development's (HUD) modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, 79 FR 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Part 8.26.

Grantees shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), justice system involvement (except where explicitly required by law), or arbitrary characteristics, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this RFA. Nor shall all other

classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this RFA.

Grantees shall comply with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Civil Rights Act, Government Code Section 11135, Section 504 of the Rehabilitation Act of 1973, and all regulations promulgated pursuant to those statutes, including 24 CFR Part 100, 24 CFR Part 8, and 28 CFR Part 35.

### **3.9. STATE & FEDERAL PREVAILING WAGE**

A project funded by a BHCIP or CCE grant is a “public work” if the applicant intends to use the BHCIP and/or CCE funds for the “[c]onstruction, alteration, demolition, installation, or repair” of a building or structure (Cal. Lab. Code section 1720(a); Cal. Lab. Code section 1750(b)(1)). Applicants using BHCIP and/or CCE grants to fund public works are subject to California’s prevailing wage and working hours laws (Division 2, Part 7, Chapter 1 of the California Labor Code) and the applicant’s project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (Cal. Lab. Code section 1771.4(a)(1)).

If DHCS or CDSS selects an applicant to receive a BHCIP and/or CCE grant and the applicant is using the grant to fund a public work, then the applicant shall submit a Certification of Compliance to the awarding department (i.e., DHCS or CDSS) certifying that the applicant shall comply with California’s prevailing wage and working hours laws (including posting job notices, as required by Labor Code section 1771(a)(2)) and all applicable federal prevailing wage laws. The Certification of Compliance shall also state that the applicant shall maintain its labor records in compliance with all applicable state and federal laws (Cal. Lab. Code section 1776), and shall make all labor records available to the Department of Industrial Relations, and any other applicable enforcement agencies upon request (Cal. Lab. Code section 1771.4(a)(3)). The Certification of Compliance shall be signed by the general contractor(s) and the applicant.

If DHCS or CDSS selects an applicant to receive a BHCIP and/or CCE grant and the applicant is not using the grant to fund a public work, then the applicant shall submit a Certification of Inapplicability to the awarding department (i.e., DHCS or CDSS) explaining why the project is not a public work as defined by California Labor Code section 1720. The Certification of Inapplicability shall be signed by the general contractor(s) and the applicant.

An applicant shall not receive the BHCIP and/or CCE funds from the awarding department (i.e., DHCS or CDSS) until the awarding department has received and approved the applicant’s Certification of Inapplicability or Certification of Compliance.

### **3.10. EXEMPTIONS**

In accordance with California Welfare and Institutions Code sections 5960.3 and 18997.97(l), projects funded by a BHCIP or a CCE grant are

1. Deemed to be consistent with and in conformity with any applicable local plan, standard, or requirement;
2. Deemed to be allowed as a permitted use within the zone in which the structure is located; and
3. Not subject to a conditional use permit, discretionary permit, or to any other discretionary reviews or approvals.

### **3.11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION (BHCIP ONLY)**

CEQA shall not apply to a project funded by BHCIP if that project meets the requirements outlined in California Welfare and Institutions Code section 5960.3(b). Applicants shall determine if they meet the requirements outlined in section 5960.3(b) to qualify for the exemption from CEQA. And, in accordance with section 5960.3(c), if an applicant determines that it qualifies for the exemption from CEQA, then the applicant shall file a Notice of Exemption with the Office of Planning and Research and the clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of section 21152 of the Public Resources Code, and the applicant shall provide DHCS with a copy of the filed Notice of Exemption. If the applicant determines that CEQA applies to its project, the applicant shall provide DHCS with copies of all appropriate documentation demonstrating the project's compliance with CEQA once the applicant has received project approval.

DHCS is not responsible for determining if applicants meet the CEQA exemption requirements set forth in section 5960.3(b). Furthermore, DHCS is not responsible for filing a section 5960.3(c) notice of exemption on behalf of an applicant.

### **3.12. LOW-RENT HOUSING PROJECT EXEMPTION**

In accordance with California Welfare and Institutions Code sections 5960.35(b)(1) and 18999.98, a project funded with a BHCIP or a CCE grant shall not be considered a "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, if the project meets any one of the following criteria:

1. The project is privately owned housing, receiving no ad valorem property tax exemption, other than exemptions granted pursuant to subdivision (f) or (g) of Section 214 of the Revenue and Taxation Code, not fully reimbursed to all taxing entities, and not more than 49 percent of the dwellings, apartments, or other living accommodations of the project may be occupied by persons of low income;
2. The project is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body;
3. The project is intended for owner-occupancy, which may include a limited-equity housing cooperative as defined in Section 50076.5 of the Health and Safety Code, or cooperative or condominium ownership, rather than for rental-occupancy;



4. The project consists of newly constructed, privately owned, one-to-four-family dwellings not located on adjoining sites;
5. The project consists of existing dwelling units leased by the state public body from the private owner of these dwelling units;
6. The project consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower-income households, as defined in Section 50079.5 of the Health and Safety Code; or
7. The project consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a project which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

If a project funded with a BHCIP or CCE grant is a “low-income housing project” as defined by Section 1 of Article XXXIV of the California Constitution but does not meet any of the criteria listed above, then the applicant shall comply with the requirements set forth in that section of the California Constitution.

## **Part Four: Program Operations**

### **4.1. PROGRAM OVERSIGHT AND REPORTING**

As specified by DHCS or CDSS and upon request, grantees shall provide progress reports in connection with the approved timeline, statement of work (SOW), and budget and any updates to the timeline for completion of the project. The progress reports should include the project’s completion milestones and any updates or substantial changes. Grantees shall promptly notify DHCS or CDSS of any changes in grantee organization, authorization, or capacity. This information will be outlined in the Standard Agreement.

Grantees are required to meet BHCIP Launch Ready, CCE program, and other state and federal reporting, financial, and administrative requirements, as well as submit required reporting data through an online grantee data portal. Reporting requirements will include quarterly reports and a final report, along with an annual BHCIP Launch Ready or CCE Program and Expenditure Report for 5 years following Standard Agreement execution. The annual report will be due no later than January 31 for the prior calendar year of January 1 to December 31. The reports and data entered in the grantee data portal shall be in such form and contain such information as required by DHCS or CDSS, as appropriate, in its sole and absolute discretion. Funding will be contingent upon provision of submission of data and reporting. These requirements will be fully detailed upon award.

In addition to the foregoing, each grantee shall submit to DHCS or CDSS such periodic reports, updates, and information as deemed necessary by DHCS or CDSS to monitor compliance and/or

perform program evaluation. Any requested data or information shall be submitted in electronic format in a format provided by DHCS or CDSS.

Additional reporting requirements may be required by DHCS and CDSS for up to 30 years after completion of project construction.

#### **4.2. DISBURSEMENT OF GRANT FUNDS**

The Standard Agreement will set forth the general conditions for disbursement. Once the Standard Agreement between the applicant and Horne is fully executed, an initial payment will be issued directly to the applicant to begin development activities. Subsequent funding will be released following the verified completion of project milestones and deliverables and the submission of required documentation and reports. More details regarding the funding and disbursement process will be provided upon award.

Grantees will be responsible for submitting invoices and ensuring expenses are allowable and have sufficient backup documentation. Grantees shall ensure that the expenditure of BHCIP Launch Ready or CCE program funds is consistent with the requirements of the relevant program.

The BHCIP Launch Ready and CCE program teams will monitor the expenditures to ensure they comply with this RFA and may conduct desk or site audits. The teams may also request the repayment of funds or pursue any other remedies available, at law or in equity, for failure to comply with program requirements.

#### **Part Five: Attachments**

##### **Attachment A: Application**

Form 1: Budget template

Form 2: Budget narrative and definition of terms

Form 3: Schematic design checklist

Form 4: Design/acquisition/construction milestone schedule

Form 5: Development team description/contact form

Form 6: Community engagement form

Form 7: Applicant's certification

##### **Attachment B: Pre-Application Consultation Process**



May 21, 2024

San Bernardino County 303 E Vanderbilt Way, 4<sup>th</sup> Floor  
San Bernardino, CA 92410  
Project: Substance Use Disorder Comprehensive Treatment Campus

Dear San Bernardino County:

**Community Care Expansion (CCE) Program Grant - Award Augmentation Notification**

The purpose of this letter is to inform you that the California Department of Social Services (CDSS) has approved an additional \$421,867 to San Bernardino County for the Community Care Expansion (CCE) Capital Expansion grant award for CCE-7120640339.

On March 23, 2023, CDSS notified you that up to \$10,093,171 was reserved for San Bernardino County for the CCE Capital Expansion grant award based on the application package you submitted for the project named above. This additional \$421,867 has been reserved for your project due to adjustment of developer fee costs relevant to executing the Program Funding Agreement. A total of up to \$10,515,038 has been reserved for your project for your CCE Capital Expansion grant award.

HORNE, the CCE administrative entity, will share important details related to your project award augmentation. Please continue to work with your grant coordinator to submit any required documentation relevant to this award augmentation.

Thank you for the time and effort you put into the application process, as well as your commitment to helping improve residential care settings to serve seniors and adults with disabilities in your community. CDSS values our partnership and looks forward to working with you. If you have any questions, please contact your assigned HORNE Grant Coordinator.

Sincerely,

A handwritten signature in blue ink that reads "Julie McQuitty".

Julie McQuitty  
Chief, Program Policy and Quality Assurance Branch  
Housing and Homelessness Division  
California Department of Social Services

ATTACHMENT N

AWARD LETTER