

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

Affordable Housing and Sustainable Communities (AHSC) Program - Grant

1. Authority & Purpose

This Standard Agreement, STD 213, (hereinafter "Agreement") is the result of the Recipient's application ("Application") for funding under the AHSC Program ("Program") pursuant to:

- A. Part 1 of Division 44 of the Public Resources Code (commencing with Section 75200);
- B. The Program Guidelines dated July 17, 2017 Technical Amendments: August 14, 2017, October 23, 2017, and January 29, 2018 ("Guidelines"), issued by the State of California, Strategic Growth Council ("SGC") and as may be amended from time to time; and
- C. The Program's Notice of Funding Availability ("NOFA") issued by the Department Housing and Community Development ("Department" or "HCD"), is dated October 2, 2017.

The Application, including all representations made therein, is hereby incorporated in this Agreement by this reference.

The Guidelines and the NOFA are available on the Program Web site at:

http://sgc.ca.gov/programs/ahsc/docs/20171024-AHSC_16-17_Guidelines.pdf;

By entering into this Agreement and thereby accepting the award of AHSC Grant funds, the Recipient agrees to comply with applicable statutory law, Guidelines, the NOFA, and this Agreement, to abide by the representations made in the Application, and the terms and conditions of the Disbursement Agreement, which is more particularly described in Exhibit B, attached hereto.

2. Definitions

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, and page 1 of this Exhibit A, in addition:

"Affordable Housing Development" refers to the residential rental Affordable Housing Development described in the Application providing the affordable housing units, as described therein, in consideration of that portion of the AHSC Grant. The Affordable Housing Development shall meet all the criteria for an eligible project as set forth Section 103(a)(1) of the AHSC Guidelines.

"Recipient" refers to the entity or entities submitting an application or to a related entity approved by the Department entering into this Agreement and identified as "Contractor" on page 1 to this Agreement (STD 213). In the case of joint applicants, "Recipient" shall also refer to each applicant

EXHIBIT A

or the Department-approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Recipient as set forth herein.

Any reference to a specific "Section" or "section" of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated July 17, 2017 Technical Amendments: August 14, 2017, October 23, 2017, and January 29, 2018. Notwithstanding, if and when the Department amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

3. Scope of Work

The Scope of Work ("Work") for this Agreement shall consist of one or more of the following categories, by or on behalf of the Recipient, within the **an Integrated Connectivity Project (ICP) Area** as detailed in the Project Report incorporated herein as Exhibit A-1:

Included ("x")	Grant Award Categories
	Housing-Related Infrastructure (HRI)
x	Program Costs (PGM)
x	Sustainable Transportation Infrastructure (STI)
x	Transportation-Related Amenities (TRA)

The Department, the Recipient and other parties as required by the Department shall enter into a Disbursement Agreement governing among other things the disbursement of Program funds as more particularly described in Exhibit B hereto.

At the request of the Department, Recipient shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items listed in the Project Report for which the Recipient's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reductions or cancellation of the amount of the grant award, require repayments of any disbursed Program funds and the disencumbrance of Program funds awarded.

A. HRI

The Scope of Work for this Agreement for Housing-Related Infrastructure ("HRI Work") shall consist of the activities set forth in Exhibit A-1 Final and Corrected Project Report.

The Affordable Housing Development and housing as designated in the Application ("Housing Development") that is supported by the HRI Work, and which is to be developed and constructed by the Recipient, or other developer, contains the unit mix set forth in the Project Report.

EXHIBIT A

The HRI Work is necessary for the development of the Affordable Housing Development. The Recipient is responsible for and shall ensure the completion of the HRI Work and the completion and occupancy of the Housing Development in accordance with the criteria set forth above and in Exhibit A-1. The Department reserves the right to review and approve all HRI Work to be performed by the Recipient, or contracted by the Recipient, in relation to this Agreement. Any revision to the HRI Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

B. Program Costs

The Scope of Work for this Agreement for Program Costs ("PGM Work") as set forth in Exhibit A-1 Final and Corrected Project Report, shall consist of the following:

Program creation, or expansion of existing programs to serve new populations or offer new program service(s) and implementation. Eligible costs may include operational costs for programs for the term of the grant (three years). Programs include education, outreach and training programs in the following categories:

- Active Transportation Programs; or
- Transit Ridership Programs

The Recipient is responsible for and shall ensure the completion of the PGM Work associated with the Program Costs in accordance with the criteria set forth above and in Exhibit A-1. The Department reserves the right to review and approve all PGM Work to be performed by the Recipient, or contracted by the Recipient, in relation to this Agreement. Any revision to the PGM Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

C. Sustainable Transportation Infrastructure

The Scope of Work for this Agreement for Sustainable Transportation Infrastructure ("STI Work") shall consist of the STI project identified in the Application, and set forth in Exhibit A-1 Final and Corrected Project Report, which is to be developed and constructed by the Recipient.

The Recipient is responsible for and shall ensure the completion of the STI Work in accordance with Program requirements, the Application, and the criteria set forth in Exhibit A-1. The Department reserves the right to review and approve all STI Work to be performed by the Recipient in relation to this Agreement. Any revision to the STI Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

D. Transportation-Related Amenities

EXHIBIT A

The Scope of Work for this Agreement for Transportation-Related Amenities ("TRA Work") shall consist of the TRA project identified in the Application, and set forth in Exhibit A-1 Final and Corrected Project Report, which is to be developed and constructed by the Recipient.

The Recipient is responsible for and shall ensure the completion of the TRA Work in accordance with the criteria set forth above and in Exhibit A-1. The Department reserves the right to review and approve all TRA Work to be performed by the Recipient in relation to this Agreement. Any revision to the TRA Work shall be submitted in writing for review and approval by the Department and shall require an amendment to this Agreement.

EXHIBIT A

4. Criteria Applicability

Based on the points awarded to its Application, Recipient assures the Department of the existence of the following criteria of Section 107:

Guideline Reference		Affordable Developments and Housing-Related Infrastructure	Sustainable Transportation Infrastructure	Transportation-Related Amenities	Active Transportation Programs	Transit Ridership Programs	Criteria Air Pollutant Reduction Program
		Capital Projects			Program Costs		
a	Estimated GHG Reductions based on GHG Quantification Methodology	X	X	X	X	X	X
b	Extent to which Project incorporates Active Transportation Improvements	X	X		X	X	X
c	Extent to which the Project incorporates Green Buildings and Renewable Energy	X	X	X	X	X	X
d	Extent to which Project incorporates Housing and Transportation Collaboration	X	X	X			
e	Extent to which Project incorporates Location Efficiency and Access to Destinations	X	X	X			
f	Extent to which Project Leverages non-AHSC Funds	X	X	X			
j	Extent to which Project incorporates Programs	X	X	X			
i	Extent to which the Affordable Housing Development Serves Extremely Low Income Households	X			X	X	X
g&h	Anti-Displacement and Local Workforce Development & Hiring Practices	X	X	X			

EXHIBIT A

A. GHG Emissions Reductions Estimate

Based on the inputs in the Application, the estimated total MTCO₂e over the life of the project is 29,385.

5. Performance Milestones

Recipient shall ensure the completion of the PERFORMANCE MILESTONES set forth in Exhibit A-1, Final and Corrected Project Report (Project Report) attached hereto and made a part hereof, by the designated dates. When Recipient misses or anticipates missing a Performance Milestone deadline, Recipient shall notify the Department in writing as soon as is reasonably practicable. In this notification, Recipient shall explain why the deadline has been or will likely be missed; provide a status update relative to the other Performance Milestone deadlines; and provide assurances that it will meet the remaining Performance Milestone deadlines. Recipient's failure to provide a timely written notification shall be considered a default under this Agreement.

6. HCD Contract Coordinator

The HCD Contract Coordinator of this Agreement for the Department is the Division of Financial Assistance Operations Manager, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the HCD Contract Coordinator at the following address:

Kim Losoya
Division of Financial Assistance - Operations Branch
Department of Housing and Community Development
P.O. Box 952054
Sacramento, California 94252-2054

EXHIBIT A

7. Recipient Contact Coordinator

The Recipient's Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the contact at the following address:

Recipient:	SAHA
Name:	Somaya Abdelgany
Address:	1835 Alcatraz Avenue, Berkeley, CA 94703
Phone No.:	(510) 809-2753
Email:	sabdelgany@sahahomes.org

AFFORDABLE HOUSING & SUSTAINABLE COMMUNITIES (AHSC) & INFILL INFRASTRUCTURE GRANT (IIG)

Final Corrected Combined Project Report

PROJECT NAME: 3268 San Pablo

PROJECT ADDRESS: 3268 San Pablo Ave., Oakland, CA 94608

PROJECT COUNTY: Alameda

APPLICANT/SPONSOR: Satellite Affordable Housing Associates (SAHA)

TYPE OF ORGANIZATION: Non-profit Public Benefit Corporation

APPLICANT/SPONSOR CONTACT: Susan Friedland, Executive Director

APPLICANT/SPONSOR ADDRESS: 1835 Alcatraz Ave., Berkeley, CA 94703

CO-APPLICANT: None

PREPARED BY: Stoyan Elitzin and Adrienne DiLullo

- ☒ 4% TAX CREDIT ☐ 9% TAX CREDIT
☐ OTHER HCD FUNDING SOURCES
☐ MARKET-RATE UNITS
☒ SENIOR
☐ RURAL
☐ SCATTERED SITE
☐ SUPPORTIVE HOUSING/SPECIAL NEEDS
☐ COMMERCIAL SPACE

Scope and Project Summary

3268 San Pablo proposal meets the requirement of an IIG Capital Improvement Project (CIP) in support of a Qualifying Infill Project (QIP) and is also a qualified AHSC Integrated Connectivity Project (ICP) project, which includes Sustainable Transportation Infrastructure (STI), Transportation-Related Amenities (TRA), Program Costs (PGM), Housing Related Infrastructure (HRI) and Affordable Housing Development (AHD) components. The total IIG funding request is \$1,222,000. The total AHSC funding request is \$8,917,500, which includes \$3,417,500 grant funding and a \$5,500,000 AHD loan.

IIG CIP Components

The Capital Improvement Project (CIP) for 3268 San Pablo includes site preparation and demolition, storm, sewer, and water systems, paving and sidewalk surface improvements, landscaping elements, including courtyard hardscape, lighting, raised garden beds, installation of planting, and irrigation, and the applicable percentage of ground-floor podium costs associated with the project's parking garage and bike storage room. The following list specifies the total number of distinct infrastructure improvements relating to each eligible cost category: 4 Utility Improvements (sewer, potable water, storm drain, cathodic protection); 5 Surface Improvements: 5 (aggregate base, asphalt pavement, curb/gutter/sidewalk, striping/signage/barricades, survey); 7-Landscape & Amenities items (irrigation, concrete work, landscaping, walking/bike path, structures, lighting, green screen); 2 Residential Parking items (residential parking structure, foundation work); and 1 Transit item (bicycle facilities).

AHSC Grant Components

STI

STI includes installation of Class 2 bike lanes and road diet on Martin Luther King Jr Way between Embarcadero and 20th Street, 1.04 miles each direction; repair/replacement of 48 curb ramp and sidewalk repair improvements from San Pablo to MLK Jr Way along 33rd and Brockhurst, creating a path of travel from the project site to Hoover Elementary School; Two new bike share stations for the Ford GoBike Bike Share network in Oakland, located at San Pablo/31st and at 31st/Martin Luther King Jr. Way; purchase of zero-emissions bus to support service expansion and Clean Corridors Plan. Total STI grant funds requested is \$2,272,200.

TRA

TRA includes installation of new wayfinding signage and real-time transit information, and a high-security smart bike rack system at MacArthur BART station. Total TRA grant funds requested is \$1,000,000.

PGM

Programs includes the provision of 50 free AC Transit passes and 50 free Ford GoBike bike share memberships for the residents of the 3268 San Pablo affordable housing development for a 3-year period. Total program grant funds requested is \$145,300

QIP/AHD Housing Component

3268 San Pablo is a 51 unit new construction project with 51 one-bedroom units serving seniors, age 62 years and older, with incomes ranging from 30-60 percent of Area Median Income (AMI), with 1 manager's unit. Each unit will have a refrigerator, range, dishwasher, fenced rear yard, window coverings, and storage area. On-site amenities include 1 elevator, 1 laundry room, a community room and community kitchen, a computer room, and a fitness room. Off-site amenities, located within two miles of the project include a public park, an employment center, a retail center and public transit.

Project Description

AHD Request: \$5,500,000 Amt./Restrict. Unit: \$110,000
Total Development Cost: \$34,640,551 Total Cost/Unit:¹ \$679,226

High Cost Analysis/HCD /adj. Basis Limit:

Ultimate Borrower: To Be Determined

General Partner: Satellite AHA Development, Inc.

Architect: HKIT Architects, Oakland

General Contractor: Nibbi Brothers, San Francisco

Consultant: California Housing Partnership

Property Management: Satellite Affordable Housing Associates

Construction Start Date: 4/1/2019

Construction Completion Date: 7/1/2020

Ultimate Site Control: Fee Title

Land Area: 0.26 acres

Project Type: New Construction

Project Design: Mid-rise (3-5 stories)

No. of Residential Bldgs: 1

Number of Stories: 5

Parking Spaces: 13

Parking Type: Covered

Total Residential Area: 26,550 sq. ft.

Community Room: 1,000 sq. ft.

Number of Elevators: 1

Number of Guest Parking Spaces: 0

Commercial Uses: 0 sq. ft.

Other Uses: 0 sq. ft.

Special Conditions

1. Not less than 60 days prior to construction loan closing, the Applicant shall provide updated financial documents including, but not limited to the development budget, development sources and uses, schedule of rents and unit mix, operating budget and 15-year cash-flow analysis, which are acceptable to the Department and demonstrate compliance with the Uniform Multifamily Regulations. All changes to the proposed project must be approved by the Department.
2. Prior to construction loan closing Sponsor shall provide a plan, which is acceptable to the Department, for the mitigation and removal of asbestos-containing materials and soils. After demolition is complete, and prior to start of new construction, Sponsor shall provide documentation demonstrating that the soils are free of contamination.
3. Prior to construction loan close, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan which shall be subject to the approval of the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.
4. Prior to permanent loan closing, the Sponsor shall confirm, to the Department's satisfaction, that the County of Alameda, through its regulatory agreement, is restricting the same units to low-income occupancy as the Department is restricting through its AHSC regulatory agreement.
5. This project is subject to further underwriting and feasibility review. In the event that either the underwriting or the feasibility review determines that the project is not viable, the Department's funding commitment will be terminated.

3268 San Pablo STI Budget

Cost Category	ALL FUNDING SOURCES		Comments
	AHSC STI Grant	Sources Total	
STI BUDGET #1 - Bike lanes -MLK from Embarcadero to 20th st			
Plan Specification and Estimates	\$147,900	\$147,900	
Total Preliminary Engineering	\$147,900	\$147,900	
Asphalt Pavement	\$339,000	\$339,000	
Striping/Barricades (Bicycle Facilities)	\$104,000	\$104,000	
Other: Mobilization	\$50,000	\$50,000	
Total Complete Streets Improvements - Construction	\$493,000	\$493,000	
Other: Construction Management	\$49,300	\$49,300	
Total STI #1 Budgeted Project Costs	\$690,200	\$690,200	
STI BUDGET #2 - Sidewalk Improvements			
Plan Specification and Estimates	\$72,000	\$72,000	
Total Preliminary Engineering	\$72,000	\$72,000	
Sidewalk, Curb and Gutter	\$144,000	\$144,000	
Total Complete Streets Improvements - Construction	\$144,000	\$144,000	
Other: Construction Management	\$24,000	\$24,000	
Total Activity Delivery Costs	\$24,000	\$24,000	
Total STI #2 Budgeted Project Costs	\$240,000	\$240,000	
STI BUDGET #3 - STI #3: Bike Share Stations (2)STI #4: Line 57 Clean Corridor			
Vehicles	\$1,200,000	\$1,200,000	
Other: Bike Share Stations	\$142,000	\$142,000	
Total Transit and Station Areas - Construction	\$1,342,000	\$1,342,000	
Total STI #3 Budgeted Project Costs	\$1,342,000	\$1,342,000	
TOTAL SUSTAINABLE TRANSPORTATION INFRASTRUCTURE (STI) BUDGET			
Total Preliminary Engineering	\$219,900	\$219,900	
Total Complete Streets Improvements - Construction	\$637,000	\$637,000	
Total Transit and Station Areas - Construction	\$1,342,000	\$1,342,000	
Total Activity Delivery Costs	\$73,300	\$73,300	
Total STI Budgeted Project Costs	\$2,272,200	\$2,272,200	

3268 San Pablo TRA Budget

Cost Category	ALL FUNDING SOURCES			Comments
	AHSC TRA Grant	BART Operating Budget FY 17 Allocation	Sources Total	
TRA BUDGET #1 - Station Wayfinding and Real Time Displays				
Signage	\$80,000	\$24,000	\$104,000	
Other ITS Technology	\$80,000	\$10,000	\$90,000	
Wayfinding Signage, Transit Info and Realtime Displays	\$736,000	\$300,000	\$1,036,000	
Total Transit Station or Stop - Construction	\$896,000	\$334,000	\$1,230,000	
Total TRA #1 Budgeted Project Costs	\$896,000	\$334,000	\$1,230,000	
TRA BUDGET #2 - Bikeup Installation				
Plan Specification and Estimates	\$16,000	\$4,000	\$20,000	
Total Preliminary Engineering	\$16,000	\$4,000	\$20,000	
Other: Power	\$24,000	\$6,000	\$30,000	
Total Site Preparation	\$24,000	\$6,000	\$30,000	
Bicycle Storage or Parking	\$64,000	\$16,000	\$80,000	
Total Landscaping, Amenities, Green Infrastructure	\$64,000	\$16,000	\$80,000	
Total TRA #2 Budgeted Project Costs	\$104,000	\$26,000	\$130,000	
TOTAL TRANSPORTATION RELATED AMENITIES (TRA) BUDGET				
	\$16,000	\$4,000	\$20,000	
Total Preliminary Engineering				
Total Right of Way (not related to parking)	\$0	\$0	\$0	
Total Site Preparation	\$24,000	\$6,000	\$30,000	
Total Site Utilities	\$0	\$0	\$0	
Total Complete Streets Improvements - Construction	\$0	\$0	\$0	
Total Transit Station or Stop - Construction	\$896,000	\$334,000	\$1,230,000	
Total Landscaping, Amenities, Green Infrastructure	\$64,000	\$16,000	\$80,000	
Total Impact Fees	\$0	\$0	\$0	
Total Activity Delivery Costs	\$0	\$0	\$0	
Total Other Capital Asset Costs	\$0	\$0	\$0	
Total TRA Budgeted Project Costs	\$1,000,000	\$360,000	\$1,360,000	

3268 San Pablo Programs Budget

Cost Category	ALL FUNDING SOURCES		Comments
	AHSC PGM Grant	Sources Total	
PGM BUDGET #1 - AC Transit Passes (50)			
AC Transit Passes (50)	\$139,050	\$139,050	
Total Staff Costs	\$139,050	\$139,050	
Total PGM #1 Budgeted Project Costs	\$139,050	\$139,050	
PGM BUDGET #2 - Ford GoBike Bike Share Memberships (50)			
Motivate Bike Share for All Memberships (50)	\$6,250	\$6,250	
Total Staff Costs	\$6,250	\$6,250	
Total PGM #2 Budgeted Project Costs	\$6,250	\$6,250	
TOTAL PROGRAM (PGM) BUDGET			
Total Direct Staff Costs	\$145,300	\$145,300	
Total Indirect Staff Costs	\$0	\$0	
Total Other Costs	\$0	\$0	
Total PGM Budgeted Project Costs	\$145,300	\$145,300	

STI MILESTONES	DATE:
Performance Milestone	
Executed binding agreement between the Recipient and developer of the proposed Capital Project detailing the terms and conditions of the Capital Project development.	6/1/19
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	6/1/19
Commencement of construction.	9/1/19
Construction complete and the filing of the Notice of Completion.	5/1/23
Program funds fully disbursed.	10/1/23

TRA MILESTONES	DATE:
Performance Milestone	
Executed binding agreement between the Recipient and developer of the proposed Capital Project detailing the terms and conditions of the Capital Project development.	6/1/19
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	6/1/19
Commencement of construction.	9/1/19
Construction complete and the filing of the Notice of Completion.	5/1/23
Program funds fully disbursed.	10/1/23

PGM MILESTONES	DATE:
Performance Milestone	
Program Designed	6/1/19
Program Operator Identified	6/1/19
Program Operations Start	1/1/20
Program funds fully disbursed.	10/1/23

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

Affordable Housing and Sustainable Communities (AHSC) Program - Grant

1. Project Sources and Uses

The preliminary projected sources and uses (“Sources and Uses”) set forth in Exhibit A-1 Final and Corrected Project Report (Project Report) contains the cost items for the design, development and construction of the approved HRI, STI, TRA Project(s) (collectively, “Infrastructure Project”), and for Program Costs (PGM, as applicable. Recipient agrees that any cost overruns or increases resulting in a total cost for Infrastructure Project exceeding that set forth therein shall be the responsibility of Recipient.

2. Contract Amount

A. For the purposes of performing the Work, the Department agrees to provide the aggregate amount identified on page 1, number 3 of this Agreement (STD 213) in the form of a grant (“Grant”) for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this Grant amount, or for any unauthorized or ineligible costs.

- 1) For the purposes of performing the Work related to the HRI, as set forth in Exhibit A, the Department agrees to provide \$0 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 2) For the purposes of performing the Work related to the PC, as set forth in Exhibit A, the Department agrees to provide \$145,300 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 3) For the purposes of performing the Work related to the STI, as set forth in Exhibit A, the Department agrees to provide \$2,272,200 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.
- 4) For the purposes of performing the Work related to the TRA, as set forth in Exhibit A, the Department agrees to provide \$1,000,000 in the form of a grant for the uses identified in the Sources and Uses. In no instance shall the Department be liable for any costs for the Work in excess of this amount, or for any unauthorized or ineligible costs.

EXHIBIT B

- B. The Department may approve a request from the Recipient to reallocate funds between authorized activities and itemized amounts stated in the budget for the designated grant Work. Changes in aggregate of ten percent or less, of the total grant amount between activity categories during the term of this Agreement, and expenditures pursuant thereto, may be made only after the Department's express written approval, but do not require a written amendment to this Agreement.

3. Other Funding Sources

Where the Sources and Uses set forth in Exhibit A-1 identify funds other than Program funds, those funds shall be expended and applied to Project costs as provided therein. Recipient agrees that it will make best efforts to ensure that the other funds specified in the Sources and Uses are available for disbursement as provided in this Exhibit, and approved for the use specified in the Sources and Uses, except to the extent the Sources and Uses may be updated and modified by the Disbursement Agreement described below. The Recipient shall provide evidence and assurance of the commitment and availability of such other sources of funding identified in the Sources and Uses as provided in the Disbursement Agreement. The terms and conditions of all construction financing to be used in conjunction with the Program funds shall be subject to the Department's review and approval.

4. Completion Dates

- A. Program funds must be disbursed no later than December 31, 2023. All un-disbursed funds remaining as of December 31, 2023, shall be disencumbered. All invoices for payment must be submitted to the Department no later than July 30, 2023.
- B. This Agreement shall expire on June 30, 2038.

5. Method of Payment

- A. Payment shall be made as reimbursed progress payments as set forth in the Disbursement Agreement. Recipient shall request payment for work completed on forms provided by the Department and subject to such documentation as the Department may require.
- B. The Department shall not authorize payments unless it determines that the Program funds shall be expended and disbursed in compliance with the terms and provisions of the Guidelines, the NOFA, this Agreement and the Disbursement Agreement.

6. Disbursement Agreement

- A. The Recipient, the Department and such other parties as may be reasonably required by the Department, shall enter into a Disbursement Agreement in a form provided by the Department. The Disbursement Agreement shall contain a specific description of the Work and an updated Sources and Uses therefore, including an updated table of Sources and Uses, and the specific terms and conditions for the disbursement of Program funds. In the

EXHIBIT B

event of a conflict between this Agreement and the Disbursement Agreement, as determined by the Department, the terms of the Disbursement Agreement, being the later and more specific document, shall govern; provided however, that no resolution of any such conflict shall be contrary to, or result in a waiver or violation of, the Guidelines or the NOFA.

- B. The requirement for a Disbursement Agreement set forth in this paragraph may be waived by the Department where, at its sole discretion, it determines that:
- 1) Satisfactory completion of the Work has occurred,
 - 2) Proper disbursement and use of Program funds have occurred,
 - 3) Performance of, and compliance with, all the obligations, terms and conditions of this Agreement have occurred, and,
 - 4) Compliance with all applicable statutes, laws, guidelines, and regulations, all have been or will be achieved without the execution of a Disbursement Agreement. The Department may require the submittal by the Recipient of such information, records, documents, certificates and other material, as it deems necessary to make this determination.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D

AHSC TERMS AND CONDITIONS

Affordable Housing and Sustainable Communities (AHSC) Program

Grant for Housing Related Infrastructure, Sustainable Transportation Infrastructure,

Transportation Related Amenities, and Program Costs

GENERAL

1. Effective Date, Commencement of Work and Completion Dates

- A. This Agreement is effective upon approval by HCD which is the date stamped by the Department in the lower right hand corner of the coversheet of this Agreement. The Recipient agrees that neither the construction of the Housing Development nor the Work has commenced as of the deadline for submittal of applications set forth in the Notice of Funding Availability. The Recipient agrees that the Work shall be completed as specified in this Agreement, and as set forth in the Final and Corrected Project Report (Project Report), incorporated herein as Exhibit A-1 subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), and in Exhibit B, unless a written request for an extension is submitted and written approval by the Department is provided within 90 days prior to the expiration date of the Agreement. Any extension to the expiration date shall require an amendment to this Agreement.
- B. Pursuant to §111(a) and (b) of the Guidelines construction of the Affordable Housing Development and the housing designated, in the Application, must commence within two years of the Program award date and be completed (including completion of all phases identified in the Application and accounting for the total number of units on which the AHSC Grant award is based) within five years of the Program award date.

2. Termination

Notwithstanding any other provision of this Agreement, the Department may terminate this Agreement at any time for cause by giving at least 14 days' notice in writing to the Recipient. Cause shall consist of violations by Recipient of any General or Special Terms and Conditions of this Agreement, to include but not limited to Paragraph 43 of this Exhibit. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Recipient shall be returned to the Department within 14 days of the Notice of Termination. In the event of withdrawal of the Department's expenditure authority, all obligations of the Department to continue funding any amounts, whether for the benefit of Recipient or any other persons, shall fully and immediately cease and terminate, and the Department shall thereafter have no duty or obligation to undertake or perform any act that it is not legally or practically able to. Department makes no representation or warranty, express or implied, to Recipient or any other persons that all or any portion of the AHSC Grant Documents will be enforceable after the withdrawal of the Department's funding authority.

EXHIBIT D

3. **Affordable Housing and Sustainable Communities Grant Documents**

In addition to this Agreement the Recipient shall execute and enter into a Disbursement Agreement which shall govern the terms, disbursement and use of the Program funds, the Covenant described below, and other additional agreements and documents, as the Department may deem reasonable and necessary to meet the requirements of the Program and the terms and conditions of this Agreement. The Department may request, and if requested, the Recipient shall agree to and record a performance deed of trust ensuring the completion of the Work. Said performance deed of trust shall be recorded against the entire legal parcel underlying the object which it ensures is being constructed.

4. **Covenant Regarding the Affordable Housing Development**

Prior to the disbursement of Program funds, the Recipient shall enter into a written Covenant Regarding the Affordable Housing Development ("Covenant") with the Department, and including such other parties as the Department may reasonably require, which shall require the development and construction of the Affordable Housing Development with, the number of units and the number of bedrooms per unit, the extent and depth of affordability, as set forth in Exhibit A-1, and other uses and amenities for which points were granted to the Application. The Covenant shall be recorded against the parcel or parcels of real property on which the Affordable Housing Development is to be located and shall be binding on all successors, transferees, and assignees acquiring an interest in the Affordable Housing Development as follows:

- A. For rental housing developments, the Covenant shall require the continuation of the affordability of the Affordable Housing Development for a period of not less than 55 years from the date of the filing of a notice of completion for Affordable Housing Development.
- B. For homeownership housing developments, the Covenant shall require the continuation of the affordability for a period of not less than 30 years from the date of a filing of a Notice of Completion for the Affordable Housing Development. The affordability will be ensured through a resale restriction or equity sharing upon resale.
- C. The Department may waive this requirement for the Covenant upon the Department's determination that sufficient protections are in place to ensure the development and continued operation and occupancy of the Affordable Housing Development in accordance with this Agreement.
- D. In addition to the Covenant, the Department may request, and if requested, the Recipient shall agree to and record a performance deed of trust ensuring the completion of the Work. Said performance deed of trust shall be recorded against the entire legal parcel underlying the object which it ensures is being constructed. Alternatively, the Department may require that the Covenant contain a power of sale clause, which may be exercised in the event that the Work is not timely completed, or in the event of an uncured breach of this Agreement.

EXHIBIT D

5. **Site Control**

The Recipient shall ensure that site control of the real property associated with the Work is sufficient to meet the requirements of the Program. This shall include, but not be limited to, ensuring the timely commencement of the Work as determined by the Department. Site control of the Work may be evidenced by one of the following:

- A. Fee title;
- B. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit, prior to grant funding, compliance with all program requirements;
- C. An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;
- D. An executed disposition and development agreement, right of way, or irrevocable offer of dedication to a Public Agency;
- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the applicant exclusive rights to negotiate with the agency for the acquisition of the site; provided that the major terms of the acquisition have been agreed to by all parties;
- G. A land sales contract or enforceable agreement for acquisition of the property; or
- H. Other forms of site control that give the Department equivalent assurance that the applicant or developer will be able to complete the Work and all housing designated in the Application in a timely manner and in accordance with all the requirements of the Program.

The Recipient shall also obtain all licenses, easements and rights-of-way or other interests required for completion of the Work, and provide evidence of such instruments prior to the first disbursement of Program funds.

6. **Appraisals**

Recipient shall, at the request of the Department, provide an appraisal of the real property to be acquired as part of the Work, prepared in a form, and by a qualified appraiser, acceptable to the Department.

EXHIBIT D

7. **Relocation Plan**

If there is or will be any residential or commercial displacement directly or indirectly caused by the Work, as defined in state law, the Recipient shall provide a relocation plan conforming to the requirements of state law and the regulations adopted by the Department in California Code of Regulations, Title 25, section 6000 et seq. The project and/or the development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department. Should a relocation plan not be required, Recipient must provide documentation for Department approval that there are no relocation requirements.

8. **Article XXXIV**

The Recipient shall deliver to the Department satisfactory evidence that the requirements of Article XXXIV of the California Constitution are inapplicable or have been satisfied.

9. **Environmental Conditions**

The Recipient shall provide to the Department the following:

- A. All Environmental Site Assessment (“ESA”) Reports (to include Phase I, II, III, supplemental or update assessments and reports) for the Work, in conformance with ASTM Standard Practice E 1527, evaluating whether the Work is affected by any recognized environmental conditions.
- B. Documentation and/or a certification satisfactory to the Department that all ESA Report recommendations including remediation and/or mitigation work have been completed.
- C. Mitigation requirements required as a result of the Final Environmental Impact Report (“EIR”) or Mitigated Negative Declaration if applicable and evidence satisfactory to the Department that all mitigation requirements have been satisfied.

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

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

11. **Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.

EXHIBIT D

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

12. **Milestones**

Recipient shall ensure the completion of the PERFORMANCE MILESTONES set forth in Exhibit A-1, the Final and Corrected Project Report (Project Report) attached hereto and made a part hereof, and as further set forth in the Disbursement Agreement by the designated dates. Recipient shall timely inform the Department when a milestone is missed or at risk of being missed, provide an update of these timelines and provide assurances from the Recipient for timely completion of the remaining Milestones. Failure to timely notify the Department shall be considered a default under this Agreement.

13. **Insurance**

The Recipient shall have and maintain in full force and effect forms of insurance, at such levels and for such periods, in accordance with the Disbursement Agreement.

14. **Change of Conditions**

Notwithstanding the Department's obligations to provide payments pursuant to Exhibit B hereof, the Department reserves the right to evaluate the Recipient's need for Program funds based on new information or funding sources associated with the Work. If the Department determines that the Program funds, or a portion thereof, are no longer necessary to complete the Work, the Department may reduce the amount of the Grant accordingly. In the event the Department determines the Work is no longer financially feasible, any Grant commitment issued by the Department and this Agreement may be terminated.

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

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

16. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Recipient of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

EXHIBIT D

17. **Identity of Interests**

As a condition of disbursement, Recipient shall execute a Certificate of Identity of Interest ("Certificate") listing all relationships constituting an identity of interest with entities providing goods or services in connection with Recipient's performance of the Work. The Certificate shall be in a form provided by the Department. At the Department's request, Recipient shall submit contracts, instruments, documents, correspondence or other writings relating to Recipient's relationship with entities listed in the Certificate. The existence and nature of such relationships shall be subject to the review and approval of the Department to the extent necessary to ensure compliance with Program requirements and this Agreement.

DESIGN

18. **Architect**

The Recipient shall utilize the services an architect and/or an engineer to provide professional design and engineering services for the Work. The contract shall require an architect and/or an engineer to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 33 of these General Conditions. At the request of the Department, Recipient shall submit any and all contracts for these services to the Department for its review and approval.

19. **Plans and Specifications and Project Cost Estimates**

At the request of the Department, the Recipient shall submit plans and specifications and project cost estimates for the Work to the Department for its review and approval. The Work shall be constructed in substantial compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

20. **Reasonable Development Costs**

At the request of the Department, the Recipient shall provide evidence acceptable to the Department that the total costs of the Work are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third party verification of cost, evidence of the competitive bidding of major cost components and appraisals.

21. **Adaptability and Accessibility**

The Work shall comply with all applicable federal, state and local laws regarding adaptability and accessibility for persons with disabilities in the design, construction and rehabilitation of projects.

EXHIBIT D

22. **Acoustics Report**

Upon request, the Recipient shall provide the Department with an acoustics report for the Affordable Housing Development in form acceptable to the Department.

23. **Approval by Public Works Department**

Where approval by a local public works department, or its equivalent, is required for the Work, the Recipient must submit, prior to the disbursement of Grant funds, a statement from that department, or other documentation acceptable to the Department, indicating that the Work has been approved by that department.

CONSTRUCTION

24. **Construction Contract**

Except for work performed by its own employees, the Recipient shall enter into a written construction contract or contracts ("Construction Contract(s)") with a duly licensed contractor or contractors ("Contractor(s)") for the construction activities of the Work. The Construction Contract(s) shall require, where applicable, prevailing wages be paid in conformance with Labor Code section 1720 et seq. and applicable provisions of this Agreement. The Construction Contract(s) and any amendments thereto shall be subject to the prior approval of the Department.

25. **Contractor's Assurance of Completion**

The Contractor(s) shall provide security to assure completion of the Work by furnishing the Recipient with Performance and Payment Bonds, or a Letter of Credit, which shall remain in effect during the entire term of the Construction Contract(s), and which shall be in a form and from an issuer which is acceptable to the Department. The Performance Bond shall be in an amount at least equal to 100 percent of the approved construction costs included in the Construction Contract(s) to provide security for the faithful performance of the Construction Contract(s) including a warranty period of at least 12 months after completion. The Payment Bond shall be in an amount at least equal to 100 percent of the approved construction costs included in the Construction Contract(s) to provide security for the payment of all persons performing labor on the Work and furnishing materials in connection with the Construction Contract. A Letter of Credit shall be in an amount equal to at least 20 percent of the approved construction costs included in the Construction Contract(s), in the form of an unconditional irrevocable, stand-by letter of credit. The Department shall be named as an additional obligee in the Bonds or an additional beneficiary under the Letter of Credit.

26. **Prevailing Wages**

Pursuant to Section 113 of the Guidelines, for the purposes of the State Prevailing Wage Law (Labor Code Sections 1720-1781), a Grant under the Program shall be considered public funding for the construction, rehabilitation, demolition, relocation, preservation, or other physical improvement of the Work subject to the provisions of the State Prevailing Wage Law. Program

EXHIBIT D

funding of the Work shall not necessarily, in and of itself, be considered public funding of a Housing Development unless such funding is otherwise considered public funding under the State Prevailing Wage Law. It is not the intent of the Department to subject Housing Developments to the State Prevailing Wage Law by reason of Program funding of the Work in those circumstances where such public funding would not otherwise make the Housing Developments subject to the State Prevailing Wage Law. Although the use of Program funds does not require compliance with federal Davis-Bacon wages, other funding sources may require compliance with federal Davis-Bacon wages. The Recipient shall prepare a plan for compliance with this section, which plan shall be subject to the review and approval of the Department.

27. **Construction Phase Information**

If requested by the Department, the Recipient shall provide the Department:

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

28. **Signage**

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

EXHIBIT D

3268 SAN PABLO APARTMENTS

**THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM**

**CALIFORNIA CLIMATE INVESTMENTS
(Funded through the GREENHOUSE GAS REDUCTION FUND)
AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM
THROUGH THE
STRATEGIC GROWTH COUNCIL AND
THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

- B. The sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders or grantors, the Department acknowledgement and logo shall also be displayed in a similar size and layout. Copies of the Department, SGC and California Climate Investments (CCI) logos can be obtained by contacting the HCD Contract Coordinator.
- C. Upon installation of the sign, the Recipient shall submit a digital photograph thereof to the Department. The Recipient will also provide the Department, upon its request, with copies of any photographs that may be taken of the Work by or on behalf of the Recipient or its architect. The Recipient will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

INSPECTION OF GRANT ACTIVITIES

29. Site Inspection

The Department reserves the right, upon reasonable notice, to inspect the Work site and any structures or other improvements thereon to determine whether the Work site meets the requirements of Program and this Agreement. If the Department reasonably determines that the site is not acceptable for the proposed Work in accordance with the Guidelines, the Department reserves the right to cancel its funding commitment and this Agreement.

30. Work Inspection

- A. The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Work to ensure that the construction is being and has been performed in accordance with the applicable Federal, State, and /or local requirements, the Guidelines and the terms of this Agreement. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner.

EXHIBIT D

- B. The Recipient shall be required to correct all circumstances found by such inspections not to conform to the applicable Program requirements, and to withhold payment to the Contractor and/or Subcontractor(s) until action(s) to correct the non-conforming circumstances is/are corrected by the Recipient and approved by the Department.
- C. The Department reserves the right to withhold payment for any costs found not to conform to applicable Program requirements until such actions have been taken to correct the non-conforming circumstances and such corrective actions have been approved by the Department.
- D. The Department shall have no affirmative duty to inspect the Work and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Recipient, the contractor, the construction lender, the architect, the structural engineer, the locality or anyone else of any obligation to inspect the Work.

31. Audit/Retention and Inspection

- A. The Department, its representatives or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Recipient shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Recipient further agrees to maintain such records for a minimum period of four years after final payment under the Agreement, unless a longer period of records retention is stipulated.
- B. Payment for any cost which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Recipient.
- C. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Work. At the Department's request, the Recipient shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- D. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- E. If there are audit findings, the Recipient shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the Department will notify the

EXHIBIT D

Recipient in writing. If the Department is not in agreement, the Recipient will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.

- F. If so directed by the Department upon termination of this Agreement, the Recipient shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

COMPLETION OF CONSTRUCTION

32. Relocation Plan Implementation Report

The Recipient shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all recipients of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each recipient.

33. Architect Certification

Where required by the Department, the Recipient shall cause the Work architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the “as-built” Plans and Specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

34. Cost Certification

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

35. Recorded Notice of Completion

The Recipient shall provide to the Department a certified copy of any Notice of Completion for the Housing Development recorded in the county in which the Housing Development is located.

36. “As-Built” Plans and Specifications

Upon completion, at the request of the Department, the Recipient shall submit “as-built” plans and specifications for the Work and Housing Development acceptable to the Department.

EXHIBIT D

AFFORDABLE HOUSING DEVELOPMENT REQUIREMENTS

37. Confirmation of Permitted Housing Units

Conditions precedent to the first disbursement of Program funds shall include receipt of all required public agency entitlements and all required funding commitments for the Affordable Housing Development. The housing units to be developed in the Affordable Housing Development must be completed, as evidenced by receipt of a certificate of occupancy, within the time period established in this Agreement.

REPORTING REQUIREMENTS

38. Reports on California Climate Investments

Upon Department's request, Recipient shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Funding Guidelines for California Climate Investments by the California Air Resources Board.

39. Reports on Work

Recipient shall submit, upon request of the Department, a periodic performance report regarding the construction or implementation of the Work. The reports will be filed on forms provided by the Department.

40. Reports on Affordable Housing Development

Recipient shall submit to the Department periodic reports, as required by the Department, but not less than annually, describing the development, construction and occupancy of the Affordable Housing Development and the housing designated in the Application. The report shall include, but not limited to, information regarding unit affordability and occupancy, construction and permanent financing evidenced by commitment letters, and a construction and completion schedule demonstrating compliance with this Agreement and the Guidelines. The reports will be filed on forms provided by the Department.

41. Updated Information

Recipient shall provide the Department updated documentation for any substantial change in the information previously provided relating to the Work and the conditions described above.

42. Monitoring Requirements

The Program may perform program and/or fiscal monitoring of the Grant. The Recipient agrees to cooperate with any such monitoring and provide reasonable access to all Work files, records, documents and other information to employees or representatives of the Department. The Recipient shall resolve any monitoring findings to the Program's satisfaction by the deadlines set by the Department.

EXHIBIT D

REPAYMENT OF GRANT FUNDS

43. Breach of this Agreement

In the event of a breach or violation by the Recipient of any of the provisions of this Agreement, including without limitation, the times for commencement and completion of the construction of the Affordable Housing Development and the housing designated in the Application as set forth in Paragraph 1.B. of this Exhibit D, the Department may give written notice to the Recipient to cure the breach or violation within a period of not less than 30 days. If the breach or violation is not cured to the satisfaction of the Department within the specified time period, the Department, at its option, may declare a default of the Agreement and may seek remedies for the default, including the following:

- A. The Department may terminate this Agreement and demand repayment of the Program funds to the extent that work for costs to be paid by Program funds as provided in Exhibit B remains unperformed or uncompleted. Recipient shall be liable for all costs to complete all such uncompleted or unperformed work.
- B. The Department may seek, in a court of competent jurisdiction, an order for specific performance of the defaulted obligation or the appointment of a receiver to complete the Work in accordance with Program requirements.
- C. The Department may seek such other remedies as may be available under this Agreement or any law.
- D. This Agreement may be canceled by the Department under any of the following conditions:
 - 1) An uncured breach or violation by Recipient of this Agreement or the Disbursement Agreement.
 - 2) The objectives and requirements of the Program cannot be met by continuing the commitment or this Standard Agreement;
 - 3) Construction of the Work or Housing Development cannot proceed in a timely fashion in accordance with the Performance Milestones in Exhibit A of this Agreement;
 - 4) Funding or disbursement conditions have not been or cannot be fulfilled within required time periods.

44. Cross-Default Provision

This award was based on the total points awarded the Recipient's Application, during a highly competitive process, That Application proposed an integrated combination of some or all of the following Project components: Affordable Housing Development (AHD); Housing-Related

EXHIBIT D

Infrastructure (HRI); Sustainable Transportation Infrastructure (STI); Transportation-Related Amenities (TRA); and Programs (PGM). The Application's point score was based, in part, on the Project's total projected reduction of greenhouse gas (GHG) emissions. The Project components (AHD, HRI, STI, TRA, and PGM) that were proposed in the Application and approved by the Department must be completed in order to achieve this projected reduction of GHG emissions. By executing this Standard Agreement, the Recipient acknowledges and agrees that in the event the AHD component is not timely completed pursuant to Program requirements that the Recipient will no longer qualify for the AHSC Grant award. In that event, all disbursements of AHSC Grant funds would cease and the Recipients would be responsible for repayment of all disbursed AHSC Grant funds.

EXHIBIT E**SPECIAL TERMS AND CONDITIONS****Affordable Housing and Sustainable Communities (AHSC) Program - Grant**

<u>Payee Name</u>	<u>Activity</u>	<u>Award Amount</u>
City of Oakland	STI	\$ 1,072,200
AC Transit District	STI	\$ 1,200,000
Satellite Affordable Housing Associates (SAHA)	TRA, PGM	\$ 1,145,300

The following Special Terms and Conditions are applicable to this Standard Agreement:

1. Applicable law, including the Department's and the AHSC Program's statutes, regulations and Guidelines (the "**AHSC Requirements**") shall apply and be enforced in the event any conflict between the AHSC Requirements and the project documentation becomes apparent to the Department at any time, notwithstanding the Department's prior review of project documentation prior to or at the time of construction loan closing.
2. In addition to the AHSC Grant contemplated in this Agreement [which is for Sustainable Transportation Infrastructure (STI), Transportation-Related Amenities (TRA) and Program Costs (PGM)], the Department is also providing the following additional funding in connection with the Project:
 - (i) Pursuant to the AHSC Award Letter dated July 20, 2018 from the Department to Satellite Affordable Housing Associates ("**Corp**"), the City of Oakland ("**City**") and the Alameda Contra Costa Transit District ("**Transit District**", and together with Corp, and City collectively, the "**Recipient**"), the Department also awarded Recipient \$5,000,000 in AHSC permanent loan funding (17-AHSC-12138) (the "**AHSC Loan**"), under which 3268 San Pablo, L.P. (the "**Limited Partnership**") will be the ultimate borrower of the loan funds; and in connection therewith, Recipient and/or the Limited Partnership, as applicable, are executing a separate Standard Agreement and will upon close of such permanent loan funding execute other Departmental documents (including without limitation a promissory note, regulatory agreement and deed of trust) related thereto (such standard agreement and other documentation being collectively, the "**AHSC Loan Documents**"); and
 - (ii) Pursuant to the IIG Award Letter, dated June 18, 2018, from the Department to Corp, the Department awarded Corp \$1,222,000 in IIG grant funding (the "**IIG Grant**"), and in connection therewith, Corp, is executing a separate Standard Agreement (17-IIG-12067), Disbursement Agreement, Covenant and other documents related thereto (collectively, the "**IIG Grant Documents**").

In connection therewith, Recipient hereby acknowledges and agrees as follows:

- (A) that Corp, City, Transit District, and/or the Limited Partnership, as applicable, observing, being in compliance with, and not being in breach of or default under

EXHIBIT E

any of the AHSC Loan Documents or the IIG Grant Documents to which they are a party, shall be an additional condition precedent to the disbursement of the AHSC Grant funds under this Agreement, the Disbursement Agreement contemplated herein and any other documents related to the AHSC Grant (the **“AHSC Grant Documents”**); and

- (B) that any breach or event of default under the AHSC Loan Documents or the IIG Grant Documents shall be a breach and default under this Standard Agreement and the other AHSC Grant Documents.

- 3. The Department recognizes that the Recipient may enter into a separate side agreement(s) to address each individual Recipient entity's responsibilities with respect to each other and with regard to the AHSC Loan and Grant funds; provided, however, in no event shall any such agreement(s) alter or amend the respective obligations of the Recipient to the Department under the applicable AHSC Loan Documents or AHSC Grant Documents. (Section 105(a)(3)(A) of the Guidelines.) .

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

Affordable Housing and Sustainable Communities (AHSC) Program

Loan for Rental Affordable Housing Development

1. Authority & Purpose

This Standard Agreement, STD 213 (hereinafter "Agreement"), is the result of the Sponsor's application ("Application") for funding under the AHSC Program ("Program") pursuant to:

- A. Part 1 of Division 44 of the Public Resources Code (commencing with Section 75200);
- B. The Program Guidelines dated July 17, 2017 as amended ("Guidelines"), issued by the State of California Strategic Growth Council ("SGC"), as may be amended from time to time.
and
- C. The Program's Notice of Funding Availability ("NOFA") issued by the Department of Housing and Community Development (hereinafter the "Department" or "HCD"), dated October 2nd 2017.

The Application, including all representations made therein, is hereby incorporated in this Agreement by this reference.

The Guidelines and the NOFA are available on the Program Web site at:

<http://sgc.ca.gov/programs/ahsc/resources/guidelines.html>

This Agreement is entered into under the authority of, and in furtherance of the purposes of the AHSC Program. In accordance with the authority cited above, the Application was made to HCD for financial assistance from the AHSC Program for the purpose of assisting in the development and operation of a residential rental Affordable Housing Development on certain real property (the "Property") as identified in the Application. The financial assistance from the Program shall be in the form of a permanent loan (the "AHSC Loan") to the Sponsor, or to its approved affiliate ("Borrower"), as owner of the residential rental Affordable Housing Development, evidenced by a promissory note, secured by a deed of trust and subject to a regulatory agreement. The purpose of the AHSC Loan is to ensure that the rental Affordable Housing Development is constructed, owned, managed, maintained and operated in accordance with the requirements of the AHSC Program, the requirements in the Guidelines and the representations in the Application, and to ensure that certain residential units therein shall be occupied by eligible households at affordable rents as defined in the Guidelines for the full term of the AHSC Loan, regardless of sale or transfer of the Property or prepayment of the AHSC Loan. To further effect this purpose, if Sponsor or Borrower is an entity other than the Sponsor identified in the Application, HCD may require the Sponsor to enter into a Sponsor Operating Guaranty as a condition of closing the AHSC Loan.

AHSC Loan - Rental Affordable Housing Development

NOFA Date: 10/02/17

Approved Date: 12/06/18

Prep. Date: 03/18/19

EXHIBIT A

By entering into this Agreement and thereby accepting the award of AHSC Program Loan funds, the Sponsor agrees to comply with applicable statutory law, the Guidelines, the NOFA, and this Agreement, and to abide by the representations made in the Application.

2. Definitions

Capitalized terms herein shall have the meaning of the definitions set forth in the Guidelines, and in page 2 of this Exhibit A, in addition:

- A. “Sponsor” refers to the entity or entities that made the Application to the Department for the Award for the Affordable Housing Development and identified as “Contractor” on page 1 to this Agreement (STD 213). “Sponsor” also includes any affiliate or assignee of the Sponsor approved by the Department and undertaking all the obligations of the Sponsor hereunder (e.g., the Borrower). In the case of joint applicants, “Sponsor” shall refer to each applicant or the approved assignee of such applicant. Each joint applicant shall be jointly and severally liable for all obligations of a Sponsor as set forth herein.
- B. “Affordable Housing Development” refers to the residential rental Affordable Housing Development described in the Application providing the affordable housing units, as described therein, in consideration of the AHSC Loan. The Affordable Housing Development shall meet all criteria as set forth in the AHSC Guidelines.
- C. “TCAC” refers to the California Tax Credit Allocation Committee.
- D. Any reference to a specific “Section” or “section” of the Guidelines shall initially refer to that specific numbered section of the Guidelines adopted on and dated July 17, 2017 as amended. Notwithstanding, if and when the SGC amends any portion of the Guidelines, all references herein to any such portion of the Guidelines shall be deemed to refer to the updated version of the Guidelines, either in whole or in part, as may be applicable. To the extent that any Guidelines section or sections (Section or Sections) provision is or are amended, and thereafter receive(s) a new Guidelines section number(s), any reference herein to the old Guidelines section(s) number(s) shall be interpreted to refer instead to the Guidelines section(s) that is (or are) intended to replace the content and substance of the former Guidelines section(s).

3. Scope of Work

The Scope of Work (“Work”) for this Agreement shall consist of the development and construction of the Affordable Housing Development identified in the award Letter and described in the Application. The Affordable Housing Development is to be developed and constructed by the Sponsor, or by a developer on behalf of the Sponsor, as provided in the Application, which is incorporated herein by reference. The Affordable Housing Development shall meet the criteria set forth in Exhibit A-1 Final and Corrected Project Report (Project Report).

EXHIBIT A

Additionally, upon completion, the Affordable Housing Development must meet or exceed the applicable minimum Net Density as set forth in Section 103(a)(1)(A)(iv) of the Guidelines.

Further, the Sponsor shall take such actions, pay such expenses and do all things necessary to complete the Affordable Housing Development as identified in the Award Letter and described in the Application in accordance with the schedule for completion set forth therein and the terms and conditions of this Agreement. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by a Division of Financial Assistance Operations Manager or higher Departmental official, as appropriate, are part of the Application and are hereby incorporated as part of the Agreement. HCD reserves the right to review and approve all Work to be performed by the Sponsor in relation to this Agreement. Any proposed revision of the Work must be submitted in writing for review and approval by HCD. Any approval shall not be presumed unless such approval is made by HCD in writing.

4. Evidence of Point Generating Activities:

Based on the points awarded to its Application, Sponsor assures the Department of the existence or planned aspects of all point generating activities as detailed in the attached Final and Corrected Project Report (Project Report).

At the request of the Department, Sponsor shall provide further and additional evidence sufficient to demonstrate the existence and/or completion of the items for which the Sponsor's Application received points. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reduction or cancellation of the grant award, require repayments of any disbursed Program funds, and result in the disencumbrance of Program funds awarded.

A. Section 107(a) – GHG Emissions Reductions Estimate

Based on the inputs in the Application, the estimated total MTCO₂e over the life of the project is 29,385.

5. Performance Milestones

Sponsor shall ensure the completion of the performance milestones set forth in the Final and Corrected Project Report (Project Report), attached hereto as Exhibit A-1, by the designated dates. When Sponsor misses or anticipates missing a performance milestone deadline, Sponsor shall notify the Department in writing as soon as is reasonably practicable. In this notification, Sponsor shall explain why the deadline has been or will likely be missed; provide a status update relative to the other performance milestone deadlines; and provide assurances that it will meet the remaining performance milestone deadlines. Sponsor's failure to provide a timely written notification shall be considered a default under this Agreement.

EXHIBIT A**6. State Contract Coordinator**

The HCD Contract Coordinator of this Agreement for the Department is the Division of Financial Assistance Operations Manager, or the Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the HCD Contract Coordinator at the following address:

Kim Losoya
Department of Housing and Community Development
Division of Financial Assistance – Operations Branch
P.O. Box 952054
Sacramento, CA 94252-2054

7. Sponsor Contract Coordinator

The Sponsor's Contract Coordinator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the contact at the following address:

Sponsor:	SAHA
Name:	Somaya Abdelgany
Address:	1835 Alcatraz Avenue, Berkeley, CA 94703
Phone No.:	(510) 809-2753
Email Address:	sabdelgany@sahahomes.org

AFFORDABLE HOUSING & SUSTAINABLE COMMUNITIES (AHSC) & INFILL INFRASTRUCTURE GRANT (IIG)

Final Corrected Combined Project Report

PROJECT NAME: 3268 San Pablo
PROJECT ADDRESS: 3268 San Pablo Ave., Oakland, CA 94608
PROJECT COUNTY: Alameda
APPLICANT/SPONSOR: Satellite Affordable Housing Associates (SAHA)
TYPE OF ORGANIZATION: Non-profit Public Benefit Corporation
APPLICANT/SPONSOR CONTACT: Susan Friedland, Executive Director
APPLICANT/SPONSOR ADDRESS: 1835 Alcatraz Ave., Berkeley, CA 94703
CO-APPLICANT: None
PREPARED BY: Stoyan Elitzin and Adrienne DiLullo

☒ 4% TAX CREDIT ☐ 9% TAX CREDIT
☐ OTHER HCD FUNDING SOURCES
☐ MARKET-RATE UNITS
☒ SENIOR
☐ RURAL
☐ SCATTERED SITE
☐ SUPPORTIVE HOUSING/SPECIAL NEEDS
☐ COMMERCIAL SPACE

Scope and Project Summary

3268 San Pablo proposal meets the requirement of an IIG Capital Improvement Project (CIP) in support of a Qualifying Infill Project (QIP) and is also a qualified AHSC Integrated Connectivity Project (ICP) project, which includes Sustainable Transportation Infrastructure (STI), Transportation-Related Amenities (TRA), Program Costs (PGM), Housing Related Infrastructure (HRI) and Affordable Housing Development (AHD) components. The total IIG funding request is \$1,222,000. The total AHSC funding request is \$8,917,500, which includes \$3,417,500 grant funding and a \$5,500,000 AHD loan.

IIG CIP Components

The Capital Improvement Project (CIP) for 3268 San Pablo includes site preparation and demolition, storm, sewer, and water systems, paving and sidewalk surface improvements, landscaping elements, including courtyard hardscape, lighting, raised garden beds, installation of planting, and irrigation, and the applicable percentage of ground-floor podium costs associated with the project's parking garage and bike storage room. The following list specifies the total number of distinct infrastructure improvements relating to each eligible cost category: 4 Utility Improvements (sewer, potable water, storm drain, cathodic protection); 5 Surface Improvements: 5 (aggregate base, asphalt pavement, curb/gutter/sidewalk, striping/signage/barricades, survey); 7-Landscape & Amenities items (irrigation, concrete work, landscaping, walking/bike path, structures, lighting, green screen); 2 Residential Parking items (residential parking structure, foundation work); and 1 Transit item (bicycle facilities).

AHSC Grant Components

STI

STI includes installation of Class 2 bike lanes and road diet on Martin Luther King Jr Way between Embarcadero and 20th Street, 1.04 miles each direction; repair/replacement of 48 curb ramp and sidewalk repair improvements from San Pablo to MLK Jr Way along 33rd and Brockhurst, creating a path of travel from the project site to Hoover Elementary School; Two new bike share stations for the Ford GoBike Bike Share network in Oakland, located at San Pablo/31st and at 31st/Martin Luther King Jr. Way; purchase of zero-emissions bus to support service expansion and Clean Corridors Plan. Total STI grant funds requested is \$2,272,200.

TRA

TRA includes installation of new wayfinding signage and real-time transit information, and a high-security smart bike rack system at MacArthur BART station. Total TRA grant funds requested is \$1,000,000.

PGM

Programs includes the provision of 50 free AC Transit passes and 50 free Ford GoBike bike share memberships for the residents of the 3268 San Pablo affordable housing development for a 3-year period. Total program grant funds requested is \$145,300

QIP/AHD Housing Component

3268 San Pablo is a 51 unit new construction project with 51 one-bedroom units serving seniors, age 62 years and older, with incomes ranging from 30-60 percent of Area Median Income (AMI), with 1 manager's unit. Each unit will have a refrigerator, range, dishwasher, fenced rear yard, window coverings, and storage area. On-site amenities include 1 elevator, 1 laundry room, a community room and community kitchen, a computer room, and a fitness room. Off-site amenities, located within two miles of the project include a public park, an employment center, a retail center and public transit.

Project Description

AHD Request:	\$5,500,000	Amt./Restrict. Unit:	\$110,000
Total Development Cost:	\$34,640,551	Total Cost/Unit: ¹	\$679,226

High Cost Analysis/HCD /adj. Basis Limit:

Ultimate Borrower:	To Be Determined
General Partner:	Satellite AHA Development, Inc.
Architect:	HKIT Architects, Oakland
General Contractor:	Nibbi Brothers, San Francisco
Consultant:	California Housing Partnership
Property Management:	Satellite Affordable Housing Associates

Est. Construction Start Date: 4/1/2019

Ultimate Site Control:	Fee Title
Land Area:	0.26 acres

Project Type:	New Construction	Total Residential Area:	26,550	sq. ft.
Project Design:	Mid-rise (3-5 stories)	Community Room:	1,000	sq. ft.
No. of Residential Bldgs:	1	Number of Elevators:	1	
Number of Stories:	5	Number of Guest Parking Spaces:	0	
Parking Spaces:	13	Commercial Uses:	0	sq. ft.
Parking Type:	Covered	Other Uses:	0	sq. ft.

Special Conditions

1. Not less than 60 days prior to construction loan closing, the Applicant shall provide updated financial documents including, but not limited to the development budget, development sources and uses, schedule of rents and unit mix, operating budget and 15-year cash-flow analysis, which are acceptable to the Department and demonstrate compliance with the Uniform Multifamily Regulations. All changes to the proposed project must be approved by the Department.
2. Prior to construction loan closing Sponsor shall provide a plan, which is acceptable to the Department, for the mitigation and removal of asbestos-containing materials and soils. After demolition is complete, and prior to start of new construction, Sponsor shall provide documentation demonstrating that the soils are free of contamination.
3. Prior to construction loan close, the Sponsor must comply with applicable local, state and federal relocation requirements of Government Code section 7260 et seq. and California Code of Regulations, title 25, section 6000 et seq. including a relocation plan which shall be subject to the approval of the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.
4. Prior to permanent loan closing, the Sponsor shall confirm, to the Department's satisfaction, that the County of Alameda, through its regulatory agreement, is restricting the same units to low-income occupancy as the Department is restricting through its AHSC regulatory agreement.
5. This project is subject to further underwriting and feasibility review. In the event that either the underwriting or the feasibility review determines that the project is not viable, the Department's funding commitment will be terminated.

AHD MILESTONES	DATE:
Executed binding agreement between the Recipient and developer of the proposed Capital Project detailing the terms and conditions of the Capital Project development.	5/1/19
Secure all Enforceable Funding Commitments	5/1/19
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	5/1/19
Commencement of construction.	9/1/19
Construction complete and the filing of the Notice of Completion.	1/1/23
Permanent Loan Closing	10/1/23
Program funds fully disbursed.	10/1/23

STI MILESTONES	DATE:
Performance Milestone	
Executed binding agreement between the Recipient and developer of the proposed Capital Project detailing the terms and conditions of the Capital Project development.	5/1/19
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	5/1/19
Commencement of construction.	9/1/19
Construction complete and the filing of the Notice of Completion.	5/1/21
Program funds fully disbursed.	10/1/23

TRA MILESTONES	DATE:
Performance Milestone	
Executed binding agreement between the Recipient and developer of the proposed Capital Project detailing the terms and conditions of the Capital Project development.	5/1/19
Submission of Final Construction Drawings and Specifications to the appropriate local building department or permitting authority.	5/1/19
Commencement of construction.	9/1/19
Construction complete and the filing of the Notice of Completion.	1/1/23
Program funds fully disbursed.	10/1/23

PGM MILESTONES	DATE:
Performance Milestone	
Program Designed	5/1/19
Program Operator Identified	5/1/19
Program funds fully disbursed.	10/1/23

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

Affordable Housing and Sustainable Communities (AHSC) Program

Loan for Rental Affordable Housing Development

1. Terms of AHSC Loan

- A. Principal Amount. The principal amount of the AHSC Loan shall be the lesser of (i) the principal amount as stated in the Application, or (ii) the amount later approved by the Department as consistent with the requirements of section 7307 of the Multifamily Housing Program Regulations.
- B. Interest and Payment. The AHSC Loan shall bear interest at the rate and be payable as provided in section 7308 of the Multifamily Housing Program Regulations and under the terms of the Department's AHSC promissory note to be executed at loan closing. The AHSC Loan may not be prepaid without the prior written consent of the Department.

2. Invoicing and Payment

- A. **All AHSC Loan proceeds shall be disbursed through an independent escrow/title company. The Department shall prepare and submit instructions to the escrow holder, detailing the requirements for the release of AHSC Loan proceeds to the Borrower.**
- B. The AHSC Loan shall be released through escrow upon the Sponsor's, or its assignee's, submittal of the Request for Funds form and the satisfaction of the terms of the Award Letter and this Agreement. HCD reserves the right to retain 10 percent of the approved loan proceeds pending receipt and acceptance of the cost audit and any remaining loan closing checklist items.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support

enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D

AHSC TERMS AND CONDITIONS

Affordable Housing and Sustainable Communities (AHSC) Program

Loan for Rental Affordable Housing Development

GENERAL TERMS AND CONDITIONS

1. Effective Date, Commencement of Work and Completion Dates

This Agreement is effective upon approval by HCD which is the date stamped by the Department in the lower right hand corner of the coversheet of this Agreement (STD 213). The Sponsor agrees that the construction of the Affordable Housing Development has not commenced as of the deadline for submittal of applications set forth in the Notice of Funding Availability. The Sponsor agrees that the Work shall be completed as specified in this Agreement and as set forth in the Final and Corrected Project Report (Project Report), incorporated herein as Exhibit A-1, subject to the Agreement expiration date specified on page 1, number 2, of this Agreement (STD 213), and in paragraph 3 below, unless a written request for an extension is submitted and written approval by the Department is provided within 90 days prior to the expiration date of the Agreement. Any extension to the expiration date shall require an amendment to this Agreement.

2. Termination

The Department may terminate this Agreement at any time for cause by giving at least 14 days notice in writing to the Sponsor. The Department shall have cause if the Sponsor violates any of the General or Special Terms and Conditions of this Agreement. Examples of such cause for termination include, but are not limited to, the following:

- A. Failure of the AHSC Loan to close on or before the AHSC Loan closing deadline as stated under paragraph 3 ("Timing") in these General Terms and Conditions.
- B. Failure of the Sponsor to satisfy in a timely manner each of the conditions set forth in these General Conditions and the Award Letter.
- C. Determination by the Department that: (a) any material fact or representation made or furnished to the Department by the Sponsor in connection with the Application or the Award Letter shall have been untrue or misleading at the time that such fact or representation was made known to the Department, or subsequently becomes untrue, or (b) the Sponsor shall have concealed any material fact from the Department related to the Application or the Affordable Housing Development.
- D. Filing a petition by Sponsor, or any affiliate or general partner of Sponsor, for relief under the Bankruptcy Code; the filing of any pleading or an answer by Sponsor, or any general partner of Sponsor, in any involuntary proceeding under the Bankruptcy Code; a general assignment by Sponsor, or any affiliate or general partner of Sponsor, for the benefit of

EXHIBIT D

- creditors; or the filing of an application for the appointment of a receiver, trustee, custodian or liquidator of Sponsor or any of its property, or any affiliate or general partner of Sponsor or any of its property.
- E. Failure of Sponsor, or any general partner of Sponsor, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Sponsor, or any general partner of Sponsor, or that in any way restrains or limits Sponsor, or any general partner of Sponsor, or the Department regarding the AHSC Loan or the Affordable Housing Development, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or 30 days after the date of filing of such involuntary petition.
 - F. Attachment, levy, execution, or other judicial seizure of any portion of the Affordable Housing Development, or any substantial portion of the other assets of Sponsor, or any general partner of Sponsor, that is not released, expunged, bonded, discharged, or dismissed within 30 days after the attachment, levy, execution, or seizure.
 - G. Pendency of any proceeding challenging the legal existence or authority of Sponsor, or any general partner of Sponsor, or any proceeding challenging the legality of the Affordable Housing Development.
 - H. Failure of Sponsor to close the Department approved construction financing on or before the date indicated under paragraph 3 ("Timing") in these General Terms and Conditions. Any reference in this Agreement to "construction" shall include rehabilitation construction, if applicable.

3. Timing

- A. The Sponsor shall close the construction financing approved by the Department as indicated in the Application and commence construction of the Affordable Housing Development in accordance with Section 111 of the Guidelines. Upon the Department's request, the Sponsor shall promptly provide evidence of recorded deeds of trust for all construction financing (except for Affordable Housing Program (AHP) funds), payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor. If no construction lender is involved, and the project is receiving low-income housing tax credits, evidence must be submitted that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred.
- B. Pursuant to section 111 of the Guidelines, construction of the Affordable Housing Development must commence within two years of the Program award and must be completed within five years of the Program award date.
- C. The Sponsor shall satisfy all conditions required to close the AHSC Loan on or before December 31, 2023. In order to ensure this disbursement happens, the Sponsor must

AHSC Loan - Rental Affordable Housing Development

NOFA Date: 10/02/17

Approved Date: 12/06/18

Prep Date: 03/18/19

EXHIBIT D

provide the Department with a certificate of occupancy (or an equivalent form of occupancy certification or approval) for the Project by no later than July 30, 2023. If the AHSC Loan does not ultimately close by December 31, 2023, the AHSC funds will be disencumbered from the Project.

D. This Agreement shall expire on June 30, 2038.

4. **Disputes**

Applicable law, including the Department's and the AHSC Program's statutes, rules, regulations, and Guidelines shall apply and be enforced in the event of any conflict that becomes apparent to the Department at any time, notwithstanding the Department's preliminary prior review of Project documentation at the time of construction loan closing.

5. **Consent**

The parties agree that wherever the consent or approval of the Department or the Sponsor is required under this Agreement, such consent or approval will not be unreasonably withheld or delayed, unless the same is specified as being in that party's sole discretion or other words of similar import.

PRE-CONSTRUCTION LOAN REQUIREMENTS

Unless otherwise approved in writing by the Department, the following conditions require compliance prior to the close of the construction loan(s) for the Affordable Housing Development (construction loan includes a rehabilitation loan):

6. **Site Control**

The Sponsor shall hold fee title to the real property on which the Affordable Housing Development is located or a leasehold or other possessory interest sufficient to meet the Sponsor's obligations under the Program and the loan documents. The status and nature of the Sponsor's title and interest in the property shall be subject to the Department's approval. Site control may be evidenced by one of the following:

- A. Fee title;
- B. A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance, prior to loan closing, with all program requirements;
- C. An enforceable option to purchase or lease which shall extend through the anticipated date of the Program award as specified in the NOFA;

EXHIBIT D

- D. An executed disposition and development agreement right of way, or irrevocable offer of dedication to a Public Agency;
- E. An executed encroachment permit for construction of improvements or facilities within the public right of way or on public land;
- F. An executed agreement with a public agency that gives the Sponsor exclusive rights to negotiate with that agency for acquisition of the site, provided that the major terms of the acquisition have been agreed to by both parties; or
- G. A land sales contract or other enforceable agreement for the acquisition of the property.
- H. Other forms of site control that give the Department assurance (equivalent to A-G above) that the applicant or developer will be able to complete the Project and all housing designated in the application in a timely manner and in accordance with all the requirements of the Program.

If the Sponsor's interest in the property is a leasehold, the lease must provide adequate security for the AHSC Loan and comply with the requirements of the Uniform Multifamily Regulations ("UMR"), Section 8316. The Sponsor shall provide a copy of the ground lease for the Department's approval and review of its compliance with UMR Section 8316. The lessor and lessee will be required to sign the Department's standard form Lease Rider and Estoppel Agreement, unless the lessor agrees to sign the AHSC loan documents as required by the Department and encumber all its interest in the Affordable Housing Development. Where the lessee and the lessor are affiliated or related private parties, both the lessee and the lessor must execute the AHSC Loan documents so as to encumber both the leasehold and fee interests in the Affordable Housing Development.

7. **Title Report**

The Sponsor shall provide a current title report for the real property on which the Affordable Housing Development is located. If the Sponsor's interest in the property is leasehold, then the Sponsor shall provide a current title report for the leasehold interest and the fee interest.

8. **Site Inspection**

The Department reserves the right, upon reasonable notice, to inspect the Affordable Housing Development site and any structures or other improvements thereon to determine whether the Affordable Housing Development site meets the requirements of the Program, particularly Section 103(a)(1) of the AHSC Guidelines. If the Department reasonably determines that the site is not acceptable for the proposed Affordable Housing Development in accordance with the AHSC Guidelines, the Department reserves the right to rescind the Award and the AHSC Loan.

EXHIBIT D

9. Adaptability and Accessibility

The Sponsor and the Affordable Housing Development shall comply with all applicable federal, state and local laws regarding adaptability and accessibility in the design, construction and rehabilitation of residential projects for persons with disabilities.

10. Sponsor's W-9

The Sponsor shall provide Sponsor's W-9 showing taxpayer identification information.

11. Physical Needs Assessment

If the Affordable Housing Development involves rehabilitation of existing units, the Sponsor shall provide a physical needs assessment acceptable to the Department, in accordance with instructions provided by the Department.

12. Reserve Study

Upon request by the Department, Sponsor shall provide an independent, third-party replacement reserve study acceptable to the Department.

13. Construction Contract

The Sponsor shall enter into a written construction contract with a licensed building contractor for the construction work. Such contract shall require, where applicable, prevailing wages be paid in conformance with Labor Code Section 1720 et seq. and applicable provisions of the Standard Agreement. The contract and any amendments thereto shall be subject to the prior approval of the Department.

14. Affordable Housing Development Budget

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

15. Reasonable Affordable Housing Development Costs

Sponsor shall provide to the Department evidence that total development costs are reasonable and necessary for the proposed improvements. To verify cost reasonableness, the Department may require qualified third party verification of costs, evidence of the competitive bidding of major trades and real estate appraisals. Where the Affordable Housing Development is a component of a larger development, the Sponsor shall submit to the Department for its approval, a development cost sharing breakdown for the entire development which covers all development costs for each of the individual components of the entire development and includes a discrete development budget for the Affordable Housing Development consistent with the budget in the

EXHIBIT D

Application. Eligible costs for Affordable Housing Developments are limited to costs as specified in 25 CCR Section 7304 (a) & (b).

16. Sponsor Control of Affordable Housing Development

Sponsor shall provide evidence satisfactory to the Department that the Sponsor identified in the Application and who demonstrated the requisite experience, pursuant to Section 106(a)(12) of the AHSC Guidelines, in the application process, has and will retain full control over the development, construction, ownership and management of the Affordable Housing Development through control of the Sponsor entity by the Sponsor either directly as Borrower, or as a managing general partner of Borrower, or as the member/manager of the general partner of the Borrower, if Borrower is a partnership) The same control requirement applies to any Borrower organized as a limited liability company. The failure to demonstrate the requisite control of the Sponsor entity by the Sponsor may result in significant delay in the processing, or potentially the cancellation, of the AHSC Loan. The Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, shall execute the Department's Sponsor Operating Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Affordable Housing Development. The organizational structure of the Borrower, including the control and ownership by the Sponsor or Sponsors, and any changes thereto, must be reviewed and approved by the Department and must comply with all Program requirements.

17. Relocation Plan

If there is or will be any residential or commercial displacement directly or indirectly caused by the Affordable Housing Development, the Sponsor shall provide a relocation plan conforming to the requirements of state law and the regulations adopted by the Department in California Code of Regulations, Title 25, Section 6000 et seq. The Affordable Housing Development budget shall contain sufficient funds to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department. Should a relocation plan not be required, Sponsor must provide documentation for Department approval that there are no relocation requirements.

18. Architect Contract

The Sponsor shall enter into a contract with an architect to provide professional services for the Affordable Housing Development. The contract shall require an architect to supervise the construction work, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor's payment requests, prepare or review change orders, and, upon completion of construction, provide the certification described in paragraph 31 of these General Conditions.

19. Appraisals

EXHIBIT D

If the property for the Affordable Housing Development is being purchased, the Sponsor shall provide an appraisal acceptable to the Department of the as-is value of the property, prepared by a qualified, licensed appraiser.

20. **Termite Report**

If existing improvements are to be rehabilitated, the Sponsor may be required to provide the Department with a termite/pest report prepared by a licensed inspector in form acceptable to the Department.

21. **Acoustics Report**

Upon request, the Sponsor shall provide the Department with an acoustics report in form acceptable to the Department.

22. **Non-Department Financing**

The Sponsor shall qualify for and obtain the financial assistance, loans and grants described in the Application for both the construction and permanent periods. Final terms and conditions of the non-Department financing must substantially conform to the terms and conditions of the Sponsor's AHSC Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.

23. **Senior Loan Terms and Disclosures**

The terms of loans in a lien position senior to the AHSC Loan must comply with all the underwriting standards of UMR Sections 8310 and 8315.

Balloon payments are not allowed on senior debt, except where the Department's regulatory agreement is recorded in a position that is senior to the debt with a balloon payment. Senior loans are prohibited from including call option language in the terms of the loan other than is reasonable in case of default, nor may Sponsor be required to remarket Bonds prior to expiration of the senior loan. Financial instruments on senior loans (including but not limited to swaps, collars, and interest rate hedges) must extend for the full term of the senior loan and cannot be required to be renewed or extended prior to the end of the full term.

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

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

EXHIBIT D

The Department's lien shall not be subordinated to the liens of a lender affiliated with an entity that has an ownership interest in the Project unless a covenant, regulatory agreement, or similar instrument is recorded senior to the lender's documents that includes the provisions of UMR Section 8310(f).

24. Environmental Conditions

The Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Affordable Housing Development, in conformance with ASTM Standard Practice E 1527, evaluating whether the Affordable Housing Development is affected by any recognized environmental conditions. In the event the Phase I ESA indicates evidence of recognized environmental conditions and the Sponsor desires to proceed with the Affordable Housing Development, the Sponsor shall provide the Department with a Phase II report and such further reports as required by the Department in form acceptable to the Department. Any remediation work to be performed shall be subject to Department approval. The Sponsor shall also provide an asbestos assessment and a lead-based paint report for the Department's approval if the Affordable Housing Development involves rehabilitation or demolition of existing improvements.

25. Article XXXIV

All Projects shall comply with article XXXIV, section 1 of the California Constitution ("Article XXXIV"), as clarified by the Public Housing Election Implementation Law (Health & Saf. Code, §§ 37000 – 37002). Prior to construction loan closing, the Sponsor shall submit documentation which shows, to the Department's satisfaction, that the Project complies with or is exempt from Article XXXIV.

CONSTRUCTION PHASE REQUIREMENTS

26. Construction Phase Information

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

EXHIBIT D

27. Inspection

The Department and any authorized representative of the Department shall have the right, during construction and thereafter, to enter upon and inspect the construction of the Affordable Housing Development. Such right to inspect shall include, but shall not be limited to, the right to inspect all work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the construction work. Such right of inspection shall be exercised in a reasonable manner. The Department shall have no affirmative duty to inspect the Affordable Housing Development and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Sponsor, the contractor, the construction lender, the architect, the structural engineer, the locality or anyone else of any obligation to inspect the Affordable Housing Development.

28. Updated Information

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the AHSC Loan, including updated sources and uses and income information. All changes shall be subject to Department approval. However, if the Affordable Housing Development is changed in any way as to make it ineligible under Section 103(a)(1) of the AHSC Guidelines, then the AHSC Loan commitment will be cancelled and all AHSC Loan funds awarded to the Sponsor shall be disencumbered.

29. Evidence of Existence of Application Selection Criteria

Upon request, Sponsor shall provide to the Department evidence of the existence of the amenities, services, improvements, features and characteristics of the Affordable Housing Development which were included in the Application and as set forth in the Project Report and awarded points under Section 107 of the AHSC Guidelines in the Department's rating of the Application. Failure to provide such evidence to the reasonable satisfaction of the Department may result in a reevaluation of the Application and the reduction or cancellation of the amount of the Award and the disencumbrance of Program funds awarded to the Sponsor.

30. Signage

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

3268 SAN PABLO

**THIS PROJECT HAS BEEN MADE POSSIBLE
BY FINANCING FROM**

AHSC Loan - Rental Affordable Housing Development
NOFA Date: 10/02/17
Approved Date: 12/06/18
Prep Date: 03/18/19

EXHIBIT D

CALIFORNIA CLIMATE INVESTMENTS
(funded through the GREENHOUSE GAS REDUCTION FUND)
AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM
THROUGH THE
STRATEGIC GROWTH COUNCIL AND
THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The sign shall be maintained in a prominent location visible and legible to the public through construction completion. If the job sign includes the acknowledgment and/or logo of one or more other public lenders, the Department acknowledgment and logo shall also be displayed in a similar size and layout. Copies of the Department, SGC and California Climate Investments (CCI) logos can be obtained by contacting the Department Contract Manager.

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

31. Photographs

The Sponsor will provide the Department, upon request, with copies of any photographs that may be taken of the Affordable Housing Development by or on behalf of the Sponsor or the Affordable Housing Development's architect. The Sponsor will provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

COMPLETION OF CONSTRUCTION

32. Relocation Plan Implementation Report

The Sponsor shall provide a report, in a form acceptable to the Department, summarizing the actions taken and identifying all Sponsors of relocation assistance and benefits, and the amounts paid, and benefits provided, to or on behalf of each Sponsor.

33. Architect Certification

Where required by the Department, the Sponsor shall cause the Affordable Housing Development architect(s) or other appropriate professional to certify to the Department, in form acceptable to the Department, that all construction is completed in accordance with the "as-built" plans and specifications and in compliance with all applicable federal, state and local laws relating to disabled accessibility.

34. "As-Built" Plans and Specifications

Upon completion, at the request of the Department, the Sponsor shall submit "as-built" plans and specifications for the Affordable Housing Development acceptable to the Department.

EXHIBIT D

35. Cost Certification

At the request of the Department, the Sponsor shall submit an Affordable Housing Development cost certification audited by an independent certified public accountant in accordance with the requirements of the Department and TCAC, if applicable. The Sponsor (and the developer or builder if there is an identity of interest with the Sponsor) shall keep and maintain records of all construction costs not representing work done under the construction contract and to make such records available for review by the Department.

36. Recorded Notice of Completion

The Sponsor shall provide to the Department a certified copy of any Notice of Completion for the Affordable Housing Development recorded in the county in which the Affordable Housing Development is located.

AHSC LOAN CLOSING REQUIREMENTS

The Department shall not be obligated to close or fund the AHSC Loan unless the Sponsor has complied with and satisfied all the terms and conditions of the AHSC Guidelines, the NOFA, this Agreement and the representations made in the Application, all in a manner satisfactory to the Department in its sole discretion, on or before the earlier of the AHSC Loan Closing, the AHSC Loan closing deadline or such earlier time, all as indicated herein.

37. Affordable Housing Development Construction

The Affordable Housing Development shall be constructed in compliance with the plans and specifications, subject to any change order(s) accepted by the Department where such acceptance is required.

38. Title Insurance

The Sponsor shall provide an updated title report and an ALTA As-Built Survey acceptable to the Department. The Sponsor shall provide a pro forma ALTA lender's policy of title insurance if requested by Department. The Sponsor shall ensure the issuance to the Department of an ALTA lender's policy of title insurance. The condition of title, insurer, liability amount, form of policy and endorsements shall be subject to the approval of the Department. Such endorsements shall include, but not be limited to a CLTA endorsement 100, and may include, but shall not be limited to, CLTA endorsements 105, 110.9 and 116 (modified for apartments). The policy shall insure that the Sponsor holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department holds a fee mortgage (or leasehold) lien on the Affordable Housing Development, free and clear of all encumbrances, encroachments, other interests and exceptions to title other than as shall have been previously approved in writing by the Department. The Department's Deed of Trust and Regulatory Agreement and the other loans indicated under "Permanent Funding" in the Application shall have the lien priority as indicated in the Application.

EXHIBIT D

39. Sponsor's Status

The Sponsor shall provide the Department with copies of all organizational documents, including but not limited to, partnership agreements, operating agreements, corporate documents, and related documents and agreements, as required by the Department. As of the date of the AHSC Loan closing, the Sponsor and Borrower shall be a duly organized and validly existing limited or general partnership, corporation, limited liability company, nonprofit public benefit corporation, or other valid legal entity under California law. The Sponsor or Sponsor-controlled Borrower has and shall have the authority to enter into the AHSC Loan and related loan documents.

40. Prevailing Wage Compliance

Where applicable, prevailing wage rates shall be paid with respect to the construction work, as the term is defined in the Standard Agreement, performed in connection with the Affordable Housing Development. Prior to closing the AHSC Loan, a certificate signed by the general contractor(s) and the Sponsor is required, certifying that prevailing wages have been, or will be, paid in conformance with Labor Code Section 1720 et seq., and that labor records shall be maintained and made available to any enforcement agency upon request.

41. Insurance

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

42. AHSC Loan Documents

The Sponsor shall enter into this Standard Agreement with the Department, which shall govern the encumbrance by the Department of the funds to be used to fund the AHSC Loan. In addition, the Sponsor shall enter into a Regulatory Agreement with the Department, governing certain matters related to the use, operation and occupancy of the Affordable Housing Development, including, but not limited to, the imposition of certain low income occupancy requirements, regulation of rents on the low income units, audits and other financial controls and reserve requirements, management oversight by the Department, compliance with federal and state laws, and other Department requirements. In addition to the Regulatory Agreement, the loan shall be evidenced by a Promissory Note and secured by a Deed of Trust. The Regulatory Agreement shall be recorded prior to the Department's Deed of Trust. The Sponsor shall execute and enter into additional agreements and documents, as the Department may deem reasonable and necessary to meet the AHSC requirements and the terms and conditions of this Agreement. The Sponsor and any affiliate of the Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing, must execute the Department's Sponsor Operating

EXHIBIT D

Guaranty to ensure that the Sponsor has the resources and experience to develop, own and manage the Affordable Housing Development.

43. Restrictions on Transfer and Change of Ownership

The Sponsor shall not, without the prior written approval of the Department: a) sell, transfer, convey, encumber, hypothecate or pledge any of the Affordable Housing Development or the Affordable Housing Development property, or any portion or interest in either of them; b) discharge or replace any general or managing partner if Sponsor is a partnership, or amend, modify or add to its partnership agreement except that the Sponsor may sell or transfer limited partnership interests without the Department's approval; c) if Sponsor is a limited liability company: change the manager(s), amend, modify or add to its operating agreement or management structure; d) wind up, liquidate or dissolve its affairs or enter into any transaction of merger or consolidation; or e) change the organizational structure of the Sponsor.

44. Rental Subsidy Contract

The Sponsor shall provide the Department with complete copies of all contracts and amendments thereto, regarding rental subsidies to be provided to tenants residing in the Affordable Housing Development.

45. Substitution of Rent or Social Service Subsidy

Sponsor may substitute a source of funding equivalent to the original rent or social service subsidy. The amount, terms and conditions of the new source of funding must provide an equivalent or greater level of subsidy to the project, acceptable to the Department.

46. Final Certificate of Occupancy

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

47. Environmental Conditions Remedial Work

All remedial work on recognized environmental conditions shall be completed prior to oan. closing. The Sponsor shall provide the Department with an environmental update/operations and maintenance plan if remedial work was required with evidence of lead-based paint and/or asbestos-containing materials remediation if applicable.

48. Reserve Accounts

The Sponsor shall establish and maintain reserve accounts as required by the Department and as further described in the Regulatory Agreement. All withdrawals shall require prior written approval from the Department, as provided in the Regulatory Agreement.

EXHIBIT D

49. Operating Reserve Account

The Sponsor shall fund an operating reserve account in accordance with Section 8308 of the UMRs and subject to the requirements thereof. The specific amount of the Operating Reserve Account shall be set forth in the Regulatory Agreement.

50. Replacement Reserve Account

The Sponsor shall establish a replacement reserve account in accordance with Section 8309 of the UMRs. The replacement reserve account shall be funded by monthly deposits from operating income or a combination of operating income and development sources as indicated in the Regulatory Agreement. The amount of the monthly deposits may be adjusted, as determined by the Department, in its sole discretion, based on reserve studies performed by an independent third party at the Sponsor's expense as requested by the Department or as based on other reliable indicators of future reserve needs.

51. Capitalized Reserve Accounts

If AHSC funds are used to fund a reserve account, the Department shall disburse such funds in a manner to ensure the proper funding of the reserve. The proceeds of the AHSC Loan may be used to capitalize only operating and replacement reserve accounts and amounts required by UMRs Sections 8308 and 8309. Proceeds of the AHSC Loan may not be used to capitalize rental subsidy reserves or reserves established to pay recurring operating costs, including, but not limited, to the required 0.42 percent annual payment on the AHSC Loan.

52. CalHFA and HUD Funded Projects

Projects subject to the HUD Section 811 and 202 programs or receiving a permanent loan from CalHFA shall not be subject to AHSC reserve requirements during the time such projects are regulated by HUD or CalHFA and the Sponsor complies with the applicable CalHFA or HUD reserve requirements.

53. Property Management Documents

The Sponsor shall obtain the MHP Operations Manual, which sets forth the obligations and requirements for the use, operation and occupancy of the Affordable Housing Development, including but not limited to the Department's approval of the following (in the format provided or approved by the Department): a) a proposal for management agent with management agent's qualifications attached; b) a management contract; c) a management plan; d) an operating budget; e) a residential tenant lease; f) long-term cash flow projection reports; and g) audits. Prior to close of the AHSC Loan, the Sponsor shall obtain the Department's review and approval of the above-mentioned items a) through f) and any additional property management documents required by the Department.

EXHIBIT D

54. Affirmative Fair Housing Marketing Plan and Fair Housing Compliance

Sponsor shall develop and implement an affirmative fair housing marketing plan satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for assisted units in the Affordable Housing Development. Sponsor is encouraged to refer to HUD's guidelines for Affirmative Fair Housing Marketing Plans. Sponsor shall comply with all state and federal fair housing laws. At the request of the Department, Sponsor shall provide documentation satisfactory to the Department that the proposed tenant selection criteria in the tenant selection plan do not violate fair housing laws.

55. Identification of Elderly and Veteran Units

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

56. TCAC and Other Regulatory Agreements

The Sponsor shall provide the Department with a copy of the TCAC Regulatory Agreement if the Affordable Housing Development budget includes tax credits and any other regulatory agreements pertaining to the Affordable Housing Development.

57. Property Tax Exemption

Unless expressly waived in writing by the Department, Sponsor shall provide evidence of eligibility for property tax exemption for the Affordable Housing Development and a copy of the tax exemption application to the local tax assessor(s).

58. Compliance with State and Federal Laws, Rules, Guidelines and Regulations

The Sponsor agrees to comply with all State and Federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Affordable Housing Development, the Sponsor, its Contractors or Subcontractors, and any loan activity.

59. Change of Conditions

The Department reserves the right to re-underwrite the Affordable Housing Development based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Affordable Housing Development and the maintenance of the security position of the AHSC Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the AHSC Loan, the Department will reduce the amount of the Loan Request stated in the Application and the amount of the Award accordingly. If the Department has underwritten the AHSC Loan using CalHFA or HUD requirements and the Affordable Housing Development

EXHIBIT D

subsequently does not utilize the CalHFA or HUD financing, the AHSC Loan will be re-underwritten by the Department using AHSC requirements. In the event the Department determines the Affordable Housing Development is no longer financially feasible, the Award and any loan commitment issued by the Department may be revoked.

60. Investor Commitments

If the Affordable Housing Development will be receiving an allocation of tax credits from TCAC, the Sponsor shall provide the Department with a copy of all tax credit investor commitments, including referenced financial projections and any amendments.

61. Restricted Units

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

62. Asset Management Fees

Asset management, partnership management, and similar fees shall be in compliance with UMR Section 8314(a)(1)(B).

63. Reduction of AHSC Loan Amount

Notwithstanding any development agreement, in the event that development costs are less than predicted in the development budget, the Department shall reduce its AHSC Loan for the amount of the cost savings prorated with other residual receipt lenders.

64. Sponsor Representations

- A. Sponsor represents and warrants that as of the date of this Agreement, the Sponsor is a duly organized and validly existing entity under California law and the person signing this Agreement on behalf of Sponsor has the authority to act on behalf of and bind the Sponsor in accordance with the terms of this Agreement.
- B. Sponsor represents and warrants that as of the date of the AHSC Loan closing, the Sponsor may be a duly organized and validly existing limited partnership under California law and that such limited partnership will have the authority to enter into the AHSC Loan and related loan documents.
- C. Sponsor further represents and warrants that as of the date of the AHSC Loan closing, the person(s) executing the AHSC Loan documents will have full authority to act on behalf of and bind the Sponsor in accordance with the terms of those documents.

EXHIBIT D

65. Survival of Obligations

The obligations of the Sponsor as set forth in this Agreement shall survive the AHSC Loan closing, and the Sponsor shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

66. Litigation

If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable. The Sponsor shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

67. Obligations of Sponsor with Respect to Certain Third Party Relationships

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

68. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Sponsor of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

69. Audit/Retention and Inspection

- A. The Department, its representatives or employees, or its delegatee shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Sponsor shall provide the Department or its delegatee with any relevant information requested and shall permit the Department or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Sponsor further agrees to maintain such records for a minimum period of four years after final payment under the Agreement, unless a longer period of records retention is stipulated.

EXHIBIT D

- B. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Affordable Housing Development. At the Department's request, the Sponsor shall provide, at its own expense, a financial audit prepared by a certified public accountant.
- C. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
- D. If there are audit findings, the Sponsor shall submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends and the Department will notify the Sponsor in writing. If the Department is not in agreement, the Sponsor will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.
- E. If so directed by the Department upon termination of this Agreement, the Sponsor shall cause all records, accounts, documentation and all other materials relevant to this Agreement to be delivered to the Department as depository.

70. Reporting Requirements

Upon Department's request, the Sponsor shall provide to the Department any and all necessary data that it is legally and factually able to provide that is required to be reported pursuant to the most recently adopted Funding Guidelines for California Climate Investments by the California Air Resources Board.

71. Cross-Default Provision

- A. This award was based on the total points awarded Sponsor's Application during a highly competitive process. That application proposed an integrated combination of some or all of the following Project components: Affordable Housing Development (AHD); Housing-Related Infrastructure (HRI); Sustainable Transportation Infrastructure (STI); Transportation-Related Amenities (TRA); and Programs (PGM). The Application's point score was based, in part, on the Project's total projected reduction of greenhouse gas (GHG) emissions. The Project components (AHD, HRI, STI, TRA, and PGM) that were proposed in the Application and approved by the Department must be completed in order to achieve this projected reduction of GHG emissions.
- B. By executing this Agreement, Sponsor acknowledges and agrees that if the HRI, STI, TRA, or PGM component, as applicable, is not timely completed pursuant to Program requirements, then Sponsor will no longer qualify for the AHSC Loan award. In the event the AHSC Loan has not yet been disbursed, the AHSC Loan award will be disencumbered. In the event the AHSC Loan has been disbursed, the Department will avail itself of any

EXHIBIT D

and all remedies available to it as set forth in the AHSC Loan documents in order to recapture the amount of the AHSC Loan disbursement, subject to the limitations set forth in subparagraph c. below.

- C. The Department and Sponsor further acknowledge that the AHSC Loan funds provided pursuant to this Agreement constitute a non-recourse loan (NR-Loan) secured against the AHD real property as required by the AHSC Program (and as may be required in order to comply with tax credit requirements). Any proceeds from the foreclosure of the NR-Loan may only be used to satisfy financial obligations owed under the NR-Loan's promissory note; additionally, a foreclosure may also be appropriate and necessary to remedy a substantial breach under the associated regulatory agreement. The Department hereby represents and warrants that, in the absence of the foregoing, the Department shall not foreclose upon the NR-Loan to obtain proceeds to satisfy any liability related to or arising out of the failure of the timely completion of the HRI, STI, TRA, or PGM components, as applicable.
- D. The Department recognizes that the Sponsor may enter into a separate side agreement to address each individual Sponsor entity's responsibilities with respect to each other and with regard to the AHSC Loan and Grant funds; provided, however, in no event shall any such agreement alter or amend the respective obligations of the Sponsors to the Department under the applicable AHSC Loan Documents or AHSC Grant Documents. (Section 105(a)(3)(A) of the Guidelines.)

EXHIBIT E**SPECIAL TERMS AND CONDITIONS****AHSC Program****Loan for Rental Affordable Housing Development**

<u>Payee Name</u>	<u>Activity</u>	<u>Award Amt.</u>
3268 San Pablo, L.P.	Affordable Housing Development	\$5,500,000

The following Special Terms and Conditions are applicable to this Standard Agreement:

1. Exhibit A, Paragraph 2A –Definition of Sponsor: This provision is amended to add the following:

3268 San Pablo, L.P. (“**LP**”) is an affiliate of Satellite Affordable Housing Associates (“**Corp**”). Corp is the manager of 3268 San Pablo LLC (“**LLC**”), the general partner of LP. Corp, the City of Oakland (“**City**”) and the Alameda Contra Costa Transit District (“**Transit District**”) were awarded the AHSC Loan funds contemplated by this Agreement (the “**AHSC Loan**”) pursuant to the Award Letter, dated July 20, 2018. The Department acknowledges that the LP will be considered the ultimate borrower of the AHSC Loan funds and as such will execute the regulatory agreement, note, deed of trust and other loan documents contemplated herein (such instruments, together with this Agreement being collectively, the “**AHSC Loan Documents**”). For the purposes of this Standard Agreement, LP, Corp, City and Transit District will be collectively referred to herein as “**Sponsor**”. As such, the LP, Corp, City and Transit District shall be jointly and severally liable for all the obligations of a Sponsor as set forth herein. Performance satisfactory to the Department by the LP, Corp, City or Transit District of any duties and obligations under this Standard Agreement, or under any other agreements as required by the Department, will be deemed as performance by the Sponsor.

2. Exhibit D, Paragraph 16 –Sponsor Control of Affordable Housing Development: This provision is amended to add the following:

- a. Corp as the Sponsor which demonstrated the requisite experience of owning and developing affordable rental housing during the application stage, must be the Sponsor who controls the borrowing entity at construction, through permanent close of escrow, and into the management and operation of the Project. Organizational documents demonstrating that Corp has the authority to exercise control of the borrowing entity in compliance with UMR Section 8301(s) and this Standard Agreement must be submitted to the Department for review and approval prior to AHSC funding.
- b. As a condition of AHSC funding, Corp shall not be deemed relieved from any duties or obligations and shall execute the Department’s Sponsor Operating Guaranty form.

EXHIBIT E

3. Sponsor Site Control: Corp is the entity that the Department is looking to with respect to satisfying the site control requirements contemplated by this Agreement. Site control shall be considered satisfied provided that Corp maintains its control over the LP.
4. AHSC Requirements. Without limiting the generality of Exhibit D, section 4 of this Agreement, the Department neither approves nor disapproves of any of the following:
 - (A) The Amended and Restated Agreement of Limited Partnership of LP, or drafts thereof, (the “LPA”);
 - (B) The current organizational or operating agreements for the LP, LLC (the general partner of the LP), or Corp (the “Current Organizational Documents”); or
 - (C) Any other documents or materials provided to or reviewed by the Department in connection with the AHSC program funding for this Project.

The Department may, as a condition to funding the AHSC Loan to ensure consistency with the AHSC Guidelines and all applicable law, require changes to the agreements or other items listed immediately above, including without limitation, any changes needed to insure that Corp has appropriate control, that the term of the LPA and the Current Organizational Documents matches or exceeds the term of the Department’s loan documents evidencing the AHSC Loan, including without limitation, the Regulatory Agreement related thereto, and that any fees provided for therein do not violate applicable law, regulations, guidelines and rules. The Department’s loan documentation and the AHSC Program’s statutes, rules, regulations and guidelines shall control over any conflicting provisions contained in the LPA, the Current Organizational Documents or other documents or materials referenced above.

5. Other Departmental Funding. In addition to the AHSC Loan, the Department is providing the following additional funding with respect to the Project:
 - (i) the Award Letter referenced in Section 1 of this Exhibit E also awarded Corp, City and Transit District \$3,417,500 in AHSC Grant funding (the “**AHSC Grant**”), and in connection therewith, Corp, City and Transit District are executing a separate Standard Agreement (17-AHSC-12137), a Disbursement Agreement and other grant documents with the Department in connection therewith (collectively, the “**AHSC Grant Documents**”); and
 - (ii) Pursuant to the IIG Award Letter dated June 18, 2018, from the Department to Corp, the Department awarded Corp \$1,222,000 in IIG grant funding (the “**IIG Grant**”), and in connection therewith, Corp, is executing a separate Standard Agreement (17-IIG-12067), Disbursement Agreement, Covenant and other documents in connection therewith (collectively, the “**IIG Grant Documents**”).

EXHIBIT E

LP, Corp, City and Transit District acknowledge and agree that the following shall each be additional conditions precedent to funding the AHSC Loan:

- (A) The Corp, City and Transit District shall be in compliance with (and not in breach or default under or with respect to) the AHSC Grant or the AHSC Grant Documents; and
 - (B) The Corp, shall be in compliance with (and not in breach or default under or with respect to) the IIG Grant or the IIG Grant Documents.
6. The Department agrees to not unreasonably withhold its consent to the removal of a general partner of the LP to the extent it is being removed for material cause in accordance with the terms of the LPA. Upon receiving written notice of the planned removal a general partner, which notice shall include the reason(s) for such removal and the proposed new substitute general partner replacing the general partner to be removed, the Department shall have an independent duty to, within 30 days, send notice in writing, on Department letterhead, from a Department manager level staff or higher, that the Department has received notice of the planned removal ("Acknowledgment of Notice"). The Department's failure to provide its consent or object to such removal of a general partner within 30 days of sending the Acknowledgment of Notice shall be deemed consent by the Department to the subject removal or replacement. In no event shall consent to the removal be deemed given if the Department has not sent an Acknowledgment of Notice therefore. Any such removal and replacement shall comply with the Department's applicable Program statutes, regulations and guidelines.
- In no event or circumstance shall the Department's consent under this Section 6 have the effect, or be deemed or interpreted as having the effect, of releasing or exonerating LP, LLC, Corp, City, Transit District or any other person from any of their respective obligations under this Agreement, the other AHSC Loan Documents, the AHSC Grant Documents, the Sponsor Operating Guaranty or any other agreements or instruments executed in connection with this or any other Department funding related to the Project, as applicable, or of amending or modifying any such obligations.
7. Cost Savings. The Department is a gap lender. Any cost savings at permanent escrow closing require the Department funding to be reduced accordingly. The Department may share cost savings with other public lenders in proportion to the other public lenders' repayable loan amounts.