

**A REGULAR MEETING OF THE  
BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

TO BE HELD AT 715 EAST BRIER DRIVE  
SAN BERNARDINO, CALIFORNIA  
NOVEMBER 14, 2023 AT 3:00 P.M.

**AGENDA**

**PUBLIC SESSION**

- 1) Call to Order and Roll Call
- 2) Additions or deletions to the agenda
- 3) General Public Comment - Any member of the public may address the Board of Commissioners on any matter not on the agenda that is within the subject matter jurisdiction of the Board. To make a comment on a specific agenda item, you may do so during the meeting or, alternatively, please submit your comments via email by 1:00 p.m. on the Tuesday of the Board meeting. Comments should be limited to 250 words or less. Please submit your comments via web at <https://hacsb.com/board-of-commissioners/> or email at [publiccomment@hacsb.com](mailto:publiccomment@hacsb.com). Your comments will be placed into the record at the meeting. Efforts will be made to read the comments into the record, but some comments may not be read due to time limitations.

**DISCUSSION CALENDAR**

(Public comment is available for each item on the discussion calendar)

- 4) Receive the Executive Director's Report for November 14, 2023.  
(Page 1)
- 5) Receive the board building presentation for November 14, 2023, an update of the Housing Authority of the County of San Bernardino's development projects.  
(Page 2)
- 6)
  1. Approve contract amendment No. 3 with Knowledge and Education for Your Success, Inc. for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program Housing Navigator Services increasing the amount by \$5,179,380 for a total contract amount not to exceed \$36,302,037 through June 30, 2024.
  2. Authorize and direct the Executive Director to execute and deliver the contract to Knowledge and Education for Your Success, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Pages 3-7)

- 7) 1. Approve contract amendment No.3 with the San Bernardino County Transitional Assistance Department for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program services increasing the amount by \$15,071,562 for a total contract amount not to exceed \$46,194,219 and extending the term by one additional year, for the total contract period of July 1, 2020, through June 30, 2025.
2. Authorize and direct the Executive Director to execute and deliver the contract to the San Bernardino County Transitional Assistance Department and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Pages 8-16)
- 8) 1. Adopt Resolution No. 185 to:
- a. Authorize execution of an updated Rental Assistance Demonstration Transfer of Assistance Restrictive Covenants related to the development of the remaining parcels of land at the former Waterman Gardens public housing site.
  - b. Authorize the formation of Waterman Affordable 4 LLC with the Housing Authority and Housing Partners I, Inc. as members.
2. Authorize and direct the Executive Director to negotiate and execute such documents as are necessary to effectuate the amending and restating of the Rental Assistance Demonstration Covenant and its recordation, including the formation of Waterman Affordable 4 LLC.  
(Pages 17-56)
- 9) 1. Approve contract No. PC1336, effective December 1, 2023, with Reliant Asset Management Solutions, for Inspection Services and Project Based Voucher Independent Entity Services for a two-year base period with three single or a multiple year option extension through November 30, 2028.
2. Approve a total amount not to exceed \$845,937 for the two-year base period.
3. Authorize and direct the Executive Director to execute and deliver Contract No. PC 1336 to Reliant Asset Management Solutions, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Pages 57-86)
- 10) 1. Approve a petition in support of the Renewal of the Downtown Community Benefit District in the City of Ontario.
2. Obtain approval to vote “yes” on the mail ballot in support of the renewed Downtown Ontario Community Benefit District.
3. Authorize and direct the Executive Director to execute and deliver the petition and vote “yes” on the mail ballot in support of the Downtown Ontario Community Benefit District, and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.  
(Pages 87-96)

## **CONSENT CALENDAR**

### APPROVAL OF CONSENT ITEMS: # 11-13

- 11) Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on October 10, 2023.  
(Pages 97-101)
- 12) Approve and file Agency-wide Financial Statements through July 2023.  
(Pages 102-105)
- 13) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of August 2023.  
(Pages 106-111)

## **CLOSED SESSION**

- 14) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9  
Number of Potential Cases: One
- 15) Individual Board member comments.
- 16) Adjourn

This agenda contains a brief description of each item of business to be considered at the meeting. In accordance with the Ralph M. Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting at the Housing Authority of the County of San Bernardino (HACSB) Building located at 715 East Brier Drive, San Bernardino, California, 92408. The agenda and its supporting documents can be viewed online at <http://www.hacsb.com>. However, the online agenda may not include all available supporting documents or the most current version of documents.

If you challenge any decision regarding any of the above agenda items in court, you may be limited to raising only those issues you or someone else raised during the public testimony period regarding that agenda item or in written correspondence delivered to the Board of Commissioners at, or prior to, the public meeting.

It is the intention of the HACSB to comply with the Americans with Disabilities Act (ADA). If you require special assistance, HACSB will attempt to accommodate you in every reasonable manner. Please contact Cynthia Robinson at (909) 890-5388 at least 48 hours prior to the meeting to inform us of your particular needs.

HACSB ofrece asistencia idiomática gratis. Para ayuda con este documento, por favor llámenos al (909) 890-0644.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**November 14, 2023**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

**Executive Director's Report for November 14, 2023**

**RECOMMENDATION(S)**

Receive the Executive Director's Report for November 14, 2023.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

This item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

The Executive Director's report summarizes ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by the U.S. Department of Housing and Urban Development.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**November 14, 2023**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

**Board Building Presentation for November 14, 2023**

**RECOMMENDATION(S)**

Receive the board building presentation for November 14, 2023, an update of the Housing Authority of the County of San Bernardino's development projects.  
(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing our resources by mobilizing the talents of our community partners.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

**BACKGROUND INFORMATION**

Per the U.S. Department of Housing and Urban Development's (HUD) Commissioner Lead the Way Training and Moving to Work designation responsibilities, board building is required to provide the Board of Commissioners with information regarding ongoing initiatives of HACSB's strategic plan, Moving to Work (MTW) activities, overall agency updates, as well as other initiatives federally regulated by HUD.

This month's board building presentation will include an update of HACSB's development projects.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on, October 31, 2023.

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Contract Amendment No. 3 with Knowledge and Education for Your Success, Inc. for California Work Opportunity and Responsibility to Kids Housing Support Program Services

## **RECOMMENDATION(S)**

1. Approve contract amendment No. 3 with Knowledge and Education for Your Success, Inc. for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program Housing Navigator Services increasing the amount by \$5,179,380 for a total contract amount not to exceed \$36,302,037 through June 30, 2024.
2. Authorize and direct the Executive Director to execute and deliver the contract to Knowledge and Education for Your Success, Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing out resources by mobilizing the talents of our community partners.**

## **FINANCIAL IMPACT**

Approval of this item is not expected to exceed a total contract amount of \$36,302,037 which is funded through the California Work Opportunity and Responsibility to Kids (CalWORKs) Housing Support Program (HSP) funds received by the Housing Authority of the County of San Bernardino (HACSB) pursuant to its CalWORKs HSP contract with the San Bernardino County Transitional Assistance Department (TAD).

## **BACKGROUND INFORMATION**

Under the terms of the recommended contract, HACSB's affiliate non-profit, Knowledge and Education for Your Success, Inc. (KEYS) will continue to provide housing navigation and rental assistance for CalWORKs families who identify themselves as homeless. CalWORKs HSP was established through SB 855 (Chapter 29, Statutes of 2014) to promote housing stability for families in the CalWORKs program. The Rapid Rehousing (RRH) services provided through HSP offer time-limited, individualized rental assistance at a level that enables the family to maintain housing while they seek to increase income; learn to manage a household budget; relocate to less expensive housing; and/or reduce expenses to sustain their housing. Rental assistance will be provided in a manner that is intended to prevent families from experiencing a sudden and unmanageable increase to their housing expenses at the end of program assistance. Additionally, KEYS partners with community and faith-based organizations to leverage and support payment of security deposits, utility assistance, furniture needs, and other housing costs as appropriate to the situation.

Based on an average cost of \$20,850 per family per year, a total of 261 existing families and approximately 281 (200 newly housed plus 81 prevention) new households will be served annually with the available HSP allocation in 2023-25. Since January 2015, the partnership with TAD, HACSB, and KEYS has served more than 3,356 families, of which 8,502 are children, resulting in the placement of 2,566 households, including 6,157 children, in permanent housing.

The purpose of this approval is to provide funding to continue the provision of services by KEYS. However, a revised version of the MOU with KEYS will be brought back in or around January, 2024, to bolster some of the provisions, including more stringent criteria for how KEYS is to deliver the services and provide HACSB with additional rights to address any performance issues.

Implementation of this item is contingent upon approval of a contract between the County of San Bernardino and HACSB by the San Bernardino County Board of Supervisors and HACSB Board of Commissioners. Approval of this item is only for the spending authority through June 30, 2024.

### **PROCUREMENT**

The contract award was non-competitive due to TAD writing KEYS and HACSB directly into the contract proposal for the state funding. Also, the San Bernardino County Purchasing Department determined that the non-competitive nature of a contract with HACSB and KEYS is justified based on California Department of Social Services allocation to the County of San Bernardino as a result of TAD's proposal to partner with HACSB in its application for HSP funding.

### **REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.



**THIRD AMENDMENT TO CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE  
RELATED SERVICES AGREEMENT (NON-CONSTRUCTION)**

**BETWEEN**

**THE HOUSING AUTHORITY OF THE  
COUNTY OF SAN BERNARDINO**

**And**

**KNOWLEDGE, EDUCATION FOR YOUR SUCCESS, INC. (KEYS)**

This Third Amendment to Consulting, Services, and Non-Routine Maintenance Related Services Agreement (Non-Construction) ("Amendment") is entered into as of July 1, 2023 by and between the Housing Authority of the County of San Bernardino ("Authority"), a public body, corporate and politic and Knowledge, Education For Your Success, Inc., a California public benefit nonprofit corporation ("KEYS"). The Authority and KEYS are referred to herein, collectively, as the "Parties."

**RECITALS**

**WHEREAS**, on June 9, 2020 (Item No. 9), the Board of Commissioners approved that certain non-competitive Consulting, Services, and Non-Routine Maintenance Related Services Agreement (Non-Construction), dated as of July 1, 2020 (the "Agreement"), by and between the Authority and KEYS, for the purpose of KEYS providing Housing Navigator Services in the amount of \$6,480,000, for the period of July 1, 2020 through June 30, 2021.

**WHEREAS**, on June 8, 2021 (Item No. 7), the Board of Commissioners approved the first amendment to the Agreement, increasing the amount by \$6,480,000, for a total contract amount not to exceed \$12,960,000 and extending the term by one year through June 30, 2022.

**WHEREAS**, on May 10, 2022 (Item No. 15), the Board of Commissioners approved the second amendment to the Agreement for the purpose of KEYS providing Housing Navigator Services increasing the amount by \$18,162,657, for a total contract amount not to exceed \$31,122,657 and extending the term by one year through June 30, 2024.

**WHEREAS**, the Parties now desire to further amend the Agreement, increasing the total contract amount by \$5,179,380 from \$31,122,657 to \$36,302,037 for a total contract period of July 1, 2020 through June 30, 2024.



NOW, THEREFORE, in consideration of the mutual covenants contained herein, Authority and KEYS hereby agree as follows:

### **AGREEMENT**

**1. Fiscal Provisions.** Section V of the Agreement, entitled "Fiscal Provisions", at Subsection A, shall be amended in its entirety to increase the Contract Sum by \$5,179,380 to read as follows:

"A. The maximum amount of reimbursement under this Contract shall not exceed \$36,302,037 for a total contract period of July 1, 2020 through June 30, 2024, of which 100% federally and state funded, and shall be subject to availability of funds to the County and HACSB. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem."

**3. Full Force and Effect.** Except as amended hereby, all other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Housing Authority of the County of San Bernardino and Applied Real Estate Analysis, Inc. have signed this Amendment.

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**KNOWLEDGE, EDUCATION, FOR YOUR  
SUCCESS, INC.**

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

Name: \_\_\_\_\_

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

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

**HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO**

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

Name: Maria Razo

Title: Executive Director

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

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Contract Amendment No. 3 with the San Bernardino County Transitional Assistance Department for California Work Opportunity and Responsibility to Kids Housing Support Program Services

## **RECOMMENDATION(S)**

1. Approve contract amendment No. 3 with the San Bernardino County Transitional Assistance Department for the provision of California Work Opportunity and Responsibility to Kids Housing Support Program services increasing the amount by \$15,071,562 for a total contract amount not to exceed \$46,194,219 and extending the term by one additional year, for the total contract period of July 1, 2020, through June 30, 2025.
  2. Authorize and direct the Executive Director to execute and deliver the contract to the San Bernardino County Transitional Assistance Department and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.
- (Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing out resources by mobilizing the talents of our community partners.**

## **FINANCIAL IMPACT**

San Bernardino County's (County) Transitional Assistance Department (TAD) received notification from the California Department of Social Services (CDSS) of the annual renewal for the California Work Opportunity and Responsibility to Kids (CalWORKs) Housing Support Program (HSP) for a total contract amount not to exceed \$46,194,219. The recommended contract is for an additional year period by mutual agreement by TAD and the Housing Authority of the County of San Bernardino (HACSB).

	FY 20/21	FY 21/22	FY 22/23	FY 23/24	FY 24/25	Contract Total
Original Contract	\$6,480,000					\$6,480,000
Amendment 1		\$6,480,000				\$6,480,000
Amendment 2		\$1,734,219	\$8,214,219	\$8,214,219		\$18,162,657
Amendment 3			\$3,503,417	\$1,676,963	\$9,891,182	\$15,071,562
Year Total	\$6,480,000	\$8,214,219	\$11,717,636	\$9,891,182	\$9,891,182	\$46,194,219

### **BACKGROUND INFORMATION**

Under the terms of the recommended contract, HACSB will continue to provide contracted services to TAD, for the provision of housing and rental assistance for CalWORKs families who identify themselves as homeless. CalWORKs HSP was established through SB 855 (Chapter 29, Statutes of 2014) to promote housing stability for families in the CalWORKs program. The Rapid Rehousing (RRH) services provided through HSP offer time-limited, individualized rental assistance at a level that enables the family to maintain housing while they seek to increase income; learn to manage a household budget; relocate to less expensive housing; and/or reduce expenses to sustain their housing. Rental assistance will be provided in a manner that is intended to prevent families from experiencing a sudden and unmanageable increase to their housing expenses at the end of program assistance. HACSB's affiliate non-profit, Knowledge and Education for Your Success, Inc. (KEYS), works with families and private landlords to provide RRH and rental assistance. Based on an average cost of \$20,850 per family per year, a total of 261 existing families and approximately 281 (200 newly housed plus 81 prevention) new households will be served annually with the available HSP allocation in 2023-25. Since January 2015, the partnership with TAD, HACSB, and KEYS has served more than 3,356 families, of which 8,502 are children, resulting in the placement of 2,566 households, including 6,157 children, in permanent housing.

KEYS partners with community and faith-based organizations to leverage and support payment of security deposits, utility assistance, furniture needs, and other housing costs as appropriate to the situation.

Approval of this item will continue the spending authority through 2023-2024 grant year, as well as the spending authority for the 2024-2025 grant year.

### **PROCUREMENT**

The County's Purchasing Department determined that the non-competitive nature of a contract with HACSB is justified based on CDSS' allocation to the County as a result of TAD's proposal to partner with HACSB in its application for HSP funding.

### **REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.



**Contract Number**

20-503 A-3

**SAP Number**

4400014304

## Transitional Assistance Department

<b>Department Contract Representative</b>	Marianna Martinez, Contract Analyst
<b>Telephone Number</b>	(909) 383-0212
<b>Contractor</b>	Housing Authority of the County of San Bernardino
<b>Contractor Representative</b>	Maria Razo, Executive Director
<b>Telephone Number</b>	(909) 890-0644
<b>Contract Term</b>	07/01/2020 through 06/30/2025
<b>Original Contract Amount</b>	31,122,657
<b>Amendment Amount</b>	15,071,562
<b>Total Contract Amount</b>	46,194,219
<b>Cost Center</b>	5017601000 and 5017611000

**IT IS HEREBY AGREED AS FOLLOWS:**

**AMENDMENT NO. 3**

It is hereby agreed to amend Contract No. 20-503, effective December 5, 2023, as follows:

**SECTION III. GENERAL CONTRACTOR REQUIREMENTS**

**Amend Section III to add Paragraphs JJ and KK to read as follows:**

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

of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

- KK. **Campaign Contribution Disclosure (SB 1439)** – Contractor has disclosed to the County using Attachment D – Campaign Contribution Disclosure (SB 1439), whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors within the earlier of: (1) the date of the submission of Contractor’s proposal to the County, or (2) 12 months before the date this Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors for 12 months after the County’s consideration of the Contract.

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

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

## **SECTION V. FISCAL PROVISIONS**

**Paragraph A. is amended to read as follows:**

- A. The maximum amount of payment under this Contract shall not exceed \$46,194,219, which is 100% federally and state funded, and payment shall be subject to availability of funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor’s services and expenses incurred in the performance hereof, including travel and per diem.

## **SECTION VIII. TERM**

**Section VIII. is amended to read as follows:**

This Contract is effective as of July 1, 2020, and is extended from its amended expiration date of June 30, 2024, to expire on June 30, 2025, but may be terminated earlier in accordance with the provisions of Section IX of the Contract.

## **ATTACHMENT C – PROGRAM BUDGET**

Amend Contract No. 20-503 by adding a new Attachment C, CalWORKs Housing Support Program Budget Effective July 1, 2022 through June 30, 2025, attached hereto and incorporated herein by this reference.

## **ATTACHMENT D – CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439)**

Amend Contract No. 20-503 by adding a new Attachment D, Campaign Contribution Disclosure (SB 1439) Effective July 1, 2022 through June 30, 2025, attached hereto and incorporated herein by this reference.

**All other terms and conditions of Contract No. 20-503 remain in full force and effect.**

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

SAN BERNARDINO COUNTY

►

\_\_\_\_\_  
Dawn Rowe, Chair, Board of Supervisors

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Lynna Monell  
Clerk of the Board of Supervisors  
San Bernardino County

By \_\_\_\_\_  
Deputy

HOUSING AUTHORITY OF THE COUNTY OF  
SAN BERNARDINO

\_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name Maria Razo  
(Print or type name of person signing contract)

Title Executive Director  
(Print or Type)

Dated: \_\_\_\_\_

Address 715 East Brier Drive

\_\_\_\_\_  
San Bernardino, CA 92408

**FOR COUNTY USE ONLY**

Approved as to Legal Form

► \_\_\_\_\_  
Adam Ebright, County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

► \_\_\_\_\_  
Patty Steven, Contracts Manager

Date \_\_\_\_\_

Reviewed/Approved by Department

► \_\_\_\_\_  
Gilbert Ramos, Director

Date \_\_\_\_\_

	22/23	23/24	24/25	Total
<u>I. DIRECT FINANCIAL ASSISTANCE</u>				
1. PERM HOUSING	\$4,198,661	\$2,955,985	\$2,955,985	\$10,110,631
2. INTERIM	\$3,719,534	\$3,231,143	\$3,231,143	\$10,181,820
2. PREVENTION	\$523,099	\$565,210	\$565,210	\$1,653,519
<u>II. CASE MANAGEMENT</u>				
1. PERSONNEL	\$1,402,188	\$1,291,133	\$1,291,133	\$3,984,454
<u>III. ADMIN/SUPPORT EXPENSES</u>				
1. PROGRAM MANAGEMENT	\$948,552	\$890,206	\$890,206	\$2,728,964
2. PERSONNEL OTHER	\$619,554	\$600,778	\$600,778	\$1,821,110
3. DATA COLLECTION/TRACKING	\$306,048	\$356,727	\$356,727	\$1,019,502
Total	\$11,717,636	\$9,891,182	\$9,891,182	\$31,500,000





## ATTACHMENT D

### Campaign Contribution Disclosure (SB 1439)

#### **DEFINITIONS**

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

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

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

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

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

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

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

1. Name of Contractor: \_\_\_\_\_
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?  
 Yes ☐ If yes, skip Question Nos. 3-4 and go to Question No. 5  
 No ☐
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: \_\_\_\_\_
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s): \_\_\_\_\_
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above): \_\_\_\_\_

Company Name	Relationship

6. Name of agent of Contractor:

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

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

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

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

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-8?

No ☐ If **no**, please skip Question No. 10.

Yes ☐ If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members to whom anyone listed made campaign contributions.

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

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Updated Rental Assistance Demonstration Covenant for the Transfer of Remaining Land at the Former Waterman Gardens Public Housing Site and formation of Waterman Affordable 4 LLC

## **RECOMMENDATION(S)**

1. Adopt Resolution No. 185 to:
    - a. Authorize execution of an updated Rental Assistance Demonstration Transfer of Assistance Restrictive Covenants related to the development of the remaining parcels of land at the former Waterman Gardens public housing site.
    - b. Authorize the formation of Waterman Affordable 4 LLC with the Housing Authority and Housing Partners I, Inc. as members.
  2. Authorize and direct the Executive Director to negotiate and execute such documents as are necessary to effectuate the amending and restating of the Rental Assistance Demonstration Covenant and its recordation, including the formation of Waterman Affordable 4 LLC.
- (Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

Approval of this item will have no immediate financial impact on the Housing Authority of the County of San Bernardino (HACSB).

## **BACKGROUND INFORMATION**

As the plans for the fourth phase of construction for the revitalization of the former Waterman Gardens public housing neighborhood are finalized, HACSB's development staff is following through with necessary processes to maintain momentum for future phases of development. The previous phase of construction completed the one-for-one replacement of the 252 public housing units which originally covered the entire site. In approving and closing the associated Rental Assistance Demonstration (RAD) financial transaction to allow construction of Phase 3 to commence, the U.S. Department of Housing and Urban Development (HUD) formally released the declaration(s) of trust which had restricted the overall site to public housing purposes. On October 1, 2019, HUD recorded a Restrictive Covenant against the remaining parcels as a condition to the release of the declarations of trust. As HACSB's plans for the remainder parcels are becoming more crystalized, HACSB staff worked with legal counsel and HUD to amend and restate the original Restrictive Covenant to better reflect HACSB's current plans for the next phases of development at the site. The revised Covenant sets out HACSB's plans for the phased development of the remaining parcels which include affordable multifamily housing, community resources, mixed use and homeownership uses, and identifies these as authorized affordable

housing uses of the parcels not subject to future HUD approval. The revised Covenant has a term of twenty years and includes stipulations for the use of proceeds from the transfer of property to future development entities, such as formed Limited Liability Companies and/or Limited Partnerships, if such future uses do not entail affordable housing purposes under the guidelines set for by the HUD RAD Program parameters. The revised Covenant is to be executed by both HUD and HACSB and recorded against the remainder parcel, replacing the existing Covenant.

HACSB is proceeding with the development plan of having each individual parcel transferred to development entities specific to each phase. With this action, staff is proposing to form a California limited liability company called Waterman Affordable 4 LLC in which HACSB and Housing Partners I, Inc. are members, to be the development entity for Parcel D, where a 92-unit development project is slated to start construction by October 2025, pending attainment of funding. The future development entities for Parcels B, E, F and H have yet to be identified. Documents necessary to the formation of Waterman Affordable 4 LLC include an LLC-1 filed with the California Secretary of State, and an Operating Agreement between HACSB and Housing Partners I, Inc.

#### **PROCUREMENT**

Not applicable.

#### **REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.

## HOUSING AUTHORITY RESOLUTION NO. 2023-185

### A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AUTHORIZING EXECUTION OF AN UPDATED RENTAL ASSISTANCE DEMONSTRATION TRANSFER OF ASSISTANCE RESTRICTIVE COVENANTS FOR WATERMAN REMAINDER PARCELS AND AUTHORIZING THE FORMATION OF WATERMAN AFFORDABLE 4 LLC

At a duly constituted meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino, a public body, corporate and politic (the "**Authority**"), held on Tuesday, November 14, 2023 the following resolutions were adopted:

WHEREAS, the Authority is a duly formed housing authority of the State of California, and is vested with the responsibilities set forth in Division 24, Part 2, Article 4 (Sections 34310-34334) of the California Health and Safety Code, which include providing low and moderate income housing within its jurisdiction; and

WHEREAS, the Authority is continuing the process of the revitalization of the former Waterman Gardens public housing neighborhood (the "**Revitalization**"); and

WHEREAS, as part of the approval of the conversion to the Rental Assistance Demonstration ("**RAD**") Program of phase 3 of the Revitalization known as Crestview Terrace, the U.S. Department of Housing and Urban Development ("**HUD**") released the HUD Declaration of Trust from the remainder of the Waterman site (Parcels B,D,E,F,H) (the "**Remainder Parcels**"), and recorded a Covenant against the Remainder Parcels (the "**Original HUD Covenant**"); and

WHEREAS, as the Authority's plans for the Revitalization of the Remainder Parcels has crystalized further, the Authority has worked with HUD to revise the terms of the Original HUD Covenant to more closely reflect the Authority's plans for the phased Revitalization of the Remainder Parcels which includes multifamily housing, community resources, mixed use and homeownership uses; and

WHEREAS, the new Covenant to be recorded is titled "Rental Assistance Demonstration Transfer of Assistance Restrictive Covenants" (the "**New HUD Covenant**"), and the Authority desires to enter into the New HUD Covenant along with HUD, and record the New HUD Covenant against the Remainder Parcels and terminate the Original HUD Covenant; and

WHEREAS, to facilitate the Revitalization of the Remainder Parcels, the Authority is planning to form development specific entities for each phase of the Revitalization; and

WHEREAS, the Authority desires to form a California limited liability company along with Housing Partners I, Inc. to be known as Waterman Affordable 4 LLC, to be the development entity for Parcel D of the Remainder Parcels; and

WHEREAS, the Authority desires to file with the California Secretary of State, and enter into any and all documents, necessary for the formation of Waterman Affordable LLC including but not limited to an LLC-1 and an Operating Agreement (collectively, the "**LLC Documents**").

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO, CALIFORNIA, DOES HEREBY FIND AND DETERMINE THAT THE ABOVE RECITALS ARE TRUE AND CORRECT, AND SERVE, TOGETHER WITH THE BOARD MEMORANDUM, AS THE BASIS OF THE ACTIONS OF THE BOARD OF COMMISSIONERS**

**SET FORTH BELOW, AND RESOLVE AS FOLLOWS:**

RESOLVED that the **Housing Authority of the County of San Bernardino** approves the New HUD Covenant and its recordation against the Remainder Parcels.

FURTHER RESOLVED that the **Housing Authority of the County of San Bernardino** approves the formation of Waterman Affordable 4 LLC.

FURTHER RESOLVED that the **Housing Authority of the County of San Bernardino** appoints the **Executive Director**, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to the New HUD Covenant and the LLC Documents.

FURTHER RESOLVED that the **Housing Authority of the County of San Bernardino** authorizes and directs the **Executive Director**, or designee, to execute any and all other documents listed in and/or contemplated by this resolution, take any and all other actions contemplated by this resolution and/or necessary to enter into New HUD Covenant and the LLC Documents, and facilitate the recordation of the New HUD Covenant and the formation of Waterman Affordable 4 LLC.

FURTHER RESOLVED that to the extent that any actions authorized herein have already been performed, such actions are ratified and approved.

FURTHER RESOLVED that the Board Secretary shall certify the adoption of this Resolution, which shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA                     )  
   )       ss.  
COUNTY OF SAN BERNARDINO        )

I, **Maria Razo**, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, November 14, 2023.

Secretary

By\_\_\_\_\_

**OPERATING AGREEMENT**  
**OF**  
**WATERMAN AFFORDABLE 4 LLC**

\_\_\_\_\_, 2023



## OPERATING AGREEMENT

for

### WATERMAN AFFORDABLE 4 LLC

This Operating Agreement (the "Agreement") is entered into as of \_\_\_\_\_, 2023 (the "Effective Date"), by the Housing Authority of the County of San Bernardino, a public body, corporate and politic ("HACSB"), and Housing Partners I, Incorporated, a California nonprofit public benefit corporation ("HPI" or "Managing Member") (each referred to individually as a "Member" and collectively as the "Members"), with reference to the following facts:

A. The Members formed a limited liability company known as Waterman Affordable 4 LLC, a California limited liability company (the "Company"), under the California Revised Uniform Limited Liability Company Act (the "Act") (California Corporations Code Sections 17701.01 *et seq.*).

B. The Members desire to execute this Agreement to form and provide for the governance of the Company and the conduct of its business.

NOW THEREFORE, the Members declare the following to be the Operating Agreement of the Company:

#### ARTICLE 1: DEFINITIONS

The following capitalized terms used in this Agreement have the meanings specified in this Article or elsewhere in this Agreement and when not so defined have the meanings set forth in California Corporations Code Section 17701.02.

1.1 "Act" means the California Revised Uniform Limited Liability Company Act (California Corporations Code Sections 17701.01-17713.13), including amendments from time to time.

1.2 "Affiliate" means a member, shareholder, owner, officer, or director of a Member; a person related to a Member; an entity controlled by a Member, whether by ownership, approval rights, or substantial financial influence.

1.3 "Agreement" means this operating agreement, as originally executed and as amended from time to time.

1.4 "Articles of Organization" is defined in California Corporations Code Section 17701.02(b).

1.5 "Bona Fide Offer" is defined in Section 8.3.

1.6 "Capital Account" means, as to any Member, a separate account maintained and adjusted in accordance with Section 3.3.

1.7 "Capital Contribution" means, with respect to any Member, the amount of money, the value of services, and the Fair Market Value of any property (other than money) contributed to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take "subject to" under Internal Revenue Code section 752) in consideration of a Percentage Interest held by such Member. A Capital Contribution will not be deemed a loan.

1.8 "Capital Event" means a sale or disposition of any of the Company's capital assets, the receipt of insurance and other proceeds derived from the involuntary conversion of Company property, the receipt of proceeds from a refinancing of Company property, or a similar event with respect to Company property or assets.

1.9 "Code" means the Internal Revenue Code of 1986, as amended, and any successor provision.

1.10 "Company" means Waterman Affordable 4 LLC, a California limited liability company.

1.11 "Dissociation Event" is defined in Section 8.4.

1.12 "Effective Date" has the meaning as defined in the first paragraph of this Agreement.

1.13 "Encumber" means the act of creating or purporting to create an Encumbrance, whether or not perfected under applicable law.

1.14 "Encumbrance" means, with respect to any Membership Interest, or any element of a Membership Interest, a mortgage, pledge, security interest, lien, proxy coupled with an interest (other than as contemplated in this Agreement), option, or preferential right to purchase.

1.15 "Fair Market Value" means, with respect to any property of the Company, the item's adjusted basis for federal income tax purposes, except as follows:

(a) The Gross Asset Value of any item of property contributed by a Member to the Company will be the value of such property, as mutually agreed by the contributing Member and the Company; and

(b) The Gross Asset Value of any item of Company property distributed to any Member will be the value of such item of property on the date of distribution, as mutually agreed by the distributee Member and the Company.

1.16 "Fair Option Price" is defined in Section 8.8.

1.17 "Initial Member" or "Initial Members" means those Persons whose names are set forth in the first sentence of this Agreement. A reference to an "Initial Member" means any of the Initial Members.

1.18 "Losses" see the definition of "Profits and Losses".

1.19 "Majority of Members" means a Member or Members whose Percentage Interests represent more than fifty percent (50%) of the Percentage Interests of all the Members.

1.20 "Managing Member" means Housing Partners I, Incorporated, a California nonprofit public benefit corporation.

1.21 "Meeting" is defined in Section 5.3.

1.22 "Member" means a Person that has become a member of the Company under Section 17704.01 of the Act and has not dissociated under Section 17706.02 of the Act.

1.23 "Membership Interest" means a Member's rights in the Company, including the Member's Transferable Interest, any right to Vote or participate in management, and any right to information concerning the business and affairs of the Company provided by the Act.

1.24 "Notice" means a written notice required or permitted under this Agreement given in the manner provided in Section 13.1.

1.25 "Option Date" is defined in Section 8.6.

1.26 "Partnership Representative" is defined in Section 3.11.

1.27 "Percentage Interest" means a fraction, expressed as a percentage, the numerator of which is the total of a Member's Capital Account and the denominator of which is the total of all Capital Accounts of all Members. The Percentage Interests of the Members are set forth on Exhibit A.

1.28 "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

1.29 "Profits" see the definition of "Profits and Losses".

1.30 "Profits and Losses" means, for each fiscal year or other period specified in this Agreement, an amount equal to the Company's taxable income ("Profits") or loss ("Losses") for such year or period, determined in accordance with Code section 703(a).

1.31 "Project" means that certain affordable housing development located in San Bernardino, California on a portion of the site of the former Waterman Gardens public housing development, consisting of Phase IV of the Waterman Gardens redevelopment.

1.32 "Qualifying Organization" means (i) an organization exempt under Section

501(c)(3) of the Internal Revenue Code or under Section 23701d of the California Revenue and Taxation Code and qualifying for exemption under Section 214 of the California Revenue and Taxation Code, or (ii) a government entity that is exempt from property taxation under Section 3 of Article XIII of the California Constitution, as to property owned by the State under subdivision (a), or as to property owned by a local government under subdivision (b).

1.33 "Regulations" means the income tax regulations promulgated by the United States Department of the Treasury and published in the Federal Register for the purpose of interpreting and applying the provisions of the Code, as such Regulations may be amended from time to time, including corresponding provisions of applicable successor regulations.

1.34 "Selling Member" is defined in Section 8.4.

1.35 "Substituted Member" is defined in Section 8.9.

1.36 "Successor in Interest" means a Transferee, a successor of a Person by merger or otherwise by operation of law, or a transferee of all or substantially all of the business or assets of a Person.

1.37 "Transfer" means, with respect to a Membership Interest, or any element of a Membership Interest, any assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law, or other disposition of a Membership Interest or any element of such a Membership Interest, directly or indirectly, other than an Encumbrance that is expressly permitted under this Agreement.

1.38 "Transferable Interest" means the right, as originally associated with a Person's capacity as a Member, to receive distributions from the Company in accordance with this Agreement, whether or not the Person remains a Member or continues to own any part of the right.

1.39 "Transferee" means a Person to which all or part of a Transferable Interest has been transferred, whether or not the Transferor is a Member.

1.40 "Transferor" means a Person who by means of a Transfer has transferred a Transferable Interest in the Company to a Transferee.

1.41 "Vote" means a written consent or approval, a ballot cast at a Meeting, or consent given by electronic transmission.

## **ARTICLE 2: ARTICLES OF ORGANIZATION**

2.1 The Members have formed a limited liability company under the Act by properly executing and filing the Articles of Organization with the Secretary of State, and executing this Agreement. The rights, duties, and liabilities of the Members are determined pursuant to the Act, the Articles of Organization, and this Agreement. The Articles of Organization were filed with the Secretary of State with a filing date of June 12, 2023, and a file number of 202357617002.

2.2 The name of the Company is Waterman Affordable 4 LLC.

2.3 The principal executive office of the Company is at 715 East Brier Drive, San Bernardino, California 92408, or such other place or places as may be determined by the Members from time to time.

2.4 The initial agent for service of process on the Company is as stated in the Articles of Organization. The Majority of Members may from time to time change the Company's agent for service of process.

2.5 The Company is formed for the purposes of engaging in the business of owning and operating the Project. The property owned by the Company is irrevocably dedicated to charitable purposes.

2.6 The Company is operated exclusively to further the charitable purpose of its members.

2.7 Each Member of the Company shall at all times be a Qualifying Organization.

2.8 The property owned by the Company is irrevocably dedicated to charitable purposes.

2.9 The Company is prohibited from merging with, or converting into, a for-profit entity.

2.10 The term of existence of the Company commenced on the effective date of filing of the Articles of Organization with the California Secretary of State and shall continue until terminated by the provisions of this Agreement or as provided by law.

2.11 The Company is member-managed, and is managed by all Members. HPI will act as the Managing Member of the Company.

### **ARTICLE 3: CAPITALIZATION**

3.1 Each Member shall contribute to the capital of the Company as the Member's Capital Contribution the money and will receive the Percentage Interest, specified in Exhibit A to this Agreement. Unless otherwise agreed by all the Members under this Agreement, no Member shall be required to make additional Capital Contributions.

3.2 If a Member fails to make a required Capital Contribution within thirty (30) days after the Effective Date, that Member's entire Membership Interest shall terminate, that Member shall be dissociated from the Company, and that Member shall indemnify and hold the Company and the other Members harmless from any loss, cost, or expense, including reasonable attorney's fees caused by the failure to make such Capital Contribution.

3.3 A separate capital account ("Capital Account") will be maintained for each Member in accordance with Treasury Regulations. The Members intend for this Agreement to meet all requirements under Section 704-1(b) of the Code and the Treasury Regulations promulgated thereunder.

3.4 A Member shall not be entitled to withdraw any part of the Member's Capital Contribution or to receive any distributions from the Company, whether of money or property from the Company except as provided in this Agreement or as the Members may determine.

3.5 No interest shall be paid on funds or property contributed to the capital of the Company or on the balance of a Member's Capital Account.

3.6 Services by any Member to the Company may not be considered to be contributions to the capital of the Company, and loans by any Member of the Company shall not be treated as Capital Contributions to the Company. Any compensation that the Company pays to a Member for services, and any payment made by the Company to a Member on that Member's loan to the Company, shall not be treated as payment made to that Member acting in his, her, or its capacity as a Member under Code Section 707.

3.7 A Member shall not be bound by, or be personally liable for, the expenses, liabilities, or obligations of the Company except as otherwise provided in the Act or in this Agreement.

3.8 No Member shall have priority over any other Member, with respect to the return of a Capital Contribution, or distributions or allocations of income, Profits, Losses, deductions, credits, or items thereof.

3.9 The Members may admit to the Company additional members to participate in the Profits, Losses, available cash flow, and ownership of the assets of the Company on such terms as are determined by all of the Members. Admission of any additional Member requires the written consent of all existing Members. Any additional Members are allocated gain, loss, income, or expense by the method provided in this Agreement.

3.10 In the event that a Member has incurred any indebtedness or obligation before the date of this Agreement that relates to or otherwise affects the Company, neither the Company nor any other Member has any liability or responsibility with respect to the indebtedness or obligation unless the indebtedness or obligation is assumed by the Company pursuant to a written instrument signed by all Members. Furthermore, neither the Company nor any Member is responsible or liable for any indebtedness or obligation that is subsequently incurred by any other Member. In the event that a Member (the "Liable Member"), whether before or after the date of this Agreement, incurs (or has incurred) any debt or obligation that neither the Company nor any of the other Members is to have any responsibility or liability for, the Liabe Member must indemnify and hold harmless the Company and the other Members from any liability or obligation they may incur in respect of the debt or obligation.

3.11 The Members acknowledge the amendment of the Internal Revenue Code (the

"Code") affecting the federal income tax audits of entities, such as the Company, that are treated as partnerships for federal income tax purposes, made by the Bipartisan Budget Act of 2015, PL 114-74, effective January 1, 2018. The Members intend that HPI designate itself as the "partnership representative" under Section 6223 of the Code as in effect beginning January 1, 2018, and that HPI, with the consent of HACSB, take any and all action required under the Code or the tax regulations adopted pursuant to Section 7805 of the Code, as in effect from time to time, to designate the "partnership representative."

#### **ARTICLE 4: ALLOCATIONS AND DISTRIBUTIONS**

4.1 The Profits and Losses of the Company and all items of Company income, gain, loss, deduction, or credit shall be allocated, for Company book purposes and for tax purposes, to a Member in accordance with the Member's Percentage Interest, subject to the provisions of Code Section 704(c).

4.2 If any Member unexpectedly receives any adjustment, allocation, or distribution described in Regulations sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company gross income and gain shall be specially allocated to that Member in an amount and manner sufficient to eliminate any deficit balance in the Member's Capital Account created by such adjustment, allocation, or distribution as quickly as possible. Any special allocation under this Section 4.2 shall be taken into account in computing subsequent allocations of Profits and Losses so that the net amount of allocations of income and loss and all other items shall, to the extent possible, be equal to the net amount that would have been allocated if the unexpected adjustment, allocation, or distribution had not occurred. The provisions of this Section 4.2 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations sections 1.704-1(b) and 1.704-2 and shall be interpreted and applied in a manner consistent with such Regulations.

4.3 Any unrealized appreciation or unrealized depreciation in the values of Company property distributed in kind to all the Members shall be deemed to be Profits or Losses realized by the Company immediately before the distribution of the property and such Profits or Losses shall be allocated to the Members' Capital Accounts in the same proportions as Profits are allocated under Section 4.1. Any property so distributed shall be treated as a distribution to the Members to the extent of the Fair Market Value of the property less the amount of any liability secured by and related to the property. Nothing contained in this Agreement is intended to treat or cause such distributions to be treated as sales for value. For the purposes of this Section 4.3, "unrealized appreciation" or "unrealized depreciation" shall mean the difference between the Fair Market Value of such property and the Company's basis for such property.

4.4 If any Membership Interest, or part thereof, is Transferred during any fiscal year in compliance with the provisions of Article 8, Profits, Losses, each item thereof, and all other items attributable to such Membership Interest for such fiscal year shall be divided and allocated between the Transferor and the Transferee by taking into account their varying Membership Interests during the period in accordance with Internal Revenue Code Section 706(d), using any convention permitted by law selected by the Members. All distributions on or before the date of

such Transfer shall be made to the Transferor, and all distributions thereafter shall be made to the Transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which the assignment occurs. Neither the Company nor the Members shall incur any liability for making allocations and distributions in accordance with the provisions of this Article 4.

4.5 All cash resulting from the normal business operations of the Company and from a Capital Event shall be distributed among the Members in proportion to their Percentage Interests at such times as the Members may agree.

4.6 If the proceeds from a sale or other disposition of a Company asset consist of property other than cash, the value of such property shall be as determined by the Members. Such noncash proceeds shall then be allocated among all the Members in proportion to their Percentage Interests. If such noncash proceeds are subsequently reduced to cash, such cash shall be distributed to each Member in accordance with Section 4.5.

4.7 Notwithstanding any other provisions of this Agreement to the contrary, when there is a distribution in liquidation of the Company, or when any Member's interest is liquidated, all items of income and loss first shall be allocated to the Members' Capital Accounts under this Article 4, and other credits and deductions to the Members' Capital Accounts shall be made before the final distribution is made. The final distribution to the Members shall be made to the Members to the extent and in proportion to their positive Capital Account balances.

4.8 No assets of the Company shall be distributed to any Member that ceases to be an organization described in Section 214 of the Revenue and Taxation Code.

4.9 No Member may own stock in the Company.

## **ARTICLE 5: MANAGEMENT**

5.1 The Company shall be member-managed. HPI, or a successor selected pursuant to the provisions of this Article 5, shall act as the Managing Member and except as specifically provided in Section 7.1 below, shall have authority to perform day-to-day functions in the ordinary course of activities of the Company. The appointment of any manager requires unanimous written approval of all of the Members. All contracts, agreements, and documents must be signed by both HPI and HACSB on behalf of the Company.

5.2 In addition to its other obligations, HPI shall be responsible for applying for a claim for an Organizational Clearance Certificate for the Company with the Board of Equalization in order for the Project to qualify for the Property Tax exemption. HPI shall provide on an annual basis any documents required to be submitted to the Board of Equalization and the County of San Bernardino assessor to maintain the exemption.

5.3 The appointment of a new managing member requires unanimous written approval of all of the Members.



5.4 The Members are not required to hold meetings, and decisions may be reached through one or more informal consultations followed by agreement among a Majority of Members, provided that all Members are consulted, or by a written consent signed by a Majority of Members. In the event that Members wish to hold a formal meeting (a "Meeting") for any reason, the following procedures shall apply:

(a) Any Member may call a Meeting of the Members by giving Notice of the time and place of the Meeting at least forty-eight (48) hours prior to the time of the holding of the Meeting. The Notice need not specify the purpose of the Meeting, or the location if the Meeting is to be held at the principal executive office of the Company.

(b) A Majority of Members shall constitute a quorum for the transaction of business at any Meeting of the Members.

(c) The transactions of the Members at any Meeting, however called or noticed, or wherever held, shall be as valid as though transacted at a Meeting duly held after call and notice if a quorum is present and if, either before or after the Meeting, each Member not present signs a written waiver of Notice, a consent to the holding of the Meeting, or an approval of the minutes of the Meeting.

(d) Any action required or permitted to be taken by the Members under this Agreement may be taken without a Meeting if a Majority of Members consents in writing to such action.

(e) Members may participate in the Meeting through the use of a conference telephone or similar communications equipment, provided that all Members participating in the Meeting can hear one another.

(f) The Managing Member shall keep or cause to be kept with the books and records of the Company full and accurate minutes of all Meetings, Notices, and waivers of Notices of Meetings, and all written consents in lieu of Meetings.

5.5 The Members as such and as managers shall not be entitled to compensation for their services.

5.6 The Company may have a President as selected by all the Members, who may, but need not be a Member. All of the Members may provide for additional officers of the Company and for their election, and may alter the powers, duties, and compensation of the President and of all other officers.

5.7 All assets of the Company, whether real or personal, shall be held in the name of the Company.

5.8 All funds of the Company shall be deposited in one or more accounts with one or more recognized financial institutions in the name of the Company, at such locations as shall be determined by the Members. Withdrawal from such accounts shall require the signature of such Person or Persons as all of the Members may designate.

## **ARTICLE 6: ACCOUNTS AND RECORDS**

6.1 Complete books of account of the Company's business, in which each Company transaction shall be fully and accurately entered, shall be kept at the Company's principal executive office and shall be open to inspection by any Member or the Member's authorized representatives on reasonable Notice during normal business hours. The costs of such inspection and copying shall be borne by the Member.

6.2 Financial books and records of the Company shall be kept on the accrual method of accounting, which shall be the method of accounting followed by the Company for federal income tax purposes. A balance sheet and income statement of the Company shall be prepared promptly following the close of each fiscal year in a manner appropriate to and adequate for the Company's business and for carrying out the provisions of this Agreement. The fiscal year of the Company shall be January 1 through December 31.

6.3 At all times during the term of existence of the Company, and beyond that term if all of the Members deem it necessary, the Managing Member shall keep or cause to be kept the books of account referred to in Section 6.2, and the following:

- (a) A current list of the full name and last known business or residence address of each Member, together with the Capital Contribution and the share in Profits and Losses of each Member;
- (b) A copy of the Articles of Organization, and any amendments thereto;
- (c) Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;
- (d) Executed counterparts of this Agreement, as amended;
- (e) Any powers of attorney under which the Articles of Organization or any amendments thereto were executed;
- (f) Financial statements and audits of the Company for the six (6) most recent fiscal years; and
- (g) The books and records of the Company as they relate to the Company's internal affairs for the current and past six (6) fiscal years.

If the Managing Member deems that any of the foregoing items shall be kept beyond the term of existence of the Company, the repository of said items shall be as designated by the Managing Member.

6.4 Within ninety (90) days after the end of each taxable year of the Company, the Company shall send to each of the Members all information necessary for the Members to complete their federal and state income tax or information returns, and a copy of the Company's

federal, state, and local income tax or information returns for such year.

## **ARTICLE 7: MEMBERS AND VOTING**

7.1 There shall be only one class of membership and no Member shall have any rights or preferences in addition to or different from those possessed by any other Member. Each Member shall Vote in proportion to the Member's Percentage Interest as of the governing record date, determined in accordance with Section 7.2. The following actions require the consent of HACSB:

- (a) Entering any contracts, agreements, documents;
- (b) the sale, lease, pledge, encumbrance, exchange, or other disposal of any of the Company's property;
- (c) the acquisition of any real or personal property;
- (d) hiring any employees;
- (e) the approval of a merger or conversion under Article 10 of the Act (commencing with Section 17710.01);
- (f) the Transfer of a Membership Interest and the admission of the Transferee as a Member of the Company;
- (g) a decision to continue the business of the Company after an event described in Article 9;
- (h) any amendment of the Articles of Organization or this Agreement;
- (i) compromise of the obligation of a Member to make a Capital Contribution;
- (j) any act that would make it impossible to carry on the ordinary business of the Company;
- (k) any confession of a judgment against the Company;
- (l) the settlement of any claim;
- (m) the merger or dissolution of the Company;
- (n) the disposition of all or any part of the Company's assets;
- (o) the incurring of any debt;
- (p) a change in the nature of the principal business of the Company;

- (q) the incurring of any contracted obligation or the making of any capital expenditures;
- (r) extend the Company's credit, make loans or become a surety, guarantor, endorser;
- (s) the filing of a petition in bankruptcy or the entering into of an arrangement among creditors; and
- (t) as otherwise specifically stated in this Agreement as requiring the consent of a Majority of the Members.

7.2 The record date for determining the Members entitled to Notice of any Meeting, to Vote, to receive any distribution, or to exercise any right in respect of any other lawful action, shall be the date set by the Managing Member, provided that such record date shall not be more than sixty (60), nor less than ten (10) days before the date of the Meeting, nor more than sixty (60) days before any other action.

In the absence of any action setting a record date, the record date shall be determined in accordance with California Corporations Code Section 17704.07(p).

7.3 At all Meetings of the Members, a Member may Vote in person or by proxy. Such proxy shall be filed with any Member before or at the time of the Meeting, and may be filed by facsimile transmission to a Member at the principal executive office of the Company or such other address as may be given by the Managing Member to the Members for such purposes.

## **ARTICLE 8: TRANSFERS OF MEMBERSHIP INTERESTS**

8.1 A Member may voluntarily dissociate from the Company at any time by giving Notice of Dissociation to all of the Members at least ninety (90) calendar days before the effective date of dissociation. Dissociation shall not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of dissociation. A dissociated Member shall divest the Member's entire Membership Interest before the effective date of dissociation in accordance with and subject to the provisions of this Article 8.

8.2 Except as expressly provided in this Agreement, a Member shall not Transfer any part of the Member's Membership Interest in the Company, whether now owned or later acquired, unless (a) the other Members unanimously approve the Transferee's admission to the Company as a Member upon such Transfer and (b) the Membership Interest to be transferred, when added to the total of all other Membership Interests transferred in the preceding 12 months, will not cause the termination of the Company under the Code. No Member may Encumber or permit or suffer any Encumbrance of all or any part of the Member's Membership Interest in the Company unless such Encumbrance has been approved in writing by all Members. Such approval may be granted or withheld in the Members' sole discretion. Any Transfer or Encumbrance of a Membership Interest without such approval shall be void.

8.3 If a Member wishes to Transfer any or all of the Member's Membership Interest in the Company pursuant to a Bona Fide Offer (as defined below), the Member shall give Notice to the other Member at least ninety (90) days in advance of the proposed sale or Transfer, indicating the terms of the Bona Fide Offer and the identity of the offeror. The Company and the other Members shall have the option to purchase the Membership Interest proposed to be transferred at the price and on the terms provided in this Agreement. If the price for the Membership Interest is other than cash, the fair value in dollars of the price shall be as established in good faith by the Company. For purposes of this Agreement, "Bona Fide Offer" means an offer in writing setting forth all relevant terms and conditions of purchase from an offeror who is ready, willing, and able to consummate the purchase and who is not an Affiliate of the selling Member. For thirty (30) days after the Notice is given, the Company shall have the right to purchase the Membership Interest offered, on the terms stated in the Notice, for the lesser of (a) the price stated in the Notice (or the price plus the dollar value of noncash consideration, as the case may be) and (b) the price determined under the appraisal procedures set forth in Section 8.8.

If the Company does not exercise the right to purchase all of the Membership Interest, then, with respect to the portion of the Membership Interest that the Company does not elect to purchase, that right shall be given to the other Members for an additional thirty (30)-day period, beginning on the day that the Company's right to purchase expires. Each of the other Members shall have the right to purchase, on the same terms, a part of the interest of the offering Member in the proportion that the Member's Percentage Interest bears to the total Percentage Interests of all of the Members who choose to participate in the purchase; provided, however, that the Company and the participating Members may not, in the aggregate, purchase less than the entire interest to be sold by the offering Member.

If the Company and the other Members do not exercise their rights to purchase all of the Membership Interest, the offering Member may, within ninety (90) days from the date the Notice is given and on the terms and conditions stated in the Notice, sell or exchange that Membership Interest to the offeror named in the Notice. Unless the requirements of Section 8.2 are met, the offeror under this Section shall become a Transferee, and shall be entitled to receive only the share of Profits or other compensation by way of income and the return of Capital Contribution to which the Transferor would have been entitled.

8.4 On the happening of any of the following events ("Dissociation Events") with respect to a Member, the Company and the other Members shall have the option to purchase the Membership Interest in the Company of such Member ("Selling Member") at the price and on the terms provided in Section 8.8 of this Agreement:

- (a) The winding up and dissolution of an entity Member.
- (b) The failure of a Member to make the Member's Capital Contribution pursuant to the provisions of Article 3 of this Agreement.
- (c) The occurrence of any other event that is, or that would cause, a Transfer in contravention of this Agreement.

(d) The Company has notice of the Member's express will to withdraw as a member.

(e) The Member is expelled as a member pursuant to this Agreement.

(f) The Member is expelled as a member by the unanimous consent of the other Members because any of the following applies:

(1) It is unlawful to carry on the Company's activities with the Member as a member.

(2) There has been a Transfer of all of the Member's Transferable Interest in the Company, other than either of the following: (1) a transfer for security purposes; or (2) a charging order in effect under California Corporations Code Section 17705.03 that has not been foreclosed.

(3) The Member is a corporation and, within ninety (90) days after the Company notifies the Member that it will be expelled as a member because the Member has filed a certificate of dissolution or the equivalent, its charter has been revoked, its 501(c)(3) tax-exempt status has been revoked by the United States Internal Revenue Service and has not been reinstated, the Member has failed to maintain its status as a Qualifying Organization, or its right to conduct business has been suspended by the jurisdiction of its incorporation and the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated.

(4) The Member is a limited liability company or partnership that has been dissolved and whose business is being wound up.

(g) On application by the Company, the Member is expelled as a member by judicial order because the Member has done any of the following:

(1) Engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the Company's activities.

(2) Willfully or persistently committed, or is willfully and persistently committing, a material breach of this Agreement or the Member's duties or obligations under Section 17704.09 of the Act.

(3) Engaged, or is engaging, in conduct relating to the Company's activities that makes it not reasonably practicable to carry on the activities with the Member as a member.

(h) The Member becomes a debtor in bankruptcy.

(i) The Company terminates.

Each Member agrees to promptly give Notice of a Dissociation Event to the other Members.

8.5 When a Person is dissociated as a member of the Company all of the following apply:

(a) The Member's right to participate as a member in the management and conduct of the Company's activities terminates.

(b) The Member's fiduciary duties as a member end with regard to matters arising and events occurring after the Member's dissociation.

(c) Subject to Section 17705.04 and Article 10 of the Act (commencing with Section 17710.01), any Transferable Interest owned by the Member immediately before dissociation in the Member's capacity as a member is owned by the Member solely as a Transferee.

(d) A Member's dissociation as a member of the Company does not of itself discharge the Member from any debt, obligation, or other liability to the Company or the other Members that the Member incurred while a member.

8.6 On the receipt of Notice by a Member as contemplated by Sections 8.1, 8.3, and 8.4, and on receipt of actual notice of any Dissociation Event as determined in good faith by the Member (the date of such receipt is hereinafter referred to as the "Option Date"), the Member shall promptly cause a Notice of the occurrence of such a Dissociation Event to be sent to all other Members, and the Company shall have the option, for a period ending ninety (90) calendar days following the determination of the purchase price as provided in Section 8.8, to purchase the Membership Interest in the Company to which the option relates, at the price and on the terms set forth in Section 8.8 of this Agreement, and the other Members, pro rata in accordance with their prior Membership Interests in the Company, shall then have the option, for a period of thirty (30) days thereafter, to purchase the Membership Interest in the Company not purchased by the Company, on the same terms and conditions as apply to the Company. If all other Members do not elect to purchase the entire remaining Membership Interest in the Company, then the Members electing to purchase shall have the right, pro rata in accordance with their prior Membership Interest in the Company, to purchase the additional Membership Interest in the Company available for purchase. The transferee of the Membership Interest in the Company that is not purchased shall hold such Membership Interest in the Company subject to all of the provisions of this Agreement.

8.7 Neither the Member whose interest is subject to purchase under this Article, nor such Member's Affiliate, shall participate in any Vote or discussion of any matter pertaining to the disposition of the Member's Membership Interest in the Company under this Agreement.

8.8 The purchase price of the Membership Interest that is the subject of an option under Section 8.6 shall be the "Fair Option Price" of the interest as determined under this Section 8.8. "Fair Option Price" means the cash price that a willing buyer would pay to a willing seller when neither is acting under compulsion and when both have reasonable knowledge of the relevant facts on the Option Date. Each of the selling and purchasing parties shall use his, her, or its best efforts to mutually agree upon the Fair Option Price. If the parties are unable to so agree within thirty (30) days of the Option Date, the selling party shall appoint, within sixty (60) days

of the Option Date, one appraiser, and the purchasing party shall appoint within sixty (60) days of the Option Date, one appraiser. The two appraisers shall within a period of twenty (20) additional days, agree upon and appoint an additional appraiser. The three appraisers shall, within sixty (60) days after the appointment of the third appraiser, determine the Fair Option Price of the Membership Interest in writing and submit their report to all the parties.

The Fair Option Price shall be determined by disregarding the appraiser's valuation that diverges the greatest from each of the other two appraisers' valuations, and the arithmetic mean of the remaining two appraisers' valuations shall be the Fair Option Price. Each purchasing party shall pay for the services of the appraiser selected by it, plus one half of the fee charged by the third appraiser, and one half of all other costs relating to the determination of Fair Option Price. The Fair Option Price as so determined shall be payable in cash.

8.9 Except as expressly permitted under Section 8.2, a prospective transferee (other than an existing Member) of a Membership Interest may be admitted as a Member with respect to such Membership Interest ("Substituted Member") only (a) on the unanimous Vote of the other Members in favor of the prospective transferee's admission as a Member, and (b) on such prospective transferee executing a counterpart of this Agreement as a party hereto. Any prospective transferee of a Membership Interest shall be deemed a Transferee, and, therefore, the owner of only a Transferable Interest until and only if such prospective transferee has been admitted as a Substituted Member. Except as otherwise permitted in the Act, any such Transferee shall be entitled only to receive allocations and distributions under this Agreement with respect to such Membership Interest and shall have no right to Vote or exercise any rights of a Member until such Transferee has been admitted as a Substituted Member. The Transferor shall not continue to be a Member and shall not have the power to exercise any rights and powers of a Member under this Agreement, including the right to Vote.

8.10 Any Person admitted to the Company as a Substituted Member shall be subject to all the provisions of this Agreement that apply to the Member from whom the Membership Interest was transferred, provided, however, that the transferring Member shall not be released from liabilities as a Member solely as a result of the transfer, both with respect to obligations to the Company and to third parties, incurred prior to the assignment.

8.11 The initial sale of Membership Interests in the Company to the Initial Members has not been qualified or registered under the securities laws of any state, including California, or registered under the Securities Act of 1933, in reliance upon exemptions from the registration provisions of those laws. Notwithstanding any other provision of this Agreement, Membership Interests may not be Transferred unless registered or qualified under applicable state and federal securities law unless, in the opinion of legal counsel satisfactory to the Company, such qualification or registration is not required. The Member who desires to transfer a Membership Interest shall be responsible for all legal fees incurred in connection with said opinion.

8.12 No Transfer, whether direct or indirect, of any Membership Interest or Transferable Interest in the Company, shall be made to any Person that is not a Qualifying Organization.



## **ARTICLE 9: DISSOLUTION AND WINDING UP**

9.1 The Company shall be dissolved on the first to occur of the following events:

- (a) The decision of all Members to dissolve the Company.
- (b) The death, incapacity, withdrawal, bankruptcy or corporate dissolution of a Member; provided, however, that the remaining Members may, by the Vote of a Majority of Members within ninety (90) days of the happening of that event, elect to continue the Company, in which case the Company shall not dissolve. If the remaining Members fail to so Vote, the remaining Members shall wind up the Company. For purposes of this paragraph, in determining a Majority of Members, the Percentage Interest of the Member who has died, become incapacitated, withdrawn, or who has become bankrupt or dissolved shall be taken into account.
- (c) The passage of ninety (90) consecutive days during which the Company has no members.
- (d) The sale or other disposition of substantially all of the Company assets.
- (e) Entry of a decree of judicial dissolution pursuant to California Corporations Code Section 17707.03.

9.2 On the dissolution of the Company, the Company shall engage in no further business other than that necessary to wind up the business and affairs of the Company. The remaining Members shall wind up the affairs of the Company and shall give written Notice of the commencement of winding up by mail to all known creditors and claimants against the Company whose addresses appear in the records of the Company. After paying or adequately providing for the payment of all known debts of the Company (except debts owing to the Members) the remaining assets of the Company shall be distributed or applied in the following order of priority:

- (a) To pay the expenses of liquidation.
- (b) To repay outstanding loans made to the Company from the Members. If there are insufficient funds to pay such loans in full, each Member shall be repaid in the ratio that the Member's respective loan, together with interest accrued and unpaid thereon, bears to the total of repayment, and shall first be credited to accrued and unpaid interest due and the remainder shall be credited to principal.
- (c) To repay each Member's investment so long as each Member continues to be a tax exempt charitable organization described in Section 214 of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code. Each Member shall look solely to the assets of the Company for the return of the Member's investment, and if the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the investment of any Member, such Member shall have no recourse against any other Members for indemnification, contribution, or reimbursement.

(d) To the Members to the extent of and in proportion to their positive Capital Accounts.

(e) If all Members have ceased to be tax exempt charitable organizations, to an organization organized and operated exclusively for charitable purposes, as specified in Section 214 of the Revenue and Taxation Code, and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, or under Section 23701d of the Revenue and Taxation Code.

## **ARTICLE 10: DISPUTE RESOLUTION**

10.1 The Members shall attempt in good faith to resolve any potential dispute related to this Agreement (a "Dispute") informally and promptly. If a Dispute is not resolved informally a Member may submit to the other Members a written notice of dispute (the "Notice of Dispute"). The Notice of Dispute shall: (i) state the specific matters on which the Notice of Dispute is based; (ii) include supporting documentation; (iii) if the Notice of Dispute involves a cost adjustment, state the exact amount of the cost adjustment accompanied by all records supporting the demand; and (iv) include a written statement signed by an authorized person indicating that the Notice of Dispute is made in good faith, that the supporting documentation is accurate and complete. The Member submitting the Notice of Dispute shall comply with reasonable requests for additional information. The Members shall attempt to resolve the Dispute within thirty (30) days after the initial delivery of the Notice of Dispute through meetings of senior level principals.

10.2 In the event that the Members are unable to reach agreement on any Dispute after negotiations in Section 10.1 above, such Dispute shall be referred to mediation by a mediator mutually acceptable to the Majority of the Members as a condition precedent to the institution of legal or equitable proceedings by any Member. Any Member may commence mediation by sending a written demand for mediation to the other Members indicating the nature of the Dispute to be mediated. If, for any Dispute, any Member commences an action without first attempting to resolve the matter through negotiations and then mediation, or refuses to mediate after a request has been made, then that Member shall not be entitled to recover attorneys' fees, even if they would otherwise be available to that Member in any such action. The Members shall share the mediator's fee and any filing fees equally. The mediation shall be held in San Bernardino, California unless another location is mutually agreed upon by the Majority of the Members. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

10.3 Any action to resolve Dispute between the Members or by or against any Member that are not resolved by mediation pursuant to Section 10.2 shall be settled by arbitration in accordance with the rules of the American Arbitration Association. Any Member may commence arbitration by sending a written demand for arbitration to the other Members. Such demand shall set forth the nature of the Dispute to be resolved by arbitration. Arbitration shall be conducted in San Bernardino, California. The substantive law of the State of California shall be applied by the arbitrator to the resolution of the Dispute. The Members shall share all initial costs of arbitration equally. All decisions of the arbitrator shall be final, binding, and conclusive on all parties. Judgment may be entered on any such decision in accordance with applicable law

in any court having jurisdiction thereof.

## **ARTICLE 11: FIDUCIARY DUTIES**

11.1 The fiduciary duties that the Members owe to the Company and the other Members of the Company are the duties of loyalty and care.

(a) The Members' duty of loyalty to the Company and the other Members includes, but is not limited to, the following:

(1) to account to the Company and hold as trustee for it any property, profit, or benefit derived by the Members in the conduct and winding up of the activities of the Company or derived from a use by the Members of Company property, including the appropriation of a limited liability company opportunity;

(2) to refrain from dealing with the Company in the conduct or winding up of the activities of the Company as or on behalf of a party having an interest adverse to the Company; and

(3) to refrain from competing with the Company in the conduct or winding up of the activities of the Company.

(b) The Members' duty of care to the Company and the other Members in the conduct and winding up of the activities of the Company is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(c) The Members' do not violate a duty or obligation under this Agreement merely because a Member's conduct furthers its own interest.

11.2 All Members shall discharge the duties to the Company and the other Members under this Agreement and exercise any rights consistent with the obligation of good faith and fair dealing.

## **ARTICLE 12: INDEMNIFICATION**

12.1 The Company shall reimburse for any payment made and indemnify for any debt, obligation, or other liability incurred by a Member in the course of the Member's activities on behalf of the Company, if, in making the payment or incurring the debt, obligation, or other liability, the Member complied with the duties stated in Article 11.

## **ARTICLE 13: GENERAL PROVISIONS**

13.1 A Notice shall be deemed given or sent when sent by certified mail return receipt requested, or for overnight delivery, postage and fees prepaid, in the United States mail; when sent by Federal Express, United Parcel Service, or another reputable commercial delivery service with a delivery receipt, charges prepaid or charged to the sender's account; when sent by

facsimile if the sender has confirmation of such facsimile being sent; when personally delivered to the recipient with a delivery receipt; when sent if sent by email; or when delivered to the home or office of a recipient with a delivery receipt in the care of a person whom the sender has reason to believe will promptly communicate the notice to the recipient. The delivery receipt shall be evidence of receipt of the notice, and notice shall be deemed to have been received on the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the notice was returned as undeliverable. Notices for each Member shall be sent to the address shown on Exhibit A for that Member, as may be changed may Notice from that Member to the other Members.

13.2 This Agreement constitutes the whole and entire agreement with respect to the subject matter of this Agreement, and it shall not be modified or amended in any respect except by a written instrument executed by all the Members, provided, however, that any amendment must be consistent with Section 214 of the Revenue and Taxation Code. This Agreement replaces and supersedes all prior written and oral agreements by and among the Members or any of them.

13.3 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.4 This Agreement shall be construed and enforced in accordance with the internal laws of the State of California. If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

13.5 This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

13.6 Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, company, or corporation, all as the context and meaning of this Agreement may require.

13.7 The parties to this Agreement shall promptly execute and deliver any and all additional documents, instruments, notices, and other assurances, and shall do any and all other acts and things, reasonably necessary in connection with the performance of their respective obligations under this Agreement and to carry out the intent of the parties.

13.8 Except as provided in this Agreement, no provision of this Agreement shall be construed to limit in any manner the Members in the carrying on of their own respective businesses or activities, including those that may compete with the business and purpose of the Company.

13.9 Except as provided in this Agreement, no provision of this Agreement shall be construed to constitute a Member, in the Member's capacity as such, the agent of any other Member.

13.10 Each Member represents and warrants to the other Members that the Member has the capacity and authority to enter into this Agreement.

13.11 The article, section, and paragraph titles and headings contained in this Agreement are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

13.12 This Agreement may be altered, amended, or repealed only by a writing signed by all of the Members.

13.13 Time is of the essence of every provision of this Agreement that specifies a time for performance.

13.14 This Agreement is made solely for the benefit of the Members and the Members' permitted successors and assigns, and no other Person or entity shall have or acquire any right by virtue of this Agreement.

13.15 The Members intend the Company to be a limited liability company under the Act. No Member shall take any action inconsistent with the express intent of the parties to this Agreement.

13.16 Except as provided in this Agreement, no provision of this Agreement shall be construed to limit in any manner the Members in the carrying on of their own respective businesses or activities. The Members and their Affiliates may engage or invest in, independently or with others, any business activity of any type or description, including without limitation those that might be the same as or similar to the Company's and that might be in direct or indirect competition with the Company. Neither the Company nor any Member shall have any right in or to such other ventures or activities or to the income or proceeds derived therefrom. The Members shall not be obligated to present any investment opportunity or prospective economic advantage to the Company, even if the opportunity is of the character that, if presented to the Company, could be taken by the Company. The Members shall have the right to hold any investment opportunity or prospective economic advantage for their own account or to recommend such opportunity to Persons other than the Company. The Members acknowledge that the Members and their Affiliates own and/or manage other businesses, including businesses that may compete with the Company and for the Members' time. The Members hereby waive any and all rights and claims which they may otherwise have against the Members and their Affiliates as a result of any of such activities.

*[signatures on following page]*

**SIGNATURE PAGE OF OPERATING AGREEMENT FOR  
WATERMAN AFFORDABLE 4 LLC**

IN WITNESS WHEREOF, the Members has executed or caused to be executed this Agreement on the day and year first above written.

**MEMBERS:**

HOUSING AUTHORITY OF THE COUNTY OF SAN  
BERNARDINO, a public body, corporate and politic

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

HOUSING PARTNERS I, INCORPORATED,  
a California nonprofit public benefit corporation

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

**EXHIBIT A**

INITIAL MEMBERS

<u>Name and Address</u>	<u>Initial Contribution</u>	<u>Percentage Interest</u>
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO 715 East Brier Drive San Bernardino, California 92408	\$99	99%
HOUSING PARTNERS I, INCORPORATED 715 East Brier Drive San Bernardino, California 92408	\$1	1%

**Rental Assistance Demonstration  
Transfer of Assistance Restrictive  
Covenants**

**U.S. Department of Housing  
and Urban Development**

**Public reporting burden** for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0276), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information is required to apply to the Rental Assistance Demonstration program as authorized by the Consolidated and Further Continuing Appropriations Act of 2012 and subsequent appropriations. Requirements for RAD were established in Notice H-2019-09 PIH-2019-23 (HA) and related notices. The information will be used as the binding agreement between the owner and HUD for certain properties released from the Public Housing Declaration of Trust following a transfer of assistance. There are no assurances of confidentiality.

Recording requested by and  
When recorded mail to:

Housing Authority of the County of San Bernardino  
715 East Brier Drive  
San Bernardino, CA 92408-2841  
Attention: Executive Director

No fee for recording pursuant to  
Government Code Sections 27383 and 27388.1

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(Space above this line for recorder's use.)

**RENTAL ASSISTANCE DEMONSTRATION  
TRANSFER OF ASSISTANCE RESTRICTIVE COVENANTS**

These Rental Assistance Demonstration Transfer of Assistance Restrictive Covenants (these "Covenants"), dated as of September\_\_\_\_\_, 2023, are entered into by and between the U.S. Department of Housing and Urban Development, with an address of 451 Seventh Street, S.W., Washington, DC 20410, Attention: Office of Recapitalization, Office of Multifamily Housing ("HUD"), and the Housing Authority of the County of San Bernardino, a public body corporate and politic duly organized under the laws of the State of California with an address of 715 East Brier Drive, San Bernardino, CA, 92408-2841 (the "PHA").



## RECITALS

A. The PHA owns certain real property described in Exhibit A, attached hereto and incorporated herein, together with the personal property associated therewith (the “Property”). The development of the Property, the operation of the Property, and/or the acquisition of the site or sites thereof was financed with assistance provided by HUD and the Property was previously used for public housing purposes pursuant to agreements by and between HUD and the PHA.

B. The public housing assistance related to this Property has been converted under the Rental Assistance Demonstration (RAD) to housing subject to a Section 8 Project Based Voucher (PBV) contract located at another site, pursuant to a transfer of assistance under RAD. HUD and the PHA have released the Property from the following declarations of trust pursuant to releases recorded against the Property in the official records of San Bernardino County (the “Official Records”): Declarations of Trust recorded in the Official Records on August 14, 2008 as Instrument No. 2008-0373042, May 2, 1990 as Instrument No. 90-171850, April 18, 1991 as Instrument No. 91-129691 and April 18, 1991 as Instrument No. 91-129692; and replaced those declarations of trust with the Rental Assistance Demonstration Restrictive Covenants for Properties Anticipating Fair Market Value Transfer, dated as of September 25, 2019 (the Previous Covenants). In lieu of the prior restrictions, HUD and the PHA desire to restrict the ongoing use of the Property as set forth in these Covenants. These Covenants amend and restate in their entirety the Previous Covenants dated as of September 25, 2019 and recorded against the Property in the Official Records on October 1, 2019 as Instrument No. 2019-0353309.

C. The parties hereto desire that, as set forth in these Covenants, (i) the Property be used for Affordable Housing Purposes, (ii) all net income from the operation of the Property for purposes other than Affordable Housing Purposes be used for Affordable Housing Purposes, and/or (iii) financial proceeds from the sale of the Property be used for Affordable Housing Purposes.

## AGREEMENT

In consideration of the promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as set forth below. The Recitals are incorporated by reference.

### 1. Definitions.

a. “Act” shall mean the U.S. Housing Act of 1937, as amended, 42 U.S.C. 1437 et. seq.

b. “Affordable Housing Purposes” shall mean any activity that supports the pre-development, development, rehabilitation or operation of other RAD conversions, public housing, housing assisted under Section 8 of the Act, properties subject to low-income housing tax credit use restrictions, or properties participating in other federal, state or local housing programs serving households with incomes at or below 80% of area median income, or that provides services or amenities that will be used primarily by low-income families as defined by the Act.

c. “Proceeds” shall mean (i) any net income generated from use of the Property for purposes other than Affordable Housing Purposes, including through lease agreements, prior to the expiration of the Restricted Period, and (ii) any payments upon transfer of the Property.

d. “Restricted Period” shall mean the period the Property is subject to the encumbrance of the Use Requirement, as set forth in Section 3(a).

e. “Restrictions on Proceeds” shall mean the restrictions on the use of the Proceeds set forth in Section 4.

f. “Use Requirement” shall mean the restrictions on the use of the Property set forth in Section 3 and Section 16.

2. Covenant. The PHA, for itself and for its successors and assigns, hereby covenants and agrees for the benefit of HUD that either the Property shall be used for Affordable Housing Purposes throughout the Restricted Period as described in Section 3 and Section 16 (“Property Use Requirement”) or the Proceeds shall be used for Affordable Housing Purposes as described in Section 4 (“Restrictions on Proceeds”).

3. Property Use Requirement.

a. Restricted Period.

i. The Use Requirement set forth in this Section 3 shall encumber the Property from the date of these Covenants through such date which is twenty (20) years following the date of these Covenants.

ii. Notwithstanding the foregoing, if the PHA receives payment upon transfer of the Property to a third party, such twenty-year period shall be reduced by multiplying twenty years by the ratio of (i) the payment from the third party to the PHA relative to (ii) the fair market value, as documented by an appraisal commissioned by the PHA and acceptable to HUD. Upon request from the PHA and recognizing that there is variation among appraisals and that an arms-length purchase agreement may not correspond precisely to the appraised value, HUD may accept a ten percent (10%) variation from the appraised value for purposes of this calculation if the Property is sold for cash, without seller take-back financing, to an unrelated third party purchaser. Upon request from the PHA, HUD may accept, in its sole discretion, an alternative methodology to determine fair market value for purposes of this calculation provided that such alternative method meets the requirements of 2 CFR 200.311(c). If any payment is made at the time these Covenants are executed, the Restricted Period shall end on N/A. The letters “NA,” a blank, or similar markings shall indicate that no current adjustment from the twenty-year period has been approved. In the event any payment is made after execution of these Covenants, HUD shall execute an amendment to the Covenants specifying the new duration of the Restricted Period.

iii. For the duration of the Use Requirement, the PHA shall retain records of and annually report to its Board of Commissioners regarding the use of the Property (including

any use for Affordable Housing Purposes) and any proposed transfer of the Property. The PHA shall provide such records to HUD whenever HUD approval is needed pursuant to Section 5 hereof or upon request.

b. Mixed-Use or Mixed-Income Development. A mix of residential and commercial uses on the Property or a mix of residential uses serving different income tiers on the Property shall be considered, in the aggregate, to be used for Affordable Housing Purposes if at least sixty percent (60%) of the square footage of improvements on the Property is restricted to residential use by households with incomes at or below 80% of area median income.

c. Release of the Use Requirement.

i. HUD agrees to execute and deliver to the PHA a release of the Use Restriction when an alternative restrictive covenant is placed upon the Property that, in HUD's determination, satisfies the Affordable Housing Purposes requirement.

ii. Upon the expiration of the Restricted Period, the Use Requirement shall cease and terminate, and the Property shall be deemed released of the Use Requirement and these Covenants without the requirement of any further writing between the parties herein. Notwithstanding the foregoing, upon expiration of the Restricted Period, HUD agrees to execute and deliver to the PHA such documents as the PHA shall reasonably request releasing and confirming the release of the Use Requirement and these Covenants from title to the Property and clearing title to the Property from any cloud created by the Use Requirement or these Covenants.

iii. Upon conveyance or dedication of land for use as streets, alleys, or other public rights-of-way, the land so conveyed or dedicated shall be deemed released of the Use Requirement and these Covenants without the requirement of any further writing between the parties herein. Notwithstanding the foregoing, upon such conveyance or dedication, HUD agrees to execute and deliver to the PHA such documents as the PHA shall reasonably request releasing and confirming the release of the Use Requirement and these Covenants from title to the land so conveyed or dedicated.

4. Restrictions on Proceeds.

a. To the extent the Property or any portion thereof is not used for Affordable Housing Purposes, any Proceeds accruing during the Restricted Period shall be held in a restricted account and shall be used exclusively for Affordable Housing Purposes. The Restrictions on Proceeds set forth in this Section 4 shall govern the use of the Proceeds until the funds are disbursed for an Affordable Housing Purpose or returned to HUD.

b. Any Proceeds must be deposited by the PHA in a bank account covered by a General Depository Agreement (HUD Form 51999) until the funds are disbursed for an Affordable Housing Purpose.

c. For the duration of the Restriction on Proceeds set forth in Section 4(a), the PHA shall retain records of and annually report to its Board of Commissioners the calculation of the Proceeds (the net income generated from the Property and the proceeds of any transfer of the Property), and the use of any Proceeds for Affordable Housing Purposes. The PHA shall provide such records to HUD whenever HUD approval is needed pursuant to Section 5 hereof or upon request.

5. Actions Requiring the Prior Written Approval of HUD.

a. Except as authorized under Section 16, the PHA shall not convey, assign, transfer, lease, sublease, pledge, hypothecate, encumber or otherwise dispose of the Property or any interest therein or permit the conveyance, assignment, transfer, lease, pledge or encumbrance of the Property during the period covered by these Covenants without the prior written approval of HUD. Notwithstanding the foregoing, the PHA need not obtain the prior written approval of HUD for (i) the conveyance or dedication of land for use as streets, alleys or other public rights-of-way, (ii) the granting of easements for the establishment, operation and maintenance of public utilities, and/or (iii) the documentation of residential leases or other occupancy arrangements in the normal course of operation of the Property.

b. Except as authorized by Section 16, if any transfer is approved by HUD at the time these Covenants are executed, the name of the transferee shall appear here: N/A. The letters "NA," a blank, or similar markings shall indicate that no transferee has been approved.

6. Events of Default.

a. Upon breach of any of the terms of these Covenants, HUD shall give the PHA written notice of the breach. The PHA shall have sixty (60) calendar days after receipt of such notice of breach to cure the breach; provided that, if the PHA uses commercially reasonable efforts to cure the breach within the prescribed sixty (60) day period and is unable to do so, HUD may approve in writing an extension of such longer time as may be reasonably required by the circumstances to cure the breach, such approval not to be unreasonably withheld, conditioned or delayed. If the breach is not corrected to the satisfaction of HUD within the prescribed cure period HUD may declare a default under these Covenants (an "Event of Default") without further notice.

b. The PHA does hereby acknowledge and declare that, upon an Event of Default during the Restricted Period and without further action by the PHA, the PHA is possessed of the Property and holds the Property in trust for the benefit of HUD. During the existence of the trust hereby created, HUD has been granted and is possessed of an interest in the above described Property, specifically the right to require the PHA to remain seized of the title to the Property and to refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of the Property or any part thereof, any appurtenances thereto, or any rent, revenues, income, or receipts therefrom or in connection therewith, or any interest in any of the same, except that the PHA may (a) lease dwellings and other spaces and facilities in the Property, or (b) convey or dedicate land for use as streets, alleys, or other public

right-of-way, and grant easements for the establishment, operation, and maintenance of public utilities; or (c) upon request by HUD, convey title to or deliver possession of the Property to HUD.

c. In addition to the foregoing, upon an Event of Default, HUD shall have all other remedies available under statute, at law or in equity. No person or entity, other than the parties to these Covenants, has any rights or remedies under these Covenants. Further, HUD may take whatever investigative steps it deems necessary to ensure compliance. In the Event of Default, to the extent permitted by applicable law, HUD shall have the right to seek specific performance of these Covenants and/or to enjoin any violation of these Covenants in Federal Court. The right to specific performance and injunction shall be in addition to all other remedies available to HUD under statute, at law or in equity.

7. Third Party Beneficiaries. No person or entity, other than the parties to these Covenants, has any rights or remedies under these Covenants.

8. Successors and Assigns.

a. Recordation of these Covenants shall constitute public notice of the PHA's agreement to be bound by and to comply with the restrictions set forth in these Covenants. The benefits and burdens of these Covenants touch and concern and run with the land and are binding upon and shall inure to the benefit of the respective successors and assigns of the parties to these Covenants, including any HUD-approved transferee through the term of the Restricted Period.

b. Following expiration or earlier termination of the Restricted Period, the Restrictions on Proceeds set forth in this Agreement shall not run with the land, nor bind the successors in title to the Property. The continued existence of Proceeds subject to the Restrictions on Proceeds shall not affect any release of the Use Requirement as an encumbrance on the Property pursuant to Section 3(c). The Restrictions on Proceeds shall be a contractual relationship between HUD and the PHA and shall inure to the benefit of the respective successors and assigns of the parties with respect to the Proceeds. The Restrictions on Proceeds shall survive the expiration of the Use Requirement and any release of the encumbrance on the Property.

9. Notices. All notices under these Covenants shall be in writing and shall be served by (a) personal service or receipted courier service, (b) by registered or certified first-class mail, return receipt requested, or (c) nationally-recognized overnight delivery service, addressed to HUD or the PHA, as appropriate, at the addresses for such parties set forth above. Any notice or other communication sent pursuant to clause (a) hereof shall be deemed received upon such personal service, if sent pursuant to clause (b) shall be deemed received seven (7) calendar days following deposit in the mail, and/or if sent pursuant to clause (c) shall be deemed received the next succeeding business day following deposit with such nationally recognized overnight delivery service. Any party may change its address by notice given in accordance with this Section 9.

10. Amendments. These Covenants may be amended only by a written instrument signed by the parties to these Covenants. Notwithstanding the foregoing, the parties may not amend, modify, rescind, revoke and/or terminate these Covenants without the prior written approval of HUD. Further, these Covenants are not subject to negotiation by the PHA, any lessee or any lender with a security interest in the Property.

11. Subordination. Any mortgage liens shall be subject and subordinate to these Covenants. These Covenants shall survive foreclosure and bankruptcy.

12. Execution of Other Covenants. PHA covenants and agrees that it has not and shall not execute any other agreement with provisions contradictory of, or in opposition to, the provisions of these Covenants, and that in any event, the provisions of these Covenants are paramount and controlling as to the rights and obligations set forth herein and supersede any conflicting requirements.

13. Governing Law. These Covenants shall be governed, construed and interpreted in accordance with the laws of the state in which the Property is located, and the parties shall submit to the jurisdiction and venue of the courts in the county where the Property is located.

14. Severability. The invalidity or unenforceability of any clause, part or provision of these Covenants shall not affect the validity or enforceability of the remaining portions thereof.

Counterpart Signatures. These Covenants may be executed in any number of original counterparts, all of which evidence only one agreement, and only one of which need be produced for any purpose.

16. Additional Provisions.

Notwithstanding anything to the contrary in these Covenants, in recognition that the PHA will be redeveloping the property in phases and that the PHA and its partners for each phase must know from the outset that the phase as contemplated will comply with these Covenants, and that the Arrowhead Grove community has a substantial population of low-income families, the parties agree to the following with respect to the expected phases:

- a. Phase IV (Parcel D) – Multifamily, is expected to consist of 93 residential units. Phase IV – Multifamily will be considered to be for Affordable Housing Purposes as long as the lower of at least sixty percent (60%) of the square footage of improvements on the Property or sixty percent (60%) of the bedrooms is restricted to residential use by households with incomes at or below 80% of area median income at initial occupancy (Low-Income Households).
- b. Phase IV (Parcel E) – Arrowhead Grove Community Resource Center (CRC), will be considered to be for Affordable Housing purposes as long as the PHA assures that the Program Narrative in the Grant Agreement for the Community Development Project awarded for the CRC through the HUD Appropriations Act, 2023, is approved by the HUD Office of Recapitalization and Office of Community Planning and Development and the Narrative is followed.

- c. Phase V (Parcel B) – Envision Center or successor, will be considered to be for Affordable Housing Purposes as long as the redeveloped buildings primarily are used as a navigation center focusing on resident career development, technology, and job training services, home ownership training or Head Start. Initial work may consist of measures to enhance the safety, security and appearance of the site all of which primarily serve Low-Income Households.
- d. Phase V (Parcel F) – Mixed Use, will be considered to be for Affordable Housing Purposes as long as the first floor of the building is used primarily as a health facility that will serve the community and the lower of at least sixty percent (60%) of the square footage of improvements on the upper floors of the building or sixty percent (60%) of the bedrooms is restricted to residential use by Low-Income Households.
- e. Phase V (Parcel H) – Home Ownership, will be considered to be for Affordable Housing Purposes as long as at least 60% of the homes built are sold to Low-Income Households.
- f. The PHA need not obtain the prior written approval of HUD for any action otherwise subject to Section 5 of these Covenants if such action is in furtherance of any use described in this Section 16 for any of the proposed phases. The PHA shall notify HUD within 60 days after the actions that would otherwise require approval.
- g. The PHA may propose and HUD may accept alternatives to the above proposals for each phase.
- h. Upon the recording of these Covenants, the Previous Covenants shall be void and of no further force and effect.

*Remainder of this page intentionally left blank.*

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized representatives, have caused their names to be subscribed hereto, on the date first written above.

*The PHA hereby certifies that the statements and representations provided on this form and in any supporting documentation submitted herewith is true and accurate. The PHA understands that any misrepresentations may be subject to civil and/or criminal penalties including, but not limited to, fine or imprisonment, or both under the provisions of Title 18, United States Code, Sections 1001 and 1010. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by HUD as a true statement of facts contained therein.*

PHA: Housing Authority of the County of San Bernardino, a public body corporate and politic

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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

State of California

County of San Bernardino

ss.

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_

Notary Public



HUD: U.S. Department of Housing and Urban  
Development

By: \_\_\_\_\_  
Thomas R. Davis  
Director, Office of Recapitalization

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

District of Columbia | ss.

On \_\_\_\_\_, 20\_\_, before me, a Notary Public for the above jurisdiction, personally appeared Thomas R. Davis, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the above jurisdiction that the foregoing paragraph is true and correct. Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

The Land referred to herein below is situated in an Unincorporated Area in the County of San Bernardino, State of California, and is described as follows:

LOTS B, D, E, F AND H OF TRACT MAP NO. 18829, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 361, PAGE 66-74](#), OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**SURVEYOR'S NOTES:**

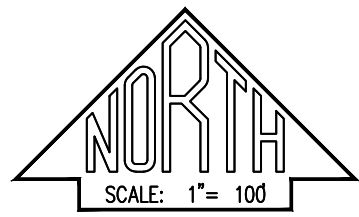
- INDICATES FOUND MONUMENT AS NOTED.
- ⊙ INDICATES FOUND STANDARD WELL MONUMENT.
- INDICATES TO BE SET 3/4" I.P. W/ TAG STAMPED LS 5173.
- (R1) INDICATES RECORD DATA PER PARCEL MAP NO. 14951 RECORDED IN P.M.B. 182, PAGES 85 AND 86.
- (R2) INDICATES RECORD DATA PER RECORD OF SURVEY FILED IN BOOK 27 PAGE 86.
- (R3) INDICATES RECORD DATA PER RECORD OF SURVEY FILED IN BOOK 157 PAGE 92.
- (R4) INDICATES RECORD DATA PR RECORD OF SURVEY FILED IN BOOK 60 PAGE 22.

# TRACT MAP NO. 18829

BEING A PORTION OF LOTS 11, 12, 13 AND 14, IN BLOCK 42, RANCHO SAN BERNARDINO AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 2, RECORDS OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

TRANSTECH ENGINEERS

SEPTEMBER 2020

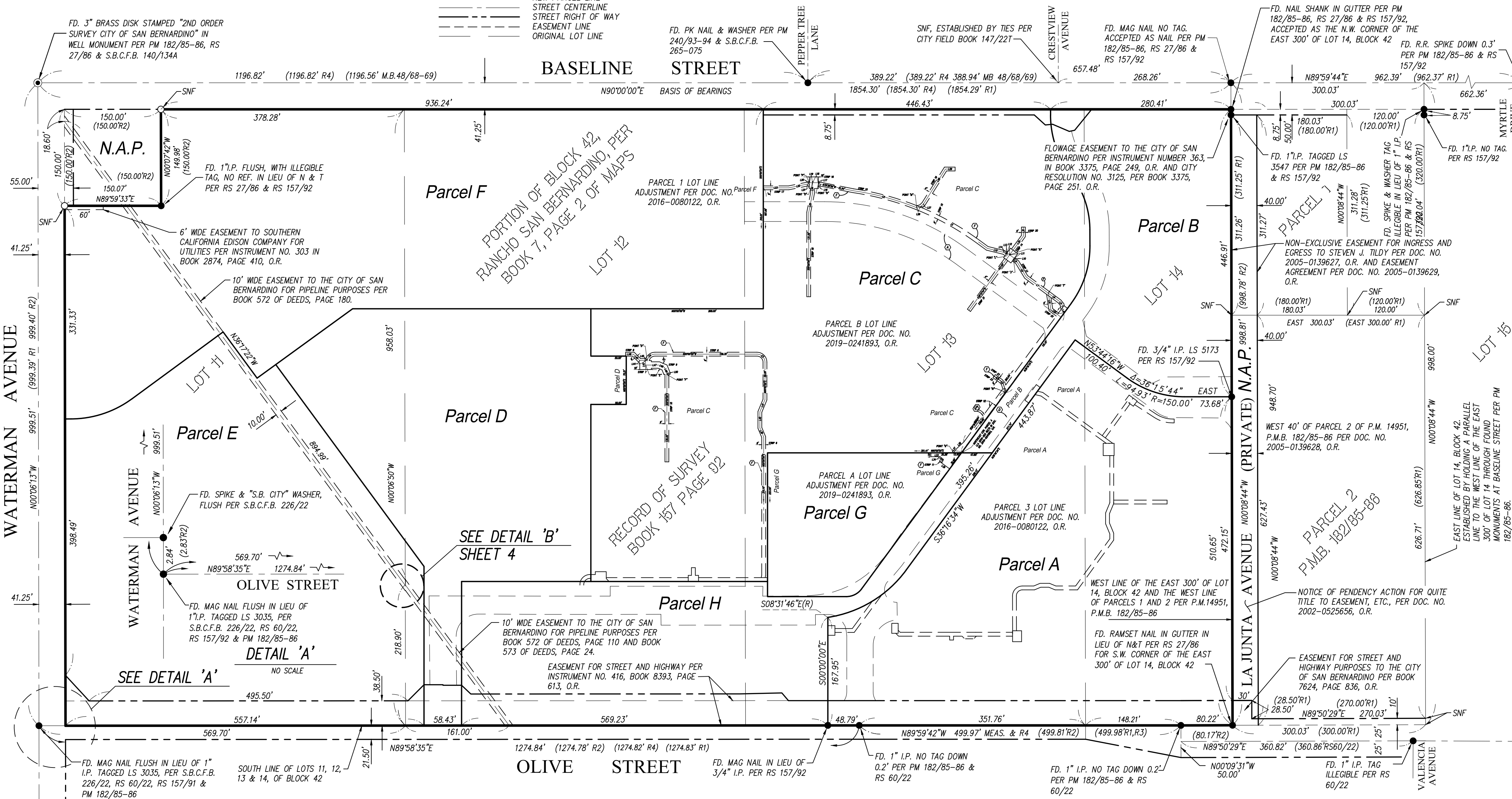


**BASIS OF BEARINGS:**

THE CENTERLINE OF BASELINE STREET, EAST OF WATERMAN AVENUE PER PARCEL MAP NO. 14951 FILED IN BOOK 182 OF PARCEL MAPS PAGES 85 AND 86. BEING NORTH 90°00'00" EAST.

**LINE TYPE LEGEND:**

- TRACT BOUNDARY
- NEW PARCEL LINE
- STREET CENTERLINE
- STREET RIGHT OF WAY
- EASEMENT LINE
- ORIGINAL LOT LINE



# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Contract for Inspection Services and Project Based Voucher Independent Entity Services**

## **RECOMMENDATION(S)**

1. Approve contract No. PC1336, effective December 1, 2023, with Reliant Asset Management Solutions, for Inspection Services and Project Based Voucher Independent Entity Services for a two-year base period with three single or a multiple year option extension through November 30, 2028.
2. Approve a total amount not to exceed \$845,937 for the two-year base period.
3. Authorize and direct the Executive Director to execute and deliver Contract No. PC 1336 to Reliant Asset Management Solutions, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The total contract amount is not expected to exceed \$845,937 and is funded by the Housing Services department's operating budgets. The first year of the contract is included in the adopted FY 2024 budget.

## **BACKGROUND INFORMATION**

Housing authorities are required by the U.S. Department of Housing and Urban Development (HUD) to conduct inspections of all assisted units to ensure they are decent, safe, and sanitary. A third-party vendor is contracted to conduct housing inspections for all assisted units at initial occupancy and annually or biannually thereafter. HACSB uses Reliant Asset Management Solutions (Reliant) as its primary inspection's vendor. Reliant inspectors are trained and certified to perform these inspections. HUD also requires that Housing Authorities ensure that rents charged by landlords to Housing Services program participants are reasonable. Therefore, Reliant inspectors must compare the rent for the assisted unit to rents for similar unassisted units in the marketplace, as well as compare the rent to rents for similar units on the premises. This process is called rent reasonableness because it ensures that the rents are fair and reasonable for the area. Inspectors also use rent reasonableness to negotiate rents with the various landlords as required.

### **PROCUREMENT**

On July 31, 2023, HACSB issued a Request for Proposal (RFP) PC1336 for Inspection Services and Project Based Voucher Independent Entity Services, which resulted in the receipt of two proposals. Outreach efforts included email invitations to six vendors posting on the agency's electronic bidding software, PlanetBids.com. The proposals were evaluated per the requirements of the RFP in which Reliant Asset Management Solutions was considered the most responsive and qualified to provide this service to HACSB.

<b>Proposals were received by the deadline from the following organizations:</b>		
<b><u>Vendor Name:</u></b>	<b><u>Location:</u></b>	<b><u>Score:</u></b>
Reliant Asset Management Solutions	Ontario, CA	279
Nan McKay and Associates	El Cajon, CA	272

Based on the responses for these services, which were solicited to an adequate number of sources and in accordance with Title 2 Code of Federal Regulations Part 200, staff recommends awarding a contract for Inspection Services to Reliant Asset Management Solutions.

### **REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on November 7, 2023.

**THIS CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT (NON-CONSTRUCTION)** ("Agreement") (PC1336) is made as of the **1<sup>st</sup>. day of December, 2023** ("Effective Date") by and between **Reliant Asset Management Solutions (RAMS)** ("Contractor"), **a California Corporation** (*if applicable*) and the Housing Authority of the County of San Bernardino, a California public entity ("HACSB").

#### **RECITALS**

**WHEREAS**, HACSB is a public entity in San Bernardino County, State of California, committed to provide affordable and safe public housing for low and moderate income families; and

**WHEREAS**, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

#### **OPERATIVE PROVISIONS**

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

**ARTICLE 1. Statement of Work.** Contractor shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit "A", attached hereto and incorporated herein by reference ("Work"). In connection with its performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

**ARTICLE 2. Contract Documents.** This Agreement incorporates by reference all of the following documents ("Contract Documents"):

1. General Conditions for Non-Construction Contracts Section I – (with or without Maintenance Work) (Form HUD 5370), attached hereto as Exhibit "B" and incorporated herein by reference.
2. Additional General Provisions, attached hereto as Exhibit "C" and incorporated herein by reference ("Additional Provisions").  
Work Authorization, attached hereto as Exhibit "D" and incorporated herein by reference.
3. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U. S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to <http://www.sblawlibrary.org>.

**ARTICLE 3. Term; Time of Completion.** Contractor shall commence work under this agreement for a two year **base period**, beginning on or about **December 1, 2023** and expiring on **November 30, 2025** unless for any reason funds which have been appropriated for the provision of these services are no longer available, or until such time as terminated per the terms of the agreement in accordance with contract provisions in Article 19, which term may be extended **for single or multiple year extension options in HACSB's discretion for a maximum of three (3) years**. Contractor shall not commence work prior to the date of issuance by HACSB of a work authorization in the form set forth on Exhibit "D", attached hereto and incorporated herein by reference ("Work Authorization"). HACSB shall have the option to extend the engagement up to three single or multiple year terms. The optional years shall be exercised by written amendments executed by each party with board approval for additional funding on option years if needed. Option years will begin on or about **December 1, 2025** and expire no later than **November 30, 2028**. Following issuance

of a Work Authorization, Contractor shall timely complete the Work in accordance with the schedule requirements specified in Exhibit "A", and within the term of this Agreement.

**ARTICLE 4. Price.** Unless otherwise specified in the Statement of Work, HACSB agrees to pay Contractor a not-to-exceed amount of **eight hundred forty-five thousand, nine hundred thirty-seven dollars (\$845,937.00)** for the provision of work per the fee schedule **for the two (2) base year contract period**. Details defined in Exhibit A – Scope of Services – Fee Schedule. Price as set forth herein, is in consideration for and provides full and complete compensation for the Work and the performance by Contractor of all of its obligations hereunder. Terms are defined in the Additional Provisions, and includes a guarantee of task completion.

**ARTICLE 5. Performance of Work.** Contractor shall perform its duties on premises approved by HACSB, during HACSB's regular work days and normal work hours and warrants that it shall perform the Work in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the Work performed by Contractor and may, in its discretion, reject the Work, or any part thereof, as set forth in the Additional Provisions. In the event HACSB rejects any or all of the Work, at HACSB's election: (a) Contractor shall promptly correct any such deficiencies in the Work, or (b) the deficient Work shall be stricken from this Agreement and Contractor shall not be paid for such portion of the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any employee of Contractor or its subcontractors who is determined by HACSB to be uncooperative, incompetent, a threat to the adequate or timely completion of the Work, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Work in a manner acceptable to HACSB, shall be promptly removed from the Work by the Contractor and shall not be re-employed to perform any of the Work under this Agreement.

**ARTICLE 6. HACSB's Right to Stop Work.** HACSB has the right to require Contractor to stop or suspend Work pursuant to the "Stop Work" provisions of the Additional Provisions.

**ARTICLE 7. No Conflicts.** HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

**ARTICLE 8. Limit of Engagement.** This Agreement does not and shall not be construed to create any partnership or agency whatsoever. Contractor shall not be deemed to be a partner, joint venture, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility on behalf of, HACSB or corporations affiliated with HACSB, other than as expressly herein provided. HACSB retains Contractor on an independent contractor basis and Contractor is not an employee of HACSB. Any additional personnel performing Work under this Agreement on behalf of Contractor shall not be employees of HACSB and shall at all times be under Contractor's exclusive direction and control.

**ARTICLE 9. Responsibilities of HACSB.** If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. It is Contractor's responsibility to determine if any such information is necessary in order

to perform its obligations hereunder and to request such information from HACSB in a sufficient amount of time in order for Contractor to perform the Work hereunder.

**ARTICLE 10. Additional Work.**

- a. In the event that the parties mutually agree that additional and further work beyond that specified in the Statement of Work ("Additional Work") is required to be performed by Contractor, such Additional Work shall be memorialized in a Work Authorization executed by HACSB and Contractor. The Work Authorization shall include and specifically identify the types of services required to perform as part of the Additional Work, all significant material to be delivered to HACSB, the time schedule for completion of the Additional Work, and the price for such Additional Work.
- b. Nothing herein shall obligate HACSB to utilize Contractor to perform the Additional Work or in any way limit HACSB's rights to utilize third parties to perform or assist in performing the Additional Work. In no event shall Contractor commence performance of the Additional Work until it has received written consent executed by a duly authorized representative of HACSB.
- c. In the event that HACSB provides a Work Authorization for Additional Work, all of the terms and conditions of this Agreement shall apply to the performance of such Additional Work.

**ARTICLE 11. Contractor's Obligation to Stop Work.** Personnel resources will not be expended (at a cost to HACSB) on task accomplishment in excess of the schedule requirements set forth in "Exhibit A" unless the procedure below is followed:

- a. If, in the performance of the Work, Contractor determines that the Work to be performed under this Agreement cannot be accomplished within the estimated work hours, Contractor will immediately notify HACSB in writing of Contractor's estimate of the work hours which will be required to complete the Work. Upon receipt of such notification, HACSB may:
  - i. Authorize Contractor to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the Work Authorization (such an authorization not unreasonably to be withheld); or
  - ii. Terminate this Agreement; or
  - iii. Alter the scope of the Work in order to define tasks that can be accomplished within the remaining estimated work hours.
- b. HACSB will notify Contractor in writing of its election within seven (7) calendar days after receipt of Contractor's notification. If notice of the election is given to proceed, Contractor may expend the estimated additional work hours or services, as memorialized in a Work Authorization signed by Contractor and HACSB. In the event that HACSB fails to notify Contractor within such seven (7) calendar day period, Contractor shall provide a second notice to HACSB requesting a determination. Contractor shall not proceed with the Work until such time as HACSB has made an election as to how it wishes to proceed, and a Work Authorization has been approved.

**ARTICLE 12. Invoicing and Payment for Services.** During the execution of each Milestone (as set forth in the Statement of Work) which involves the delivery to HACSB of identified Deliverables (as defined in the Statement of Work), Contractor may submit periodically to HACSB invoices reflecting a pro-rata cost of the Milestones, determined on the basis of the lesser of either:

- a. The number of Deliverables provided to HACSB divided by the total number of Deliverables required to be delivered to HACSB, less a ten percent (10%) withhold, less any amounts previously invoiced; or



- b. The number of work-hours expended by Contractor in the performance of the Work divided by the number of work hours scheduled for the Work, less a ten percent (10%) withhold, less any amounts previously invoiced; provided that the Statement of Work may specify a withhold of more than ten percent (10%).
- c. For those Milestones which do not involve delivery to HACSB of identified Deliverables, but which are of a continuing nature, Contractor may submit invoices reflecting a pro-rata cost of the Milestone, less a ten percent (10%) withhold, less any amount previously invoiced. Actual progress payment amounts for such Milestones must be based on at least equivalent services rendered, and to the extent practicable, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices.
- d. Upon completion of a Milestone in accordance with the acceptance criteria set forth herein, the full charge for such Milestone, less amounts previously invoiced to HACSB, may be submitted for payment.
- e. In the event that Additional Work is performed pursuant to a Work Authorization, such Additional Work shall be paid by HACSB according to the same procedure set forth above with respect to the Work, unless a different method for payment is specified in such Work Authorization.
- f. Invoices prepared in accordance with this provision will not be submitted more frequently than monthly to HACSB.
- g. In the aggregate, invoices reflecting progress payments will not exceed ninety percent (90%) of the Agreement Price, with the balance to be invoiced upon completion of the Agreement, in accordance with the acceptance criteria set forth herein.
- h. No charge for transportation, delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Statement of Work or Work Authorization.
- i. Payments for all any and all invoices or other obligations are satisfied electronically through the Automated Clearing House (ACH) system. The Contractor hereby authorizes the HACSB to initiate payment electronically to any bank account maintained by the contractor wherever located. Contractor shall promptly comply with directions and accurately complete forms provided by HACSB required to process ACH payments.

**ARTICLE 13. Return of HACSB Property.** All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

**ARTICLE 14. Confidential Information.** HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential

Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

**ARTICLE 15. Indemnity; Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against HACSB or its officers, employees, and agents in any such suit, action or other legal proceeding.

**ARTICLE 16. Compliance with Contract Documents.** Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control. Contractor shall also comply with all agreements, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement, provided that in the case of a conflict between the foregoing and the Contract Documents and this Agreement, the Contract Documents and this Agreement shall control.

**ARTICLE 17. Assignment.** Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB. This Agreement shall be binding on the successors and assigns of the parties.

**ARTICLE 18. Rights and Remedies of HACSB for Default.**

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.
- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

**ARTICLE 19. Termination.** In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency (as referenced in HUD Form 5370-C section 1 page 1). HACSB may serve written notice upon Contractor of its intention to terminate the

Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

**ARTICLE 20. No Waiver.** No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

**ARTICLE 21. Modification.** This written Agreement may not be later modified except by a further writing signed by HACSB and Contractor and no term of this Agreement may be waived, except by writing signed by the party waiving the benefit of such term. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

**ARTICLE 22. Notices.** All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested. ***All notices sent pursuant to this Agreement shall be addressed as follows:***

**If to HACSB:**

Angie Lardapide, Procurement and Contracts Supervisor  
Housing Authority of the County of San Bernardino  
715 E. Brier Drive  
San Bernardino, CA 92408-2841  
[alardapide@hacsb.com](mailto:alardapide@hacsb.com)

**If to Contractor:**

Theresa Ibarra, Director of Asset Management  
Reliant Asset Management Solutions  
424 N. Lemon Ave.  
Ontario, CA 91764  
[tibarra@reliantams.org](mailto:tibarra@reliantams.org)

Notices will be deemed effective upon receipt or rejection only.

**ARTICLE 23. Complete Agreement.** This written Agreement is the final, complete and exclusive statement and expression of the agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

**ARTICLE 24. Applicable Law/Venue.** This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

**ARTICLE 25. Severability; Headings.** If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

**ARTICLE 26. Interpretation.** Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is

to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

**ARTICLE 27. Counterparts.** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

**ARTICLE 28. Eight-Hour Law.** Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"). Contractor shall forfeit to HACSB as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him, or by any subcontractor under him, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Contractor or the Work are not subject to the Eight-Hour Law.

**ARTICLE 29. Subcontracting.** Contractor shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without prior written approval of HACSB. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**ARTICLE 30. Attorney's Fees.** If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

**ARTICLE 31. Survival.** All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification and confidentiality obligations, shall survive any such expiration or termination.

**ARTICLE 32. No Third Party Beneficiaries.** Except as expressly stated herein or in the Contract Documents, there are no intended third party beneficiaries of any right or obligation assumed by the parties.

[END – SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE TO**  
**CONSULTING, SERVICES, AND NON-ROUTINE MAINTENANCE RELATED SERVICES AGREEMENT**  
**(NON-CONSTRUCTION)**

**PC1336 – INSPECTION SERVICES AND PBV INDEPENDENT ENTITY SERVICES**

**IN WITNESS WHEREOF**, HACSB and Contractor have entered into this Agreement as of the Effective

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

**Reliant Asset Management Solutions (RAMS)**

By: \_\_\_\_\_ (Affix seal if a corporation)

Name: \_\_\_\_\_

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

**CERTIFICATE OF CORPORATE AUTHORITY**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Contractor herein; that \_\_\_\_\_ who signed this Agreement on behalf of Contractor, was then \_\_\_\_\_ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

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

Name: \_\_\_\_\_

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

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

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO**

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

Name: Maria Razo

Its: Executive Director

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

## **Exhibit A – Scope of Work**

The Contractor shall be responsible for conducting physical inspections in accordance with Housing and Urban Development (HUD) program inspection standards as found in the Code of Federal Regulations (CFR), and the HACSB Administrative Plan. HUD program inspection standards are changing from Housing Quality Standards (HQS) inspection standards to the National Standards for the Physical Inspection of Real Estate (NSPIRE) on October 1, 2023. HUD or HACSB may delay the transition to NSPIRE. Therefore, the Contractor shall be prepared to conduct both types of inspection standards. Complete all assigned Housing Program inspections requested by the HACSB daily. Complete rent reasonable surveys and rent reasonable certification as required for inspections performed. Conduct rent negotiations with landlords as required for inspections performed.

### **Contractor Responsibilities** **Tasks & Obligations**

1. Shall perform the following inspections: initials, annuals, re-inspections, abatement/3rd inspections, monthly group inspections, and special/emergency as identified by HACSB. Completion of inspection must be entered into software under inspector that conducted inspection and uploaded as required under NSPIRE reporting procedures.
2. Enter into Joint Certification with HACSB to carryout Independent Entity functions for HACSB-owned project-based voucher contracts.
3. Conduct inspections on approved electronic tablets provided by HACSB.
4. Maintain all records and document as required by applicable Federal, State and local laws and regulations.
5. Re-inspections shall be performed on units that fail the initial or annual inspection.
6. Shall schedule and reschedule appointments, as necessary, to include notifying owner and tenants of scheduled inspections via U.S. Mail. Tenant and owner shall be notified by mail of the inspection time and date between fourteen (14) and twenty-one (21) calendar days before the scheduled inspection. Contractor shall provide narrower window of time for the scheduled inspection at the direction of HACSB.
7. For non-life threatening deficiencies, the Contractor may reschedule inspections up to 30 days out unless landlord is requesting time for large repairs items to be completed.
8. For deficiencies identified as hazardous to health and safety, the Contractor will contact the owner/tenant while at unit and return within 24 hours to check the status of the emergency fail item(s) only.
9. Whenever an inspection cannot take place at the scheduled date and time because an inspector is not available, the contractor shall make telephone contact with the owner/tenant to advise of cancellation and reschedule for next available date and time.
10. For initial inspections, the contractor will make contact with the landlord by phone within 24 hours (based on a 9/80 work week) and conduct the inspection within 72 hours of making contact with the landlord (based on a 9/80 work week).
11. If extraordinary circumstances prevent the Inspector from keeping scheduled appointment times (i.e. dog, no street address/closures, weather, etc.), he/she

- shall make every reasonable effort to promptly contact owner/tenant to reschedule and inform the Housing Authority of the number of inspections that had to be re-scheduled.
12. Attach flyers or notices to appointment letters such as "most common fail list" notice to annual inspection appointment letters as required.
  13. Inspectors shall hand out letters or flyers to clients at inspection appointments, as needed. Inspector shall hand out a business card with a QR code linked to HACSB's customer service survey at all inspections.
  14. The inspector will familiarize themselves with 'all program payment standards.
  15. Rent negotiations and discussions will be conducted by the inspector. The inspector will not approve a contract rent above the Payment Standard for the unit size and submarket unless otherwise permitted under a Special Program. Must maintain rent reasonableness document and save as attachment into HACSB's Housing Software attachments.
  16. Inspectors are to contact clients via telephone and wait at unit at least 10 minutes after knocking on the door prior to leaving the premises because of a no-show. Inspectors must leave business card with time visited and contact information to reschedule inspection.
  17. If a second no-show on a unit occurs, contractor should task this issue back to the HACSB so caseworker can send a compliance notice and HACSB will re-task the future inspection to contractor. Two no-shows does not equate to an automatic abatement of the unit, rather a participant compliance process by HACSB.
  18. The Contractor shall affirmatively take all appropriate steps to attempt to maintain No Show appointments to less than 5% of total billed charges and develop a plan for doing so within the fee proposed. Unit will not be entered as a "no show" inspection if not landlord/participant error and no charge will be billed to HACSB. Reschedule inspection and enter memo in software inspection screen.
  19. Shall maintain an appropriately staffed phone line available to clients for scheduling purposes.
  20. Shall notify HACSB by email or in writing when a unit has peeling paint where a child under six (6) currently resides and where unit was built prior to 1978. Shall endeavor to attain a release form from the family for Elevated Blood Level tracking purposes. (Please note, reasonable attempt should be made to obtain signature, but family has the right to refuse to sign).
  21. Shall maintain a log in the format prescribed by HACSB of all units failed due to potential lead based paint issues.
  22. Shall verify utilities provided to units at time of inspection.
  23. Inspectors shall issue batteries to clients in the case of failed smoke/carbon monoxide detectors and must re-test the detectors after the new batteries are installed to ensure the detectors pass prior to leaving the units.
  24. Inspector shall issue standard outlet covers or other identified items as needed if that is the sole item prohibiting a 'passed' inspection.
  25. Inspectors shall verify that additional rooms which are approved based on a reasonable accommodation (RA) for the family are being used according to the RA request. When inspectors determine there are violations of the RA request, the inspectors shall be required to take digital pictures of these rooms and forward the pictures to the Compliance Coordinator. (Pictures may not contain images of the client or personally identifying information about the client).

26. Inspectors shall notify HACSB if a particular housing complex appears to have fallen into significant disrepair ('common-area' fail issues) and may need to be reviewed by HACSB for a quality improvement plan/sanctioning.
27. Shall provide administrative services for the day-to-day operation of the inspection processes and direct supervision of the contractor's staff. These administrative services shall include:
  - Scheduling of all inspections
  - Data entry, to include adequate note-padding.
  - Maintenance of inspection files, to include scheduling, rescheduling, extensions and emergency inspections.
  - Answering telephone lines
  - Generation of letters/notices, prepare for mailing and file copies by date batch
  - All documents updated in electronic client files
28. Shall be responsible for the management services providing the following:
  - Direct oversight of firm's staff
  - Management reports
  - Billing accounts
  - Communication and coordination with HACSB staff to address problems, seek improvements, and enforcement of HUD regulations
  - Ensure that all certifications and training of their inspectors are current and valid at all times
  - Shall document all training they provide for their inspectors
  - Conduct quality control inspections to ensure internal compliance with mandated standards/regulations and to evaluate staff performance, share results with HACSB and work with HACSB on corrective action as needed.
  - Independent Entity reporting requirements, including but not limited to, providing inspection reports and rent reasonableness determinations to the local HUD field office for HACSB-owned PBV/RAD units following a process outlined by HACSB.
29. Shall verify that any independent or hired contractor has a valid, current driver's license and is approved to operate a motor vehicle in the State of California; and that the vehicle operated on behalf of this contract is properly insured with the minimum required auto physical damage and auto liability damage coverage required by HACSB.
30. Each inspector provided under the contract shall have completed sexual harassment training, shall be NSPIRE certified and HUD certified on Visual Assessment for Lead Paint. Proof of certification shall be required for every inspector prior to commencement of work. All of the contractor's field personnel, including any sub- contractors, shall be required to submit to a criminal background investigation prior to being allowed to perform field work. All inspectors must be pre-approved for commencement of work by HACSB (with the exception of emergency 'supply' cover for an unexpected absence of generally assigned contractor staff).
31. Practice a very high level of customer service.
32. Supply all equipment necessary to certify in compliance with NSPIRE Inspections Certifications. Proper equipment includes, but is not limited to: electrical testers, smoke detector testers, flashlights, handheld equipment, etc.



33. HACSB will conduct NSPIRE Quality Control Inspections. The contractor will provide an action plan to HACSB listing appropriate steps to uphold Quality Control requirements and HACSB program compliance if (1) the same item fails in two or more units in a 3 month period and/or (2) more than 15% of the units inspected in a 3 month period had 3 or more failing conditions that were likely present during the contractor's previous inspection.
34. Inspectors will dress in a professional manner. Business casual is sufficient. Wearing an identifying badge issued by HACSB is mandatory.
35. All contractors will have computer literacy.
36. All contractors will attend Fair Housing training annually.
37. All contractors will attend mandatory training on HACSB activities related to local inspections standards or related MTW activities as required.
38. All contractors will attend monthly review meetings scheduled and conducted by the HACSB liaison.
39. The contractor is responsible to map out their own routes.
40. The Inspector will use the findings Pass, Fail, or No Show, ('Inconclusive' is not to be used) and shall provide sufficient detail to the owner/tenant to explain the specific fail items. The inspector will be available to HACSB staff to answer questions related to his/her inspection findings.
41. Inspectors shall be sensitive to the use of 'owner responsibility' vs. 'tenant responsibility' findings and will adhere to HACSB guidelines and policies in regard to this determination.
42. The Inspector will inspect the unit to determine whether it is or is not in compliance with HUD's NSPIRE & HACSB Local Inspection Standards and will provide the required data to HACSB electronically.
43. Contractor will provide electronic documentation of each inspection's fail items to HACSB, via their access to HACSB housing programs software on a daily basis. Completed NSPIRE inspection reports will be provided to HACSB on the business day following the day the inspection was conducted. Reports must include completed HUD approved forms provided by HACSB. The use of any required form may change at HACSB's discretion with ten (10) days' notice to the Contractor.
44. Working hours for the required inspections are 8:00 a.m. to 5:00 p.m. during weekdays, Monday through Friday, with the exception of state and federal holidays and weekends
45. Contractor shall work with HACSB to create a 'photo database' taking a 'curbside' or 'unit address' photo of each unit where a "no show" appointment has occurred and photos of failed items for completed inspections and save with unit inspection results in the inspection software.
46. Contractor represents that it has reviewed the SAAS Subscription Agreement between HACSB and Yardi Systems, Inc. dated October 17, 2017. Contractor shall comply with the provisions of the SAAS Subscription as a "Designated User" of HACSB.
47. HACSB has provided Contractor with certain equipment to perform the services under this Agreement. Contractor shall at all times use such equipment, including but not limited to iPads, with due care and, upon termination of this Agreement, return such equipment in the same condition and repair or pay HACSB the replacement cost of any damaged equipment upon termination of this Agreement. Contractor acknowledges that HACSB may offset any payment due Contractor for

the cost of any damaged equipment if not promptly reimbursed by Contractor, as required in this paragraph.

48. Provide appropriate Personal Protective Equipment to the inspectors, including disposable gloves, hand sanitizer, disinfecting wipes and face coverings, and utilize CDC guidelines in regard to social distancing and frequent hand washing.

#### Agency Responsibilities

1. Will schedule special/emergency, abatement, with the contractor at its discretion. HACSB will complete fraud compliance inspections.
2. Will provide "most common fail list" to contractor.
3. Shall provide batteries for smoke detector testing.
4. Shall provide simple duplex electrical outlet covers.
5. Shall provide templates for forms and notices.
6. Shall provide a list, monthly, of additional rooms approved by an RA.
7. Shall provide certain equipment to perform inspection services, including but not limited to iPads.
8. Provide access to affordablehousing.com or other database for rent reasonableness determinations.
9. Shall complete Quality Control Inspections for internal purposes (e.g. SEMAP and contract administration).
10. Shall coordinate review of the contract inspector by scheduling 'ride-along' days at its discretion. The agency will give a minimum of 24 hours' notice prior to this request.
11. Contract management / oversight.

#### Service Area

County of San Bernardino, except the City of Needles.

## Scope of Services – Fee Schedule:

The estimated number of units below and total payment amount is subject to HUD approval of Contractor's independent entity status.

### Inspection Services:

Total: \$422,968.28 (\$35,247.36 per month)

Inspection Type*	Estimated Number of Inspections Per Year	Cost
Initial	1706	\$41.88
Annual/Biennial	4550	\$40.87
PBV/RAD annual inspections (includes scattered sites)	550	\$20.13
Re-inspections	1300	\$42.39
Rent Reasonableness Certifications	2400	\$41.41

\*Cost to include no shows, rescheduled inspections and abatements

### Independent Entity Functions

Function	Estimated Number per Year**	Cost
New PBV site selection and initial contract review	1-2 new contracts	Included at no additional charge
Transmission of Inspection reports to HUD	390 units	Included at no additional charge
Review and approval of OCAF increases for RAD units	11 developments	Included at no additional charge
Transmission of rent reasonableness certifications to HUD	16 developments	Included at no additional charge
PBV contract extension review	2***	Included at no additional charge
Homeownership sales price, inspection, and contract of sale review	unknown	Included at no additional charge

\*\* Estimate based on number of PBV contracts anticipated to be in effect by 11/1/2023.

\*\*\* Ten contracts are anticipated to be extended over the next 5 years.

**Exhibit B**  
**GENERAL CONDITIONS FOR NON-CONSTRUCTION WORK**  
**(HUD – 5370-C)**

**Document on Following Page**

# General Conditions for Non-Construction Contracts

## Section II – (With Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**Applicability. This form HUD-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:**

- 1) Non-construction contracts (*without* maintenance) greater than \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – use Sections I and II.

### Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

#### 1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
  - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
  - (2) The classification is utilized in the area by the industry; and
  - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

#### 2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

#### 3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
  - (i) Name, address and Social Security Number;
  - (ii) Correct work classification or classifications;
  - (iii) Hourly rate or rates of monetary wages paid;
  - (iv) Rate or rates of any fringe benefits provided;
  - (v) Number of daily and weekly hours worked;
  - (vi) Gross wages earned;
  - (vii) Any deductions made; and
  - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

#### 4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
  - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

- Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice; A
- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
  - (iii) A training/trainee program that has received prior approval by HUD.
- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
  - (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
  - (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
  - (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

## 5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
  - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

- (ii) forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.
- (iii)

- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

## 6. Contract Work Hours and Safety Standards Act

The provisions of this paragraph 6 are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" includes watchmen and guards.

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

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subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to the District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

- (c) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the U.S. Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

## **7. Subcontracts**

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the provisions contained in these clauses.

## **8. Non-Federal Prevailing Wage Rates**

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

**Exhibit C**  
**Additional General Provisions**

**Document on Following Page**



## ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
  - a. **Business Entity** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
  - b. **Contractor** means the Business Entity with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
  - c. **Firm Price** means the Agreement requires the delivery of products or services at a specific price, fixed at the time of the Agreement and not subject to any adjustment on the basis of Contractor's cost experience in performing under the terms of the Agreement.
  - d. **HACSB** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
  - e. **Non-routine maintenance** means duties or tasks that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor's violation of this provision.
3. **CONTRACTOR'S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
  - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
  - b. If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
  - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor's own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities

specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.

7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. **INSPECTION, ACCEPTANCE AND REJECTION:**

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. **SAMPLES:**

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. **WARRANTY:** Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. **SAFETY AND ACCIDENT PREVENTION:** In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. **ACCIDENT PREVENTION:** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.
13. **INSURANCE:** Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. Commercial General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence; HACSB listed as Additional Insured on an attached endorsement. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured included on an attached endorsement for any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. Contractor shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. Contractor shall be named as an additional insured with respect to such automobile liability insurance policy.
- d. Errors and Omissions Liability: \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or:
- e. Professional Liability: \$1,000,000; per occurrence and aggregate.

- f. Worker's Compensation. A state approved Workers Compensation and Employers Liability Insurance policy providing benefits as required by law with employer's liability limits no less than One Million and No/100 Dollars (\$1,000,000) per accident or disease, which covers all employees of the contractor and each and every contractor.
14. **FORCE MAJEURE:** Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:
- a. Acts of God or of the public enemy, and
  - b. Acts of the federal, state or local government in either its sovereign or contractual capacity.
- Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.
15. **CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**
- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.
  - b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.
16. **INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
17. **REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
18. **TAXES:** HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.
19. **NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.
20. **NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.
21. **PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
- a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
  - b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
  - c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
    - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,

- ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
- d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.
- e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
  - i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
  - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
  - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
  - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

## **22. STOP WORK:**

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
  - i. Cancel the Stop Work Order; or
  - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
  - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
    - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
    - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts

justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.

- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

**23. COVENANT AGAINST GRATUITIES:** Contractor warrants that it complies with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

**24. COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all "construction contracts and related subcontracts in excess of \$2000," which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.

HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that Contractor's payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by Contractor and its subcontractors at the site of the Work in a prominent and accessible place where it can be easily seen by the workers.

**25. CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor's books and records, and interview Contractor's employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.

**26. EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

**27. NONDISCRIMINATION CLAUSE:**

- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

**28. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

**29. DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
  - i. the dangers of drug abuse in the workplace;
  - ii. the person's or organization's policy of maintaining a drug-free workplace;
  - iii. any available counseling, rehabilitation and employee assistance programs; and,
  - iv. penalties that may be imposed upon employees for drug abuse violations.
- c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
  - i. will receive a copy of the company's drug-free policy statement; and,
  - ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.

**30. RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.

**31. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

**32. CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:

- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support

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

- b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
33. **ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
34. **ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).
35. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
36. **DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code Section 10295.3.



## **Exhibit D**

### **Work Authorization**

**Schedule Dates:**

Start Date: December 1, 2023

Completion Date: November 30, 2025

**Total Contract Cost: \$845,937.00 per Fee Schedule Located in Exhibit A**

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Schedule Requirements – Statement of Work (“Exhibit A”)

General Conditions for Non-construction work (“Exhibit B”)

Additional General Provisions (“Exhibit C”)

Work Authorization (“Exhibit D”)

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Petition in support of the Renewal of the Downtown Ontario Community Benefit District

## **RECOMMENDATION(S)**

1. Approve a petition in support of the renewal of the Downtown Community Benefit District in the City of Ontario.
2. Obtain approval to vote “yes” on the mail ballot in support of the renewed Downtown Ontario Community Benefit District.
3. Authorize and direct the Executive Director to execute and deliver the petition and vote “yes” on the mail ballot in support of the Downtown Ontario Community Benefit District, and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #5: To create, build and utilize partnerships that provide opportunities and create a meaningful difference in the lives of the families that we serve, maximizing out resources by mobilizing the talents of our community partners.**

## **FINANCIAL IMPACT**

In the event the City of Ontario receives support to bring enough votes in favor of the renewal of the Downtown Ontario Community Benefit District (DOCBD), the annual assessment will be in the amount of \$5,450.32, with an annual increase of up to 5%, which is funded by the Housing Authority of the County of San Bernardino (HACSB) Authority Owned Portfolio. The first assessment billing would be due with the December 2024 property tax bills and, if not renewed, are currently set to be collected for only five years.

## **BACKGROUND INFORMATION**

The City of Ontario is proposing the renewal of the Special Benefits District, known as DOCBD within the downtown Ontario area for a 10-year period. Renewing DOCBD will continue to provide and manage supplemental services and improvements for this historic and growing business center, including landscaping; community beautification; marketing; district identity, safety; and administrative services, programs, and improvements. HACSB owns a building in the special district area at 200 South Euclid Avenue in the City of Ontario, known as the historic Frankish Building, a mixed-use, commercial, and four market rate apartments.

Since DOCBD’s adoption in 2019, it has collaborated with various property owners to work with the City of Ontario to expedite the revitalization of Downtown Ontario. With the renewal of the DOCBD, an annual assessment will be collected on the county property tax bill beginning with

the bill due in December 2024. Assessment funds would be managed by the current Downtown Ontario Improvement Association, DOIA, who has been managing Downtown public rights of way and promoting DOCBD since its first adoption in 2019. HACSB's Executive Director is currently a DOIA board member.

The DOCBD community runs along both sides of Euclid Avenue from the underpass just south of W. Emporia Street northward to the parcels to the south side of G Street. The western most boundary is predominately along North Palm Avenue and the eastern boundary is predominately along North Lemon Avenue.

Approval of this item will approve a petition in support of the renewal of DOCBD, and a "yes" vote in the mail-in ballot in support of the renewal of DOCBD.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on November 8, 2023.

# PETITION TO RENEW THE DOWNTOWN ONTARIO PROPERTY BUSINESS IMPROVEMENT DISTRICT

PURSUANT TO (SECTION 36600 ET. SEQ OF THE CALIFORNIA STREETS AND HIGHWAYS CODE)

LEGAL OWNER: SAN BERNARDINO COUNTY HOUSING AUTH

<u>APN NUMBER</u>	<u>SITE ADDRESS</u>	<u>ASSESSMENT AMOUNT</u>	<u>PERCENTAGE</u>
1049-058-03-0000	200 S EUCLID AVE	\$5,450.32	1.12%
		TOTALS:	\$5,450.32 1.12%

☐ YES, I want my property(ies) to be included in this Property Business Improvement District.

**Property Owner's Name**  
(Please Print or Type)

Property Owner's OR Duly Authorized Representative's  
**Signature**

**Title**  
(Please Print or Type)

**Date**

## STATEMENT OF AUTHORITY TO SIGN THIS PETITION - (Must be completed by petition signer)

I, \_\_\_\_\_ hereby certify (or declare) under penalty of perjury under the laws of the  
PRINT NAME CLEARLY

State of California that I am legally authorized as owner, or legal representative of owner, to accept the levy of  
liens (assessment amounts) on the property(ies) listed above. This statement is true, correct and complete to

the best of my knowledge as of \_\_\_\_/\_\_\_\_/\_\_\_\_. Petitioner Signature: \_\_\_\_\_  
Month Day Year

**NOTE: ALL FIELDS MUST BE COMPLETED. PETITIONS WITH EMPTY FIELDS WILL BE REJECTED.**

Please Return To: Downtown Ontario Improvement Association  
by Wednesday, **November 15, 2023**  
**425 N. Euclid Ave., Ontario CA 91762**  
email to [mail@newcityamerica.com](mailto:mail@newcityamerica.com)



October 18, 2023

To: Property Owners and Property Managers in Downtown Ontario

SUBJECT: Petition for Initiating Balloting for the Renewal of the Downtown Ontario Community Benefit District (CBD)

Attached please find a petition for the renewed Downtown Ontario Community Benefit District (CBD). By signing the petition you are demonstrating your support for the CBD and will enable the process to move to the mail balloting phase. Property owners representing a minimum of 50% of the total assessments in the CBD must sign a petition in order to bring this issue to an official mail ballot vote. The petition includes information regarding your specific parcel(s) assessment – the amount and percentage of the total assessment. **The petition must be signed by the legal owner or an authorized representative. Your prompt return of the petition would be appreciated. Please return no later than Friday Wednesday, November 15<sup>th</sup>, 2023.**

When the minimum 50% weighted petition threshold is reached, the Ontario City Council will consider adopting a *"Resolution of Intent"* to mail out ballots to all affected property owners. Ballots would be mailed to property owners around the first week of December and the ballots will be due to be returned by the public hearing, scheduled to be held sometime in January. In order for the Downtown Ontario CBD to be adopted by the City Council, *50% plus one of the weighted ballots returned* must be in favor of the renewed Downtown Ontario CBD.

If the Downtown Ontario CBD is renewed, an annual assessment will be collected from each property owner on their county property tax bills beginning with the bill due on December 2024. Assessment funds would be managed by the current District Management Corporation, the Downtown Ontario Improvement Association, DOIA, who has been managing Downtown public rights of way and promoting Downtown since its first adoption in 2019.

This package includes a summary of the Downtown Ontario CBD 2023 Management District Plan (the full plan is available upon request), your petition and a return envelope. You may return the petition by mail, scan and e-mail it to [Director@downtownontario.org](mailto:Director@downtownontario.org).

We have demonstrated over the past 5 years that a corporation of property owners, working closely with the City, can expedite the revitalization of this beautiful Downtown. For more information, or to get a copy of the full Management District Plan e-mailed or sent to you, please call Ish Arias, Executive Director of the DOIA at (909) 706-7877 Monica Montes at New City America at (888) 356-2726. Thank you for your cooperation in this important effort for Downtown.



Corporate Office ■ 710 W. Ivy Street ■ San Diego, CA 92101 ■ 888-356-2726 ■ 619-233-5009 ■ Fax 619-239-7105

Midwest Office: 300 N. State Street, ■ Ste 4710, ■ Chicago, Ill 60654

New England Office: 794 Purchase Street, ■ New Bedford, MA ■ 02745

[mail@newcityamerica.com](mailto:mail@newcityamerica.com) ■ [www.newcityamerica.com](http://www.newcityamerica.com) ■ Facebook: New City America, Inc.



**Summary of the Renewal of the  
Downtown Ontario Community Benefit District  
(DOCBD) Management District Plan - 2023**

**for the Downtown Ontario Improvement Association  
&  
The City of Ontario**

*Being Renewed for a 10-year Term Pursuant to  
California Streets and Highways Code Section 36600 et seq.  
Property & Business Improvement District Act of 1994, as amended*

**September 14, 2023**



**Corporate Office ■ 2210 Columbia Street ■ San Diego, CA 92101 ■ 888-356-2726 ■ 619-233-5009 ■  
Midwest Office ■ 300 N. State Street, Ste 4710 ■ Chicago, Ill 60654  
New England Office: 42 Pearl Street, ■ New Bedford, MA ■ 02740  
mail@newcityamerica.com ■ www.newcityamerica.com ■ Facebook: New City America, Inc.**

## MANAGEMENT DISTRICT PLAN SUMMARY

### **Background:**

Beginning in the summer of 2018, the City of Ontario worked with a group of motivated property owners to gauge support within the community for a new *Special Benefits District* for both the Downtown property owners and business community alike. The City of Ontario has hired New City America – a company specializing in *Special Benefits District* formation and district management - to work with the Downtown property owners to investigate the viability of a new Community Benefit District (CBD) in Downtown.

The property owners voted overwhelmingly in August of 2019 (pre-COVID) to support the establishment of this new Community Benefit District, formed under the provisions of Section 36600 of the California Streets and Highway Code. Due to its work during COVID as well as the success of its management and the introduction of new development in Downtown Ontario, the property owners have decided to renew the DOCBD, this time for the maximum ten year term, which would commence on January 1<sup>st</sup> 2025. The documents shall serve as the renewal Management District Plan.

### **Accomplishments of the DOCBD Since its Formation:**

#### **Proposed Renewal Plan:**

The *Downtown Ontario CBD* is a Property and Community Benefit District (DOCBD) being renewed for a 10-year period by the Owners Association, the Downtown Ontario Improvement Association Board within the CBD area. Understanding that the timeline for formation in time for Fiscal Year 2025 would be very challenging, property owners felt that the time had come for such a special benefits district and that these services would be needed to accommodate hundreds of new apartments as well as new businesses opening in 2023 - 24, and these services would be needed by the beginning of 2025.

The purpose of establishing this CBD is to provide and manage supplemental services and improvements for this important, historic and growing business center, including landscaping, beautification, marketing, district identity, safety, and administration services, programs and improvements. The DOCBD is a unique benefit assessment district that will enable the DOCBD property owners and businesses working as a unit, to fund needed property and business-related improvement programs, services and programs above what is provided by the City of Ontario.

#### **Management Plan at a Glance:**

**Name:** The name of the CBD is the Downtown Ontario Community Benefit District (DOCBD).

**Management Entity:** The Downtown Ontario Improvement Association (501c3)

**Location:** The proposed DOCBD is in the Downtown Ontario district along both sides of Euclid Avenue from the underpass just south of W. Emporia Street northward to the parcels to the south side of G Street. The western boundary is predominantly along North Palm Avenue, and the eastern boundary is predominantly along North Lemon Avenue.

**Benefit Zones:** There is one benefit zone within the proposed DOCBD. The boundaries of the benefit zone are coterminous with the boundaries of the proposed DOCBD.

**Services:** Civil Sidewalks, District Identity and Placemaking, Administration services, and Contingency. These services are proposed to be performed in the first year, and in each subsequent year, of the proposed DOCBD. 80% of the revenue generated by the proposed district will directly fund services to the property owners with less than 20% allocated to the oversight and administration of those services.

**Finance:** The financing of the CBD is based upon a benefit assessment of real property (204 parcels with 101 property owners). No bonds shall be issued to fund DOCBD programs.

**Budget:** CBD assessment revenue for Year 1 is projected to be \$ 486,776. It is noted that the Assessment Engineer has determined that general benefits equate to 2% of the total adjusted CBD program costs of \$496,710 or \$ 9,934. General benefit costs shall be derived from non-assessment revenue sources such as grants, program income, credits, interest, memberships and other sources. Revenues from the assessment will increase by a maximum of 5% each year.

#### **Year 1 – PROPOSED BUDGET (ASSESSMENT REVENUES/SPECIAL BENEFIT COSTS)**

<b>Category of Special Benefit Services 2025</b>	<b>Approximate Annual Amount</b>	<b>Approximate Percentage of total budget</b>
Civil Sidewalks	\$ 290,000	60%
District Identity/Placemaking	\$ 96,000	20%
Administration	\$ 79,000	16%
Contingency	\$ 21,776	4%
Total	\$ 486,776	100%

#### **CIVIL SIDEWALKS:**

*Examples of this category of special benefit services and costs may include, but is not limited to:*

- Regular sidewalk and gutter sweeping
- Regular sidewalk steam cleaning
- Beautification of the district
- Enhanced trash emptying (over and above city services)
- Timely graffiti removal, within 24 hours as necessary
- Tree and vegetation maintenance (over and above city services)
- Maintenance of existing and new public spaces supplemental to what is current being provided by the City of Ontario



- Installation of and maintenance of hanging plants, planting flowers throughout the district
- Private security or case workers to respond to homeless issues, aggressive panhandling and mentally ill people behaving poorly in the public rights of way, including possible hiring of Ontario PD Bike patrols and/or a camera system

#### **DISTRICT IDENTITY AND PLACEMAKING:**

*Examples of this category of special benefit services and costs may include, but is not limited to:*

- Web site development and updating
- Management and coordination of special events
- Social media
- Public relations firm
- Holiday and seasonal decorations
- Branding of the Downtown Ontario CBD properties so a positive image is promoted to the public
- Banner programs
- Public art displays
- Logo development
- Public space design and improvements

#### **ADMINISTRATION/PROGRAM MANAGEMENT**

*Examples of this category of special benefit services and costs may include, but is not limited to:*

- Staff and administrative costs
- Directors and Officers Insurance, General Liability and other insurance coverages
- Office related expenses
- Rent
- Financial reporting and accounting, and legal services

#### **CONTINGENCY/CITY AND COUNTY FEES/RESERVE**

As with other plans in similar CBDs, this management plan sets aside a 4% contingency/reserve which provides for costs related to operating the district. Those costs may include, but not be limited to:

- City and/or County fees associated with their oversight and implementation of the District,
- the implementation of the Management District Plan and the Engineer's Report.
- City fees to collect and process the assessments, delinquencies and non-payments. A percentage of the budget is held in reserve to offset delinquent and/or slow payment from both public and private properties. This component also funds the expenses charged by the County of San Bernardino for collection and distribution of DOCBD revenue.
- Other unanticipated costs related to the compliance of the Management District Plan and Engineer's report.
- Funding for renewal of the District;

**Benefits:** “General Benefit” is defined as: “A benefit to properties in the area and in the surrounding community or benefit to the public in general resulting from the improvement, activity, or service to be provided by the assessment levied.” “Special Benefit” as defined by the California State Constitution means a distinct benefit over and above general benefits conferred on real property located in the DOCBD or to the public at large.

**Formula:** There is one benefit zone in the DOCBD. (A map showing the DOCBD boundaries is shown in Chapter 2 of this Plan). Year 1 property assessment rates per parcel are as follows:

**YEAR 1 –Assessment Rates**

Benefit Zone	Annual Building Square Footage Cost	Annual Lot Size Cost	Annual Linear Frontage Cost
All parcels	\$0.17	\$0.065	\$ 6.50
Residential Condos	\$0.20	0	0

Assessments for the County of San Bernardino Property Tax Year fiscal beginning July 1, 2025 and ending June 30, 2034, are proposed to be collected at the same time and in the same manner as ad valorem taxes paid to the County of San Bernardino (Operation Years 2025-2034). The District assessments shall appear as a separate line item on the property tax bills issued by the San Bernardino County Assessor. The City of Ontario is authorized to collect any assessments not placed on the County tax rolls, or to place assessments, unpaid delinquent assessments, or penalties on the County tax rolls as appropriate to implement this Management District Plan.

**Cap:** Assessment increases are capped at a maximum of 5% per year, subject to approval by the DOCBD Property Owner Association Board of Directors, Owners Association.

**Renewal:**

The DOCBD renewal is a two-step process. First, petitions signed by DOCBD property owners representing at least 50% of the total assessment to be levied must be secured. Second, property owners will be sent a ballot to vote on forming the CBD and levying the assessment. Returned ballots in support of the CBD Renewed must outweigh those in opposition based on the amount of assessment to be levied. Ballots are weighted based on the total assessment attributable to each parcel.

**Duration**

As allowed by State PBID Law, the renewed DOCBD will have a ten (10) year operational term from January 1, 2025 to December 31, 2034. The proposed renewed District operation is expected to begin services on January 1, 2025. If the District is not renewed, services will end on December 31, 2034.



**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE  
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD  
OF ACTION**

**November 14, 2023**

**FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

**SUBJECT**

Meeting Minutes for Meeting Held on October 10, 2023

**RECOMMENDATION(S)**

Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on October 10, 2023.

(Presenter: Maria Razo, Executive Director, 332-6305)

**STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #2: To be known as a trusted provider of safe, dignified, and desirable homes and environments that enrich and add value to the community.**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

**FINANCIAL IMPACT**

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there are no financial impacts associated with this item.

**BACKGROUND INFORMATION**

The HACSB Board of Commissioners (Board) Meeting took place on October 10, 2023, and attached are the meeting minutes for review and recommended approval by the Board.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on, November 8, 2023.

**MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF  
THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO  
OCTOBER 10, 2023**

The Board of Commissioners of the Housing Authority of the County of San Bernardino met in a regular meeting at the Administration Office, at 715 East Brier Drive, San Bernardino, California at 3:04 p.m. on October 10, 2023.

Details of the meeting discussion can be obtained through the recording of the Board of Commissioners meeting through a Public Records Request submitted in person or through the HACSB website: <https://hacsb.com/public-records-request/>

**1) Call to Order and Roll Call**

The meeting was called to order, and upon roll call, the following were present:

Chair Johnson  
Vice-Chair Cooper  
Commissioner Avila  
Commissioner MacDuff  
Commissioner Miller  
Commissioner Tarango

Also in attendance were Maria Razo, Executive Director; Rishad Mitha, Deputy Executive Director; Kristin Maithonis, Director of Housing Services; Renee Kangas, Sr. Management Analyst; Jennifer Dawson, Director of Administrative Services; Lucy Leslie, Director of Housing Communities; Jesse Diaz, Director of Business Services; Angie Lardapide, Procurement and Contracts Supervisor; George Silva, Family Empowerment Services Manager; John Moore, Director of Development, and Claudia Hurtado, Executive Assistant.

Also present, Fred Galante, Legal Counsel to the Housing Authority.

**2) Additions or Deletions to the Agenda**

Chair Johnson called for additions or deletions to the October 10, 2023 agenda. There were none.

**3) General Public Comment**

Chair Johnson provided an opportunity for members of the public to address the Board of Commissioners. There were no public comments.

**4) Executive Director's Report**

The Executive Director's Report was requested.

Executive Director Razo gave the Executive Director's Report.

Discussion amongst the Board of Commissioners took place regarding the Executive Director's Report for October 10, 2023.

**5) Board Building Presentation for October 10, 2023**

Discussion calendar item number 5, to receive the board building presentation for October 10, 2023, an overview of the Housing Authority of the County of San Bernardino's goals and accomplishments, was requested.

Executive Director Razo explained the item.

Maria Razo, Executive Director, presented the goals and accomplishments presentation.

Discussion amongst the Board of Commissioners took place regarding the board building presentation for October 10, 2023, an overview of the goals and accomplishments.

**6) Amendment No. 3 to Employment Agreement between the Housing Authority of the County of San Bernardino and Executive Director Maria Razo**

Discussion calendar item number 6, to Approve Amendment No. 3 to the Employment Agreement between the Housing Authority of the County of San Bernardino and Executive Director Maria Razo, was requested.

Legal Counsel Fred Galante explained the item.

Commissioner Tarango moved to approve discussion calendar item number 6, as recommended by staff and Commissioner Miller seconded the motion.

Upon roll call, the Ayes and Nays were as follows:

Ayes

Chair Johnson

Vice-Chair Cooper

Commissioner MacDuff

Commissioner Miller

Commissioner Tarango

Nays

Abstain

Commissioner Avila

**7) Resolution No. 184**

Discussion calendar item number 7, to Adopt Resolution No. 184 to a.) authorize the Housing Authority of the County of San Bernardino to form a limited liability company, Northport Victorville LLC, and enter into an Operating Agreement with HPI, I Inc. to serve as the ownership entity for Northport Apartments in the City of Victorville, including having HACSB serve as a guarantor of the Loan, b.) authorize the Executive Director of the Housing Authority of the County of San Bernardino (Authorized Officer), upon consultation with Legal Counsel, to make any changes and to execute and deliver any ancillary documents to complete the transaction to acquire Northport Apartments under the proposed ownership structure, was requested.

Commissioner Cooper recused himself due to a conflict of interest and left the meeting room.

Executive Director Razo explained the item.

Discussion amongst the Board of Commissioners took place regarding discussion calendar item number 7.

Commissioner Miller moved to approve discussion calendar item number 7, as recommended by staff, and Commissioner Avila duly seconded the motion.

Upon roll call, the Ayes and Nays were as follows:

<u>Ayes</u>	<u>Nays</u>	<u>Abstained</u>
Chair Johnson		Vice-Chair Cooper
Commissioner Avila		
Commissioner MacDuff		
Commissioner Miller		
Commissioner Tarango		

Commissioner Cooper re-entered the room.

### **8-10) Consent Calendar**

Approval of the consent calendar including agenda item numbers 8-10 was requested.

Commissioner Miller moved to approve consent calendar agenda item numbers 8-10, to:

8) Approve the meeting minutes for the regular meeting of the Board of Commissioners of the Housing Authority of the County of San Bernardino held on September 12, 2023.

9) Approve and file Agency-wide Financial Statements through June 2023.

10) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of July 2023.

The motion was duly seconded by Commissioner Tarango and upon roll call, the Ayes and Nays were as follows:

<u>Ayes</u>	<u>Nays</u>
Chair Johnson	
Vice-Chair Cooper	
Commissioner Avila	
Commissioner MacDuff	
Commissioner Miller	
Commissioner Tarango	

### **11) Closed Session Item**

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9

Number of Potential Cases: One

Following closed session board item number 11, General Counsel Fred Galante reported that the board members held a closed session to discuss the item listed on the agenda, and the board unanimously provided direction to staff, with no further reportable action.

Chair Johnson provided an opportunity for individual board member comments. There were none.

There being no other business, Commissioner Miller moved for the regular meeting of Tuesday, October 10, 2023, to be adjourned, and which motion was duly seconded by Commissioner McDuff. There being no objection to the call for adjournment, the meeting was adjourned by unanimous consent at 5:15 p.m.

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Tim Johnson, Chair

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Beau Cooper, Vice Chair

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Cassie MacDuff

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Sylvia Miller

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Bobby Tarango

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David Avila

Attest:

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Secretary



# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

**Agency-wide Financial Statements through July 2023**

## **RECOMMENDATION(S)**

Approve and file Agency-wide Financial Statements through July 2023.  
(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The Housing Authority of the County of San Bernardino's (HACSB) year-to-date agency-wide net gain through July 2023 for Federal Fiscal Year (FFY) 2022-23 is \$3,544,599. The net gain is currently higher than the budgeted net loss of -\$161,230 with a variance of \$3,705,829.

The \$3,705,829 variance between the budgeted and the actual net income is due to the variance of gains and losses to budget such as:

- \$3.2 million more in funding received for our Housing Choice Voucher program. The monthly amount the Authority receives is based on Housing Assistance Payment (HAP) expenses in prior months and not based on the current month's HAP expense. This will cause a discrepancy between the current month's lease rate and the lease rate used to fund HACSB monthly. A reconciliation between the amount funded and the actual HAP expenses is performed at year-end by both HUD and HACSB. The difference between the authorized funding amount and actual funding received is deposited into a restricted HUD Held Reserve (HHR) account which can be used for future eligible expenses, with HUD's approval. There are currently 290 households searching with a voucher, which once leased will positively impact the lease rate and HCV program related revenue and expenses.
- In May 2023, the U.S. Department of Housing and Urban Development (HUD) performed the Housing Assistance Payment reconciliation for calendar year 2022 and HACSB received \$4.2 million. This cash is for prior year expenses and was not budgeted in the current fiscal year.
- Through July 2023, HACSB recognized \$6 million in Capital Fund income which will be used for MTW activities. Capital funds are traditionally requested from HUD once an expenditure is incurred or when an expense is expected within three days. Due to HACSB conversion from Public Housing to RAD, HACSB can now request 100% of Capital funds for operating expenses. Although HACSB has this flexibility, we intend to eliminate this

recognition of revenue and we expect that this will be deferred by the end of the fiscal year.

- Related to the lease rate, there was also an increase in Housing Assistance Payments in the amount of \$16 million. This was mainly due to rising rents which increases the per unit costs. Additionally, the lease rate increased due to an increase in the number of voucher holders who have successfully lease-up with vouchers. Unlike the funding in the Housing Choice Voucher program, the Housing Assistance Payments are not budgeted at a 100% lease rate. It is budgeted based on an estimated lease rate for the year. We expect the actual lease rate to be the same as the budgeted rate by the end of the year.
- There is a decrease in tenant services expenses in the amount of \$6.2 million. This is largely due to our housing navigation services. \$11.3 million was budgeted for this service but have only contracted \$6.5 million of this amount. The navigation services took some time to implement due to client outreach and HACSB adjusted its leasing goals downward to meet funding levels, which caused the contract to be utilized less than was originally planned.
- Other items contributing to the variance include an increase in Other Income of \$2 million which is due to increases in residual receipts, developer's fees, refunds of property taxes, and interest income. There was also an increase of \$1.7 million in tenant income.
- Our CalWORKs Housing Support Program (HSP) grant has increased and is reflecting \$3.1 million expenses over the budgeted amount. The income related to this program has also increased to offset this increase in expenses.
- Depreciation expenses and gains on disposition of fixed assets are not budgeted and amount to \$3 million through July 2023.

The information provided is based on unaudited information. During the audit process, revenue and expenses are typically adjusted and we expect a material amount of expenses related to the pension and Other Post Employment Benefit (OPEB) plans to be recognized during this process which will decrease the operating net income. The audited financial report will be provided to the Board once the audit process has been completed. The audit process will be completed in late June 2024 for the prior fiscal year which is when the audited financial statements are submitted to HUD.

<b>Financial Summary</b>	<b>FY 2023 YTD</b>
Revenues	\$ 173,421,840
Expenses	\$(166,848,560)
Operating Net Income/(Loss)	\$ 6,573,280
Operating Transfers/Non-Operating Items	\$(3,028,681)
<b>Net Income/(Loss)</b>	<b>\$ 3,544,599</b>

### **BACKGROUND INFORMATION**

HACSB administers multiple housing programs and is the largest provider of affordable housing in the County of San Bernardino. The FFY 2022-23 budget and financial operations continue to support the vision and mission of HACSB and are in line with its Strategic Plan and Moving to Work Annual Plans. Overall, HACSB has demonstrated fiscal stability even through the challenges presented by the pandemic.

Despite ongoing challenges, we continue to focus on maintaining the agency's fiscal stability, customer service, innovation, practices, enhancing partnerships that will assist our staff and families, and showing a continued passion for our agency's mission.

Based on HUD's guidance to routinely present key information to HACSB's Board of Commissioners, HACSB is presenting the financial statements on a monthly basis.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.

## HACSB Budget Comparison

Period = Oct 2022-Jul 2023

Book = Accrual ; Tree = ysi\_is

	YTD Actual	YTD Budget	Variance	% Var	Annual
INCOME					
TENANT INCOME					
Total Rental Income	25,114,107	23,592,510	1,521,597	6.45	28,326,881
Total Other Tenant Income	665,783	444,964	220,819	49.63	533,968
NET TENANT INCOME	25,779,890	24,037,474	1,742,416	7.25	28,860,849
GRANT INCOME					
TOTAL GRANT INCOME	139,926,698	122,459,073	17,467,625	14.26	146,936,780
OTHER INCOME					
TOTAL OTHER INCOME	7,715,252	5,713,439	2,001,814	35.04	6,664,147
TOTAL INCOME	173,421,840	152,209,985	21,211,855	13.94	182,461,776
EXPENSES					
GRANT EXPENSES					
TOTAL GRANT EXPENSES	9,947,751	6,845,183	-3,102,568	-45.32	8,214,219
ADMINISTRATIVE					
Total Administrative Salaries	12,440,638	13,142,613	701,975	5.34	16,054,336
Total Legal Expense	380,598	487,888	107,290	21.99	585,444
Total Other Admin Expenses	6,177,642	6,380,907	203,265	3.19	7,631,528
Total Miscellaneous Admin Expenses	2,128,317	2,398,846	270,529	11.28	2,732,339
TOTAL ADMINISTRATIVE EXPENSES	21,127,195	22,410,254	1,283,059	5.73	27,003,647
TENANT SERVICES					
TOTAL TENANT SERVICES EXPENSES	4,601,197	10,776,242	6,175,045	57.30	12,927,890
UTILITIES					
TOTAL UTILITY EXPENSES	3,280,605	3,388,895	108,291	3.20	4,071,006
MAINTENANCE AND OPERATIONS					
Total General Maint Expense	3,162,283	2,540,815	-621,469	-24.46	3,088,481
Total Materials	995,298	747,725	-247,574	-33.11	897,267
Total Contract Costs	3,449,124	3,047,040	-402,085	-13.20	3,656,124
TOTAL MAINTENANCE EXPENSES	7,606,706	6,335,579	-1,271,127	-20.06	7,641,871
GENERAL EXPENSES					
TOTAL GENERAL EXPENSES	1,900,385	1,214,610	-685,775	-56.46	1,456,368
EXTRAORDINARY MAINTENANCE EXPENSES					
TOTAL EXTRAORDINARY MAINTENANCE EXPENSES	4,130,246	3,554,736	-575,510	-16.19	4,169,817
HOUSING ASSISTANCE PAYMENTS					
TOTAL HOUSING ASSISTANCE PAYMENTS	112,706,962	96,678,456	-16,028,506	-16.58	116,014,147
FINANCING EXPENSE					
TOTAL FINANCING EXPENSES	1,547,515	1,167,261	-380,254	-32.58	1,400,713
TOTAL OPERATING EXPENSES	166,848,560	152,371,215	-14,477,346	-9.50	182,899,678
<b>OPERATING NET INCOME</b>	<b>6,573,280</b>	<b>-161,230</b>	<b>6,734,510</b>	<b>4,176.97</b>	<b>-437,902</b>
NET OPERATING TRANSFER IN/OUT	0	0	0	N/A	0
NON-OPERATING ITEMS					
TOTAL NON-OPERATING ITEMS	3,028,681	0	-3,028,681	N/A	0
NET INCOME	3,544,599	-161,230	3,705,829	2,298.48	-437,902

# **REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION**

**November 14, 2023**

## **FROM**

**MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino**

## **SUBJECT**

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss for the Month of August 2023

## **RECOMMENDATION(S)**

Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month of August 2023.

(Presenter: Maria Razo, Executive Director, 332-6305)

## **STRATEGIC PLAN ALIGNMENT**

**Aspirational Statement #3: To pursue continued financial stability, monitoring, and accountability as stewards of limited funding.**

## **FINANCIAL IMPACT**

The accounts receivable loss for the month ending August 31, 2023, is \$208,150.85. The Housing Authority of the County of San Bernardino (HACSB) projects and anticipates collection losses in its annual budget.

## **BACKGROUND INFORMATION**

On a monthly basis, HACSB records vacated tenant accounts for the Authority Owned Portfolio for the purpose of being written off to collection losses. Authority Owned Portfolio units are owned by HACSB and were either acquired or developed through a variety of partnerships with local governments and/or HACSB's non-profit affiliate Housing Partners I, Inc., and also include public housing developments converted through the United States Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program.

Despite HACSB's efforts to collect the debts listed in the attached reports, it has been determined that such debts are uncollectible. As part of HACSB's standard property management business practices, Board of Commissioners approval is requested to write off these accounts as accounts receivable losses to the Authority Owned Portfolio. Losses during this time period are primarily for voluntary move-outs and evictions. The total write-off for the month of August 2023 is \$208,150.85, as delineated in the following table. Attached is a worksheet that itemizes the individual accounts.

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss  
for the Month of August 2023  
November 14, 2023

**SUMMARY FOR HACSB- Authority Owned Properties**

<b>PROPERTY</b>	<b>NO. VACATED</b>	<b>TOTAL</b>
481130 Maplewood	10	84,084.00
481170 7th St	1	228.17
481172 Bighorn	1	3,155.00
481174 Yosemite	1	4,733.37
407 - Sunset Pointe	3	13,626.99
403 - Summit Walk	1	19,943.00
408 - Sunrise Vista	4	54,814.00
409 - Andalusia	0	-
416 - Arrowhead	0	-
431 - Stone Creek	1	297.00
434d - Third	0	-
481 - Waterman Gardens	0	-
Concessions Write Off		-
<b>TOTAL RENT WRITE OFF</b>	22	180,881.53
Miscellaneous Charges		3,237.41
Maintenance Charges		23,893.59
Legal Charges		16,267.32
Security Deposits Applied		(16,129.00)
<b>NET TOTAL WRITE OFF</b>		208,150.85

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by General Legal Counsel, Fred Galante, on October 31, 2023.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 08/31/23

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481130 Maplewood</b>													
1	T	J		E	700.00	7,023.00		50.00	435.00	802.26	8,310.26	613.00	7,697.26
2	V	K		E	787.00	12,608.00		200.00	753.00	795.00	14,356.00	950.00	13,406.00
3	C	C		E	226.00	2,444.00		50.00	193.00	795.00	3,482.00	250.00	3,232.00
4	A	D		E	815.00	27,976.00		750.00	500.00	815.00	30,041.00	993.00	29,048.00
5	N	D		E	438.00	2,555.00		250.00	1,930.00	795.00	5,530.00	613.00	4,917.00
6	A	S		E	784.00	8,517.00		50.00	550.00	795.00	9,912.00	1,262.00	8,650.00
7	F	P		E	403.00	10,682.00		750.00	2,210.00	845.00	14,487.00	250.00	14,237.00
8	T	R		E	172.00	3,199.00		850.00	1,030.00	795.00	5,874.00	705.00	5,169.00
9	E	R		E	934.00	5,416.00		200.00	455.00	558.00	6,629.00	500.00	6,129.00
10	L	M		E	311.00	3,664.00		-	1,730.00	790.00	6,184.00	942.00	5,242.00
<b>TOTALS:</b>						<b>84,084.00</b>	<b>-</b>	<b>3,150.00</b>	<b>9,786.00</b>	<b>7,785.26</b>	<b>104,805.26</b>	<b>7,078.00</b>	<b>97,727.26</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Pay	11/08/22	Posted	12/14/22	01/05/23	Y		06/07/23	08/02/23	08/01/23
2	Notice to Pay	01/11/23	Posted	02/14/23	03/02/23	N		N/A	08/02/23	08/02/23
3	Notice to Pay	11/08/22	Posted	12/15/22	01/11/23	N		N/A	08/02/23	08/02/23
4	Notice to Pay	11/14/22	Posted	12/15/22	02/24/23	N		N/A	08/24/23	08/24/23
5	Notice to Pay	03/10/23	Posted	04/10/23	04/20/23	N		N/A	08/24/23	08/24/23
6	Notice to Pay	11/08/22	Posted	12/15/22	11/11/23	N		N/A	08/24/23	08/24/23
7	Notice to Pay	06/14/22	Posted	12/15/22	12/12/22	N		N/A	08/24/23	08/24/23
8	Notice to Pay	04/07/23	Posted	05/10/23	05/16/23	N		N/A	08/24/23	08/24/23
9	Notice to Pay	04/07/23	Posted	05/10/23	05/15/23	Y		06/11/23	08/24/23	08/24/23
10	Notice to Pay	11/08/22	Posted	12/13/22	01/10/23	Y		03/28/23	08/30/23	08/30/23

<b>481170 7th St</b>													
1	B	L		E					(156.00)		(156.00)		(156.00)
2	P	A		V	768.00	228.17			2,051.00		2,279.17	1,487.00	792.17
<b>TOTALS:</b>						<b>228.17</b>	<b>-</b>	<b>-</b>	<b>1,895.00</b>	<b>-</b>	<b>2,123.17</b>	<b>1,487.00</b>	<b>636.17</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Collection on bad debt									
2	Notice to Vacate									

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 08/31/23

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>481172 Bighorn</b>													
1	A	A		E	\$656	3,155.00			1,573.00	795.00	5,523.00	1,229.00	4,294.00
<b>TOTALS:</b>						<b>3,155.00</b>	<b>-</b>	<b>-</b>	<b>1,573.00</b>	<b>795.00</b>	<b>5,523.00</b>	<b>1,229.00</b>	<b>4,294.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Pay	04/07/23	Posted or Hand Delivered	05/10/23	06/15/23	n		n/a	08/22/23	08/22/23

<b>481174 Yosemite</b>													
1	A	E		E	598.00	4,733.37			864.00	1,352.50	6,949.87	1,055.00	5,894.87
<b>TOTALS:</b>						<b>4,733.37</b>	<b>-</b>	<b>-</b>	<b>864.00</b>	<b>1,352.50</b>	<b>6,949.87</b>	<b>1,055.00</b>	<b>5,894.87</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Pay	08/11/22	Posted & Mailed	09/01/22	11/14/22	Y		02/23/23	08/08/23	08/08/23

<b>407 - Sunset Pointe</b>													
1	M	D							(992.86)		(992.86)		(992.86)
2	C	J		V	1,200.00	(57.01)			1,520.00		1,462.99	900.00	562.99
3	R	J		E	997.00	7,455.00			664.00	1,400.00	9,519.00	600.00	8,919.00
4	D	A		E	997.00	6,229.00	-		570.00		6,799.00	300.00	6,499.00
<b>TOTALS:</b>						<b>13,626.99</b>	<b>-</b>	<b>-</b>	<b>1,761.14</b>	<b>1,400.00</b>	<b>16,788.13</b>	<b>1,800.00</b>	<b>14,988.13</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Collection on bad debt									
2	Notice to Vacate									08/03/23
3	Notice to Pay	10/06/22	Posted	11/11/22	12/19/22	Y		07/13/23	08/15/23	08/15/23
4	Notice to Pay	10/06/22	Posted	11/11/22	12/21/22	N		N/A	N/A	08/01/23

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.



# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 08/31/23

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>403 - Summit Walk</b>													
1	H	H		E	1,585.00	19,943.00	-		238.00	1,230.00	21,411.00	835.00	20,576.00
							-				-		-
<b>TOTALS:</b>						<b>19,943.00</b>	-	-	<b>238.00</b>	<b>1,230.00</b>	<b>21,411.00</b>	<b>835.00</b>	<b>20,576.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Pay		Posted	02/10/23	03/31/23	N		N/A	08/08/23	08/08/23

<b>408 - Sunrise Vista</b>													
1	F	K		E	945.00	17,499.00			385.00	1,050.00	18,934.00	945.00	17,989.00
2	W	L		E	997.00	7,033.00			974.00	1,050.00	9,057.00	400.00	8,657.00
3	P	B		E	997.00	14,566.00			1,325.00	1,050.00	16,941.00	500.00	16,441.00
4	W	B		E	895.00	15,716.00	-		3,306.45	1,050.00	20,072.45	400.00	19,672.45
<b>TOTALS:</b>						<b>54,814.00</b>	-	-	<b>5,990.45</b>	<b>4,200.00</b>	<b>65,004.45</b>	<b>2,245.00</b>	<b>62,759.45</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Pay	09/06/22	Posted	10/12/22	12/01/22	N		N/A	08/29/23	08/29/23
2	Notice to Pay	01/06/23	Posted	02/09/23	03/15/23	N		N/A	08/22/23	08/22/23
3	Notice to Pay	10/06/22	Posted	11/11/22	01/25/23	N		N/A	08/15/23	08/15/23
4	Notice to Pay	10/06/22	Posted	11/11/22	01/02/23	N		N/A	08/22/23	08/22/23

<b>409 - Andalusia</b>													
1	R	J		S					1,760.00		1,760.00		1,760.00
											-		-
<b>TOTALS:</b>						-	-	-	<b>1,760.00</b>	-	<b>1,760.00</b>	-	<b>1,760.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Adjustment to previous month write off									

<b>416 - Arrowhead</b>													
1	P	D					-	87.41			87.41		87.41
<b>TOTALS:</b>						-	-	<b>87.41</b>	-	-	<b>87.41</b>	-	<b>87.41</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Write off petty cash balance due, former manager passed away									

\*Reasons: E=Evictions S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

# Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 08/31/23

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
<b>431 - Stone Creek</b>													
1	D	P		V	1,278.00	297.00			138.00		435.00	400.00	35.00
											-		-
<b>TOTALS:</b>					<b>297.00</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>138.00</b>	<b>-</b>	<b>435.00</b>	<b>400.00</b>	<b>35.00</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Notice to Vacate	04/18/23								08/07/23

<b>434d - Third</b>													
1	R	M							(112.00)		(112.00)		(112.00)
											-		-
<b>TOTALS:</b>					<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(112.00)</b>	<b>-</b>	<b>(112.00)</b>	<b>-</b>	<b>(112.00)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt									

<b>481 - Waterman Gardens</b>													
1	F	A		E						(495.44)	(495.44)		(495.44)
											-		-
<b>TOTALS:</b>					<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(495.44)</b>	<b>(495.44)</b>	<b>-</b>	<b>(495.44)</b>	<b>(495.44)</b>

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Adjustment on previous month write off									

<b>ALL PROPERTY TOTALS:</b>					<b>180,881.53</b>	<b>-</b>	<b>3,237.41</b>	<b>23,893.59</b>	<b>16,267.32</b>	<b>224,279.85</b>	<b>16,129.00</b>	<b>208,150.85</b>	
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Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

\*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy \*\*Unpaid Misc.: Stipulated agreements for rent, maintenance charges, late charges, etc.

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