

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

23-HK-18493

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

City and County of San Francisco

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

Fifteen (15) Years from the Effective Date

3. The maximum amount of this Agreement is:

\$8,225,095.00

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	10
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	Homekey General Terms and Conditions	22
Exhibit E	Project-Specific Provisions and Special Terms and Conditions	7
TOTAL NUMBER OF PAGES ATTACHED		42

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.)

City and County of San Francisco

CONTRACTOR BUSINESS ADDRESS

See Attached

CITY

See Attached

STATE

See Attached

ZIP

See Attached

PRINTED NAME OF PERSON SIGNING

See Attached

TITLE

See Attached

CONTRACTOR AUTHORIZED SIGNATURE

See Attached

DATE SIGNED

See Attached

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

651 Bannon Street, Suite 400

CITY

Sacramento

STATE

CA

ZIP

95811

PRINTED NAME OF PERSON SIGNING

TITLE

Contract Services Section Manager

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 06/12/1981)

CONTRACTOR

City and County of San Francisco

a municipal corporation

By: _____

Date: _____

Shireen McSpadden
Executive Director

Address:

440 Turk Street
San Francisco, CA 94102

City and County of San Francisco

Approved As To Form

By: _____

Date: _____

David Chiu
City Attorney

Address:

440 Turk Street
San Francisco, CA 94102

Prep Date: 07/24/2024

EXHIBIT A**AUTHORITY, PURPOSE AND SCOPE OF WORK****1. Authority**

California Assembly Bill No. 140 (Chapter 111, Statutes of 2021) (“**AB 140**”) added sections 50675.1.3 and 50675.1.4 to the Multifamily Housing Program (“**MHP**”) (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Health and Safety Code section 50675.1.3 provides the statutory basis for the Homekey Program – Round 3 (“**Homekey**” or “**Program**”). Health and Safety Code section 50675.1, subdivision (d) authorizes the Department of Housing and Community Development (“**Department**” or “**HCD**”) to administer MHP.

The Department issued a Homekey Program Notice of Funding Availability, Round 3 on March 29, 2023 (the “**NOFA**”). The NOFA incorporates by reference the MHP, as well as the Multifamily Housing Program Final Guidelines, dated March 30, 2022 and amended on May 5, 2022 (“**MHP Guidelines**”), both as amended and in effect from time to time. The NOFA, further, incorporates by reference, the Uniform Multifamily Regulations (UMRs) (Cal. Code Regs., tit. 25, § 8300 et seq.), effective November 15, 2017, and as subsequently amended, except to the extent that any UMR provision would be inconsistent with the provisions of the NOFA. Homekey grant funds are derived primarily from the state’s direct allocation of the federal Coronavirus State Fiscal Recovery Fund (“**CSFRF**”), which was established by the American Rescue Plan Act of 2021 (“**ARPA**”) (Pub.L. No. 117-2). Homekey funds are also derived from the State of California’s General Fund.

This STD 213, Standard Agreement (“**Agreement**”) is entered under the authority and in furtherance of the Program. This Agreement is the result of an Application by the Grantee, as defined below, for funding under the Program (the “**Grant**”). As such, this Agreement shall be executed by the Grantee. Where the Grantee comprises a Public Entity or Tribal Entity, as defined below, and one or more additional entities, all entities shall execute the Agreement.

This Agreement hereby incorporates by reference the Application, as well as the project report prepared by the Department in reliance on the representations and descriptions included in that Application. This Agreement is governed by the following (collectively, the “**Program Requirements**”), and each of the following, as amended and in effect from time to time, is incorporated hereto as if set forth in full herein:

A. AB 140;

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- B. The above-referenced MHP statutory scheme;
- C. The NOFA;
- D. The MHP Guidelines;
- E. The UMRs;
- F. ARPA and related federal guidance;
- G. The award letter issued by the Department to the Grantee; and
- H. All other applicable law.

2. Purpose

The Homekey Program is intended to provide housing for individuals and families who are homeless or who are at risk of homelessness, as defined in Part 578.3 of Title 24 of the Code of Federal Regulations, and who are inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic or other communicable diseases ("**Target Population**").

Grantee applied to the Department for the Grant in order to conduct one or more of the activities outlined in Paragraph 4 below. By entering into this Agreement and thereby accepting the award of Program Grant funds, the Grantee agrees to comply with the Program Requirements and the terms and conditions of this Agreement.

3. Definitions

Any capitalized terms that are not defined below shall have the definitions set forth in the NOFA, the MHP statutes, and the MHP Guidelines. In the event of any conflict, the definitions in this Agreement and the NOFA are controlling.

- A. "**Affordability Covenant**" means the legally binding instrument which (i) is recorded in first position against Project real property in consideration for the Homekey Program award to the Grantee; (ii) imposes use, operation, occupancy, and affordability restrictions on the real property and improvements; and (iii) incorporates the Homekey Program Requirements by reference. Upon its execution, the Affordability Covenant shall be binding, effective, and enforceable against all successors, transferees, and assignees, in accordance with Section 208 of the NOFA, after a certificate of occupancy or its equivalent

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- has been issued for the Project, or if no such certificate is issued, from the date of initial occupancy of the Project. Interim Housing Projects, Permanent Housing Projects, and Permanent Housing Projects on tribal trust land shall be encumbered with 30-year, 55-year, and 50-year Affordability Covenants, respectively.
- B. **“AMI”** means Area Median Income.
- C. **“Application”** means the application for Grant funds that was submitted in response to the Department’s NOFA.
- D. **“Assistance Listing Number”** (ALN) formerly known as the Catalog of Federal Domestic Assistance (CFDA) Number, is a five-digit number assigned in the awarding document for all federal assistance award mechanisms.
- E. **“Assisted Unit”** means a Homekey-funded residential dwelling unit that is subject to rent, income, occupancy, and other restrictions in accordance with Program Requirements. See also **“Youth Assisted Unit.”**
- F. **“Chronically Homeless”** is defined in accordance with Part 578.3 of Title 24 of the Code of Federal Regulations.
- G. **“Co-Applicant”** means the nonprofit corporation, for-profit corporation, limited liability company, and/or limited partnership that applied for an award of Homekey Grant funds with the Eligible Applicant (i.e., a Public Entity or Tribal Entity).
- H. **“Date of Award”** means the date on the award letter issued from the Department to the Grantee.
- I. **“Designated Payee”** means the Co-Grantee that will serve as the payee of the Program Grant funds. If applicable, the Designated Payee is identified at Exhibit E of this Agreement.
- J. **“Eligible Applicant”** means the Public Entity or Tribal Entity that applied for an award of Homekey Grant funds.
- K. **“Eligible Uses”** means the activities that may be funded by the Homekey Program Grant. Those activities are listed at Paragraph 4 below of this Agreement, and at Health and Safety Code section 50675.1.3, subdivision (a).

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- L. **“Expenditure Deadline for Capital Funds”** means the date by which the capital expenditure award must be fully expended. This deadline is eight (8) months from the Date of Award, or up to 15 months from the Date of Award if an expenditure deadline extension has been requested and approved by the Department.
- M. **“Expenditure Deadline for Operating Funds”** means the date by which the operating subsidy award must be fully expended. This deadline is **June 30, 2026**.
- N. **“Grantee or Subrecipient”** means the Eligible Applicant (and, if applicable, the Co-Applicant) that has been awarded funds under the Program, and that will be held responsible for compliance with and performance of all Program Requirements. The Grantee may comprise one or more entities, so long as the Grantee structure includes an “Eligible Applicant,” as defined in the NOFA and as set forth above. **“Grantee”** refers, both individually and collectively, to the Co-Applicant and/or the Eligible Applicant that received a Homekey Grant after submitting an Application or a joint Application to the Department. When the Grantee comprises two or more entities, each entity may be referred to as a **“Co-Grantee.”** On the STD 213 portion of this Agreement, the Grantee is identified as the Contractor.
- O. **“Homeless Youth”** means a child, a youth, or a current or former foster youth through the age of 25 who qualifies as “homeless” under any of the relevant definitions set forth or identified at Part 578.3 of Title 24 of the Code of Federal Regulations.
- P. **“Homeless Youth Project”** means a Project that was prioritized to receive set-aside Homekey funds because **(i)** at least 25 percent of its Assisted Units will be restricted to Homeless Youth or Youth at Risk of Homelessness; **(ii)** the Grantee jointly applied and/or partnered with a nonprofit corporation with experience serving the foregoing subpopulation; and **(iii)** the Project will provide Supportive Services for Youth Assisted Units using a Positive Youth Development (PYD) model and trauma-informed care. Such Project may also have been prioritized because it is located within a one-mile radius of youth-centered amenities, such as community colleges, universities, trade schools, apprenticeship programs, employment programs, childcare centers for parenting youth, and community centers for youth.

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- Q. **“Interim Housing”** means any facility whose primary purpose is to provide a temporary shelter for the Target Population and which does not require occupants to sign leases or occupancy agreements.
- R. **“Local Public Entity”** is defined at Health and Safety Code section 50079, and means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, tribally designated housing entity as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and also includes any state agency, public district, or other political subdivision of the state, and any instrumentality thereof, that is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income. In addition, and in accord with this Health and Safety Code definition, the term **“Local Public Entity”** also includes two or more local public entities acting jointly.
- S. **“Performance Milestones”** means the indicators and metrics of progress and performance that are identified as such at Exhibit E of this Agreement. Grantee’s failure to satisfy any one of the Performance Milestones will constitute a breach of this Agreement and will entitle the Department to exercise any and all available remedies, including the recapture of disbursed Grant funds and the cancellation of this Agreement.
- T. **“Permanent Housing”** means housing, dwellings, or other living accommodations where the landlord does not limit the tenant’s length of tenancy, the landlord does not restrict the tenant’s movements, and the tenant has a lease and is subject to the rights and responsibilities of tenancy.
- U. **“Program Requirements”** means the legal authority and Program materials listed at Paragraph 1.A – H, above.
- V. **“Project”** means a structure or set of structures with common financing, ownership, and management, which provides Permanent Housing or Interim Housing for the Target Population, and which is subject to an appropriate Affordability Covenant in accordance with Section 208 of the NOFA.
- W. **“Public Entity”** is defined in accordance with Health and Safety Code section 50675.1.3, subdivision (a), and means a city, a county, a city and county, and

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any other state entity, regional entity, or Local Public Entity, including any council of government, metropolitan planning organization, and regional transportation planning agency designated in Section 29532.1 of the Government Code. For purposes of this Agreement, a **“Local Public Entity”** is defined in accordance with Health and Safety Code section 50079 and as set forth above.

- X. **“Scope of Work”** or **“Work”** means the work to be performed by the Grantee to accomplish the Program purpose.
- Y. **“Supportive Services”** means social, health, educational, income support, employment, and housing stability services and benefits; coordination of community building and educational activities; individualized needs assessment and case management; and individualized assistance with obtaining services and benefits.
- Z. **“Target Population”** means individuals and families who are “homeless” or “at risk of homelessness,” as those terms are defined in Part 578.3 of Title 24 of the Code of Federal Regulations, and who are inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic or other communicable diseases. The Target Population also includes Homeless Youth or Youth at Risk of homelessness. For Grantees utilizing HOME-ARP funding as match, the “Target Population” also includes individuals and families who are “Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking” and “Other Populations” as defined in HUD Community Planning and Development (CPD) Notice 21-10.
- AA. **“TCAC”** means the California Tax Credit Allocation Committee.
- BB. **“Tribal Entity”** means an entity that meets any of the following criteria:
 - 1) Meets the definition of Indian tribe under section 4103(13)(B) of title 25 of the United States Code;
 - 2) Meets the definition of Tribally Designated Housing Entity under section 4103(22) of title 25 of the United States Code;
 - 3) Is not a federally recognized tribe, but is either:
 - a) Listed in the petitioner list of the Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary – Indian Affairs of the Department of the Interior pursuant to Part 82.1 of Title 25 of the Code of Federal Regulations; or

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- b) Is an Indian tribe located in the State of California and identified on the contact list maintained by the Native American Heritage Commission for the purpose of consultation pursuant to Government Code section 65352.3.
- CC. **“Unique Entity ID”** (UEI) is a 12-character alphanumeric ID assigned to an entity by www.Sam.gov.
- DD. **“Youth Assisted Unit”** means an Assisted Unit serving Homeless Youth or Youth at Risk of Homelessness. See also **“Assisted Unit.”**
- EE. **“Youth at Risk of Homelessness”** means a child, a youth, or a current or former foster youth through the age of 25 who qualifies as “at risk of homelessness” or “homeless” under any of the relevant definitions set forth or identified at Part 578.3 of Title 24 of the Code of Federal Regulations.

4. Eligible Uses

Grantee shall apply the Program Grant funds to one or more of the following uses. All costs in connection with such Eligible Uses must be incurred on or after March 3, 2021, by the Expenditure Deadline for Capital Funds, and by the Expenditure Deadline for Operating Funds, respectively and as applicable. Grantee’s use of the funds and scope of work (**“Scope of Work”** or **“Work”**) are specified at Exhibit E of this Agreement.

- A. Acquisition or rehabilitation, or acquisition and rehabilitation, of motels, hotels, hostels, or other sites and assets, including apartments or homes, adult residential facilities, residential care facilities for the elderly, manufactured housing, commercial properties, and other buildings with existing uses that could be converted to permanent or interim housing.
- B. Master leasing of properties for non-congregate housing.
- C. Conversion of units from nonresidential to residential.
- D. New construction of dwelling units.
- E. The purchase of affordability covenants and restrictions for units.
- F. Relocation costs for individuals who are being displaced as a result of the Homekey Project.

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- G. Capitalized operating subsidies for units purchased, converted, or altered with Homekey Grant funds provided pursuant to Health and Safety Code section 50675.1.3.

5. Rent Standards

- A. Permanent Housing. Rent limits for initial occupancy, and for each subsequent occupancy, of an Assisted Unit shall not exceed 30 percent of that Assisted Unit's designated income-eligibility level.
- B. Interim Housing. No rent shall be charged to the Target Population residents of Interim Housing.

6. Program Deadlines

- A. Acquisition, rehabilitation, and/or construction shall be completed within 12 months of the Date of Award.
- B. Grantee shall expend any capital expenditure award by the Expenditure Deadline for Capital Funds.
- C. The Homekey-funded portion of the operating award must be disbursed by the Department by June 30, 2025. Grantee shall expend any Homekey-funded operating subsidy award by the Expenditure Deadline for Operating Funds.
- D. Full occupancy shall be achieved within 15 months of the Date of Award.

7. Performance Milestones

- A. Grantee shall complete each of the Performance Milestones set forth at Exhibit E of this Agreement by the date designated for such completion therein (each, a "**Milestone Completion Date**"). The Performance Milestones shall include, but not be limited to, any applicable Expenditure Deadline for Capital Funds, Expenditure Deadline for Operating Funds, or occupancy deadline.
- B. The Department may, in its sole and absolute discretion, approve an extension of the acquisition, rehabilitation, construction, and/or occupancy deadlines if the Grantee demonstrates, to the Department's satisfaction, that the relevant delay is caused by reasonably unforeseeable events, conditions, or circumstances.

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- C. In no event will the Department approve an extension request in the absence of Grantee's demonstration of good cause for said extension, along with Grantee's reasonable assurances that the extension will not result in Grantee's failure to meet other Performance Milestones or any Expenditure Deadline under this Agreement. Construction labor shortages and supply chain issues do not constitute reasonably unforeseeable events, conditions, or circumstances for purposes of an extension request.
- D. The Department will not grant extensions of the Expenditure Deadline for Operating Funds.

8. Reporting Requirements

- A. Grantee shall submit an annual Homekey Program and Expenditure Report, and comply with all additional reporting requirements, as set forth and specified at Section 601 of the NOFA, all in accordance with the Milestone Completion Date(s) set forth at Exhibit E of this Agreement.
- B. After satisfaction of each Performance Milestone, the Grantee shall promptly report its progress, in writing, to the Department.
- C. Upon the Department's request and as specified, the Grantee shall provide progress reports in connection with the development plan and any updates to the timeline for completion of the Project. The development plan should include the Project's completion milestones and any updates or substantial changes.
- D. In addition, the Grantee shall submit to the Department such periodic reports, updates, and information as deemed necessary by the Department to monitor compliance and/or perform Program evaluation. Any requested data or information shall be submitted in electronic format on a form provided by the Department.

9. Department Contract Coordinator

The Department's Contract Coordinator for this Agreement is the Deputy Director of the Division of State Financial Assistance, or the Deputy Director's designee. Unless otherwise informed, Grantee shall mail any notice, report, or other communication required under this Agreement by First-Class Mail to the Department Contract Coordinator at the following address or email to Homekey3SGM@hcd.ca.gov:

California Department of Housing and Community Development

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Attention: Homekey Program – Round 3 (Homekey)
State Grant Management Section
651 Bannon Street, 95811
P. O. Box 952050
Sacramento, CA 94252-2050

10. Grantee Contract Coordinator

The Grantee Contract Coordinator for this Agreement may coordinate with the State Grant Management Section Manager for the Homekey Program. Unless otherwise informed, the Department shall mail any notice, report, or other communication required under this Agreement by First-Class Mail, or through a commercial courier, to the Grantee Contract Coordinator at the address specified at Exhibit E of this Agreement.

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EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Budget Detail

Grantee has been awarded the Grant amount set forth in this Agreement.

2. Conditions of Disbursement

The Department will disburse the full amount of the Grant award to the Grantee after this Agreement has been fully executed and after the Department receives the Grantee's request for funds, with all required supporting documents appended thereto. The Grantee shall append the following supporting documents to the request for funds, all in form and substance acceptable to the Department:

- A. Payee Data Record (STD 204) or Government Agency Taxpayer ID Form, as applicable;
- B. An authorizing resolution or set of authorizing resolutions that, in the Department's reasonable determination, materially comports with the Program Requirements (if the Grantee has not already submitted same);
- C. Documentary evidence of any eligible costs incurred on or after March 3, 2021 and before the execution of this Agreement;
- D. Certification of compliance with California's prevailing wage law, as well as all applicable federal prevailing wage law;
- E. A copy of the Department-approved relocation plan for the Project, or a copy of a Department-issued Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement which has been duly executed by the Grantee and approved by the Department;
- F. Evidence of the insurance coverages required under the Program and/or a written acknowledgment of self-insured status;
- G. Documentary evidence of capacity to provide operating funds for the Project for at least five (5) years;
- H. A current title report (dated within 15 days of the request for funds); or for tribal

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trust land, a title status report (“TSR”) or an attorney’s opinion regarding chain of title and current title status;

- I. A Draft Covenant or Regulatory Agreement must be submitted to the Department for review and approval;
- J. Any forms, certifications, or documentation required pursuant to Paragraph 1.F– Additional Conditions Precedent to Disbursement of Exhibit E of this Agreement; and
- K. Any other forms, certifications, or documentation deemed necessary by the Department prior to disbursement of Grant funds.

3. Performance

- A. After disbursement of the funds, the Grantee shall meet each Performance Milestone set forth at Exhibit E by the relevant Milestone Completion Date. After satisfaction of each Performance Milestone, the Grantee shall promptly report its progress, in writing, to the Department. Grantee may apply to the Department for an extension of a Milestone Completion Date as allowed by the NOFA and this Agreement.
- B. FAILURE TO SATISFY ANY ONE OF THE PERFORMANCE MILESTONES WILL CONSTITUTE A BREACH OF THIS AGREEMENT AND ENTITLES THE DEPARTMENT TO MANDATE THE GRANTEE TO RETURN TO THE DEPARTMENT ANY FUNDS DISBURSED; IN ANY SUCH INSTANCE, THE DEPARTMENT MAY ALSO CANCEL THIS AGREEMENT WITHOUT OWING ANY DAMAGES OR OTHER PAYMENT TO GRANTEE.

4. Fiscal Administration

- A. Grantee shall either deposit the Grant funds with an escrow company licensed to do business in the State of California and in good standing or deposit the Grant funds in an interest-bearing checking or savings account that is insured by the Federal Deposit Insurance Corporation (“FDIC”). All interest earned from the deposit of Grant funds shall be used for eligible Program activities.
- B. Any capital expenditure award funds that have not been expended by the Expenditure Deadline for Capital Funds must be returned to the Department with

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accrued interest. Any operating subsidy award funds that have not been expended by the Expenditure Deadline for Operating Funds must be returned to the Department with accrued interest. Checks shall be made payable to the Department of Housing and Community Development and shall be mailed to the Department at the address below, no later than thirty (30) calendar days after the applicable Expenditure Deadline.

Department of Housing and Community Development
Accounting Division
651 Bannan Street, Suite 400
Sacramento, California 95811

5. Duplication of Benefit

Homekey funding is not required to be used as funding of last resort. However, Grantee may not use Homekey funding to cover expenditures that have already been funded through other sources. Expenses that have been or will be reimbursed under any federal program are not eligible uses of Homekey funding.

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HOMEKEY GENERAL TERMS AND CONDITIONS

Federal Grant Identification

\$435 million of grant funds are derived from U.S. Department of the Treasury FAIN SLFRP3211 (Coronavirus State and Local Fiscal Recovery Fund (CSFRF) established by the Federal American Rescue Plan Act of 2021 (ARPA) (Public Law 11702). CFDA # 21.027 dated 06/04/2021 and \$301 million from State General Fund.

1. Effective Date, Term of Agreement, Timing, and Deadlines

- A. This Agreement, when fully executed by the Department and the Grantee, is effective upon the date of the Department representative's signature on the STD 213, Standard Agreement (such date, the "**Effective Date**").
- B. This Agreement shall terminate fifteen (15) years after the Effective Date, as stated in Section 2 of the STD 213, Standard Agreement (such date, the "**Expiration Date**").
- C. Grantee will receive the disbursement of Program funds after satisfying all conditions precedent to such disbursement, as set forth under Paragraph 2 of Exhibit B and, as necessary and applicable, under Paragraph 1.F – Additional Conditions Precedent to Disbursement of Exhibit E.
- D. Any expenses incurred prior to March 3, 2021, after the Expenditure Deadline for Capital Funds, or after the Expenditure Deadline for Operating Funds, respectively and as applicable, are not eligible for payment under the Program, unless an alternate arrangement is legally permissible and has been approved by the Department in advance and in writing.
- E. Grant funds that have not been expended by the applicable Expenditure Deadlines shall revert to the Department in the absence of an alternate arrangement that has been approved by the Department in advance and in writing.

2. Termination for Cause

The Department may terminate this Agreement for cause at any time by giving at least fourteen (14) calendar days' advance written notice to the Grantee. Upon such termination, Grantee shall return any unexpended funds to the Department within thirty (30) calendar days of the date on the Department's written notice of termination, unless

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the Department has approved an alternate arrangement in advance and in writing, as provided below. Such termination will not limit any other remedies that may be available to the Department under this Agreement, at law, or in equity. Cause shall consist of Grantee's breach of, or failure to satisfy, any of the terms or conditions of this Agreement. Cause includes but is not limited to the following:

- A. Grantee's failure to satisfy the conditions precedent to disbursement or to expend Program Grant funds, as specified.
- B. Grantee's failure to timely satisfy each or any of the conditions set forth in these Homekey General Terms and Conditions, the Project-Specific Provisions and Special Terms and Conditions set forth at Exhibit E of this Agreement (including any one of the Performance Milestones), or the award letter.
- C. Grantee's violation of any of the Program Requirements.
- D. The Department's determination of the following:
 - 1) Any material fact or representation, made or furnished to the Department by the Grantee 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 misleading; or
 - 2) Grantee has concealed any material fact from the Department related to the Application or the Project.
- E. The Department's determination that the objectives and requirements of the Homekey Program cannot be met in accordance with applicable timeframes, as memorialized by this Agreement.

In the event of this or any other breach, violation, or default by the Grantee, the Department may give written notice to the Grantee to cure the breach, violation, or default. If the breach, violation, or default is not cured to the Department's satisfaction within a reasonable time, as determined by the Department in its sole and absolute discretion, then the Department may declare a default under this Agreement and seek any and all remedies that are available under this Agreement, at law, or in equity.

3. **Cancellation**

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- A. It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if this Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State of California by the United States Government for fiscal years 2021-2022 through 2025-2026 for CSFRF purposes. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.
- C. The parties mutually agree that if the Congress does not appropriate sufficient funds for the CSFRF, this Agreement shall be amended to reflect any subsequent reduction in CSFRF funds.
- D. The Department may cancel this Agreement, in whole or in part, if (i) sufficient funds are not made available by the United States Government; (ii) Congress enacts any restrictions, limitations, or conditions that impact this Agreement or the funding of this Agreement; or (iii) cancellation is otherwise permitted under state contracting law.
- E. To cancel this Agreement pursuant to this paragraph, the Department shall give thirty (30) calendar days' advance written notice to the Grantee. The Grantee shall return any unexpended portion of its Grant award to the Department within thirty (30) calendar days from the date on the Department's written notice of cancellation, unless (i) the parties have agreed upon an alternate arrangement in advance and in writing; or (ii) an alternate arrangement is necessary for one or both parties to remain in compliance with ARPA or other applicable law.

4. **Eligible Activities**

Grant funds awarded to the Grantee shall be applied to the eligible uses set forth at Exhibit A and described in greater detail at Exhibit E. 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.

5. **Performance Milestones**

Grantee shall timely satisfy and complete all Performance Milestones, as identified at Exhibit E of this Agreement.

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6. Article XXXIV

Per Health and Safety Code section 37001, subdivision (h)(5), article XXXIV, section 1 of the California Constitution (“**Article XXXIV**”) is not applicable to Homekey-funded acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof, of lodging facilities or dwelling units.

7. Appraisals

Grantee shall, at the request of the Department, provide an appraisal of any real property or any interest in real property that is acquired with the Grant funds. Any such appraisal shall be prepared in a form, and by a qualified appraiser, acceptable to the Department.

8. Byrd Anti-Lobbying Amendment

([31 U.S.C. 1352](#)) Grantees, Subrecipients, Co-Applicants, Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

9. Anti-Kickback Act of 1986

Grantee shall ensure that all contracts comply with the Anti-Kickback Act of 1986 (41 U.S.C. §§ 5158) that prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind.

10. Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR](#)

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[Part 401](#), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

11. Contracting and Labor Standards

A. Davis Bacon Act codified at 40 U.S.C. 3141, et seq. (as amended)

Where funds provided through this Agreement are used for construction work or in support of construction work, the Grantee shall also ensure that the federal requirements of the Davis Bacon Act codified at 40 U.S.C. 3141, et seq. (as amended), pertaining to federal labor standards and compliance, are met and documented. Grantee recognizes that multiple labor standards (both state prevailing wage and federal Davis-Bacon Act) may apply to the project and both standards must be satisfied.

B. Contract Work Hours and Safety Standards Act of 1962 ([40 U.S.C. 3701–3708](#))

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. For the purposes of this requirement "construction work" includes, but is not limited to, rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Grantee and a licensed building contractor, the Grantee shall serve as the "awarding body" as that term is defined in the California Labor Code. Where the

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Grantee will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

- D. The applicable wage rate determination on construction work will be the more restrictive of the rate prescribed in the California Labor Code Sections 1770-1784, or the Davis-Bacon Wage Determination.
- E. Grantee shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request.
- F. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Grantee shall ensure that the requirements of California Labor Code, Chapter 1, commencing with Section 1720, Part 7 [California Labor Code Sections 1720-1743] (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.

12. Domestic Preferences for Procurement [2 CFR Part 184 § 70915](#)

- A. As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section:
 - 1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - 2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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13. Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment 2 CFR 200.216

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- A. Procure or obtain;
- B. Extend or renew a contract to procure or obtain; or
- C. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - 1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - 2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - 3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- D. In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to

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ensure that communications service to users and customers is sustained.

E. See also Public Law 115–232, section 889 for additional information.

F. See also § 200.471.

14. Environmental Compliance

Grantee shall provide a Phase I Environmental Site Assessment (“**ESA**”) for the Project, in conformance with ASTM Standard Practice E 1527, evaluating whether the Project is affected by any recognized environmental conditions. If the Phase I ESA discloses evidence of recognized environmental conditions and Grantee desires to proceed with the Project, the Grantee shall provide the Department with a Phase II report and any additional reports as required by the Department and in a form acceptable to the Department. Any remediation work shall be subject to Department approval. Grantee shall also provide an asbestos assessment and a lead-based paint report for the Department’s approval if the Project involves rehabilitation or demolition of existing improvements.

- A. Grantee shall comply with the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, *et seq.*, as amended, and 33 U.S.C. § 1318 relating to inspection, monitoring, entry, reports, and information, and all regulations and guidelines issued thereunder.
- B. Grantee shall comply with the requirements of the Clean Air Act ([42 U.S.C. 7401](#)–7671q.) and the Federal Water Pollution Control Act ([33 U.S.C. 1251](#)–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401](#)–7671q) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251](#)–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- C. Grantee shall comply with Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50 regarding air quality protections, as amended.
- D. Grantee shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. §4001). Grantee shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood

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Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

- E. Grantee shall comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act of 1971. Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR §570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all Homekey-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be required.
- F. 2 CFR Part 200.323 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. See [§ 200.323](#).
- G. Grantee shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291), and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. Grantee shall also comply with federal Executive Order 11593 on the protection and enhancement of the cultural environment. In general, this requires concurrence from the State Historic

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Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

- H. Grantee shall comply with all National Environmental Protection Act (NEPA) requirements as applicable to the performance of this Agreement as found in 24 CFR Part 50, 24 CFR Part 58, as applicable, and 40 CFR Parts 1500 – 1508. The CARES Act provides that funds may be used to cover or reimburse allowable costs of eligible activities to prevent, prepare for, and respond to coronavirus incurred by a Grantee after January 21, 2020. However, Grantee shall not execute this Agreement nor receive reimbursement for pre-agreement eligible activity costs until they have successfully documented compliance with the applicable NEPA requirements, including public noticing and publishing.
- I. This Agreement does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the Grantee of an approval of the request for release of funds and certification from the Department under 24 CFR Part 50, 24 CFR Part 58, and 40 CFR 1500 - 1508. The provision of any funds to the project is conditioned on the Grantee's determination to proceed with, modify or cancel the project based on the results of the environmental review. The Grantee will not receive appropriate notice to proceed until they have successfully documented compliance with the applicable NEPA requirements, including public noticing and publishing.

15. **Insurance**

- A. Grantee shall obtain the insurance coverages identified in the NOFA. Grantee shall maintain such insurance coverages for either the term of this Agreement or the term of any required restrictive covenant or regulatory agreement, whichever applicable term is longer. Grantee shall name the State of California and the Department, as well as their respective appointees, officers, agents, and employees, as additional insureds on all such policies. Such policies shall provide for notice to the Department in the event of any lapse of coverage or insurance claim thereunder. Prior to disbursement of any Grant funds, Grantee shall provide evidence satisfactory to the Department of its compliance with these insurance requirements.
- B. If Grantee is self-insured, in whole or in part, as to any of the required types and levels of coverage, the Grantee shall provide the Department with a written acknowledgment of its self-insured status prior to disbursement of any Grant

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funds. If the Grantee abandons its self-insured status at any time after execution of this Agreement, the Grantee shall immediately notify the Department, and shall promptly comply with the insurance coverage requirements under the Program.

16. **Operating Funds**

Grantee shall demonstrate its capacity to provide five (5) years of operating funds for the Project. As set forth at Exhibit B of this Agreement, Grantee shall provide documentary evidence of such capacity prior to disbursement of any Grant funds.

17. **Relocation**

Grantee shall comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, in 24 CFR Part 42, 49 CFR Part 24, and 42 U.S. §5304(d) as they apply to the performance of this Agreement. Grantee agrees to comply with 24 CFR 570.606 relating to the acquisition and disposition of all real property utilizing grant funds and to the displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds.

Grantee must have a relocation plan prior to proceeding with any phase of a Project or other activity that will result in the displacement of persons, businesses, or farm operations. To ensure that displaced persons and entities do not suffer a disproportionate impact as a result of Projects which benefit the public, all notices to vacate and relocation services must be provided to them in accordance with applicable law. In addition, before the Homekey award will be disbursed, Grantee must have either:

- A. Department-approved relocation plan; or
- B. Department-issued Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement, which has been duly executed by the Grantee and approved by the Department.

18. **One-for-One Replacement of Assisted Units**

One-for-one replacement of Assisted Units is permissible if approved in advance by the Department per Section 300 of the NOFA, after the Department's determination, in its sole and absolute discretion, that such replacement will not reduce the inventory of units

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that are already available at affordable rents to households that are at or under 30 percent AMI.

19. Site Control

Unless and except as otherwise expressly approved in writing by the Department or provided at Exhibit E to this Agreement, the Grantee shall have control of the property at all times, and such control shall not be contingent on the approval of any other party. The status and nature of the Grantee's title and interest in the property must be acceptable to the Department. Site control 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 compliance with, and satisfaction of, all Program objectives and requirements, including, without limitation, those set forth in this Agreement. If the Grantee's interest in the property is a leasehold, and the lessee and the lessor are affiliated or related parties, then the Department may require both the lessee and the lessor to execute this Agreement.
- C. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency.
- D. A sales contract, or other enforceable agreement for the acquisition of the property. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).
- E. A letter of intent, executed by a sufficiently authorized signatory of the Grantee, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Grantee shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be duly acknowledged by the party selling or otherwise conveying an interest in the subject property to the Grantee. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).

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- F. Other evidence of site control that gives the Department assurance (equivalent to A-E above) that the Grantee will be able to complete the Project in a timely manner and in accordance with the Program's objectives and requirements, including, without limitation, those set forth or referenced in this Agreement.

20. Adaptability and Accessibility

The Project shall comply with all applicable federal, state and local laws regarding adaptability and accessibility, including, without limitation, the requirements set forth in the NOFA.

21. Title Status and Reports

Grantee shall provide a current title report for the real property on which the Project is located. If Grantee's interest in the property is leasehold, then Grantee shall provide a current title report for the leasehold interest and the fee interest. For tribal trust land, Grantee shall provide a TSR or an attorney's opinion regarding chain of title and current title status. As set forth and specified at Exhibit B of this Agreement, Grantee shall provide such title report or documentation of title status prior to disbursement of any Homekey Grant funds.

22. Title Insurance

Grantee shall provide evidence of title insurance and an ALTA As-Built Survey that are acceptable to the Department. The condition of title, the insurer, the liability amount, the form of policy, and the endorsements shall be subject to Department approval. The policy shall insure that Grantee holds good and marketable title (fee simple or leasehold).

23. Property Management Plan

Grantee shall submit a property management plan to the Department for its review and approval. Such management plan shall be consistent with any representations made in the Application, and it shall meet the Program Requirements (e.g., include the management, maintenance, and repair information required by the MHP Guidelines).

24. Supportive Services Plan

Grantee shall submit a Supportive Services plan to the Department for its review and approval. Such Supportive Services plan shall be consistent with any representations made in the Application, and it shall meet the Program Requirements (e.g., provide for

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delivery of housing stability services and benefits).

25. Nondiscrimination

Grantee shall adopt a written nondiscrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under federal or state housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Homekey funds.

Statutes and regulations prohibiting discrimination are applicable to this Agreement and include, without limitation, the following:

- A. Grantee and any of its contractors, subcontractors, successors, transferees, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement;
- B. Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of "federally assisted construction contract" in [41 CFR Part 60–1.3](#) must include the equal opportunity clause provided under [41 CFR 60–1.4\(b\)](#), in accordance with Executive Order [11246](#), "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at [41 CFR part 60](#), "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.";

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- C. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.); Grantee shall affirmatively further fair housing, in accordance with the Civil Rights Act of 1964 (42 U.S.C §2000a, et seq.), and the Fair Housing Act (42 U.S.C. §3601, et seq.), according to 42 U.S.C. §5306, et seq. and in compliance with California statute (Gov. Code sections 65583, et seq.). Grantee shall comply with the Fair Housing Amendment Act of 1988 (Public Law 100-430). Grantee shall develop and implement an affirmative fair housing marketing plan that is 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 Interim Housing or Permanent Housing. Grantee is encouraged to refer to the guidelines for Affirmative Fair Housing Marketing Plans issued by the U.S. Department of Housing and Urban Development (“HUD”). Grantee shall comply with all applicable state and federal fair housing laws;
- D. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); prohibiting recipients of federal funds from discrimination against persons with disability; the Americans With Disabilities Act of 1990 prohibiting all public discrimination against persons with disabilities; the Age Discrimination Act of 1975 prohibiting age-based discrimination in federally funded activities; Executive Order 11063 prohibiting discrimination in disposition of properties owned or financed with federal funds, as amended by Executive Order 12259; and Executive Order 11246 regarding fair employment, as amended by Executive Orders 11375, 11478 and 12086; and HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights;
- E. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.); The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.); prohibiting age-based discrimination in federally funded activities.

Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.); Americans With Disabilities Act of 1990 prohibiting all public discrimination against persons with disabilities. The State of California nondiscrimination statutes, regulations, and standards set forth and identified in the NOFA and at Exhibit C of this Agreement.

26. Affirmative Fair Housing Marketing Plan and Fair Housing Compliance

- A. Grantee shall affirmatively further fair housing, in accordance with the Civil Rights Act of 1964 (42 U.S.C §2000a, et seq.), and the Fair Housing Act (42 U.S.C. §3601, et seq.), according to 42 U.S.C. §5306, et seq. and in compliance with

Homekey Program – Round 3 (Homekey)
NOFA Date: 03/29/2023, as amended 11/15/2023
Project Name: 42 Otis Street
Approved Date: 11/21/2023
Prep. Date: 07/24/2024
Unique Entity Identifier(s): E42PRK5JAJ13

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California statute (Gov. Code sections 65583, et seq.). Grantee shall comply with the Fair Housing Amendment Act of 1988 (Public Law 100-430).

- B. Grantee shall develop and implement an affirmative fair housing marketing plan that is 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 Interim Housing or Permanent Housing. Grantee is encouraged to refer to the guidelines for Affirmative Fair Housing Marketing Plans issued by the U.S. Department of Housing and Urban Development (“HUD”). Grantee shall comply with all applicable state and federal fair housing laws.

27. Grantee Acknowledgment of the Pet Friendly Housing Act of 2017

By executing this Agreement, Grantee acknowledges that the Pet Friendly Housing Act of 2017 (Health & Saf. Code, § 50466) requires each housing development, if it is financed on or after January 1, 2018 pursuant to Division 31 of the Health and Safety Code, to authorize a resident of the housing development to own or otherwise maintain one or more common household pets within the resident’s dwelling unit, subject to applicable state laws and local governmental ordinances related to public health, animal control, and animal anticruelty.

28. Final Certificate of Occupancy

Grantee 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.

29. Occupancy

The Assisted Units shall be occupied by the Target Population, and such units shall be in decent, safe, and sanitary condition at the time of their occupancy. In addition, the Grantee shall certify, upon occupancy, that it will employ the core components of Housing First (as set forth at Welfare and Institutions Code section 8255) as part of its property management plan and Supportive Services plan.

30. Tenant Selection

Referrals to Assisted Units shall be made through the local Coordinated Entry System (“CES”), or another comparable prioritization system based on greatest need shall be used. All referral protocols for Assisted Units shall be developed in collaboration with

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the local Continuum of Care and implemented consistent with the Program Requirements.

31. Participation in Statewide HDIS/HMIS

Grantee shall support Continuum of Care participation in the statewide Homeless Data Integration System (“**HDIS**”). As required by and in accordance with state and federal law (including all applicable privacy law), Grantee shall further disclose relevant data to the local Homeless Management Information System (“**HMIS**”) and comparable data collection systems.

32. Affordability Covenant

- A. An Affordability Covenant shall be recorded against the Project real property in accordance with Section 208 of the NOFA and this Agreement. For Interim Housing Projects, the Department will prepare, and the Public Entity or Tribal Entity shall cause, a 30-year Affordability Covenant to be recorded against the Project real property.
- B. For Interim Housing Projects that will ultimately result in Permanent Housing, the Public Entity or Tribal Entity shall prepare and cause a 30-year Affordability Covenant to be recorded against the Project real property during the interim phase and upon conversion to permanent housing the public entity or tribal entity shall cause a 55-year affordability covenant.
- C. For Permanent Housing Projects, the Public Entity or Tribal Entity shall prepare and cause a 55-year Affordability Covenant to be recorded against the Project real property. For Permanent Housing Projects located on tribal trust land, a 50-year Affordability Covenant shall be recorded against the Project real property.
- D. The Affordability Covenant shall require integration of the Target Population within all entrances, common areas, and buildings that comprise the Project.
- E. The Affordability Covenant shall include occupancy and rent restrictions that maintain the Project’s accessibility to the Target Population over the full term of the Affordability Covenant.
- F. All Affordability Covenants are subject to the advance written approval of the Department, and shall be acceptable to the Department in form, substance, and priority. Project-specific requirements and deadlines are set forth at Exhibit E of this Agreement.

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33. Restrictions on Sales, Transfers, and Encumbrances

Grantee shall not, for the duration of this Agreement, sell, assign, transfer, or convey the Project, or any interest therein or portion thereof, without the express prior written approval of the Department.

34. Retention, Inspection, and Audit of Records

- A. Grantee is responsible for maintaining records which fully disclose the activities funded by the Grant. Grantee shall retain all records for a period of five (5) years after the expiration of this Agreement, unless a longer retention period is stipulated. If any litigation, claim, negotiation, audit, monitoring, inspection or other action commences during this required retention period, all records must be retained until a full and final resolution of the action.
- B. The Department, as well as its appointees, employees, agents, and delegates, shall have the right to review, obtain, and copy all records pertaining to performance under this Agreement. The U.S. Department of the Treasury and any authorized oversight body or representative, including, without limitation, the Treasury's Office of Inspector General, the Government Accountability Office, and the Pandemic Relief Accountability Committee, shall have the right of access to such records in order to conduct audits or other investigations. Grantee shall provide any relevant information requested, and shall permit access to its premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees and inspecting and copying books, records, accounts, and other relevant material.
- 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 Project. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The audit shall be performed by a qualified state, local, independent, or Department auditor. Where an independent auditor is engaged, the audit services agreement shall include a clause which permits the Department to have access to the independent auditor's relevant papers, records, and work product.
- D. If there are audit findings, the Grantee shall submit a detailed response to the Department for each audit finding. The Department will review the response. If the Department determines, in its sole and absolute discretion, that the response is satisfactory, the Department will conclude the audit process and notify the Grantee in writing. If the Department determines, in its sole and absolute discretion, that the response is not satisfactory, the Department will contact the

EXHIBIT D

Grantee, in writing, and explain the action required to cure any audit deficiencies. Such action could include the repayment of ineligible costs or other remediation.

- E. If so directed by the Department upon the termination or expiration of this Agreement, the Grantee shall deliver all records, accounts, documentation, and other materials that are relevant to this Agreement to the Department as depository.

35. **Site Inspection**

The Department reserves the right, upon reasonable notice, to inspect the Project to determine whether it meets the Program Requirements. If the Department reasonably determines that the site is not acceptable for the Project in accordance with] the Program Requirements, the Department reserves the right to rescind the award and the Grant. Nothing in this paragraph is intended to create or imply any obligation of the Department to inspect the Project.

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

- A. Grantee, its agencies or instrumentalities, contractors, sub-grantees, and subrecipients shall comply with all local, state, and federal laws, statutes, and regulations, as well as policies and guidelines established by the Department for the administration of the Homekey program.
- B. Grantee shall comply with the requirements of 24 CFR 570.480 et seq., the Housing and Urban Development (HUD) 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance, as adopted by HUD at 2 CFR 2400, Title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. § 12701 et seq.) and all federal regulations and policies issued pursuant to these regulations. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

37. **Updated Information**

If there is any change in the information that has been provided to the Department, Grantee shall promptly provide the Department with updated documentation (e.g., updated sources and uses). All changes shall be subject to Department approval. In addition, Grantee shall promptly notify the Department, in writing, of any changes in Grantee or Co-Grantee organization, authorization, or capacity.

EXHIBIT D

38. Survival of Obligations

The obligations of the Grantee, as set forth in this Agreement, shall survive the termination or expiration of this Agreement.

39. Litigation

Grantee 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, the Program Requirements, the interests of the Department, and the objectives of the Homekey Program.

40. Entire Agreement; Severability

This Agreement constitutes the entire agreement between the Grantee and the Department. All prior representations, statements, negotiations, and undertakings with regard to the subject matter hereof are superseded hereby. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

41. Modification or Waiver under AB 1010

The Department reserves the right to waive or modify any requirement under this Agreement, or any Program Requirement, as authorized by and in accordance with Assembly Bill No. 1010 (Chapter 660, Statutes of 2019) ("**AB 1010**"), which is codified at Health and Safety Code section 50406, subdivision (p).

42. Waivers

No waiver of any breach, violation, or default under this Agreement shall be held to be a waiver of any other or subsequent breach or violation thereof or default thereunder. The Department's failure, at any time, to enforce the provisions of this Agreement or to require the Grantee's performance under this Agreement shall in no way be construed as a waiver of such provisions or performance, and it shall not affect the validity of this Agreement or the Department's right to enforce this Agreement.

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43. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

This Agreement is subject to the administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, which are set forth at 2 Code of Federal Regulations part 200.

- A. Accounting Standards: Grantee agrees to comply with, and administer the activity in conformance with, 2 CFR Part 200.300 et seq, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- B. Debarred contractors: It certifies that neither the Applicant or its staff are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal assistance programs, in any proposal submitted in connection with the Homekey program, per the Excluded Party List System located at <https://www.sam.gov/SAM/>. In addition, the Applicant will not award contracts to or otherwise engage the services of any contractor while that contractor (or its principals) is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from the covered transaction, in any proposal submitted in connection with the Homekey program under the provisions of 24 CFR Part 24.

Single Audit Requirements: Grantee is responsible for complying, as necessary, with the Single Audit Act and its implementing regulation at 2 Code of Federal Regulations part 200, subpart F regarding audit requirements.

44. Disputes

In the event of any conflict between this Agreement and any Grantee documents or side agreements, this Agreement and the Program Requirements shall prevail, are applicable, and shall be enforceable by the Department even if the Department provided review or approval of such documents and side agreements.

45. Consent

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

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46. Grantee Liability

Grantee shall remain liable to the Department for performance under this Standard Agreement and compliance with all Program Requirements regardless of any Department-approved transfer or assignment of interest, or of any designation of a third party for the undertaking of all or any part of the Scope of Work. Likewise, each Co-Grantee shall remain jointly and severally liable to the Department for performance under this Standard Agreement and compliance with all Program Requirements regardless of any Department-approved transfer or assignment of interest; any designation of a third party for the undertaking of all or any part of the Scope of Work; or the Co-Grantees' identification of a Designated Payee.

47. Defense and Indemnification

Grantee agrees to defend, indemnify, and hold harmless the Department, and its appointees, agents, employees, and officers, from any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys' fees), which may arise in connection with Grantee's use of the Grant funds and performance under this Agreement. If any attorney, including the California Attorney General, is engaged by the Department to enforce, construe, or defend any provision of this paragraph, with or without the filing of any legal action or proceeding, Grantee shall, individually or jointly, pay to the Department, immediately upon demand, the amount of all attorneys' fees and costs incurred by the Department in connection therewith.

48. Time Is of the Essence

Time is of the essence under this Agreement, and in the performance of every term, covenant, and obligation contained herein.

EXHIBIT E

PROJECT-SPECIFIC PROVISIONS AND SPECIAL TERMS AND CONDITIONS

Permanent Housing

1. PROJECT-SPECIFIC PROVISIONS

Project Name: 42 Otis Street

Address: 42 Otis Street San Francisco, CA 94103

Assessor Parcel Numbers (APNs): 3505-054, 3505-055, 3505-056, 3505-057, 3505-058, 3505-059, 3505-060, 3505-061, 3505-062, 3505-063, 3505-064, 3505-065, 3505-066, 3505-067, 3505-068, 3505-069, 3505-070, 3505-071, 3505-072, 3505-073, 3505-074, 3505-075, 3505-076, 3505-077, 3505-078, 3505-079, 3505-080, 3505-081, 3505-082.

A. Permanent Housing – Award, Disbursement, and Eligible Use(s)

Grantee received Homekey Program award letter on July 23rd, 2024 (the “**Award Date**”). Pursuant to that award letter, the Grantee is receiving Homekey Grant funds in the amount of \$8,225,095.00 (the “**Award**”). The Payee of these funds is The City and County of San Francisco. Grantee will use the funds to provide Permanent Housing for the Target Population and subpopulations as specified in the unit mix chart included herein. Specifically, the Grantee will apply these funds towards the following eligible use(s):

- 1) Acquisition and rehabilitation of a hotel to provide Permanent Housing for the Target Population
- 2) Capitalization of an operating subsidy for the Assisted Units
- 3) Relocation costs for individuals who are being displaced as a result of the Homekey project This amount represents one-half of the relocation cost per unit. The Grantee is responsible for paying the balance of any and all relocation costs necessitated by the Project.

Homekey Program – Round 3 (Homekey)

NOFA Date: 03/29/2023, as amended 11/15/2023

Project Name: 42 Otis Street

Approved Date: 11/21/2023

Prep. Date: 07/24/2024

Unique Entity Identifier(s): E42PRK5JAJ13

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The Homekey Award is comprised of:

Total Award	\$8,225,095.00
Capital Award	\$7,142,325.00
Acquisition	\$6,575,000.00
Rehabilitation	\$0.00
Master Leasing	\$0.00
New Construction	\$0.00
Affordability Covenants	\$0.00
Relocation	\$567,325.00
Operating Award	\$1,082,770.00

B. Unit Mix

# of Bedrooms	Total Homekey Units	Homekey -funded Manager Units	Homekey-Assisted Units	AMI Income Limit	Target Population or Subpopulation Restriction
0 (Studio)	24	0	24	30%	Homeless Youth or Youth At-Risk of Homelessness
Totals:	24	0	24		

California law 25 CCR § 42 requires an onsite manager, maintenance, or other responsible person for rental housing of 16 or more units. The site consists of 24 studio units in single five-story building. TCAC regulations allow for an alternative option to provide an equivalent number of desk or security staff capable of responding to emergencies for the hours when property management staff is not working. The Project will provide 24/7 property management staff capable of responding to emergencies who live nearby.

Grantee must use referrals to the Homekey Assisted Units through the local Coordinated Entry System (CES) or comparable prioritization system based on greatest need. All referral protocols for Homekey Assisted Units must be developed in collaboration with the local CoC and implementation consistent with the requirements set forth in the Homekey NOFA.

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EXHIBIT E**C. Project Narrative**

- 1) The Project will serve 24 homeless youth or youth at-risk of homelessness households and will provide permanent supportive housing for households with incomes equal to or less than 30% of Area Median Income (AMI). Units will also be provided with free internet service. The Homekey Capital Award will be used to reimburse the Grantee for the acquisition of the property. The operating award will be utilized to support permanent housing services. The Project will consist of one 5-story building that includes a lobby, front desk, community dining room, kitchen, and laundry. Off-site amenities include a bus stop with frequent service available within 1/2 mile of the property, and access to Grocery Stores, Healthcare, pharmacies, public parks, and additional service provider offices are available within a mile of the site.
- 2) **Set-Aside Funds – Homeless Youth or Youth at Risk of Homelessness Occupancy.** This Project's Award included set-aside funds for Homeless Youth or Youth at Risk of Homelessness in the amount of \$8,225,095.00. In exchange for these set-aside funds, the Grantee has agreed that at least 24 units in this Project will be restricted to occupancy by Homeless Youth or Youth at Risk of Homelessness for the duration of the 55-year regulatory term.

D. Scope of Work**1) Construction and Rehabilitation Detail:**

This project is for acquisition only. No construction will occur.

2) Supportive Services and Staffing Detail:

Grantee shall assure that the case manager ratio for this project will be maintained at 12:1 for individuals youth experiencing homelessness and youth at-risk of homelessness. City and County of San Francisco, Department of Homelessness and Supportive Housing (HSH) and Five Keys School and Programs will manage the property and coordinate to provide the tenants with on and off-site supportive services including: case management, peer support activities, mental health care, substance abuse services, behavioral health services, physical health services,

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assistance with obtaining benefits and essential documentation, education and employment services, housing retention, legal assistance, housing stability services, and community building.

E. Grantee Contract Coordinator

Authorized Representative Name:	Shireen McSpadden
Authorized Representative Title:	Executive Director HSH Department
Entity Name:	City and County of San Francisco
Address:	440 Turk Street San Francisco, CA 94102
Telephone No.:	(415) 350-4258
E-Mail Address:	Shireen.McSpadden@sfgov.org

F. Additional Conditions Precedent to Disbursement

None.

G. Budget Detail

- 1) Grantee is obligated to cover the Project's development, operations, and service costs for five (5) years. Grantee will satisfy this obligation by leveraging funding commitments, or other reasonable funding assurances, from the following funding sources:
 - a) Department of Housing and Community Development Homekey Award Letter dated July 23rd, 2024 in the amount of \$8,225,095 for acquisition and operating costs.
 - b) City and County of San Francisco letter dated June 26th, 2024, in the amount of \$8,207,325 of Our City Our Home funds for capital support of the project.
 - c) City and County of San Francisco letter dated June 11th, 2024, in the amount of \$503,307 of Our City Our Home funds for capital support of the project.

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- 2) Grantee shall maintain the ongoing affordability of the Project by leveraging the following non-Homekey sources of rental or operating subsidies:
- a) City and County of San Francisco letter dated June 26th, 2024, committing approximately \$10,384,788 of Our City Our Home funds to be used as operating subsidy funding through the first ten years of the Project's operations.

H. Performance Milestones

Performance Milestones	Milestone Completion Date
Project escrow must be closed and Capital funds must be fully expended.	March 23, 2025
Homekey-funded operating funds must be fully expended.	June 30, 2026
All Acquisition, Construction and/or Rehabilitation of the Homekey Project must be completed.	July 23, 2025
Full occupancy by the Target Population must be accomplished in accordance with the descriptions and representations set forth in the Application.	October 23, 2025
A copy of Grantee's written nondiscrimination policy (in accordance with <u>Exhibit D</u> of this Agreement) must be submitted to the Department.	March 23, 2025
A Department-approved Affordability Covenant must be recorded against the Project real property after the Departments approval to record, and as specified and described in the NOFA and this Agreement.	30 days from disbursement of funds *But not before Department approval

EXHIBIT E

Performance Milestones	Milestone Completion Date
A copy of the Notice of Exemption from the California Environmental Quality Act (CEQA) filed with the Office of Planning and Research (OPR) as applicable.	March 23, 2025
A Homekey Program and Expenditure Report must be submitted to the Department as specified and described in the NOFA.	January 31 – Each year for five (5) years following the Effective Date of this Agreement.

2. SPECIAL TERMS AND CONDITIONS

The following Special Terms and Conditions are applicable to this Project and shall control notwithstanding anything to the contrary herein:

A. Affordability Covenant

- 1) The state, regional, local, or tribal Grantee shall ensure that the Project is duly encumbered with a 55-year Affordability Covenant that **(a)** is recorded in first position against the Project for the benefit of the state, regional, local, or tribal Grantee; **(b)** restricts the use, operation, occupancy, and affordability of the Project in accordance with this Agreement and the applicable Program Requirements; **(c)** duly names the Department as a third-party beneficiary with the right and privilege, but not the obligation, of enforcement thereof; and **(d)** is otherwise in form and substance acceptable to the Department.
- 2) The Affordability Covenant must be recorded against the real property of the Project site by the Milestone Completion Date set forth herein. The Grantee shall obtain the Department's express written approval of the Affordability Covenant prior to the recordation of the same. After recordation, the Grantee shall promptly provide the Department with a conformed copy of the recorded Affordability Covenant.
- 3) Unless otherwise authorized by the prior and express written approval of the Department, the Affordability Covenant must be recorded as a lien against the Project in first position, and must remain in first position, over

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all other Project agreements, covenants, or other matters of record on the real property for the period of affordability required by the Program.

- B. Grantee has committed to serve specific sub-populations as per NOFA Section 304, Application Scoring Criteria (3)(a). Grantee shall ensure that at least 25 percent of the Project's Assisted Units are restricted to occupancy by Homeless Youth or Youth at Risk of Homelessness.
- C. Grantee has committed to a 55-year use restriction for the Project and has waived any potential accommodation by the Department to increase income limits, as per NOFA Section 304, Application Scoring Criteria, (3)(c), for 100 percent of the Assisted Units.
- D. **Supportive Services Plans** required by HCD must be received by HCD no later than 90 days prior to occupancy.