

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
ADMINISTRATION AND MANAGEMENT DIVISION
Business & Contract Services Branch

2020 W. El Camino Avenue, Suite 130, 95833
 P. O. Box 952054
 Sacramento, CA 94252-2054
 (916) 263-6872
www.hcd.ca.gov



APR 21 2020

Smitha Seshadri, Executive Vice President
 BRIDGE Housing Corporation
 600 California Street, Suite 900
 San Francisco, CA 94108

Calleene Egan, Executive Director
 Berkeley Food and Housing Project
 1901 Fairview Street
 Berkeley, CA 94703

Michael Hursh, General Manager
 Alameda-Contra Costa Transit District
 1600 Franklin Street
 Oakland, CA 94612

Re: 19-AHSC-12793, 2012 Berkeley Way

Dear Smitha Seshadri, Marc-Andrew Aguilera and Michael Hursh:

Congratulations on your Affordable Housing and Sustainable Communities (AHSC) Program loan award. Attached is an electronic copy of the AHSC Program Standard Agreement with Exhibits A through E:

A. Standard Agreement (STD 213 and Exhibits A through E)

STD 213 - Cover page

Exhibit A - Authority, Purpose and Scope of Work

Exhibit B - Budget Detail and Payment Provisions

Exhibit C - State of California General Terms and Conditions - GTC 04/2017

Exhibit C is now incorporated by reference; please see the STD 213 for additional information.

Exhibit D - AHSC Program Terms and Conditions

Exhibit E - Special Conditions

B. For expeditious handling of the contract, the Department offers two options for returning signed STD 213; please complete one of the following:

1. Review the entire Agreement thoroughly and, if necessary, discuss the requirements with your legal and financial advisors.
2. The person or persons authorized by the Resolution(s), must provide an **original signature, printed name, title and date, using blue ink**, on the lower left-hand section entitled "Contractor" on the STD 213 and/or on page 2 of the STD 213, if applicable.

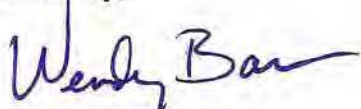
3. **Option One:** For electronic signature processing, reply to this Standard Agreement email notification with the attached, fully signed STD 213 page(s). All signatures must be original and in **blue ink**. All signers must be included in the reply email and confirm acceptance of e-signing the Agreement.
4. **Option Two:** Print five copies of the Standard Agreement, STD 213. Do not send photocopies of the signed STD 213 page(s). All five copies must be an original, **wet** signature and in **blue ink**; do not return the Exhibits to HCD.
5. **Note:** If the resolution did not authorize a designated official to sign the STD 213 and amendments thereto, your governing body must adopt a resolution authorizing a designated official(s) to sign the STD 213 and any subsequent amendments. If the authorized designee as reflected in the resolution, the awarded NOFA amount or your entity status has changed, you are required to provide, to the Department, a new resolution consistent with the terms of the NOFA award and adopted by your Board.
6. Return the e-signed copy or the five signed copies of the STD 213; and, if applicable, the certified resolution within 30 days from the date of this letter to the following address:

**Department of Housing and Community Development
Business & Contract Services Branch
Contracts Office, Attention: Wendy Barnes
2020 West El Camino Avenue, Suite 130
Sacramento, CA 95833**
7. Maintain a complete electronic version of the contract Agreement, STD 213 and Exhibits, for your pending file. **Note: The contract is not effective until it is signed by the Awardee's designated official and the Department.**

The Department reserves the right to cancel any pending Standard Agreement in its entirety if not returned within the required 30-day period.

Please contact Terri Wright, AHSC Program Manager, NOFA Awards Section, at (916) 263-7454 or email Terri.Wright@hcd.ca.gov if you have any questions regarding the Standard Agreement or the provisions therein.

Sincerely,



Wendy Barnes
Contract Analyst

cc: Terri Wright, AHSC Program Manager, NOFA Awards Section

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL
SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER

19-AHSC-12793

PURCHASING AUTHORITY NUMBER (if applicable)

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

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR'S NAME

BRIDGE Berkeley Way LP, Alameda-Contra Costa Transit District, BRIDGE Housing Corporation, and Berkeley Food and Housing Project

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

06/30/2039

3. The maximum amount of this Agreement is:

\$11,279,500.00

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

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	5
A-1	Project Report	0
Exhibit B	Budget Detail and Payment Provisions	1
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	AHSC Program Terms and Conditions	18
Exhibit E	Special Conditions	4
TOTAL NUMBER OF PAGES ATTACHED		28

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

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

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

CONTRACTOR

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

See Attached

CONTRACTOR BUSINESS ADDRESS

See Attached

CITY

See Attached

STATE

See Attached

ZIP

See Attached

PRINTED NAME OF PERSON SIGNING

See Attached

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

See Attached

DATE SIGNED

See Attached

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Synthia Rhinehart

TITLE

Contracts Manager,
Business & Contract Services Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

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

Exempt per: SCM Vol. 1 4.04.A.3 (DGS memo dated 6/12/1981)

CONTRACTOR

BRIDGE Berkeley Way LP,
a California limited partnership

By: BRIDGE Berkeley Way LLC,
a California limited liability company,
its Managing General Partner

By: BRIDGE Housing Corporation
a California nonprofit public benefit corporation

Its: Sole Member/Manager

By: _____ Date: _____

Smitha Seshadri
Executive Vice President

Address:

600 California Street
San Francisco, CA 94108

BRIDGE Housing Corporation
a California nonprofit public benefit corporation

By: _____ Date: _____

Smitha Seshadri
Executive Vice President

Address:

600 California Street, Suite 900
San Francisco, CA 94172

Berkeley Food and Housing Project
a California nonprofit religious corporation

By: _____ Date: _____

Calleene Egan
Executive Director

Address:

1901 Fairview Street
Berkeley, CA 94701

CONTRACTOR

Alameda-Contra Costa Transit District
a public transit agency

By: _____
Michael Hursh
General Manager

Date: _____

Approved as to form and content

By: _____
Denise Standridge,
General Counsel

Date: _____

Address:

1600 Franklin Street
Oakland, CA 94612

Prep. Date: 11/05/2019

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

This Standard Agreement, STD 213, (the "Agreement") is the result of the Sponsor's application (the "Application") for funding under the Affordable Housing and Sustainable Communities Program ("Program") pursuant to:

- A. Part 1 of division 44 of the Public Resources Code (commencing with Section 75200);
- B. The Round 4 Program Guidelines dated October 29, 2018 (the "Guidelines") as may be amended from time to time; and
- C. The Program's Notice of Funding Availability (the "NOFA") issued by the Department of Housing and Community Development (hereinafter the "Department" or "HCD"), dated November 1, 2018.

This Agreement is entered under the authority of, and in furtherance of the purposes of the AHSC Program.

2. Purpose

In accordance with the authority cited above, Sponsor's Application was made to HCD for financial assistance from the Program for the purpose of assisting in the development, operation and maintenance of a residential rental Affordable Housing Development on certain real property (the "Property") as identified in the Application. The Application, including all representations made therein, and the Project Report dated 10/25/2019 (the "Project Report") are hereby incorporated in this Agreement by this reference. The financial assistance from the Program shall be in the form of a permanent loan (the "Loan") to the Sponsor, or its approved affiliate (the "Borrower"), as owner of the Development evidenced by a promissory note, secured by a deed of trust and subject to a regulatory agreement between the Sponsor and the Department. The purpose of the Loan is to ensure that the Development is constructed, owned, managed, maintained and operated in accordance with the requirements of the Program, the requirements of the Guidelines, and the representations of 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 Loan, regardless of sale or transfer of the Property or prepayment of the Loan. To further effect this purpose, if 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 Loan.

By entering into this Agreement and thereby accepting the award of 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 contained in the Application, and in the Project Report.

EXHIBIT A

3. 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. The "Development" refers to the residential rental Affordable Housing Development described in the Application and meeting the criteria set forth in the Project Report providing the affordable housing units, as described therein, in consideration of the AHSC Loan. The Development shall meet all criteria as set forth in the Guidelines.
- B. "Agreement" refers to this Standard Agreement.
- C. "Sponsor" refers to the entity or entities that made the Application to the Department for the Development (the "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.
- D. "TCAC" refers to the California Tax Credit Allocation Committee.
- E. 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 October 29, 2018. Notwithstanding, if and when the Strategic Growth Council ("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).

4. Scope of Work

The Scope of Work ("Work") for this Agreement shall consist of the development and construction by or on behalf of Sponsor 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, and must meet the following criteria:

EXHIBIT A

Location of Housing Development (APN, address, parcel map, specific plan or similar reference) City and County		BRIDGE Berkeley Way Affordable. AHD#1 2012 Berkeley Way, Berkeley CA, 94704 Alameda County, APN:057-205302201		
Enter the number of units by bedroom size and income level.				
# of Bedrooms	# of Project Units	AHSC Assisted Units* (Affordable Housing Development)	Income Limit (% of AMI)	TOTAL RESTRICTED UNITS**
0	17	17	50%	17
0	17	17	60%	17
1	18	18	50%	18
1	17	17	60%	17
2	19	19	50%	19
2	1	N/A	Manager	N/A
Total Project Units	89	88		89

*AHSC Assisted Units must equal at least 20 percent of the total residential units.

**Total Restricted units include all units restricted by AHSC and TCAC. The AHSC loan amount was calculated based on the number of Total Restricted Units.

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, and in the Project Report in accordance with the schedule for completion set forth therein and within 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 hereby incorporated as part of the Agreement. The Department reserves the right to review and approve all Work to be performed by the Sponsor in relation to this Agreement. Any proposed

EXHIBIT A

revision of the Work must be submitted in writing for review and approval by the Department. Any approval shall not be presumed unless such approval is made by the State Department in writing.

5. **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 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 award, require repayments of any disbursed Program funds, and result in the disencumbrance of Program funds awarded.

6. **Performance Milestones**

Sponsor shall ensure the completion of the Performance Milestones set forth in the Project Report, by the designated dates. Sponsor may apply to the Department for an extension of these timelines based on good cause shown and best efforts and assurances from the Sponsor for timely completion of the remaining Milestones.

7. **HCD Coordinator**

The coordinator of this Agreement for HCD is the Loan Closing AHSC Program Manager for the Affordable Housing and Sustainable Communities, Division of Financial Assistance. Any notice, report, or other communication required by this Agreement shall be mailed by first class mail to the AHSC Program Manager at the following address:

Loan Closing, AHSC Program Manager
Department of Housing and Community Development
Division of Financial Assistance – Loan Closing Section
P.O. Box 952054
Sacramento, California 94252-2054

8. **Sponsor Contract Coordinator**

The Sponsor's 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:

EXHIBIT A

Sponsor:	BRIDGE Housing Corporation
Authorized Representative Name:	Smitha Seshardri
Authorized Representative Title:	Executive Vice President
Address:	600 California Street, Suite 900 San Francisco, CA 94108
Phone No.:	(415) 321-3516
Email Address:	sseshadri@bridgehousing.com

Sponsor:	Berkeley Food and Housing Project
Authorized Representative Name:	Calleene Egan
Authorized Representative Title:	Executive Director
Address:	1901 Fairview Street Berkeley, CA 94703
Phone No.:	510-649-4965
Email Address:	cegan@bfhp.org

Sponsor:	Alameda-Contra Costa Transit District
Authorized Representative Name:	Michael Hursh
Authorized Representative Title:	General Manager
Address:	1600 Franklin Street Oakland, CA 94612
Phone No.:	(510) 891-4841
Email Address:	mhursh@actransit.org

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Terms of Loan

- A. Principal Amount. The principal amount of the 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 the Guidelines, which incorporate section 7307 of the Multifamily Housing Program Regulations by reference.
- B. Interest and Payment. The Loan shall bear interest at the rate and be payable as provided in section 104 of the Guidelines, which incorporates section 7308 of the Multifamily Housing Program Regulations by reference, and under the terms of the Department's promissory note to be executed at loan closing. The Loan may not be prepaid without the prior written consent of the Department.

2. Invoicing and Payment

- A. **All 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 Loan proceeds to the Borrower.**
- B. The 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.

3. Payees

- A. The authorized Payee(s) record information is required for payment(s) to be made. Payee(s) is/are as specified below (NOTE: if more than one payee, the dollar amount to be received by payee, must be listed):

<u>Payee Name:</u>	<u>Activity:</u>	<u>Award Amount:</u>
BRIDGE Berkeley Way LP	Affordable Housing Development	\$11,279,500

EXHIBIT D

AHSC PROGRAM TERMS AND CONDITIONS

1. Effective Date, Commencement of Work and Completion Dates

This Agreement is effective upon approval by all parties and the Department, which is evidenced by the date signed by the Department on page one, Standard Agreement, STD. 213 (the "Effective Date"). The Sponsor agrees that the construction of the 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, as set forth in the Project Report, incorporated herein by reference, and 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 executed by all parties.

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 Terms and Conditions, or Special Conditions, of this Agreement. Examples of cause for termination include but are not limited to:

- A. Failure of the Loan to close on or before the 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 Terms and Conditions, Special Conditions set forth in Exhibit E of this Agreement, 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 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 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.

EXHIBIT D

- 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 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 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 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 and commence construction of the Development in accordance with the development schedule set forth in the Project Report. Upon the Department's request, the Sponsor shall promptly provide evidence of recorded deeds of trust for all construction financing, 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, 2024**. In order to ensure this disbursement happens, the Sponsor must 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, 2024**. If the AHSC Loan does not ultimately close by **December 31, 2024**, the AHSC funds will be disencumbered from the Project.

EXHIBIT D

- D. This Agreement shall expire on **June 30, 2039**, the date specified on page 1, number 2, of this Agreement (STD 213).

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 Development (construction loan includes a rehabilitation loan):

6. Site Control

The Sponsor shall have Site Control of the real property on which the Development is located, as required by the Guidelines. Such control shall not be contingent on the approval of any other party. 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;
- 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;

EXHIBIT D

- 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 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 Loan documents as required by the Department and encumber all its interest in the Development. Where the lessee and the lessor are affiliated or related private parties, both the lessee and the lessor must execute the Loan documents so as to encumber both the leasehold and fee interests in the Development.

7. Title Report

The Sponsor shall provide a current title report for the real property on which the 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 Development site and any structures or other improvements thereon to determine whether the Development site meets the requirements of the Program Guidelines and the criteria set forth in the Project Report. If the Department reasonably determines that the site is not acceptable for the proposed Development in accordance with the Guidelines, the Department reserves the right to rescind the award and the Loan.

9. Adaptability and Accessibility

The Sponsor and the 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.

EXHIBIT D

10. Physical Needs Assessment

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

11. Reserve Study

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

12. 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.

13. Reasonable 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 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 Development consistent with the budget in the Application and Project Report. Eligible costs for Developments are limited to costs as specified in 25 CCR Section 7304 (a) & (b).

14. Sponsor Control of 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 Guidelines, in the application process, has and will retain full control over the development, construction, ownership and management of the 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 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 Development. The organizational structure of the Borrower, including the control and ownership by the Sponsor or Sponsors, and

EXHIBIT D

any changes thereto, must be reviewed and approved by the Department and must comply with all Program requirements.

15. Relocation Plan

If there is or will be any residential or commercial displacement directly or indirectly caused by the 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 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.

16. Architect Contract

The Sponsor shall enter into a contract with an architect to provide professional services for the 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.

17. Appraisals

If the property for the 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.

18. 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 Loan Application. The terms and conditions of all financing shall be subject to the Department's review and approval.

19. Senior Loan Terms and Disclosures

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

No subordination may limit the Department's remedies and must comply with UMR Section 8315.

Balloon payments are not allowed on senior debt, except as provided in UMR section 8310. 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

EXHIBIT D

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.

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).

20. Environmental Conditions

The Sponsor shall provide a Phase I Environmental Site Assessment ("ESA") for the Development, in conformance with ASTM Standard Practice E 1527, evaluating whether the 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 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 Development involves rehabilitation or demolition of existing improvements.

21. 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 & Safety 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

22. 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

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construction documents, all inspection reports prepared by the Development architect and other consultants, and information relative to Development income, expenses, occupancy, relocation benefits and expenses, contracts, operations and conditions of the 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.

23. 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 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 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 Development.

24. Updated Information

Sponsor shall provide the Department updated documentation for any change in the information previously provided relating to the Loan, including updated sources and uses and income information. All changes shall be subject to Department approval. However, if the Development is changed in any way as to make it ineligible under Section 103(a)(1) and 106 of the Guidelines, then the Loan commitment will be cancelled and all Loan funds awarded to the Sponsor shall be disencumbered.

25. 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 Development which were included in the Application and as set forth in the Project Report and awarded points under Section 107 of the Guidelines in the Department's rating of the Application.

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26. Signage

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

2012 BERKELEY WAY

**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

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 acknowledgment and logos required by this Paragraph 26 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 AHSC Program Manager.

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

27. Photographs

The Sponsor will provide the Department, upon request, with copies of any photographs that may be taken of the Development by or on behalf of the Sponsor or the 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

28. 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.

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29. Architect Certification

Where required by the Department, the Sponsor shall cause the 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.

30. Cost Certification

At the request of the Department, the Sponsor shall submit a 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.

31. Recorded Notice of Completion

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

PROGRAM LOAN CLOSING REQUIREMENTS

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

32. Development Construction

The 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.

33. 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

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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.

34. **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 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 Loan and related loan documents.

35. **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 Development. Prior to closing the 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.

36. **Insurance**

The Sponsor shall obtain and maintain for the term of the Loan hazard and liability insurance for the 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.

37. **Program 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 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 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

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

38. 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 Development or the 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.

39. 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 Development.

40. 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.

41. 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.

42. Environmental Conditions Remedial Work

All remedial work on recognized environmental conditions shall be completed prior to Loan 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.

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43. 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.

44. 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.

45. 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.

46. Capitalized Reserve Accounts

If Program 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 Loan may be used to capitalize only operating and replacement reserve accounts and amounts required by UMRs Sections 8308 and 8309. Proceeds of the Loan may not be used to capitalize rental subsidy reserves, except as authorized in accordance with Section 103 of the Guidelines, or any reserves established to pay recurring operating costs, including, but not limited, to the required 0.42 percent annual payment on the Loan.

47. 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 Program 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.

48. 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 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

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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 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.

49. 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 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 will submit documentation acceptable to the Department demonstrating that the proposed tenant selection criteria in the tenant selection plan do not violate any applicable state or federal fair housing laws.

50. 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.

51. TCAC and Other Regulatory Agreements

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

52. Property Tax Exemption

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

53. 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 Development, the Sponsor, its Contractors or Subcontractors, and any loan activity.

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54. Change of Conditions

The Department reserves the right to re-underwrite the Development based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Development and the maintenance of the security position of the Loan. If the new information demonstrates a reduction or elimination of financing gap being addressed by the 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 Loan using CalHFA or HUD requirements and the Development subsequently does not utilize the CalHFA or HUD financing, the Loan will be re-underwritten by the Department using Program requirements. In the event the Department determines the Development is no longer financially feasible, the award and any Loan commitment issued by the Department may be revoked.

55. Investor Commitments

If the 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.

56. 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.

57. Asset Management Fees

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

58. 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 Loan for the amount of the cost savings prorated with other residual receipt lenders.

59. 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.

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- B. Sponsor represents and warrants that as of the date of the 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 Loan and related loan documents.
- C. Sponsor further represents and warrants that as of the date of the Loan closing, the person(s) executing the Loan documents will have full authority to act on behalf of and bind the Sponsor in accordance with the terms of those documents.

60. Survival of Obligations

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

61. 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.

62. 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 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 Development in accordance with this Agreement.

63. 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.

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64. 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.
- 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 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.

65. 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.

66. 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

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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 Loan award. In the event the Loan has not yet been disbursed, the Loan award will be disencumbered. In the event the Loan has been disbursed, the Department will avail itself of any and all remedies available to it as set forth in the Loan documents in order to recapture the amount of the Loan disbursement, subject to the limitations set forth in subparagraph C. below.
- C. The Department and Sponsor further acknowledge that the Loan funds provided pursuant to this Agreement constitute a non-recourse loan (NR-Loan) secured against the AHD real property as required by the 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 Loan and Program 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 Loan Documents or Program Grant Documents. (Section 105(a)(3)(A) of the Guidelines).

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SPECIAL CONDITIONS

The following Special Conditions are applicable to this Standard Agreement:

1. Exhibit A, Paragraph 3C –Definition of Sponsor: This provision is amended to add the following:

BRIDGE Berkeley Way LP, a California limited partnership (“LP”) is an affiliate of BRIDGE Housing Corporation, a California nonprofit public benefit corporation (“**Corp**”). Corp is the sole member/manager of BRIDGE Berkeley Way LLC, a California limited liability company (“LLC”), the managing general partner of LP. Corp, Berkeley Food and Housing Project, a California nonprofit religious corporation (“**BFHP**”) and the Alameda-Contra Costa Transit District (the “**District**”) were awarded the AHSC Loan funds contemplated by this Standard Agreement (the “**AHSC Loan**”) pursuant to the Award Letter dated July 8, 2019 (the “**Award Letter**”). 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. For the purposes of this Standard Agreement, LP, Corp, BFHP and District will be collectively referred to herein as “**Sponsor**”. As such, the LP, Corp, BFHP and 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, BFHP or 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.

The Department recognizes that the entities comprising Sponsor may enter into separate side agreement(s) among themselves to address each individual Sponsor entity’s responsibilities with respect to each other 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 Sponsor to the Department under the applicable AHSC Loan Documents or the AHSC Grant Documents, including the joint and several nature thereof.

2. Organizational Documents. As conditions precedent to construction close, the following shall occur:
 - (a) Amended & Restated LPA. Prior to construction loan closing: (i) the Corp shall provide drafts of the proposed amended and restated agreement of limited partnership for the LP (the “**LPA**”) to the Department for its review, which LPA shall comply with the AHSC Program’s statutes, regulations and Guidelines, including without limitation: (A) the requirements of UMR Section 8313.2 and (B) the requirement that Corp, as the Sponsor who garnered experience points at the application stage, remain in control of the LP through its control of the LLC; and (ii) the LPA shall have been fully executed by all of the constituent partners of the LP.

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3. Site 1 Departmental Funding. As used in this Agreement, the Affordable Housing Development or Development means the 89 affordable units to be located on Parcel C of the Parcel Map referenced in Section 5 below (“**Site 1**”). The Affordable Housing Development has among other things been awarded the AHSC Loan contemplated by this Standard Agreement and the AHSC grant described in the Award Letter (such fundings, together with any and any and all other additional Departmental funding provided to Site 1 are each individually referred to herein as a “**Site 1 Departmental Funding**”). With respect to such fundings, the parties agree as follows:

- (i) the compliance by the obligated party(ies) under the Department’s documentation relating to one Site 1 Departmental Funding shall be a condition precedent to the funding and disbursement of the funds to be provided under all of the other Site 1 Departmental Fundings; and
- (ii) a default under one Site 1 Departmental Funding shall constitute a default under all of the other Site 1 Departmental Fundings.

The Department’s documentation for each Site 1 Departmental Funding shall reflect the foregoing.

4. Satisfaction of DDA Conditions. The overall property on which the 142 unit Affordable Housing Development (“**AHD**”) is to be constructed is subject to that certain Disposition and Development Agreement dated June 8, 2016 between the City of Berkeley (“City”) and Corp. (such agreement as subsequently amended and assigned being collectively, the “**DDA**”). Concurrently with construction loan closing, any and all feasibility and other conditions (precedent or otherwise) under the DDA in favor of the City and/or any and all parties to this Standard Agreement as to (1) the effectiveness of and compliance with the DDA, (2) the ground leasing of Site 1 to LP thereunder, and (3) the construction (or commencement of construction) of the overall AHD (142 units) as contemplated therein (and previously represented to the Department) shall have been fully and unconditionally satisfied or waived. By executing this Standard Agreement, Corp and BFHP expressly represent and warrant to the Department that as of construction loan closing the forgoing shall be true and correct and that any and all such conditions shall have been fully and unconditionally satisfied or waived.

5. Legal Descriptions/Parcels. As conditions precedent to construction loan close: (i) the Department shall have been provided with the final legal descriptions of the parcels to be created by Parcel Map (defined below) for its review, and (ii) Parcel Map No. 11051 in the form provided to the Department by the Sponsor (the “**Parcel Map**”) shall have been finalized and recorded and become fully effective, and all of the parcels created thereby, including without limitation Parcel C thereof, shall each constitute a separate legal parcel in compliance with the California Subdivision Map Act and all other applicable ordinances, laws and requirements.

6. Ground Lease. As conditions precedent to construction close: (i) the City of Berkley, as ground lessor, and LP, as ground lessee, (and any other relevant parties) shall have fully executed and

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entered into that certain Ground Lease, drafts of which were provided to the Department, pursuant to which the City ground leases Parcel C of the Parcel Map to LP (the “**Ground Lease**”); (ii) the necessary reciprocal easement and tie-in agreements among the City of Berkeley, LP, the ground lessee(s) of all other parcels created by the Parcel Map and other relevant persons shall have been fully executed and entered into; and (iii) all of the above referenced documents and instruments, or memoranda thereof, shall have been recorded in the Official Records of the county in which the real property described in the Parcel Map is located against the fee interests in the parcels created thereby. By way of confirmation, as a condition precedent to permanent closing, the Ground Lease shall be amended and modified by the Department’s Lease Rider, which shall be recorded at permanent closing.

7. Sponsor Operating Guarantee/Aggregate Reporting. The overall AHSC permanent loan amount awarded pursuant to the Award Letter is \$13,517,642, of which: (A) \$11,279,500 (the AHSC Loan as defined above) is being allocated to LP in connection with the 89 affordable housing units portion of the AHD pursuant to this Standard Agreement, and (B) the \$2,238,142 balance of which is being allocated to BFHP Hope Center LP, a California limited partnership (the “**Hope Center LP**”) in connection with the 53 permanent supportive housing units portion of the AHD pursuant to a separate Departmental Standard Agreement being executed concurrently herewith. As a condition precedent of receipt of the AHSC Loan funds at permanent loan closing under this Standard Agreement, Corp shall execute and deliver to the Department a Sponsor Operating Guarantee in favor of the Department, which document is referenced in Exhibit A of this Standard Agreement. For reference, the Sponsor Operating Guarantee obligates Corp to ensure that all aspects of the matters for which Corp or its subsidiaries or affiliates (including without limitation LP and BFHP Hope Center LP) receives award funds pursuant to the Award Letter are completed. The foregoing Sponsor Operating Guarantee shall be further augmented beyond that which is set forth in Exhibit A to also obligate Corp to aggregate reporting information across all AHD residential units (i.e. all 142 units comprised of both the 89 affordable housing units on Parcel C and the 53 permanent supportive housing units adjacent thereto) for which Corp or its subsidiaries or affiliates receive award funds pursuant to the Award Letter. The Sponsor Operating Guarantee shall not be recorded against real property but shall be titled “Sponsor Operating Guarantee and Regulatory Agreement.” LP and Hope Center LP shall not be obligated to sign the foregoing Sponsor Operating Guarantee and Regulatory Agreement. A default by Corp under such agreement shall not cause the Site 1 Departmental Fundings to be cross defaulted with the Department’s loans secured by the adjacent site being ground leased to Hope Center LP on which the 53 units of supportive housing will be located.

Each person comprising Sponsor under this Standard Agreement acknowledges and agrees that the Sponsor Operating Guaranty Sponsor and Regulatory Agreement contemplated above in this Section 7 is a one-time accommodation that is being applied to address the unique facts and circumstances of this project, and that Department’s use of this agreement in this instance shall not constitute a precedent or otherwise obligate the Department to use this type of agreement in connection with any other or future projects.

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The foregoing “Sponsor Operating Guarantee and Regulatory Agreement” shall be in addition to, and not in lieu of, the Department’s customary regulatory agreement(s) (and other loan documents) to be executed by LP in connection with the AHSC Loan at permanent loan closing, including without limitation those described in Section 9 below, which regulatory agreement(s) are contemplated to be recorded against LP’s leasehold interest in the under the Ground Lease and its fee estate for years in the related improvements.

8. Ground Lease Financing. All regulatory agreements and related deeds of trust (and any other applicable loan documents) in favor of any and all lenders (including without limitation the lender under the Private Perm Loan, City of Berkeley, Alameda County and the AHP lender) providing financing to the 89 affordable housing units portion of the AHD (i.e. Site 1) shall be secured by and recorded against the LP’s leasehold interest in Parcel C under the Ground Lease, not the fee interest in such real property. If any such instruments shall encumber the fee interest in such property, the Department shall have all rights and remedies on account of such failure, including without limitation, having all Site 1 Departmental loan Fundings likewise encumber and be secured by the fee title interest in such real property. The Department acknowledges that neither (i) the recordation by the City of Berkeley of the SB 35 Covenant, nor (ii) the recordation of the reciprocal easement and tie-in agreements referenced clause 6(ii) above against the fee interest in Parcel C shall trigger the requirement that any Site 1 Departmental Funding encumber the fee interest Parcel C.
9. Senior Balloon. The Development will receive private permanent financing at permanent loan conversion, and such private permanent financing shall have a balloon payment feature (the “**Private Perm Loan**”). As a result, in accordance with AHSC program requirements, the Department’s Regulatory Agreement to be executed by LP in connection with the AHSC Loan and recorded against LP’s leasehold estate in Parcel C under the Ground Lease at permanent close shall be bifurcated into two (2) separate regulatory agreements, with the regulatory agreement containing the affordability provisions (the “**HCD Affordability RA**”) being superior to and having priority over the regulatory agreement, deed of trust any other loan documents related to the Private Perm Loan, and with the other regulatory agreement, which shall contain all Departmental regulatory provisions, (the “**HCD Standard RA**”) being subject and subordinate to such Private Perm Loan. Both the HCD Affordability RA and the HCD Standard RA shall contain a covenant from LP not to prevent, delay or otherwise interfere with Corp complying with the terms of the Sponsor Operating Guaranty and Regulatory Agreement described in Section 7 above.
10. Departmental Lien Priority. The Department’s AHSC Loan documents including the HCD Standard RA and its deed of trust executed by LP (but excluding the HCD Affordability RA) shall have second (2nd) lien priority over all other lenders and their respective regulatory agreements, deeds of trust and other loan documentation, except that the AHSC Loan deed of trust and HCD Standard RA shall be subject and subordinate only to the Private Perm Loan documents, the SB 35 Covenant, and the bond regulatory agreement. The HCD Affordability RA will be superior to and have priority over the Private Perm Loan documents and the loan documents of all other

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lenders and shall be subject and subordinate only to the bond regulatory agreement and the SB 35 Covenant (as it encumbers the fee).

11. Milestones. Notwithstanding any other date that may be set forth in the Project Report, the Department acknowledges that construction close may occur by, but no later than, September 1, 2020. In all other respects, the milestone dates referenced in this Standard Agreement, including without limitation Subsections 3.B and 3.C of Exhibit D hereto, shall continue to apply.