

**LOAN AGREEMENT BETWEEN HARRIS COUNTY, NHPF CAROLINE CONDUIT, LLC, AND
MAGNIFICAT PERMANENT AFFORDABLE, LLC FOR THE 3300 CAROLINE STREET PROJECT**

RECITALS

This Loan Agreement (this "**Agreement**") is made and entered into by and between (i) **Harris County**, a body politic and corporate under the laws of the State of Texas, herein called "**Harris County**" or "**Grantee**;" (ii) **NHPF Caroline Conduit, LLC**, a Texas limited liability company, herein called "**Nonprofit**," and (iii) **Magnificat Permanent Affordable, LLC**, a Texas limited liability company, herein called "**Subrecipient and Maker**." The proposed project is located at 3300 Caroline Street, Houston, Texas, 77004, Precinct 1; and

A. WHEREAS, on August 25, 2017, Harris County sustained significant damage when Hurricane Harvey made landfall as a Category 4 hurricane and over the next four days dropped as much as 60 inches of rain along the Gulf Coast, including Harris County, that resulted in a Presidentially Declared Disaster; and

B. WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has allocated \$5.024 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Texas in response to Hurricane Harvey, DR-4332, through the publication of the Federal Register, Vol. 83, No. 28, Friday, February 9, 2018; and

C. WHEREAS, in the State of Texas Action Plan submitted to HUD on May 8, 2018 by the Texas General Land Office (GLO), the State of Texas (the "**State**") made a direct allocation of \$1,115,386,830 in Community Development Block Grant Disaster Recovery (CDBG-DR) funding to Harris County; and

D. WHEREAS, GLO, on May 9, 2018, notified Harris County to complete a Supplemental Action Plan for 2017 Hurricane Harvey Texas CDBG-DR Round One funding, which will be amended into the State's Action Plan; and

E. WHEREAS, in accordance with GLO requirements, on July 10, 2018, the Harris County Commissioners Court approved the Harris County Supplemental Action Plan and resolved to submit the plan to the GLO; and

F. WHEREAS, on February 11, 2019, the GLO and Harris County entered into a Subrecipient Agreement (Agreement: 19-147-002-B490) to provide hurricane disaster recovery housing and planning services utilizing HUD Community Development Block Grant Disaster Recovery (CDBG-DR) funds appropriated under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law No. 115-56). The Subrecipient Agreement, as amended, commits \$1.092 billion to Harris County housing recovery programs. Amendment 3 to the State Action Plan was approved by HUD on June 13, 2019 and (a) increased the Affordable Rental Housing Program allocation from \$204.5 million to \$224.5 million for Affordable Rental projects, and (b) provides, in Section 8.04 that Harris County make all contractors and subcontractors subject to all the "duties, requirements, and obligations" of Harris County under the Subrecipient Agreement, and

G. WHEREAS, on August 11, 2020, Harris County Commissioners Court approved funding for the 3300 Caroline Street Project, under Project Number D2017-089 (CDBG-DR), including the construction of 3300 Caroline Street, a new four-story elevator-served building consisting of 149 efficiency apartments, shared space for the supportive programs and office space for the Magnificat Houses, Inc., a Texas nonprofit corporation ("**MHI**") staff (the "**Project**"). Notwithstanding anything in this Agreement to the contrary, the Project will, for all purposes, be treated as new construction. The funding approval obligates \$8,538,278.00 in 2017

Hurricane Harvey Texas CDBG-DR funds. Pursuant to a Ground Lease between Subrecipient and Maker, as tenant, and **MHI Landholdings LLC**, a Texas limited liability company ("**Ground Lessor**"), as landlord (the "**Ground Lease**"), Subrecipient and Maker will acquire a leasehold interest in the land (the "**Land**") described in Exhibit A attached to the Deeds of Trust (hereinafter defined), and construct 3300 Caroline Street on said land, a new 149-unit four-story elevator-served building consisting of 149 efficiency apartments, shared space for the supportive programs and office space for the Magnificat staff. The 76 restricted **Floating** units (being 51% of the total units) will be CDBG-DR assisted units (Low-to-Moderate Income tenants). The total Harris County funding for the new construction of the Project will be \$8,538,278.00, with the estimated total of all funding related to such new construction of the Project being approximately \$39,228,425.00, and Subrecipient and Maker will maintain ownership of the Project at Project Completion (hereinafter defined in Paragraph II (D) (3)). In addition to other funds, the Project is partially funded by (a) the City of Houston, with \$15,000,000.00 in Community Development Block Grant Disaster Recovery Harvey funds (CDBG-DR Funds) (the "**City Loan**") from the City of Houston (the "**City**") pursuant to the terms of the documents governing, securing, and/or evidencing the City Loan, including without limitation the Restrictive Covenants executed by Subrecipient and Maker for the benefit of the City (the "**City Restrictions**") (collectively, the "**City Loan Documents**"); (b) MHI Landholdings LLC, Texas limited liability company ("**Subordinate Lender**"), with a \$2,358,371.00 loan (the "**Subordinate Loan**") pursuant to the terms of the documents governing, securing, and/or evidencing the Subordinate Loan (collectively, the "**Subordinate Loan Documents**"); and (c) KeyBank National Association, a national banking association ("**Bridge Lender**"), with a \$5,000,000.00 loan (the "**Bridge Loan**") pursuant to the terms of the documents governing, securing, and/or evidencing the Bridge Loan (collectively, the "**Bridge Loan Documents**"); and

H. WHEREAS, the 3300 Caroline Street project was selected to receive CDBG-DR funds via a project application process which opened on November 6, 2019, and closed January 22, 2020; and

I. WHEREAS, the 3300 Caroline Street project received GLO conditional approval on March 18, 2021; and

J. WHEREAS, the Grantee wishes to engage Subrecipient and Maker in utilizing CDBG-DR funds and enter into a Loan (the "**Loan**") from Grantee to Nonprofit, which will in turn simultaneously loan such funds to Subrecipient and Maker to pay for the partial costs of new construction of the Project and increase affordable housing for low-income households of Harris County, which is an eligible activity under the rules and regulations regarding the CDBG-DR Program, and to maintain Subrecipient and Maker's ownership of the Project at the completion of construction. Further, Subrecipient and Maker and its respective constituent entities and operating or partnership agreements must be acceptable to Harris County Community Services Department (HCCSD) in all respects; and

K. WHEREAS, Grantee acknowledges and agrees that Nonprofit shall loan the proceeds of the Loan to Subrecipient and Maker (the "**Partnership Loan**") pursuant to the terms of a separate loan agreement between Nonprofit, as lender, and Subrecipient and Maker, as borrower, which has been or will be approved by Grantee. Subrecipient and Maker will use the proceeds of the Partnership Loan for the payment of the costs to acquire a leasehold interest in the Land and construct the Project. To secure the Loan, Nonprofit will collaterally assign the Partnership Loan and the documents governing, evidencing, and/or securing the Partnership Loan to Grantee, including without limitation (a) that certain Collateral Note executed by Subrecipient and Maker for the benefit of Nonprofit (the "**Collateral Note**"); and (b) those certain deeds of trust to secure performance, specifically the leasehold deed of trust executed by Subrecipient and Maker for the benefit of Nonprofit (the "**County Leasehold Deed of Trust**") and the fee deed of trust executed by MHI Landholdings LLC for the benefit of Grantee (the "**County Fee Deed of Trust**"), which are collectively referred to herein as the "**Deeds of Trust**"; and (c) all of the other documents governing, evidencing, and/or securing the Partnership Loan

(collectively, together with the Collateral Note and the Deeds of Trust, (the "**Partnership Loan Documents**"), pursuant to a Collateral Assignment of Note and Liens dated of even date with the Partnership Loan Documents and executed by Nonprofit for the benefit of the Grantee (the "**Collateral Assignment**"); and

L. WHEREAS, the Subrecipient and Maker shall ensure recognition of the role of Grantee in providing services through this Agreement; and all activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient and Maker will include reference to HCCSD for the support provided herein in all publications made possible with funds made available under this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Harris County, Nonprofit and the Subrecipient and Maker do mutually agree as follows:

I. TERMS OF LOAN

A. **CDBG-DR Loan Amount:** \$8,538,278.00, which includes \$400,870.00 for HCCSD project management and oversight and Harris County Engineering Department (HCED) inspections, as well as a \$120,000.00 Construction Management cost, totaling \$520,870.00.

B. **CDBG-DR Loan Term Periods**

	CDBG-DR Loan Term	CDBG-DR Loan Interest	CDBG-DR Repayment
1	20 Years	0.00%	Subject to the other terms of this Agreement and the other County Loan Documents: \$0.00

C. **Collateral:** A first lien (of even priority with the City Loan) on Subrecipient and Maker's leasehold interest in the Land and any improvements located on or to be located thereon, and Uniform Commercial Code (UCC) filings for fixtures; (ii) a first-priority (of even priority with the City Loan) assignment of all leases and rents; and (iii) a first-priority (of even priority with the City Loan) collateral assignment of all contracts, management agreements, and other agreements and all permits relating to the Project. All income and rent restrictions will be subordinate to or of equal priority with the Regulatory Agreement and the City Restrictions (as defined in the Loan Agreement).

D. **Payment and Performance Guaranty:** 100% guarantee of completion, performance, and repayment to be provided by The NHP Foundation, a District of Columbia nonprofit corporation ("**Guarantor**") (the "**Guaranty**"). The Guaranty will be joint and several for completion of the Project and repayment of the financing described in this Agreement, including interest and costs, until the date of Project Completion when such guaranty shall automatically terminate. Project Completion must occur no later than 18 months after construction start, subject to delays resulting from force majeure. A copy of the substantially final form of the Guaranty shall be attached as **Exhibit "Z"** to this Agreement, and following execution, an executed copy of the Guaranty shall be attached as **Exhibit "CC-1"** to this Agreement.

E. **Loan Note and Collateral Note:** Subrecipient and Maker shall execute and deliver a Promissory Note to Nonprofit (the "**Collateral Note**"), and Nonprofit will in turn execute and deliver a Loan Note to Grantee (the "**Loan Note**") pursuant to the terms set forth in Section I of this Agreement (the "**Terms of the Loan**") in a form substantially similar to the form of the Loan Note attached as

Exhibit "A" to this Agreement, and following execution, an executed copy of the Loan Note shall be attached as **Exhibit "CC-2"** to this Agreement.

- F. **The County Loan Documents:** Notwithstanding anything to the contrary set forth in each of (i) this Agreement, (ii) the substantially final form of the Deeds of Trust attached hereto as **Exhibit "I" and Exhibit "I-2"** to this Agreement, and following execution, an executed copy of the Deeds of Trust shall be attached as **Exhibit "CC-5"** to this Agreement, (iii) the substantially final form of the Regulatory Agreement and Declaration of Covenants and Restrictions (the "**Regulatory Agreement**") is attached hereto as **Exhibit "J"** of this Agreement, and following execution, an executed copy of the Regulatory Agreement shall be attached as **Exhibit "CC-7"** to this Agreement, (iv) the substantially final form of the Security, Pledge and Assignment of Account (Affordable Housing Compliance Monitoring Fees) (the "**Pledge**") is attached hereto as **Exhibit "Y"** of this Agreement, and following execution, an executed copy of the Pledge shall be attached as **Exhibit "CC-4"** to this Agreement, and (v) the other documents governing, evidencing, and/or securing the Loan ((i)-(v) collectively, the "**County Loan Documents**"), Subrecipient and Maker, and each of the members therein, shall have the right to cure all defaults and Defaults under the County Loan Documents; and in each such instance Grantee shall accept the cures in the same manner as if the cure was made by Subrecipient and Maker.

Notwithstanding anything to the contrary set forth in this Agreement or any of the other County Loan Documents to the contrary, Subrecipient and Maker and Subrecipient and Maker's members shall have the right to fulfill Subrecipient and Maker's and Nonprofit's obligations under this Agreement and the other County Loan Documents, and in each such instance Grantee shall accept Subrecipient and Maker and Subrecipient and Maker's members', as applicable, fulfillment of such obligations as if the applicable actions were taken by Subrecipient and Maker and/or Nonprofit, as applicable.

II. SCOPE OF SERVICES

A. Eligible Activities

Subrecipient and Maker will provide the activities described in **Exhibit "B,"** attached hereto and incorporated herein for all purposes (the "**Scope of Services**"), in accordance with the provisions of this Agreement and in compliance with the requirements of Title I of the Housing and Community Development Act of 1974 and all regulations issued thereunder. A failure by the Subrecipient and Maker to abide by such provisions of this Agreement (which is continuing beyond the expiration of all applicable notice and cure periods) shall constitute a breach of this Agreement.

Subrecipient and Maker shall ensure that personnel and/or contractors providing services under this Agreement have all licenses required by law and/or are qualified to perform the services required under this Agreement. The Subrecipient and Maker shall further ensure that all Program and/or facility licenses necessary to provide the services required hereunder are current and that HCCSD shall immediately be notified if any such required licenses become invalid or are cancelled during the term of this Agreement. Subrecipient and Maker agrees to utilize the CDBG-DR funds in the Project in accordance with this Agreement.

B. Project Requirements

The Subrecipient and Maker shall be responsible for administering a CDBG-DR project in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. This Agreement may provide only partial funding for this Project. The Subrecipient and Maker qualifies for the receipt and expenditure of such funding because at least 51% of the persons residing in the service area are of low and moderate income that meet one of the criteria for National Objectives set out in 24 C.F.R. § 570.208(a).

The Subrecipient and Maker certifies and agrees that the activities carried out with funds provided under this Agreement shall meet one or more of the CDBG Program's National Objectives: (1) benefit low- and moderate-income persons and households, (2) aid in the prevention or elimination of slums or blight, and/or (3) meet community development needs having a particular urgency, as defined in 24 C.F.R. § 570.208. The Subrecipient and Maker agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG Program's National Objectives for each activity in each reporting period.

The Subrecipient and Maker shall ensure that personnel providing services under this Agreement have all licenses required by law and/or are qualified to perform the services required under this Agreement. The Subrecipient and Maker shall further ensure that all Program and/or facility licenses necessary to provide the required services are current and that HCCSD shall immediately be notified if any such required licenses become invalid or are canceled during the term of this Agreement.

The Subrecipient and Maker must maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet HCCSD Program requirements.

Subrecipient and Maker must assure the Project's construction complies with the **Mitigation Measures and Conditions** identified in the required environmental review. The following Mitigation Measures and Conditions were identified:

- Subrecipient and Maker agrees to comply with mitigation actions required by the Part 58 Environmental Review, including any mitigation arising from findings of the Phase I Environmental Site Assessment (ESA) or the HUD Noise Study.

Subrecipient and Maker must assure the Project's construction complies with the **AFFH Conditions** identified in the required Affirmatively Furthering Fair Housing (AFFH) review completed on October 20, 2020. The following AFFH Conditions were identified:

- Subrecipient and Maker agrees to install tenant safety improvements, such as perimeter fencing, along with keyed entries, if feasible from a budgetary and design perspective.
- Applicant reconsiders the market area designation in its Affirmative Fair Housing Marketing Plan (AFHMP) beyond the development's zip code, or provides additional information supporting the use of this geography as the primary source of its tenants. The AFHMP instructions indicate a broader geography should be considered (county, metropolitan division) and compared with the Census Tract containing the development; even if zip codes provide the appropriate scale for the market area, the development is located in the extreme northwest corner of the zip code, which itself covers a relatively small area of central Houston. The Market Study provided with the application covers Harris County and several suburban counties. The scale of the market area will affect the demographic groups targeted for outreach—for example, if either Houston or Harris County is selected as the primary market

area and the Houston-The Woodlands-Sugar Land MSA as the expanded market area, the data indicate groups least likely to seek housing include people identifying as Black/African Americans or Hispanic/Latino/Latina. Persons with disabilities and Spanish-speaking people with limited English proficiency are presumed to benefit from enhanced outreach regardless of the demographic data and should also be targeted in the Plan.

Subrecipient and Maker must assure the Project's construction complies with the Loan Conditions identified in the required Loan Conditions. The following Loan Conditions were identified:

- A Land Use Restriction Agreement (LURA) will be enacted to ensure affordability and compliance as required by HOME and CDBG-DR regulations and will be filed superior to all other liens.
- As a condition of funding, Subrecipient and Maker will be required to provide seventy-six (76) CDBG-DR assisted units, including fourteen (14) Rehabilitation Act Section 504-compliant units. The breakdown of units follows:

2020 Rent Limits**
High Rent Limit: 15 units
Low Rent Limit: 31 units
60% Low HOME Rent Limit: 30 units

** The 2020 Rent Limits set forth above shall only apply to the portion of rent that the tenant pays.

Section 504 Accessibility (Base)	HCCSD Additional Accessibility	Total
Mobility Impaired: 8 units	Mobility Impaired: 2 units	Mobility Impaired: 10 unit
Sensory Impaired: 3 units	Sensory Impaired: 1 units	Sensory Impaired: 4 units

- The total number of affordable units is one hundred forty-nine units (149), of which seventy-six (76) are CDBG-DR-assisted. The CDBG-DR units must be leased in accordance to the median household income levels provided:

Household MedianIncome	Number of Affordable Zero-bedroom Units
30% or Below	30
31-50%	31
51-80%	15
TOTAL	76

- Pursuant to the terms and conditions herein, of the One Hundred Forty-Nine (149) units comprising the Project, Subrecipient and Maker agrees that seventy-six (76) of those units will be occupied by individuals or families that (a) require the use of permanent supportive housing (each of such unit to be referred to herein as a "PSH Unit"), or (b) require the use of Supportive Housing as that term is defined pursuant to the Texas Department of Housing and Community Affairs ("TDHCA"). The Parties to this Agreement hereby acknowledge that the availability of funding for supportive services necessary for the PSH Units is dependent upon federal, state and Continuum of Care (the "CoC") funding. The seventy-six (76) CDBG-DR assisted units

required herein shall (i) be the same seventy-six(76) "Designated Units" in the City Loan Documents, (ii) be subject to all requirements thereunder and herein, and (iii) in the event of conflict, the most restrictive requirements shall control.

Background: The CoC is a collaborative including social service agencies, local governments (including without limitation, the City of Houston and Harris County), public housing authorities, and nonprofit groups providing services to those experiencing Homelessness in the City and the County. The primary federal source for funding such services for the Homeless is HUD's annual Continuum of Care Program Competition outlined and conducted by HUD through an annual Notice of Funding Opportunity (the "CoC NOFO"). HUD has required all communities in the country competing pursuant to the CoC NOFO for the annual CoC funding, to form such collaboratives as a threshold requirement for eligibility. The Coalition is a local non-profit corporation focused on coordinating the efforts of local governmental entities and nonprofits on the needs of the Homeless in the Houston area. The Houston-area CoC is administered by the Coalition, which utilizes the Homeless Management Information System ("HMIS"), a software tool designed to capture client-level and system-wide information over time on the characteristics and service needs of individuals and households experiencing Homelessness.

Subrecipient and Maker will provide no less than thirty (30) efficiency units as PSH Units, the residents of which may be identified by the CoC or the Coalition utilizing the HMIS system or other means during the Affordability Period. Commencing with lease-up of the Project and thereafter as PSH Units become available for rental, the CoC will be permitted to have access to these units for a minimum of a 60-day period that will include application review. Notwithstanding anything to the contrary set forth in this Agreement, the Regulatory Agreement and Declaration of Covenant and Restrictions , or any of the other Loan Documents, in the event the CoC System is unable to identify and refer an eligible and available tenant to occupy one (1) of the CoC PSH Units within the above referenced 60-day period, the applicable unit may be leased to a tenant from outside the CoC System.

Subrecipient and Maker will (a) fund the base minimum tenant PSH services in the amount of \$193,290.00 (i.e. \$6,443.00 x 30 units) from the Project's cash flow for the first year of occupancy following Project Completion, and for each subsequent year in the same amount increased by no less than 2% for each year over the prior year the "Annual PSH Fund" and (b) fund tenant services from the Project's cash flow and an approximately \$1,700,000.00 service reserve ("Service Reserve") which shall be established at Project Completion and stabilized occupancy. Subrecipient and Maker shall draw said funds to pay for the additional supportive services needed to support at least thirty (30) CoC PSH Units throughout the Tax Credit Compliance Period and thereafter throughout the Affordability Period for as long as possible, subject to, regarding the remainder of the Affordability Period following the Tax Credit Reporting Period only, securing the necessary funding from third party sources. Additionally, Subrecipient and Maker agrees to make good faith efforts to secure additional supportive service funds from third-party sources to be used to pay the expenses required to provide additional CoC PSH Units. Subrecipient and Maker agrees to provide one (1) additional CoC PSH Unit (up to 80% of the 149 total Units) for each annual increment of \$6,443.00 (the amount needed to provide the additional services necessary to support each PSH Unit, adjusted annually for inflation) that Subrecipient and Maker receives from a third party that is designated to pay the supportive services costs associated with housing tenants who are referred through the CoC System.

Notwithstanding anything contained elsewhere in this Agreement, the requirement to provide CoC PSH Units shall only extend through the Tax Credit Compliance Period unless (i) the term of the housing vouchers is extended or (ii) Substitute Supportive Services Funding is available and /or funds remain in the Service Reserve to pay such costs. If at the end of the Tax Credit Compliance Period, the housing vouchers are not extended beyond their fifteen year term, the Service Reserve is depleted and other substitute funding is not identified ("Substitute Supportive Services Funding"), the Project will no longer be required to maintain PSH Units, but nothing contained herein is intended to reduce the number of CDBG-DR assisted units that are required to be provided hereunder.

The Service Reserve may not be utilized for any other purpose and under no conditions may it be distributed to Nonprofit, Subrecipient and Maker, Ground Lessor or any partner, member or affiliate thereof. If for any reason the full Annual PSH Fund is not available due to a lack of cash flow, it shall be funded each year to the extent of available cash flow.

Definitions: The following definitions will be applicable throughout this Agreement:

A. Chronically Homeless (pursuant to 24 CFR Section 578.3): (1) A "homeless individual with a disability," as defined in Section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who: (i) lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and (ii) has been homeless and living as described in Paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in Paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility; (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in Paragraph (1) of this definition, before entering that facility; or (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in Paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

B. Homeless (pursuant to 24 CFR 578.3): (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; (ii) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or (iii) an individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency

shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that: (i) the primary nighttime residence will be lost within 14 days of the date of application for homeless assistance; (ii) no subsequent residence has been identified; and (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who: (i) are defined as homeless under Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), Section 637 of the Head Start Act (42 U.S.C. 9832), Section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), Section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a); (ii) have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance; (iii) have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and (iv) can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; (ii) has no other residence; and (iii) lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

C. Supportive Housing (pursuant to 10 TAC Chapter 11 promulgated by the TDHCA): housing for which supportive services are tailored for members of a household with specific needs, such as: (i) Homeless or persons at-risk of homelessness; (ii) Persons with physical, intellectual, or developmental disabilities; (iii) Youth aging out of foster care; (iv) Persons eligible to receive primarily non-medical home or community-based services; (v) Persons transitioning out of institutionalized care; (vi) Persons unable to secure permanent housing elsewhere due to specific, non-medical, or other high barriers to access and maintain housing; (vii) Persons with special housing needs including households where one or more individuals have alcohol or drug addictions, Violence Against Women Act Protections (domestic violence, dating violence, sexual assault, and stalking), HIV/AIDS, or is a veteran with a disability; or (viii) Other target populations that are served by a federal or state housing program in need of supportive services.

D. Tax Credit Compliance Period shall mean with respect to any building within the Project, the fifteen-year period beginning with the first taxable year of the Credit Period with respect thereto, as defined in Section 42(i)(I) of the Internal Revenue Code.

- Proposed Project will adhere to Harris County Affordable Housing Standards and meet ENERGY STAR Certification, as indicated in application, and utilize ENERGY STAR-rated electric devices and other measures to minimize negative thermal influences.
- Prior to closing, Subrecipient and Maker will submit to the County a copy of the management plan ("PSH Management Plan") outlining housing and services based on a Housing-First model. Upon the County's approval thereof, not to be unreasonably withheld, the PSH Management Plan will be used at the Project throughout the Affordability Period. Any amendments to the PSH Management Plan following such submittal will be subject to County approval, not to be unreasonably withheld. Housing First is a Chronic Homeless assistance approach that prioritizes providing permanent supportive housing (PSH) to people experiencing Chronic Homelessness to address all of their basic needs or problems, including but not limited to behavioral health or substance use issues. Housing First is based on the premise that client choice is valuable in housing selection and supportive service participation, and that exercising that choice is likely to make a client more successful in remaining housed and improving their life.
- The proposed project will have an annual monitoring fee of \$50.00 per assisted unit (76 units) for a total fee of \$3,800.00 due 12 months after the issuance of the Certificate of Occupancy permit and annually thereafter for the duration of the loan term.
- Magnificat Permanent Affordable, LLC and property management staff for 3300 Caroline Street shall participate in the SH System and provider forums in addition to submitting data on residents in the local Homeless Management Information System (HMIS). Subrecipient and Maker must also annually report accomplishments, beneficiaries, and tenancy to HCCSD in compliance with HUD/GLO HOME and CDBG-DR rules and regulations.
- Allied Orion Group property management or any other subsequent property management must allow required unit inspections annually and at the request of HCCSD.
- The proposed Project is required to comply with HUD Section 3/MWBE and Davis Bacon requirements.
- The proposed Project must be equipped for broadband internet service and install broadband infrastructure. If the installation of broadband infrastructure creates an undue financial burden or is not feasible, then your organization must provide an explanation and documentation for Harris County and GLO's records and, upon provision thereof, the Broadband Requirements may be waived by Harris County.

Americans with Disabilities Act Standards (ADA), and Section 504: The Subrecipient and Maker shall be required, in accordance with the Affordable Rental Housing CDBG-DR RFA/RFP for Hurricane Harvey, to provide a minimum for new construction of two (2) additional units above the standard 5% Mobility-Impaired units, and one (1) additional unit above the standard 2% Sensory-Impaired Units consisting of the following total set asides: Mobility-Impaired Units (10 total) and Sensory-Impaired Units (4 total) for a total of 14 units.

1. Property Standards

- a. Subrecipient and Maker and Contractor must meet HCCSD's property standard requirements and housing must meet all applicable local codes, ordinances and zoning ordinances and Grantee's "Harris County Affordable Housing Standards and Minimum Property Standards for Multifamily Housing Construction" identified in **Exhibit "E"** at the time of the Project Completion.
- b. Newly rehabilitated and newly constructed housing must meet the International Energy Conservation Code, Chapter 11 of the State of Texas' International Residential Code (IRC) and the requirements of the ENERGY STAR Program. Prior to commencing construction, the Subrecipient and Maker will provide completed Architect/Builder's Certification Form, **Exhibit "F"** and documentation of third-party certification of ENERGY STAR compliance in accordance with **Exhibit "B, Activity #5"** of this Agreement.
- c. The housing must meet the HCCSD's accessibility requirement at 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and covered multifamily dwellings, as defined at 24 C.F.R. §100.201, must also meet the design and construction requirements at 24 C.F.R. §100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619), and the requirements of the Americans with Disabilities Act of 1990 (ADA) Title II (28 C.F.R. Part 35) and Title III (28 C.F.R. Part 36) 2010 Standards for Accessible Design. **Exhibit "B, Activity #10"** of this Agreement specifies the minimum unit apportionment for compliance and other documentation to be completed.

C. General Administration

1. Drawings, Plans, Bid Specifications & Construction Documents

Within 60 days after the date this Agreement is executed, the Subrecipient and Maker, through its representative selected pursuant to federal procurement regulations set out in 2 C.F.R. §200.318 and to Grantee policy and procurement guidelines, shall prepare and submit all final drawings, plans, cost estimates and specifications for the Project. Subrecipient and Maker shall be responsible for incorporating into bid specifications any and all HUD and any and all HCCSD requirements, including the "Construction Policies and Guidelines," attached as **Exhibit "C."**

Subrecipient and Maker shall ensure that the specifications require the contractor to furnish adequate Public Liability Insurance and Workers' Compensation Insurance pursuant to the laws of the State of Texas, and Payment Bond and Performance Bond pursuant to applicable Office of Management and Budget (OMB) circulars ("**OMB Circulars**").

Once approved by Grantee, the complete set of drawings, plans, cost estimates and specifications (collectively, the "**Approved Plans**") shall be incorporated into this Agreement as part of **Exhibit "B."**

2. Project Signage and Job Shack

Subrecipient and Maker shall ensure delivery and installation of one (1) 4'-0" X 8'-0" temporary project sign pursuant to Grantee's requirements. Subrecipient and Maker will furnish adequate workspace at the construction site in the job shack for Grantee inspection and monitoring staff, if applicable. Subrecipient and Maker will furnish, deliver, and install one (1) permanent bronze plaque prior to Project Completion according to Grantee specifications.

3. Bidding and Selection of Contractor and Subcontractors

Subrecipient and Maker agrees and understands that all contracted and subcontracted construction activities carried out under this Agreement have been selected pursuant to federal procurement regulations set out in 2 C.F.R. §200.318, the Grantee's policy and procurement guidelines.

Within fifteen (15) days after the Grantee's written approval of the building permit set plans , the Subrecipient and Maker shall advertise for and receive bids for the construction of the Project, in accordance with the building permit set plans, which bidding procedure shall be in accordance with this Agreement.

Upon receipt and tabulation of the bids for the Project, the Subrecipient and Maker shall determine the lowest and most responsible bidder for the construction of the Project. Within fifteen (15) days after receipt of bids, the Subrecipient and Maker shall forward, or cause to be forwarded, to HCCSD, copies of all bids received, copy of all bid bonds, and bid tabulation for HCCSD's review and approval. HCCSD reserves the right to approve the award of the bid. In the event the lowest and most responsible bid for the construction of the Project is an amount that would result in the total cost of the Project being equal to or less than the sum allocated in the construction line item of the Budget, detailed in **Exhibit "D"** of this Agreement (as may be amended in accordance with the terms of this Agreement, the "**Budget**"), the Subrecipient and Maker shall notify HCCSD of the amount of the lowest and most responsible bid for the Project.

In the event the lowest and most responsible bid for the construction of the Project is an amount in excess of the sum allocated in the construction line item of the Budget, detailed in **Exhibit "D"** of this Agreement, the Subrecipient and Maker shall have the following four (4) options:

- a. The Subrecipient and Maker shall notify HCCSD of the bid and request HCCSD to agree in writing to use those funds allocated in the contingency line item of the Budget, detailed in **Exhibit "D"** of this Agreement, to fund the excess construction costs to meet the lowest and most responsible bid received by the Subrecipient and Maker. If the HCCSD approves the use of contingency funds to meet the lowest and most responsible bid, then the Subrecipient and Maker, upon receipt of such notification, shall proceed to let the contract, incorporating all required provisions, and continue with construction of the Project; or
- b. The Subrecipient and Maker shall notify HCCSD of the bid and agree in writing to pay the additional cost of the Project. In the event the Subrecipient and Maker agrees in writing to pay the additional costs, then and in that event, the Subrecipient and Maker shall proceed to let the contract and continue with the construction of the Project. If the Subrecipient and

Maker fails to agree in writing to pay said additional costs and HCCSD fails to use contingency funds, then and in that event, the Subrecipient and Maker may reject all bids and elect not to proceed with the letting of the contract and terminate the Project without any further obligations to HCCSD; or

- c. The Subrecipient and Maker shall notify HCCSD of the bid and undertake to negotiate with HCCSD for HCCSD to agree in writing to reduce or delete specific items in the bid proposal so that bids will be within the amount available for construction. In the event HCCSD agrees in writing to reduce or delete items in the bid proposal, the Subrecipient and Maker shall re-bid the Project and proceed as if it were the original bid; or
- d. The Subrecipient and Maker shall reject all bids and elect not to proceed with the letting of the contract and terminate the Project, giving HCCSD written notice of its termination.

The Grantee will ensure that the below listed required HUD/GLO bid documents are submitted by each bidder during the bid process:

- 1. Certificate from Contractor Appointing Officer or Employee to Supervise Payment of Employees
- 2. Statement of Bidder's Qualifications
- 3. Contractor Certifications: Certification of Bidder Regarding Civil Rights Laws and Regulations
- 4. Policy of Non-Discrimination on the Basis of Disability
- 5. Concerning Labor Standards and Prevailing Wage Requirements
- 6. Non-Collusion Affidavit of Prime Bidder
- 7. Contractor's Local Opportunity Plan
- 8. Section 3 Employment and Minority Business Plan
- 9. Contractor Certification of Efforts to Fully Comply with Employment and Training Provisions of Section 3

Subject to the terms of Section XII(B), (Termination Without Cause), the Grantee may terminate this Agreement without cause, at any time prior to the letting of the contract for construction of the Project, by written notice to the Subrecipient and Maker and the Subrecipient and Maker shall have no obligation hereunder except to return to HCCSD the funds paid to the Subrecipient and Maker, if any, by HCCSD pursuant to this Agreement.

Notwithstanding anything to the contrary set forth in this Agreement, including without limitation the competitive bidding and federal procurement requirements detailed in this Agreement and the exhibits attached hereto, Grantee shall permit the Project, wherein the Subrecipient and Maker has, either directly or through a developer affiliated with Subrecipient

and Maker, disclosed to Grantee that it has a related party contractor, to utilize a private bidding process for subcontractors that will not be subject to the provisions in this Agreement related to competitive bidding and federal procurement, subject to the following conditions: (i) Subrecipient and Maker's submission of the private bids to the County for the County's evaluation of such bids against the independent cost estimate obtained by the County, (ii) Subrecipient and Maker's completion of a Section 3 utilization plan, (iii) no cost-plus contracting, (iv) Subrecipient and Maker's submission of general contractor's bid to the County for the County's evaluation of such bid against the independent cost estimate obtained by the County, and (v) execution of agreements within required deadlines (except for deadlines that are based on competitive bidding and/or federal procurement requirements). The permission granted to Subrecipient and Maker in this Paragraph is unique to the Subrecipient and Maker and is not applicable to any transferee or assignee.

4. Construction Contract and Subcontractor Written Agreements

Within fifteen (15) days after notification by the Grantee to the Subrecipient and Maker that the construction bid has been approved, the Subrecipient and Maker shall provide written notice of award to the lowest and most responsible bidder for the Project, in accordance with applicable federal, state and local procurement procedures and regulations. The Subrecipient and Maker shall contract directly with its contractor, incorporating all applicable requirements of this Agreement herein (e.g., this Agreement as an Exhibit to the contract(s)). The contract between the Subrecipient and Maker and its contractor and all contracts between contractor and its subcontractors shall be in accordance with the guidelines of this Agreement and with all applicable HUD CDBG-DR and HOME Program regulations and OMB circulars, all other Required Federal Grant Contract Provisions attached hereto, and HCCSD requirements, including the "Construction Policies and Guidelines," attached as **Exhibit "C,"** each to the extent applicable, and shall be subject to review, upon request, by Grantee.

The Subrecipient and Maker shall be responsible for incorporating into each subcontractor contract any and all HUD CDBG-DR and HOME Program regulations, OMB circulars, and HCCSD requirements, including the "Construction Policies and Guidelines," attached as **Exhibit "C."**

5. Construction Start Date, Construction Schedule, and Completion of Work

Construction Start Date – Within thirty (30) days after the closing and funding of the Loan (as defined in the Loan Agreement), the Subrecipient and Maker shall ensure that the construction commences with the issuance of the Notice to Proceed (NTP) with construction.

Construction Schedule – The Subrecipient and Maker shall furnish to the Grantee, or cause to be furnished to the Grantee, a copy of the detailed Construction Schedule with the NTP (the "**Construction Schedule**"). The Construction Schedule shall be a bar type schedule and shall be of sufficient detail to show construction sequence, proposed start dates and estimated completion dates for major parts of the construction work.

Completion of Work – The Subrecipient and Maker shall ensure that, except in cases of force majeure, Project Completion shall occur on or before the expiration of eighteen (18) months

following the Construction Start Date as a condition under the CDBG-DR Harvey GLO Contract No. 19-147-002-B490.

6. Schedule of Values, Payments to Contractor and Change Orders

Schedule of Values – The Subrecipient and Maker shall furnish or cause to furnish the Grantee with the Schedule of Values for the Project for review prior to the first partial payment.

Payments to Subrecipient and Maker – The Subrecipient and Maker shall ensure that requests for payment are based on the percentage of work completed, pursuant to the requirements of **Exhibit "C,"** as detailed in the Schedule of Values and certified by the Subrecipient and Maker's representative. The Subrecipient and Maker, through its representative, shall ensure that the work performed by the selected contractor shall be subject to retainage provisions of Section 53.101 of the Texas Property Code "Required Retainage," as it may be amended from time to time.

Upon Project Completion, and acceptance as such by the Subrecipient and Maker and Grantee pursuant to the terms of Paragraph II (D) (3), final payment shall be made to the Subrecipient and Maker releasing retainage. All pay requests and release of retainage shall be verified and signed by HCED.

Change Orders – The Subrecipient and Maker shall ensure (1) that the cumulative increase in the construction contract shall not exceed twenty-five (25) percent of the original construction contract for contracts awarded at \$1 million or more, and (2) if a change order for a contract with an original contract amount below \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than twenty-five (25) percent pursuant to Section 271.060 of the Texas Government Code, as subsequently amended. The Subrecipient and Maker shall approve in writing and submit to the Grantee for review and approval any change orders to the original construction contract, which shall be appropriately reflected in the Schedule of Values and subsequent pay requests. The Grantee reserves the right to approve any change orders. Any extension of time given shall not release the contractor or the surety from their Performance and Payment Bonds, which shall remain in full force and effect until the discharge of the contractor. All change orders to the original construction contract shall be verified and signed by HCED.

7. Inspections

During the construction of the Project, Grantee or its designee, the Subrecipient and Maker and HUD shall have the right to review all documents, maps, plats, records, photographs, reports or plans affecting said construction. Subrecipient and Maker shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the construction contract. In the absence of inspections by Subrecipient and Maker, Subrecipient and Maker shall be deemed to have accepted those inspections made by Grantee's representative, HCED. The Subrecipient and Maker agrees to promptly make any corrections or modifications to the construction work as reasonably requested by Grantee to cause the construction to comply with this Agreement and any applicable HUD requirements.

8. Compliance with Federal, State and Local Laws and Regulations

Subrecipient and Maker shall maintain documentation evidencing that the Project complies with all applicable federal, state and local housing quality standards and code requirements.

The Grantee shall enforce the compliance violations provisions detailed in **Exhibit "C,"** Section 13(D), for any and all violations for which the contractor and/or subcontractor, through the Subrecipient and Maker, has received a Notice of Non-Compliance or a wage restitution notification letter and failed to implement corrective actions within the allotted grace period of fifteen (15) to thirty (30) calendar days from the date of the written notice or letter.

9. Default

(A) The occurrence of any one of the following events shall constitute a default (referred to as a **"Default"**):

(i) Other than pursuant to occupancy leases and easement agreements and other similar instruments, and other transfers permitted by the terms of the Loan Documents, Subrecipient and Maker (voluntarily or involuntarily) sells or otherwise transfers any interest in the Project prior to the expiration of the Affordability Period, unless Harris County agrees to the transfer in writing, which consent may be withheld by Harris County; provided, however, notwithstanding anything to the contrary set forth in this Agreement or any of the other County Loan Documents to the contrary, the following shall be permitted without Grantee's consent: (i) the Investor Member's (hereinafter defined) transfer of its interest in Subrecipient and Maker, (ii) the Investor Member's removal and substitution of Subrecipient and Maker's managing member pursuant to the Amended and Restated Operating Agreement of Subrecipient and Maker, (iii) the Bridge Lender's removal and substitution of Subrecipient and Maker's managing member pursuant to the Collateral Assignment of Managing Member Interest and Security Agreement from Subrecipient and Maker's managing member in favor of Bridge Lender; and (iv) the exercise, subject to the terms below, of the right of first refusal and/or option to purchase by The NHP Foundation ("NHPF"), MHI or an affiliate of MHI that is also member of Subrecipient and Maker's managing member ("Qualified Affiliate"). Notwithstanding the foregoing, Harris County acknowledges that (i) MHI holds an option to purchase the membership interests of (x) the Subrecipient and Maker's managing member and (y) Investor Member (as defined below) or to purchase the Project at the end of the fifteen-year Tax Credit Compliance Period and (ii) MHI or a Qualified Affiliate and NHPF hold rights of first refusal to acquire the Project at the end of the fifteen-year Tax Credit Compliance Period. Such acquisitions are preapproved and require no further consent from Harris County, but any further transfers of such interests shall not be permitted without the consent of the Executive Director of HCCSD and any further transfers without consent shall be deemed a default hereunder. At any time after the acquisition of said membership interest, Harris County acknowledges that (a) MHI Special Member, LLC a Texas limited liability company, and NHPF, respectively, may purchase the Collateral Note pursuant to their respective purchase agreement(s); provided that such exercising party(ies) assume(s) all obligations of the Subrecipient and Maker under this Agreement and the Loan Documents and provided further that no other transfers of the Collateral Note shall be permitted and any additional transfer shall be deemed a Default hereunder. The Collateral Note and the documents securing or evidencing same (including the Deeds of Trust) may not be

amended, modified, released or terminated without the express written consent of the Executive Director of HCCSD.

(ii) Subrecipient and Maker fails to perform any term, condition or covenant contained in the Collateral Note, the Deeds of Trust, the Regulatory Agreement, the Pledge, or this Agreement.

(iii) Subrecipient and Maker makes a material misrepresentation to Harris County in the Deeds of Trust, this Agreement, or any documents provided previously or in the future by Subrecipient and Maker to Harris County.

(iv) Subrecipient and Maker fails to perform any term, condition, or promise contained in any other agreement executed by Subrecipient and Maker in connection with the lease of the Land.

(B) Notice of Default. Subrecipient and Maker and Hudson Caroline LLC, a Delaware limited liability company, and Hudson-FM SLP LLC, a Delaware limited liability company (collectively with their successors and assigns, "**Investor Member**"), will be notified in writing by Harris County of the occurrence of a Default. If the Default is not cured to Harris County's reasonable satisfaction by Subrecipient and Maker or Investor Member (who shall have the right but not the obligation to effect such a cure) within thirty (30) days after the date on which the notice is delivered (or Subrecipient and Maker fails to commence to take action within thirty (30) days if the work to be undertaken to cure the default cannot be completed within 30 days and Subrecipient and Maker diligently pursues such action to completion), Harris County at its option, may declare that portion of the outstanding principal balance of the Loan attributable to the remainder of the Affordability Period, together with all accrued interest thereon, immediately due and payable and may invoke any or all remedies permitted by this Agreement, the Deed of Trust, or any other security instrument, without further notice or demand on Subrecipient and Maker, except as required by law.

(C) Force Majeure. Notwithstanding anything to the contrary set forth in the Loan Note, the Collateral Note, the Deeds of Trust, the Collateral Assignment, the Regulatory Agreement, the Pledge, or this Agreement to the contrary, all deadlines and other dates set forth in said documents, including without limitation, notice, grace, and cure periods, shall be extended for delays caused by events of force majeure. Events of force majeure shall include without limitation the following: Acts of God; strikes (including walk-outs and work stoppages due to a labor dispute); lockouts or other industrial disturbances; acts of public enemies; order of any kind of any governmental authority, including without limitation any civil or military authority; delays due to unreasonable responses by the County to actions or decisions requiring County approval; insurrections; riots; theft; vandalism; epidemics and pandemics; applicable governmental declarations of regional and/or national emergency; landslides; lightning; earthquakes; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; environmental contamination not caused by Subrecipient and Maker (including its employees, agents or contractors); breakage or accident to machinery, transmission pipes or canals; and/or partial or entire failure of utilities.

D. Project Requirements

1. **Fixed and Floating** Units and Qualification as Affordable Rental Housing.

A **Fixed unit** is the specific unit originally designated as a CDBG-DR assisted unit. A **Fixed unit** shall remain the same throughout the Affordability Period (hereinafter defined). A **Floating unit** shall mean the specific unit designated as a CDBG-DR assisted unit that may change over time as long as the total number of CDBG-DR assisted units remains constant. Subrecipient and Maker shall maintain the units identified in **Exhibit "B, Scope of Services"** as the designated CDBG-DR assisted units on a **Floating** basis (the 76 total units CDBG-DR-assisted units shall float among the 149 total units) in order to maintain conformity with HCCSD requirements during the Affordability Period so that the total number of housing units remains the same, and each unit must be comparable in terms of size, features, and number of bedrooms.

Only CDBG-DR income eligible households may occupy CDBG-DR assisted units. The units must meet the following requirements to qualify as affordable housing:

- a. CDBG-DR Affordable Rental Housing Program GLO Contract Rent Restrictions: For fifteen (15) years for rehabilitation projects and twenty (20) years for new construction projects, the rent for at least fifty-one percent (51% or 76 units) of the units must be restricted to an affordable rate for Low-to-Moderate Income Individuals (LMI) earning eighty percent (80%) or less of the Area Median Family Income (AMFI), adjusted for family size, in accordance with **Exhibit "B, Activity #8"** of this Agreement.
- b. Affordable Rents: Pursuant to the Affordable Rental Housing Program requirements, units designated to meet the affordability requirements (minimum of 51% of the total units) must comply at minimum with High and Low HOME rents published by HUD under the HOME Program. For households with an Area Median Family Income (AMFI) at 30% or below, adjusted for family size, rent will be based on 60% of the current Low HOME rent value rounded to the nearest whole dollar. Rents must comply with the applicable rent limit through the Affordability Period and compliance with the rent limit is calculated in the same manner as the HOME Program. Tenant-paid rent, plus utility allowance, plus rental assistance (if any) must be under the High HOME Rent or HUD-approved rent limit. Any rental assistance funded by the Health & Human Services Department will not be counted toward High HOME Rent. Tenant-paid rent plus rental assistance funded by HUD shall be deemed to be the "HUD-approved rent limit" for the purposes of this Project.
- c. HOME "Project Rule" shall apply to a rental project with five (5) or more CDBG-DR assisted units. The Subrecipient and Maker shall designate at least twenty (20) percent of the CDBG-DR assisted units as Low HOME rent units. The CDBG-DR assisted units must be occupied by very low-income families (i.e., families with incomes that do not exceed fifty (50) percent of the Area Median Family Income (AMFI), adjusted for family size) in accordance with **Exhibit "B, Activity #8"** of this Agreement. These units must bear rents no greater than: (1) thirty (30) percent of the tenant's monthly adjusted income, or (2) thirty (30) percent of the annual gross income of a family whose income equals fifty (50) percent of Area Median Family Income (AMFI), adjusted for family size, or (3) in projects receiving Federal or State project-based rental assistance and the very low-income family pays no more than thirty (30) percent of the family's adjusted income, then the maximum rent may be the rent

allowable under the Federal or State project-based rental assistance subsidy program.

- d. High HOME rental units – Maximum rents are the lesser of the Section 8 Fair Market Rents (FMR) minus tenant-paid utilities (or area-wide exception rents for existing housing for comparable units in the area as established by HUD under 24 C.F.R. §888.111); or for existing housing or thirty (30) percent of the adjusted income of a family whose annual income equals sixty percent (60%) of the Area Median Family Income (AMFI) for the area as determined by HUD, with adjustments for the number of bedrooms in the unit.

2. Over-Income Tenants

Temporary noncompliance is permissible when the non-compliance is caused by an increase in a tenant's income. When the income of a tenant increases above eighty (80) percent of the Area Median Family Income (AMFI) and the CDBG-DR assisted units are designated as **Floating**, then the next available CDBG-DR assisted unit must be rented to a HOME income-eligible tenant. When the CDBG-DR assisted units are designated as **Floating**, the next comparable unit that becomes available must be rented to a CDBG-DR eligible tenant. When the income of a tenant in a CDBG-DR assisted unit increases above eighty (80) percent of the Area Median Family Income (AMFI) as determined by HUD, that tenant is required to pay thirty (30) percent of his or her income for rent except that, in projects where CDBG-DR assisted units are **Floating**, the tenant rent may not exceed the market rent for a comparable, unassisted unit in the area. If the income of a tenant in a low HOME rent unit increases (but does not exceed eighty (80) percent of the Area Median Family Income (AMFI)), then Subrecipient and Maker must rent the next available comparable unit to a very low-income tenant. The unit occupied by the tenant whose income increased becomes a High HOME rent unit and the corresponding rent must be charged. Subrecipient and Maker must give CDBG-DR assisted unit tenants no less than thirty (30) days prior written notice before rent increases are implemented.

3. Period of Affordability

Subrecipient and Maker must meet the minimum HCCSD Affordability Period. For new construction of rental housing, the minimum HCCSD affordability period is twenty (20) years, beginning after Project Completion (the "**Affordability Period**"). The Project will have a twenty (20) year HCCSD Affordability Period. "**Project Completion**" means that all necessary title transfer requirements and construction work have been performed, the Project complies with HCCSD property standards, the final drawdown has been disbursed and/or requested for the Project, the Project has received its Certificate of Completion/Compliance, and the Project Completion information has been entered in the disbursement and information system established by HUD. The affordability requirements shall apply without regard to the term of any loan or mortgage or transfer of Subrecipient and Maker prior to expiration of the Affordability Period. Affordability restrictions remain in force regardless of transfer of Subrecipient and Maker. CDBG-DR funds provided under this Agreement are subject to recapture by Grantee, should the Subrecipient and Maker fail to meet the minimum HCCSD Affordability Period. During the Affordability Period, HCCSD shall conduct on-site inspections of the Project to ensure continued compliance with HCCSD requirements. On-site inspections shall be made annually. Inspections shall be based on a sufficient sample of units, at a

minimum; HCCSD shall inspect fifteen (15) to twenty (20) percent of the CDBG-DR assisted units and a minimum of one (1) unit in each building. The remaining units shall be inspected if compliance problems are identified in the sample units. In addition to performing a physical inspection of the units, HCCSD shall also verify tenant rents and income. HCCSD shall randomly select units and shall notify Subrecipient and Maker of the date and time of the monitoring and inspection. Subrecipient and Maker shall notify tenants to ensure access to the selected units and shall assign staff to accompany HCCSD inspector(s). Subrecipient and Maker shall provide adequate workspace for rent and income verification.

4. Period of Affordability Affirmative Marketing; Minority Outreach Program

Subrecipient and Maker must follow the affirmative marketing procedures and requirements in accordance with HCCSD requirements for CDBG-DR assisted housing. The affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing. HCCSD will annually assess the affirmative marketing program to determine the success of affirmative marketing actions and any necessary corrective actions, as described in **Exhibit "B," "Scope of Services"** and in **Exhibit "G," "Affirmative Marketing Policy and Procedures."**

5. Selection of a Property Manager

If applicable, Subrecipient and Maker shall execute an agreement with a qualified property management company with proven experience in managing and operating CDBG-DR assisted rental properties and/or low-income housing tax credit properties no later than 60 days prior to Project Completion; and Subrecipient and Maker shall provide HCCSD with a copy of the fully executed agreement upon request. Subrecipient and Maker shall ensure that the property management agreement requires the property management company to comply with any and all U.S. Department of Housing and Urban Development (HUD) and Grantee regulations, requirements, and findings and be cooperative during Program and financial monitoring visits and/or investigations performed by HCCSD staff, the Harris County Auditor's staff, and/or HUD. Failure by Subrecipient and Maker to include such requirements in the property management agreement shall constitute non-compliance and breach of this Agreement. Allied Orion Group or any subsequent property management must allow required unit inspections annually and at the request of HCCSD.

6. Broadband Requirement

According to Harris County's Affordable Housing Standards, the Subrecipient and Maker is required to equip the Project for internet services. This includes wiring, broadband infrastructure, and utility/off site connections from the property line to the adjacent street. If the installation of broadband infrastructure creates an undue financial burden or is not feasible, Subrecipient and Maker must provide an explanation and documentation for the Grantee and GLO's records and, upon provision thereof, the Broadband Requirements may be waived by the Director.

7. 100-Year Floodplain Requirements

Harris County's Affordable Housing Standards prohibit development of new affordable housing construction within the 100-year floodplain unless it is a reconstruction of an owner-occupied home or provides a mitigation plan approved by HCCSD. Proposed developments must

demonstrate compliance with all provisions of the "Regulations of Harris County Flood Plain Management" as effective January 1, 2019.

If applicable, and in accordance with Harris County's Affordable Housing Standards Flood Waiver, the Subrecipient and Maker agrees to comply with the Harris County floodplain development regulations or the local jurisdiction's regulations, whichever is more stringent. Current Harris County Floodplain Regulations require developments in Zone AE to have the finished floor elevation for the residential buildings to be twenty-four inches (24") above the 0.2% (500-year floodplain) base flood elevation (BFE).

Additionally, the Subrecipient and Maker is required to notify tenants of the Project's location in the 100-year floodplain at lease-up, registration/contact with local emergency operation centers before and during any disaster and registration of the Project and tenants that meet criteria with CenterPoint Energy as Critical Load Public Safety Customers.

The Subrecipient and Maker must also comply with their proposed mitigation/evacuation plan for the proposed development, which may include maintaining flood insurance for the Project.

8. Section 8 and Housing Choice Vouchers

Per GLO CDBG-DR requirements, since the Project has more than 20 units, Subrecipient and Maker must not reject prospective tenants that hold and will use Section 8 and Housing Choice Vouchers.

E. Performance Monitoring

Subrecipient and Maker agrees to be cooperative with Program and financial monitoring visits and/or investigations performed by HCCSD staff, the Harris County Auditor's staff, GLO and/or HUD. Substandard performance as reasonably determined by HCCSD and/or HUD will constitute non-compliance and breach of this Agreement. Subrecipient and Maker's failure to correct substandard performance within the applicable notice and cure period after being notified by HCCSD will result in further corrective action by HCCSD including, but not limited to, termination of this Agreement, pursuant to 2 C.F.R. §200.328. Furthermore, the Subrecipient and Maker agrees to comply with any and all GLO and/or HUD findings.

F. Matching and/or Leveraged Funds

Subrecipient and Maker shall maintain a running log of sources and usage for all Matching and/or Leveraged funds, as contained in **Exhibit "D"** of this Agreement. In the event that additional funds are secured prior to the completion of Lease-Up, the Subrecipient and Maker will immediately submit to Grantee a revised log of sources and uses. Subrecipient and Maker shall report Match/Leverage funds on the **"Cost Control Report," Exhibit "H,"** along with documentation in support of the recorded expenditures.

III. TIME OF PERFORMANCE

The obligations of the Subrecipient and Maker under this Agreement (a) shall start immediately following the date (i) Harris County Commissioners Court approves this Agreement, and (ii) Grantee has delivered written notice to Subrecipient and Maker that (A) Grantee has completed the environmental review required by the terms of the National Environmental Policy Act and has received

all required approvals, and (B) Grantee's request for release of the federal funds applicable to the Loan have been approved (the "**Notice of Environmental Clearance**"); and (b) shall terminate upon Project Completion, but no later than the grant termination date stated in the HUD 2017 Hurricane Harvey CDBG-DR Round One Harris County Disaster Recovery Program Housing Project Contract with GLO. A copy of the Notice of Environmental Clearance shall be attached to this Agreement as **Exhibit "DD."** This Agreement may only be extended upon written request to and approval from the Executive Director of HCCSD or his/her designee. In addition, the requirements of this Agreement shall extend for five (5) years after the funds provided for this Project under this Order are fully spent in accordance with 24 C.F.R. §570.505 and with applicable OMB circulars, or after Project Completion as specified above. In addition, the Affordability Period shall commence upon Project Completion pursuant to Paragraph II (D) (3) and shall terminate upon expiration of the minimum uninterrupted 20-year HCCSD Affordability Period.

IV. EXPENSES AND PAYMENT

A. Budget

The Subrecipient and Maker shall perform the project activities within the monetary limits contained in **Exhibit "D,"** Budget. The Subrecipient and Maker understands that the Budget is based upon detailed information submitted by the Subrecipient and Maker to HCCSD during the Request for Proposal (RFP) process, and that any changes to the Budget, attached at **Exhibit "D"** will require the Subrecipient and Maker to submit a modified detailed line-item budget to Grantee for review and approval.

B. Requesting a Budget Revision

Any proposed reallocation of funds among various existing line items in the Budget constitutes a Budget revision. The Subrecipient and Maker shall provide narrative justification for Budget revision on letterhead and signed by the representatives, as stated in **Exhibit "B."** A Budget revision is not approved for expenditure until the Subrecipient and Maker receives written approval from the Executive Director of HCCSD, or his designee. Upon approval, the Subrecipient and Maker shall provide a revised budget (which shall be the new approved Budget) to the Grantee.

New line items or an increase or decrease in funds is a Budget amendment and must be formally approved by the Grantee. The Grantee reserves the right to reallocate funds among various existing line items in order to facilitate implementation of the approved Project scope.

C. Maximum Amount to be Paid.

It is expressly agreed and understood that the total amount to be paid by Grantee under this Agreement shall not exceed the amount shown in **Exhibit "D"** in the section entitled "Maximum Amount to be Paid Under this Agreement."

D. Payment Contingent on Receipt of Funds from HUD and Texas General Land Office for CDBG-DR Harvey and Approvals

It is expressly understood that Grantee has no County funds for the payment of services to be rendered under this Agreement, and Grantee's payment obligation under this Agreement is contingent upon receipt of funds from HUD and 2017 Hurricane Harvey Texas CDBG-DR funds by virtue of the above-

mentioned grant(s), including approval by GLO of the Environmental Review and Affirmatively Furthering Fair Housing Review.

E. Payment for Eligible Expenses

Subrecipient and Maker understands and agrees that Grantee shall provide funds to the Subrecipient and Maker only for those costs that are eligible under applicable federal rules, regulations, cost principles, and other requirements relating to the expenditure of HUD grant funds. Grantee may provide funds for eligible costs made against the line-item Budget, attached as **Exhibit "D."** No advancement shall be made for goods or services received by the Subrecipient and Maker as in-kind contributions from third parties for assistance to the Project. If indirect costs are charged, Subrecipient and Maker will develop an indirect cost allocation plan determining the appropriate Grantee share of administrative costs and shall submit such plan to Grantee for approval.

F. Payment Procedures

The Grantee will reimburse funds to the Subrecipient and Maker based upon information submitted by the Subrecipient and Maker and consistent with the approved Budget and Grantee policy concerning payment. Drawdowns for the payment of eligible expenses and general administration shall be made against the line-item Budget attached as **Exhibit "D"** and in accordance with performance.

The Subrecipient and Maker shall submit monthly invoices from the Contractor (pay estimates) for the construction portions of the work performed, and similar Soft Cost invoices (if applicable). Reimbursement requests must include a cover letter with the Application and Certificate for Payment form G702 and G703 American Institute of Architects (AIA) and all supporting documentation of the draw submitted on or before the tenth (10th) working day of the month for costs incurred during the preceding month. Prior to payment, HCCSD and the Harris County Auditor must approve all invoices. The form of Application and Certification for Payment attached hereto as **Exhibit "EE"** is hereby approved by the County.

Draft ("Monthly Construction Pencil Draw") HCCSD Approval: "Monthly Construction Pencil Draws" must also be reviewed and approved by the Grantee's construction representative at final form prior to submittal to the construction funder. HCCSD Davis-Bacon and Related Act (DBRA) reports and Section 3 reports shall be required to be submitted to HCCSD and approved by HCCSD DBRA and Section 3 program staff prior to approval of any current Monthly Construction Draw that is submitted to the construction funder.

Incorrect reimbursement requests may be returned to the Subrecipient and Maker for correction and resubmission. Payments will be adjusted in accordance with reimbursement fund and Program income balances available in Subrecipient and Maker accounts (when applicable). In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient and Maker to the extent permitted by the terms of this Agreement.

Final reimbursement requests submitted by the Subrecipient and Maker must be received by the Grantee no later than 60 days after Project Completion. Any requests received after 60 days will not be processed for payment and this Agreement shall become void and the remaining funds de-obligated.

G. Retainage

Disbursement of funds under this Agreement shall be subject to retainage provisions of Section 53.101 of the Texas Property Code, as it may be amended from time to time.

H. Supplementing a Request for Payment

A Supplemental Request amending a payment or reimbursement request may be filed with HCCSD within thirty (30) days after the submission or receipt of the original request. Any Supplemental Request for payment or reimbursement submitted after thirty (30) days from the date of submission or receipt of the original request will not be approved. No more than one (1) Supplemental Request shall be allowed per month.

I. Program Income

The Subrecipient and Maker shall document and report all Program income as defined at 24 C.F.R. §570.500(a), generated by activities carried out with CDBG-DR funds made available under this Agreement.

J. Rental Income

The Subrecipient and Maker shall document all rental income generated by activities carried out with CDBG-DR funds made available under this Agreement subject to review, upon request, by HCCSD. Subrecipient and Maker is allowed to retain the rental income under this Agreement for its sole use.

K. Withholding Payments

If HUD initiates an investigation into any matter covered under this Agreement related to the Project, Grantee may withhold all payments until the results of the investigation have been revealed. Reimbursement to Subrecipient and Maker will be determined upon resolution of the investigation by HUD.

L. Repayment of Ineligible Payments

IN THE EVENT HUD DETERMINES THROUGH INVESTIGATIONS AND/OR MONITORING THAT ANY GRANTEE PAYMENT OR REIMBURSEMENT TO SUBRECIPIENT AND MAKER IS INELIGIBLE OR DISALLOWED, SUBRECIPIENT AND MAKER SHALL IMMEDIATELY AND WITHOUT DELAY FULLY REIMBURSE GRANTEE, AND GRANTEE WILL REIMBURSE HUD FOR DISALLOWED OR INELIGIBLE COSTS. IF HUD INFORMS GRANTEE THAT IT IS REQUIRED TO REFUND MONEYS PREVIOUSLY AWARDED AND DRAWN DOWN FROM THE U.S. TREASURY IN REFERENCE TO THIS AGREEMENT, SUBRECIPIENT AND MAKER AGREES TO PAY AN EQUAL AMOUNT TO GRANTEE PRIOR TO THE DEMAND DATE OF PAYBACK.

M. Annual Project Monitoring Fees during the Affordability Period

Harris County has implemented an Annual Monitoring Fee Policy for multi-unit rental projects. This fee is the annual fee throughout the Affordability Period to allow for the long-term monitoring of the Project during the Affordability Period. The fee is \$50.00 per County-assisted unit annually for each year of the Affordability Period. The fee is calculated in the Project's Pro Forma Section of the application. The annual monitoring fee of \$50.00 per assisted units (76 units) will be assessed for a total fee of \$3,800.00 due 12 months after the issuance of the Certificate of Occupancy for the entire Project and annually thereafter for the duration of the loan term. The Pledge shall be executed by Subrecipient and Maker in

connection with the payment of affordable housing compliance monitoring fees. A copy of the substantially final form of the Affordable Housing Compliance Monitoring Security, Pledge and Assignment of Account to be executed by Subrecipient and Maker (the "**Pledge**") in connection with the payment of Compliance Monitoring Fees is attached as **Exhibit "Y"** to this Agreement, and following execution, an executed copy of the Pledge shall be attached as **Exhibit "CC-4"** to this Agreement.

V. NOTICES

Any communication concerning this Agreement shall be directed to the representatives of Grantee and the Subrecipient and Maker as provided in **Exhibit "B,"** Scope of Services.

VI. SPECIAL CONDITIONS

The Subrecipient and Maker agrees to comply with the requirements of 24 C.F.R. Part 570 and all Federal regulations and policies issued concerning the CDBG-DR Program and agrees to comply with the requirements of HCCSD. Subrecipient and Maker further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

VII. GENERAL CONDITIONS

A. Compliance

Subrecipient and Maker agrees to comply with all applicable federal, state and local laws and regulations governing the funds provided under this Agreement, including Executive Order 12372, governing the review and coordination of federally assisted programs and projects. Failure to adhere to these conditions or with any provision of this Agreement that is continuing beyond the expiration of all applicable notice, grace, and cure periods may result in Grantee taking one of the following actions: (1) declaring Subrecipient and Maker ineligible to participate for future awards; (2) withholding funds; and (3) termination of the Agreement.

B. Deeds of Trust

In order to secure the obligations hereunder, Subrecipient and Maker shall grant to the Nonprofit a subordinated lien in the leasehold interest of the Project, together with the fee interest in the Property granted by the Ground Lessor as fee owner by execution of the County Fee Deed of Trust.

Further, to secure the obligations under the Loan Note, Nonprofit is collaterally assigning its interest under the Collateral Note and the County Leasehold Deed of Trust to the Grantee pursuant to the Collateral Assignment.

C. Restrictive Covenants

Subrecipient and Maker shall execute the Regulatory Agreement that requires the Subrecipient and Maker and subsequent owner(s) of the Project to comply with certain occupancy and use restrictions for the duration of the Affordability Period for the Project at the time of the acquisition closing.

D. Intercreditor, Subordination and Funding Agreement

The Subrecipient and Maker has secured the execution by the City of an Intercreditor, Subordination and Funding Agreement (the "**Subordination Agreement**"), which, at a minimum shall: (1) require the City to notify Grantee in the event the City learns of a default under the City Loan (as defined in the

Deeds of Trust) for the Project, and (2) require the City to give Grantee written notice of and reasonable opportunity to cure any default by the Subrecipient and Maker under the City Loan (provided, however, Grantee shall have no obligation to cure any such default). A copy of a Subordination Agreement shall be attached as **Exhibit "K"** to this Agreement, and following execution, an executed copy of the final Subordination Agreement shall be attached as **Exhibit "CC-8"** to this Agreement.

E. Independent Contractor

Subrecipient and Maker shall, at all times, perform independently and not as an officer, agent, servant or employee of Grantee. Subrecipient and Maker shall have exclusive control of, and the exclusive right to control, the details of the work and services performed and shall be solely responsible for the acts and omissions of their respective officers, members, agents, servants, employees, program participants, licensees or invitees. The doctrine of *respondeat superior* shall not apply as between Grantee and the Subrecipient and Maker, their respective officers, members, agents, servants, employees, program participants, licensees or invitees, and nothing herein shall be construed as creating a partnership, joint venture, or joint enterprise between Grantee and the Subrecipient and Maker. It is expressly understood and agreed that Grantee does not have the legal right to control the details of the tasks performed hereunder by Subrecipient and Maker, their respective officers, members, agents, employees, program participants, licensees or invitees.

Grantee shall in no way nor under any circumstances be responsible for any property belonging to the Subrecipient and Maker, their respective officers, members agents, employees, program participants, licensees or invitees, which may be lost, stolen, destroyed or in any way damaged during the term of this Agreement.

F. Expenditure Performance

The Subrecipient and Maker shall immediately notify the Executive Director of HCCSD, or his designee, of any problems, delays or adverse conditions that will affect the ability of the Subrecipient and Maker to perform their respective obligations under this Agreement. Any such notice shall include a statement of actions taken or contemplated to be taken by the Subrecipient and Maker to resolve such problems, delays or adverse conditions. The Subrecipient and Maker shall also promptly notify the Executive Director of HCCSD, or his designee, if it anticipates accomplishing the activities set forth in this Agreement with a lower expenditure of funds than the amount allocated, or within a shorter period of time than the Agreement period.

The Subrecipient and Maker further understands and agrees that should the Grantee determine that the Subrecipient and Maker will not use all of the funds allocated to the Subrecipient and Maker under this Agreement, then Grantee shall reduce the amount allocated to the Subrecipient and Maker under this Agreement for the purpose of ensuring that such funds do not remain unspent, and that such monies are promptly reallocated to other service providers in accordance with the Grantee's procurement procedures. The Grantee will notify the Subrecipient and Maker in writing of its determination to reduce the amount allocated to the Subrecipient and Maker under this Agreement and any such determination by the Grantee shall be final.

G. Indemnity

SUBRECIPIENT AND MAKER COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AT ITS OWN EXPENSE, GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY

LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OF CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAM DESCRIBED HEREIN, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES OF SUBRECIPIENT AND MAKER; AND SUBRECIPIENT AND MAKER HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY OF GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FOR ANY AND ALL CLAIMS OR SUITS FOR PROPERTY LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAM DESCRIBED HEREIN, WHETHER OR NOT CAUSED IN WHOLE OR IN PART, BY THE ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES OF SUBRECIPIENT AND MAKER. SUBRECIPIENT AND MAKER LIKEWISE COVENANTS AND AGREES TO AND DOES HEREBY INDEMNIFY AND HOLD HARMLESS GRANTEE FROM AND AGAINST ANY AND ALL INJURY, DAMAGE OR DESTRUCTION OF PROPERTY OF GRANTEE, ARISING OUT OF OR IN CONNECTION WITH ALL ACTS OR OMISSIONS OF SUBRECIPIENT AND MAKER, ITS OFFICERS, MEMBERS, AGENTS, EMPLOYEES, INVITEES, LICENSEES, OR PROGRAM PARTICIPANTS, INCLUDING THE ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES OF SUBRECIPIENT AND MAKER.

H. Waiver of Immunity

If the Subrecipient and Maker, as a charitable or nonprofit organization, has or claims an immunity or exemption (statutory or otherwise) from and against liability for damages or injury, including death, to persons or property, Subrecipient and Maker hereby expressly waives its rights to plead defensively such immunity or exemption as against Grantee. This section shall not be construed to affect a governmental entity's immunities under constitutional, statutory or common law.

I. Insurance and Bonding

1. Public Liability Insurance

The Subrecipient and Maker shall furnish a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile liability insurance covering all risks incident to or in connection with the execution, performance, attempted performance or nonperformance of this Agreement. The amounts of such insurance shall not be less than the maximum liability, which can be imposed on Grantee under the laws of the State of Texas. At present, such amounts shall be as follows:

Property damage, per occurrence	\$100,000
Bodily injury or death, per person	\$100,000
Bodily injury or death, per occurrence	\$300,000

The Subrecipient and Maker understands that such insurance amounts may be revised upward at Grantee's option and that Subrecipient and Maker shall revise such amounts within thirty (30) days following notice to Subrecipient and Maker of such revisions.

2. Workers' Compensation Insurance

Subrecipient and Maker also covenants and agrees to cause the Subrecipient and Maker to furnish HCCSD with a Certificate of Insurance as proof that it has obtained and paid for a policy of Workers' Compensation Insurance in the amounts required by State law, covering any and all employees of the Subrecipient and Maker active in the program funded under this Agreement.

3. Documentation of Insurance Coverage

Subrecipient and Maker shall submit to HCCSD documentation that the Subrecipient and Maker has obtained insurance coverage as required in this Agreement prior to payment of any monies hereunder.

4. Performance and Payment Bond, and Maintenance Bond

Subrecipient and Maker will provide or cause to furnish HCCSD with Certificate of Insurance as proof that it has obtained and paid for a certificate of Payment Bond and Performance Bond, and Maintenance Bond naming Harris County as an insured party as required by 2 C.F.R. §200.304.

5. Recognition of Grantee

Subrecipient and Maker shall ensure recognition of the role of HCCSD in making services available through this Agreement. All facilities, publications and other items used, made available, or made possible through funds obtained pursuant to this Agreement shall be prominently labeled as having been funded, in total or in part, by HCCSD. Subrecipient and Maker shall maintain a "recognition file." Each instance of recognition shall be documented by including a copy or photograph of each such instance of recognition in the file. Original documents are the preferred, but photocopies or photographs may be used when and where appropriate.

J. Travel

Subrecipient and Maker must comply with Grantee travel guidelines for any travel paid for with funds provided under this Agreement.

K. Relocation, Acquisition and Displacement

Subrecipient and Maker agrees to comply with 24 C.F.R. §570.606 relating to the acquisition and disposition of all real property utilizing grant funds, and to the displacement of persons, businesses, nonprofit organizations and farms occurring as a direct result of any acquisition of real property utilizing grant funds. Subrecipient and Maker agrees to comply with applicable Grantee Orders and Policies concerning displacement of individuals from their residences, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

L. Copyright

If this Agreement results in any copyrightable material, Grantee and/or Subrecipient and Maker agency (HUD) reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes.

M. Whistleblower Protection Act

Subrecipient and Maker understands and agrees that this Agreement and employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908. The Subrecipient and Maker shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. The Subrecipient and Maker shall insert the substance of this clause, including this paragraph, in all contracts providing services under this Agreement.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Subrecipient and Maker agrees to (1) comply with requirements set out in 2 C.F.R. §200.300; (2) adhere to the accounting principles and procedures required therein; (3) utilize adequate internal controls; and (4) maintain necessary source documentation for all costs incurred. The Subrecipient and Maker shall administer its Program in conformance with 2 C.F.R. §200.400 for all costs incurred whether charged on a direct or indirect basis.

B. Record-Keeping, Reports, and Audits

1. Records to be Maintained

Subrecipient and Maker shall maintain all records required by this Agreement and 2 C.F.R. §200.333, and records that are pertinent to the activities to be funded under this Agreement, including but not limited to:

- a. Records providing a full description of each activity undertaken
- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program
- c. Records required to determine the eligibility of activities
- d. Records required to document any acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance
- e. Records demonstrating compliance with citizen participation
- f. Records demonstrating compliance regarding any acquisition, displacement, relocation, and replacement housing.
- g. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program
- h. Financial records as required by 24 C.F.R. §570.502
- i. Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation

- j. Other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570.
- k. Records stating that contractors and subcontractors have been cleared to participate in the Project through a search of the System of Award Management (SAM) and Office of Foreign Asset Control (OFAC) databases.

2. Property Records

Subrecipient and Maker shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 C.F.R. § 570.505 and §570.606. Subrecipient and Maker must ensure that any independent audit required hereunder include a report on real property inventory as a supplemental schedule in the audit. Copies of all client records described in this Section VIII.B.2 must be forwarded to HCCSD at the end of each quarter.

3. Retention

Subrecipient and Maker shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. All client records described in this Section VIII.B.3 are the property of Grantee and copies of such records must be forwarded to HCCSD at the end of each quarter.

4. Construction Policies, Reports and Davis-Bacon and Related Acts Requirements

The Subrecipient and Maker and contractor shall adhere to Grantee's construction policies and guidelines described in **Exhibit "C,"** Harris County Community Services Department Construction Policies & Guidelines, to the extent applicable.

Subrecipient and Maker shall furnish or cause to furnish the following reports to HCCSD:

- a. Certified Weekly Payrolls
- b. Certificate from Contractor Appointing Officer or Employee to Supervise Payment of Employees
- c. Posting of Equal Employment Opportunity Poster, Notice to Employees Poster, and Wage Decisions
- d. Employment and Minority Business Plan
- e. Contractor/Subcontractor Profile
- f. Section 3 Compliance Documentation
- g. Certificate for Contracts, Grants, Loans and Cooperative Agreement

NOTE: All of the above listed documents pertaining to the Davis-Bacon and Related Acts are required to be submitted by the prime contractor, and all subcontractors without exceptions. Required documentation will be delivered to HCCSD.

Further, the Final Form approval of "Monthly Pencil Construction Draws" to be submitted to a lender for construction draw funding shall require the signature of HCCSD's Construction representative and will not be approved until current DBRA and Section 3 reports are submitted to and approved by HCCSD DBRA and Section 3 program representatives.

5. Other Periodic Reports

The Subrecipient and Maker shall furnish or cause to furnish the following reports to HCCSD, which include, but may not be limited to the following:

- a. Rental Housing Compliance Initial Lease-Up Report submitted monthly to Grantee until 95% lease-up of CDBG-DR assisted units is attained.
- b. After completion of the lease-up period, Rental Housing Compliance Report submitted quarterly to Grantee.
- c. Quarterly financial statements and operating budget, respectively, including but not limited to projections for gross income, operating expenses, and net cash flow and actual disbursements for the preceding quarter.
- d. Certifications for Contracts, Grants, Loans, and Cooperative Agreements, see **Exhibit "L."**
- e. Cost Control Report/Reimbursement Summary

6. Deadlines

- a. Certified Weekly Payrolls shall be submitted within five (5) days after the end of the reporting week.
- b. Certificate from Contractor Appointing Officer or Employee to Supervise Payment of Employees shall be submitted within ten (10) days after the first day of work at the Project site.
- c. Equal Employment Poster, Notice to Employees Poster, and the Wage Decision shall be posted on the first day of work at the Project site.
- d. Employment and Minority Business Plan shall be submitted within ten (10) days after the first day of work at the Project site.
- e. Rental Housing Compliance Initial Lease-Up Report submitted monthly by the 10th day of the month for the previous month.
- f. Rental Housing Compliance Report submitted quarterly by the 10th day of the month following the end of the quarter [(March-May, June-August, September-November, December-February), or (January-March, April-June, July-September, October-December)] as directed by HCCSD.
- g. Quarterly financial statements and operating budget shall be submitted within fifteen (15) days after end of the reporting period after Project Completion.
- h. Cost Control Report shall be submitted with requests for reimbursement.

7. Audits and Inspections

All records relevant to any matters covered by this Agreement shall be made available to Grantee, its designees or the federal government, at any time during normal business hours, as often as Grantee deems necessary, to audit, examine, copy, and/or make excerpts or transcripts of all relevant data. The Subrecipient and Maker will respond to the notification of any deficiencies noted in an audit report within thirty (30) days after receipt of written notice of

a deficiency by the Subrecipient and Maker. The Subrecipient and Maker hereby agrees to have an annual agency audit conducted in accordance with 2 C.F.R. §200.500, or if not applicable, financial statements in accordance with AICPA's SSARS No. 21 for review and compilations.

8. Failure to Meet Record-Keeping, Reporting, Audit, and/or Inspection Requirements

Failure to comply with record-keeping, reporting, audits, and/or inspections as required by this Agreement is a breach of this Agreement and funding may be withheld from the Subrecipient and Maker until such time as the reports are timely and accurately submitted. Subject to the expiration of all applicable notice, grace, and cure periods without cure, Grantee maintains the right to terminate this Agreement with the Subrecipient and Maker for failure to keep records properly, submit reports for three (3) consecutive months, and/or cooperate with audits/inspections.

C. Procurement

1. Use of Real Property

Any real property under Subrecipient and Maker's control that was acquired or improved in whole or in part pursuant to 24 C.F.R. §570.505, or in whole or in part with CDBG-DR funds, that ceases to be used for purposes for which it was originally acquired, will be either:

- a. Transferred to Grantee; or
- b. Disposed of in a manner, consistent with 2 C.F.R. §200.311, which results in the amount of the then current fair market value of the property less any portion thereof attributable to expenditures of non-HOME funds for improvements to, the property being reimbursed to Grantee. Such reimbursement is not required if disposed of more than five (5) years after the expiration or termination of this Agreement.

Nothing contained herein shall be construed to conflict with the duties of Subrecipient and Maker as set forth in the Texas Nonprofit Corporation Act (TEX. ANN. CIV. ST. art. 1396-1.01, *et seq.*) or any other applicable statute.

IX. GENERAL LABOR AND PARTICIPANT REQUIREMENTS

A. Civil Rights

1. Compliance

Subrecipient and Maker agrees to comply with Title VI of the Civil Rights Act of 1964, as amended; Title VII of the Civil Rights Act of 1968, as amended; Section 109 of Title 1 of the Housing and Community Development Act of 1974; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; and Executive Order 11246, as amended by Executive Orders 11375 and 12086, Subpart H.; 24 C.F.R. §5.105 (a)(2) Equal Access to HUD-assisted or insured housing; and Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*) prohibiting sex discrimination in federally assisted education programs.

2. Section 504 Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990, and 2010

Subrecipient and Maker agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program. HCCSD shall provide Subrecipient and Maker with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement. Dwelling units designed and constructed in accordance with the Uniform Federal Accessibility Standards (UFAS) will be deemed to comply with the Section 504 regulation. Accessible units must, to the maximum extent feasible, be distributed throughout the Project and must be available in a sufficient range of sizes and amenities so as not to limit choice.

Subrecipient and Maker shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of Section 504, UFAS, the requirements of the Americans with Disabilities Act of 1990 (ADA) Title II (28 CFR Part 35) and Title III (28 C.F.R. Part 36) 2010 Standards for Accessible Design. Subrecipient and Maker shall document and report the results of all inspection activities, upon request, by HCCSD. To comply with Section 504, and ADA 2010, the Grantee shall cause the Subrecipient and Maker to designate and maintain at a minimum, five (5) percent of the dwelling units in the Project (but not less than one unit) that must be accessible to individuals with mobility impairments. An additional two (2) percent of the dwelling units (but at a minimum, not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments), unless HUD prescribes a higher number pursuant to 24 C.F.R. §8.22(c).

Pursuant to Hurricane Harvey CDBG-DR affordable rental housing requirements, the Subrecipient and Maker shall be required, in accordance with the CDBG-DR Affordable Rental Housing Program RFA/RFP, to provide a minimum for new construction of two (2) additional units above the standard 5% Mobility-Impaired Units, and one (1) additional units above the standard 2% Sensory-Impaired Units consisting of the following: Mobility-Impaired Units (10 total) and Sensory-Impaired Units (4 total), for a total of 14 units.

3. Texas Architectural Barriers Act/Texas Accessibility Standards

Subrecipient and Maker shall cause its Architect/Engineer to furnish documentation prior to commencement of construction demonstrating that the Project meets the requirements of the Texas Architectural Barriers Act (TABAA) and Texas Accessibility Standards (TAS). Subrecipient and Maker shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of TABAA and TAS. Subrecipient and Maker shall document and report the results of all inspection activities, upon request by HCCSD. Upon Project Completion, Subrecipient and Maker shall submit documentation from the Texas Department of Licensing and Regulation (TDLR) indicating that the Project complies with TABAA and TAS.

4. Nondiscrimination

Subrecipient and Maker will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. Subrecipient and Maker shall ensure that all of its employment practices are free from such discrimination, including but not limited to hiring, upgrading, demotion, transfer, recruitment or recruitment

advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subrecipient and Maker agrees to post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of this nondiscrimination clause.

5. Limited English Proficiency

Subrecipient and Maker shall provide language assistance or ensure program information is available in the appropriate languages for the Grantee's service area and that limited English proficient persons have meaningful access to receive CDBG assistance, pursuant to Title VI of the Civil Rights Act of 1964.

B. Affirmative Action

1. Approved Plan

Subrecipient and Maker shall be committed to carry out, pursuant to the Grantee's specifications, an Affirmative Action program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Grantee shall provide Affirmative Action guidelines to the Subrecipient and Maker to assist in the formulation of such program, upon request. The Subrecipient and Maker shall submit a plan for an Affirmative Action Program for approval prior to the award of funds, if applicable.

2. Women/Minority Business Owned Enterprises

Subrecipient and Maker shall use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Subrecipient and Maker may rely on written representations by businesses regarding their status as minority and women business enterprises in lieu of an independent investigation.

3. Notifications

Subrecipient and Maker shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other agreement or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient and Maker commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. EEO/AA Statement

Subrecipient and Maker shall, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient and Maker, state that it is an Equal Opportunity (see **Exhibit "M"**), or Affirmative Action Employer, as applicable.

5. Grievance

Subrecipient and Maker shall establish and maintain written procedures to address grievances or complaints of Program participants under this Agreement. The Subrecipient and Maker's written procedures should provide for participants to contact HCCSD only after the complainant has exhausted the Subrecipient and Maker's internal procedures as described in **Exhibit "N,"** Grievance Information Form. The Subrecipient and Maker shall notify Program participants of its grievance procedure. Such notification must include the telephone number to reach the HCCSD. The Subrecipient and Maker shall immediately notify HCCSD of all grievances or complaints received by the Subrecipient and Maker.

C. Labor Standards

1. Wages

Subrecipient and Maker shall comply with the requirements of the Secretary of Labor issued in accordance with the provisions of Contract Work Hours and Safety Standards Act [40 U.S.C.A. 3701 *et seq.*] as supplemented by Department of Labor regulations, the Copeland "Anti-Kickback" Act [18 U.S.C. 874], the Davis-Bacon Act [40 U.S.C.A. 3141 *et seq.*, as amended]; and all other applicable Federal, state and local laws and regulations pertaining to labor standards, insofar as those acts apply to the performance of this Agreement. Subrecipient and Maker shall maintain documentation that demonstrates compliance with hour and wage requirements of this section. Such documentation shall be made available to Grantee for review upon request. Subrecipient and Maker shall also abide by Chapter 11 of Title 18 of the U.S. Code [18 U.S.C. 201 *et seq.*], which prohibits a number of criminal activities, including bribery, graft and conflict of interest

A \$15 minimum prevailing wage rate is established for all building and multifamily contracts to be implemented by the Purchasing Agent, approved by Harris County Commissioners Court August 27, 2019. Subrecipient and Maker shall abide by the following provisions in all county contracts: requiring all workers to be compensated at a rate not less than the highest of a \$15 hour wage, the Texas prevailing wage, or the federal prevailing wage; creating OSHA safety training requirements; creating opportunities for workforce training and hiring goals from the Department of Labor registered apprenticeship programs and bilingual craft training programs; suggesting a second chance hiring policy; and requirements for considering the safety record and health insurance of bidders when awarding contracts.

2. OSHA

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions that are unsanitary, hazardous or dangerous to the participant's health or safety.

3. Drug-Free Workplace

All profit or nonprofit agencies or organizations receiving state or federal grant funds under the official sponsorship of Grantee must certify on an annual basis their compliance with the requirements of the "Drug Free-Workplace Act of 1988." Employees are specifically prohibited from manufacturing, distributing, possessing, purchasing, and using illegal drugs or controlled

substances in the work place or in any other facility, location or transport that the employee is required to perform his or her job function.

D. Prohibited Activities

Subrecipient and Maker is prohibited from using CDBG-DR funds or personnel employed in the administration of the CDBG-DR Program for political activities, sectarian or religious activities, lobbying, political patronage, and/or nepotism activities.

1. Hatch Act

Subrecipient and Maker agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

2. Faith-Based and Religious Organizations

Subrecipient and Maker agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in specified in 24 C.F.R. §570.200.

E. Conflict of Interest

Subrecipient and Maker agrees to abide by the provisions of 24 C.F.R. §570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Subrecipient and Maker further covenants that in the performance of this Agreement, no person having such a financial interest shall be employed or retained by Subrecipient and Maker hereunder. These conflict-of-interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subcontractors that are receiving funds under the CDBG-DR Program.

In applying for CDBG-DR funds, the Subrecipient and Maker provided the Grantee with disclosure of the nature of any perceived or actual conflict of interests. If at any time during the course of the term of this Agreement any actual or perceived conflict of interest arises, Subrecipient and Maker agrees to provide a new Conflict of Interest Statement, **Exhibit "O,"** Conflict of Interest Disclosure Statement, **Exhibit "P,"** and/or Conflict of Interest Questionnaire, **Exhibit "Q,"** to the Grantee. Failure to disclose any perceived or actual conflicts of interest that is continuing beyond the expiration of all applicable notice, grace, and cure periods may result in termination of this Agreement.

F. Conflicts Disclosure Statement and Conflict of Interest Questionnaire

Subrecipient and Maker agrees to comply with the provisions of Chapter 176 of the Local Government Code with respect to conflicts of interest a local government officer or vendor may have when contracting or seeking to contract with the Grantee. Chapter 176 of the Local Government Code requires persons desiring to do business with the Grantee to disclose any gifts, with the aggregate value of \$250, given to any local government officer or a local government officer's family member, or

employment or other business relationship that the person may have with a local government officer or a local government officer's family member, during the preceding twelve (12) month period.

In applying for CDBG-DR funds, the Subrecipient and Maker provided the Grantee with disclosure of the nature of any perceived or actual conflict of interests. The Subrecipient and Maker covenants that the Conflict of Interest Disclosure Statement, **Exhibit "P"** and/or Conflict of Interest Questionnaire, **Exhibit "Q"** have been filed with the Grantee's records administrator, the Harris County Clerk, within the requirements of Chapter 176 of the Local Government Code. Failure to disclose any perceived or actual conflict of interests that is continuing beyond the expiration of all applicable notice, grace, and cure periods may result in termination of this Agreement.

G. False Claims

Subrecipient and Maker also shall abide by 18 U.S.C. 286, which provides for conspiracy to defraud the Federal Government with Respect to Claims. In addition, Subrecipient and Maker will also abide by the False Claims Act (31 U.S.C. 3729 *et seq.*); 18 U.S.C. 287 relating to False, Fictitious and Fraudulent Claims; 18 U.S.C. 245, as amended, relating to Federally Protected Activities; 18 U.S.C. 1001, as amended, regarding General Statements or Entries; the Program Fraud Civil Remedies Act (31 U.S.C. 3801, *et seq.*); the Federal Claims Collection Act of 1966 (31. U.S.C. 3701, 3711, 3716 to 3718) as amended by the Derby Collection Act of 1982; the Meritorious Claims Act (31 U.S.C. 3702); the Tucker Act (28 U.S.C. 1346, 1491, and 2501 *et seq.*); the Wunderlich Act (41 U.S.C. 321-322); the Anti-Deficiency Act (31 U.S.C. 1341 *et seq.*); and Section 208(a) of the Intergovernmental Personnel Act of 1970, as amended.

H. "Section 3" Clause

1. Compliance

Subrecipient and Maker shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, the regulations set forth in 24 C.F.R. §135, and all applicable rules and orders. Subrecipient and Maker understands that compliance shall be a condition of the federal assistance provided under this Agreement and binding upon Grantee, Subrecipient and Maker, contractor and any sub-contractor. Failure to comply with these requirements shall subject Grantee, Subrecipient and Maker, their successors and assigns, to the sanctions specified by the Agreement through which federal assistance is provided, as set out in 24 C.F.R. §135 Subpart D. Subrecipient and Maker agrees that no contractual or other disability exists that would prevent compliance with these requirements. Subrecipient and Maker shall include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the areas of the Project."

2. Notifications

Subrecipient and Maker shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

3. Subcontracts

Subrecipient and Maker shall include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by Grantee. Subrecipient and Maker will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. §135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations

I. Subcontracts

1. Approvals

Subrecipient and Maker shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

2. Monitoring

The Subrecipient and Maker shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports submitted to the Grantee and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

3. Content

Subrecipient and Maker shall cause all applicable provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

4. Selection Process

The Subrecipient and Maker shall ensure that all subcontracts let in the performance of this Agreement are awarded in a fair, open, and competitive manner. Executed copies of all subcontracts shall be forwarded to the Grantee, along with documentation concerning the selection process. The Subrecipient and Maker must adopt and utilize written selection criteria for use in the selection of subcontractors, which selection criteria must conform to the Procurement requirements of 2 C.F.R. §200.317 – 200.326. The selection criteria must be reviewed and approved by HCCSD.

J. Whistleblower Protection Act

The Subrecipient and Maker and its employees will be subject to all employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-230) and FAR 3.908. Subrecipient and Maker shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in Section 3.908 of the Federal Acquisition Regulation. Subrecipient and Maker shall insert the substance of this clause, including this paragraph (J), in all subcontracts providing services under this Agreement.

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

Subrecipient and Maker agrees to comply with the following regulations insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C.A. 7401 et seq.
- Clean Water Act, 33 U.S.C.A. 1368
- Executive Order 11738
- Federal Water Pollution Control Act, as amended, 33 U.S.C.A. 1251, et seq., and 1318, relating to inspection, monitoring, entry, reports, and information, and all regulations guidelines issued thereunder
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 50, as amended.
- National Environmental Policy Act of 1969 (42 U.S.C.A. 4321 et seq.; as amended)
- HUD Environmental Review Procedures (24 C.F.R. Part 58).

B. Flood Disaster Protection

Subrecipient and Maker agrees to comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L.-2234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

C. Lead-Based Paint

Subrecipient and Maker agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 C.F.R. Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning, and of the advisability and availability of blood-level screening for children under 6 years of age. Subrecipient and Maker shall furnish or cause to furnish to Grantee a completed "Lead-Safe Housing Rule – Applicability Form," **Exhibit "R."**

D. Historic Preservation

Subrecipient and Maker agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470) and the procedures set forth in 36 C.F.R. Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic

Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the Texas Historical Commission and Antiquities Committee for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a federal, state, or local historic property list.

E. Wildlife Protection

Subrecipient and Maker agrees to comply with the requirements of the Endangered Species Act of 1973 as listed in 50 C.F.R. §17.11 and 50 C.F.R. Part 451; the Lacey Act (18 U.S.C.A. 42); the Migratory Bird Treaty Act (16 U.S.C.A. 703-12); the Fish and Wildlife Coordination Act (16 U.S.C.A. 661-667e); Section 4(f) of the Department of Transportation Act (49 U.S.C.A. 1653(f)); the Federal Water Pollution Control Act (33 U.S.C.A. 1251 et seq.); the Coastal Zone Management Act of 1972, as amended (16 U.S.C.A. 1451); and the Safe Drinking Water Act of 1974 (42 U.S.C.A. 300f to j-10), insofar as they apply to the performance of this Agreement.

XI. ASSIGNMENTS AND AMENDMENTS

A. Assignability

Subrecipient and Maker shall not assign or transfer any interest in this Agreement without the prior written consent of Grantee; provided that claims for money due or to become due to Subrecipient and Maker from Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to Grantee.

B. Amendments

Grantee or Subrecipient and Maker may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release Grantee or Subrecipient and Maker from its obligations under this Agreement, unless such Amendment specifically provides for such release.

Additionally, the Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment results in a change in the funding, the activities described in **Exhibit "B"**, the Scope of Services or the activities to be undertaken as part of this Agreement, such modifications will be affected only by written amendment signed by Grantee and Subrecipient and Maker.

XII. TERMINATION OF AGREEMENT

A. Automatic Termination

This Agreement automatically terminates at the end of the time of performance as specified in Paragraph III, "TIME OF PERFORMANCE" of this Agreement.

B. Termination Without Cause

Either party may terminate this Agreement at any time by giving written notice to the other parties that are designated in this Agreement to receive notices and specifying the effective date thereof at least

thirty (30) days before the effective date of such termination. In the event of termination for convenience, copies (which may be in electronic format) of all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient and Maker under this Agreement shall be sent to the Grantee, and the Subrecipient and Maker shall be entitled to receive just and equitable compensation from Grantee for all satisfactory work completed on such documents or materials prior to the termination. In the event of a termination for convenience by the Grantee, the Grantee shall be liable to Subrecipient and Maker for reasonable and proper costs resulting from such termination which costs shall be paid to Subrecipient and Maker within 60 days of receipt by the Grantee of a properly presented claim setting out in detail: (i) the total amount of all third-party costs incurred to date of termination including without limitation, any and all costs paid with the proceeds of any debt financing received by Subrecipient and Maker; (ii) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, or for settling other liabilities of Subrecipient and Maker incurred in performance of its obligations hereunder; (iii) the cost of preserving and protecting the work already performed until the Grantee or its assignee takes possession thereof or assumes responsibility therefore; (iv) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the Grantee; (v) an amount equal to the diminution in value of the Project caused by any lien or restrictions placed by Grantee against the Project or property, to the extent such lien or restrictions are not released; (vi) any and all costs of Subrecipient and Maker's debt and equity financing including, but not limited to, any and all termination fees, yield maintenance charges and/or prepayment fees that may be due in connection with such financing, including, but not limited to, in connection with the repayment of such financing, and (vii) fair compensation to Subrecipient and Maker for all tasks performed to date, but with a setoff for sums previously paid by the Grantee as Subrecipient and Maker's compensation or otherwise reimbursed. "Fair compensation" shall be determined by the amount of work performed by Subrecipient and Maker, taking into consideration percentage of completion and the accomplishment of specific milestones (including, without limitation, completing a site plan, achieving requisite land use approvals, submitting an application for financial assistance, and obtaining award(s) of such assistance). The Grantee will pay, in full, or specifically dispute Subrecipient and Maker's claim within thirty (30) days of its receipt of demand from the Subrecipient and Maker, and failure to dispute within such 30-day period shall be deemed approval of such claim.

C. With Cause

Subject to the expiration of all applicable notice, grace, and cure periods, Grantee may terminate this Agreement for cause, in whole or in part, if Subrecipient and Maker fails to comply with any term of this Agreement, or any of the rules, regulations or provisions referred to herein; and Grantee may declare Subrecipient and Maker ineligible for any further participation in Grantee HOME program agreements, in addition to other remedies as provided by law. If Grantee has cause to believe the Subrecipient and Maker is in noncompliance with this Agreement or any applicable rules and regulations and all applicable notice, grace, and cure periods have expired without cure, Grantee may withhold up to twenty-five (25) percent of said Agreement funds until such time as Subrecipient and Maker is found to be in compliance by Grantee or is otherwise adjudicated to be in compliance.

D. Partial Terminations

Partial terminations of the Scope of Services, found in **Exhibit "B,"** may only be undertaken with the prior approval of Grantee.

E. Breach of the Agreement

Termination of this Agreement shall not relieve Subrecipient and Maker of liability for any breach of this Agreement that occurs prior to such termination or expiration.

F. Closeouts

Subrecipient and Maker's obligations to Grantee shall not end until all closeout requirements described in 2 C.F.R. §200.343 - 200.344 are completed to the satisfaction of HCCSD and the Harris County Auditor. Activities during this closeout period shall include, but are not limited to, making final payments and disposing of Program assets (including the return of all unused materials, equipment, Program income balances, and receivable accounts) to Grantee, and determining the custodianship of records.

G. Reversion of Assets

Upon expiration or termination of this Agreement, Subrecipient and Maker shall transfer to Grantee any CDBG-DR funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-DR funds. For any year following the expiration or termination of this Agreement that Subrecipient and Maker holds personal property attributable to funds hereunder, Subrecipient and Maker shall submit an Annual Report of Personal Property identifying the property and its location, with such report being filed with HCCSD and the Harris County Auditor. Any interest earned on cash advances from the U.S. Treasury is not Program income and shall be remitted promptly to Grantee. Upon Subrecipient and Maker's satisfaction of its respective obligations under this Agreement, Grantee shall release all collateral securing the Loan and shall execute a written release with respect to the Collateral Assignment.

XIII. INCORPORATION OF EXHIBITS: The following documents are a part of this Agreement:

Exhibit A	Loan Note
Exhibit B	Scope of Services
Exhibit C	Harris County Community Services Department Construction Policies and Guidelines
Exhibit D	Budget
Exhibit E	Harris County Affordable Housing Standards and Minimum Property Standards (See Hyperlink: https://csd.harriscountytexas.gov/Pages/HCAffordableHousingStandards.aspx)
Exhibit F	Architect/Builder's Certification
Exhibit G	Affirmative Marketing Policy and Procedures and HUD Form 935.2A
Exhibit H	Cost Control Report/Reimbursement Summary
Exhibit I	County Leasehold Deed of Trust to Secure Performance
Exhibit I-2	County Fee Deed of Trust to Secure Performance
Exhibit J	Regulatory Agreement and Declaration of Restrictive Covenants
Exhibit K	Intercreditor, Subordination, and Funding Agreement
Exhibit L	Certification for Contracts, Grants, Loans and Cooperative Agreements
Exhibit M	Equal Opportunity
Exhibit N	Grievance Information Form
Exhibit O	Conflict of Interest Form
Exhibit P	Conflict of Interest Disclosure Statement
Exhibit Q	Conflict of Interest Questionnaire
Exhibit R	Lead-Safe Housing Rule Applicability Form
Exhibit S	Lease Addendum

Exhibit T	Rental Housing Project Compliance Report Form
Exhibit U	Section 504 Survey & Section 504 Transition Plan Format
Exhibit V	Regulation Reference Information
Exhibit W	Required Federal Grant Contract Provisions
Exhibit X	CDBG-DR Federal Regulations
Exhibit Y	Security, Pledge and Assignment of Account (Affordable Housing Compliance Monitoring Fees)
Exhibit Z	Guaranty of Payment and Performance
Exhibit AA	Reserved
Exhibit BB	Collateral Assignment of Note and Liens
Exhibit CC-1	Executed Guaranty
Exhibit CC-2	Executed Loan Note
Exhibit CC-3	Reserved
Exhibit CC-4	Executed Affordable Housing Compliance Monitoring Security, Pledge and Assignment of Account in Connection with the Payment of Compliance Monitoring Fees
Exhibit CC-5	Executed Leasehold Deeds of Trust to Secure Performance
Exhibit CC-6	Executed Collateral Assignment of Note and Liens
Exhibit CC-7	Executed Regulatory Agreement and Declaration of Restrictive Covenants
Exhibit CC-8	Executed Intercreditor and Subordination Agreement
Exhibit DD	Notice of Environmental Clearance
Exhibit EE	Application and Certification for Payment

XIV. AGREEMENT REQUIREMENTS

Notwithstanding any other provision of this Agreement, Subrecipient and Maker is required to comply with only the federal, state, and local regulations applicable to the specific federally assisted program associated with this Agreement.

Signatures to Follow on Next Page

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of November 9, 2021.

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

HARRIS COUNTY

By: Randy Keenan
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2272

By: _____
LINA HIDALGO
Harris County Judge

Magnificat Permanent Affordable, LLC
a Texas limited liability company

By: NHPF Caroline MM, LLC
a Texas limited liability company,
its managing member

By: Jamestown Affordable Housing, Inc.,
a District of Columbia non-profit corporation,
its manager Neal Z. Drobenare

By: _____
Neal Drobenare, Vice President

NHPF Caroline Conduit, LLC,
a Texas limited liability company

By: The NHP Foundation,
a District of Columbia nonprofit corporation,
its Manager

By: Neal Z. Drobenare
Neal Drobenare, Senior Vice President

EXHIBIT A

LOAN NOTE

1. DEFINITIONS

Date: November ____, 2021

Maker: **NHPF Caroline Conduit, LLC**, a Texas limited liability company

Maker's Address: c/o The NHP Foundation, 122 East 42nd Street, Ste. 4900, New York, NY 10168, Attn: Terry Green

Owner: **Magnificat Permanent Affordable, LLC**, a Texas limited liability company

Owner's Address: c/o The NHP Foundation, 122 East 42nd Street, Ste. 4900, New York, NY 10168, Attn: Terry Green

Noteholder: **Harris County**, a political subdivision under the laws of the State of Texas

Place of Payment: 8410 Lantern Point Drive, Houston, Texas 77054
Attn: Executive Director, Harris County Community Services Department

Loan:

A. **CDBG-DR Loan Amount:** \$8,538,278.00, which includes \$400,870.00 for HCCSD project management and oversight and Harris County Engineering Department (HCED) inspections, as well as a \$120,000.00 Construction Management cost, totaling \$520,870.00.

B. **CDBG-DR Loan Term Periods**

	CDBG-DR Loan Term	CDBG-DR Loan Interest	CDBG-DR Repayment
1	20 Years	0.00% (000BPS) for Years 1-20	Subject to the other terms of this Note and the other County Loan Documents: \$0.00

C. **Collateral:** Collateral assignment of (i) a first lien (of equal priority with the City Loan, as such term is defined in the Loan Agreement) on Owner's leasehold interest in the Land and any improvements located on or to be located thereon, and Uniform Commercial Code (UCC) filings for fixtures; (ii) a first-priority (of equal priority with the City Loan) assignment of all leases and rents; and (iii) a first-priority (of equal priority with the City Loan) collateral assignment of all contracts, management agreements, and other agreements and all permits relating to the Property.

D. **Payment and Performance Guaranty:** Until Project Completion (as defined in the Loan Agreement), 100% guarantee of completion, performance, and repayment is to be provided by

The NHP Foundation, a District of Columbia nonprofit corporation ("**Guarantor**"), pursuant to the terms of that Guaranty of Payment and Performance to be executed by Guarantor for the benefit of Noteholder in the form attached to the Loan Agreement (defined below). Project Completion must occur no later than 18 months after construction start, subject to delays caused by events of force majeure.

Deed of Trust: A first priority (even priority with the City Loan) (a) Uniform Commercial Code (UCC) lien for fixtures; (b) assignment of all leases and rents; and, (c) a collateral assignment of all contracts, management agreements, and other agreements and all permits relating to the Property. All income and rent restrictions will be subordinate to or of equal priority with the Regulatory Agreement and the City Restrictions (as defined in the Loan Agreement).

That certain County Leasehold Deed of Trust to Secure Performance of even date herewith, executed by Owner to Adrienne M. Holloway, Ph.D., Trustee, for the benefit of Maker (the "**County Leasehold Deed of Trust**"), granting a lien in and to the Property to secure payment of that Promissory Note of even date herewith, executed by Owner for the benefit of Maker (the "**Collateral Note**"), as such County Leasehold Deed of Trust and Collateral Note are assigned to Noteholder pursuant to the Collateral Assignment of Note and Liens executed by Maker for the benefit of Noteholder (the "**Collateral Assignment**") to secure payment of the Loan Note (this "**Note**").

Property: The property of Owner as described in the County Leasehold Deed of Trust.

Trustee: Adrienne M. Holloway, Ph.D., Executive Director of Harris County Community Services Department, or her successor in office.

Loan Term: A period commencing on the date of this Note and ending on the last day of the Twenty (20) year Affordability Period as defined in the **LOAN AGREEMENT BETWEEN HARRIS COUNTY, MAKER AND OWNER FOR THE 3300 CAROLINE STREET PROJECT and subsequent amendments** (collectively, the "**Loan Agreement**").

Affordability Period: Minimum CDBG-DR affordability period of twenty (20) years for new construction of rental housing, beginning after Project Completion as defined in the Loan Agreement.

Funding Program: CDBG-DR Hurricane Harvey 2017

2. MAKER'S PROMISE TO PAY

In return for the loan evidenced by this Note that Maker received from Noteholder (the "**Loan**"), which Maker in turn loaned to Owner, Maker promises to pay to Noteholder the twenty (20) Annual CDBG-DR Interest Payments together with the CDBG-DR Loan Amount of \$8,538,278.00. Payments of the CDBG-DR Loan Amount shall be deferred until the last day of the Affordability Period (the "**Maturity Date**"); provided, however, upon the expiration of the Affordability Period, if no Default then exists that is continuing beyond the expiration of all applicable notice, grace, and cure periods, the CDBG-DR Loan Amount shall be deemed paid and Noteholder shall release Maker's obligations under this Note, and this Note and the other documents governing, securing, and/or evidencing the Loan (including

without limitation the Collateral Assignment, but excluding the County Leasehold Deed of Trust) shall automatically terminate and be of no further force and effect.

CDBG-DR Loan Amount: \$8,538,278.00, which includes \$400,870.00 for HCCSD project management and oversight and Harris County Engineering Department (HCED) inspections, as well as a \$120,000.00 Construction Management cost, totaling \$520,870.00.

CDBG-DR Loan Term: 20-year loan.

Maker understands that the Noteholder may transfer this Note. The Noteholder or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "**Noteholder**."

3. LOAN CHARGES

If a law, which applies to the Loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then:

(A) Any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit.

(B) Any sums already collected which exceed permitted limits will be refunded to Maker. The Noteholder may choose to make this refund by reducing the Outstanding Principal owed under this Note or by making a direct payment to Maker. If a refund reduces the Outstanding Principal, the reduction will be treated as a partial prepayment.

4. DEFAULT

(A) By Maker. The occurrence of any one of the following events shall constitute a default (referred to as a "**Default**"):

(i) Other than pursuant to occupancy leases and easement agreements and other similar instruments, and other transfers permitted by the terms of the Loan Documents, Maker (voluntarily or involuntarily) sells or otherwise transfers any interest in the Project prior to the expiration of the Affordability Period, unless Harris County agrees to the transfer in writing, which consent may be withheld by Harris County; provided, however, notwithstanding anything to the contrary set forth in this Agreement or any of the other County Loan Documents to the contrary, the following shall be permitted without Grantee's consent: (i) the Investor Member's transfer of its interest in Maker, (ii) the Investor Member's removal and substitution of Maker's managing member pursuant to the Amended and Restated Operating Agreement of Maker; (iii) the Bridge Lender's removal and substitution of Maker's managing member pursuant to the Collateral Assignment of Managing Member Interest and Security Agreement from Maker's managing member in favor of Bridge Lender and (iv) the exercise, subject to the terms below, of the right of first refusal and/or option to purchase by The NHP Foundation ("NHPF"), MHI or an affiliate of MHI that is also member of Maker's managing member ("Qualified Affiliate"). Notwithstanding the foregoing, Harris County acknowledges that (i) MHI holds an option to purchase the membership interests of (x) the Maker's managing member and (y) Investor Member or to purchase the Project at the end of the fifteen-year Tax Credit

Compliance Period and (ii) MHI or a Qualified Affiliate and NHPF hold rights of first refusal to acquire the Project at the end of the fifteen-year Tax Credit Compliance Period. Such acquisitions are preapproved and require no further consent from Harris County, but any further transfers of such interests shall not be permitted without the consent of the Executive Director of HCCSD and any further transfers without consent shall be deemed a default hereunder. At any time after the acquisition of said membership interest, Harris County acknowledges that (a) MHI Special Member, LLC a Texas limited liability company, and NHPF, respectively, may purchase the Collateral Note pursuant to their respective purchase agreement(s); provided that such exercising party(ies) assume(s) all obligations of the Maker under this Loan Agreement and the Loan Documents and provided further that no other transfers of the Collateral Note shall be permitted and any additional transfer shall be deemed a Default hereunder. The Collateral Note and the documents securing or evidencing same (including the Deeds of Trust) may not be amended, modified, released or terminated without the express written consent of the Executive Director of HCCSD..

(ii) Maker or Owner fails to perform any term, condition or covenant contained in this Note or the County Leasehold Deed of Trust or the Loan Agreement and such failure continues beyond the expiration of all applicable notice, grace, or cure periods.

(iii) Maker or Owner makes a material misrepresentation to Noteholder with respect to any representation made by Maker or Owner in this Note, the County Leasehold Deed of Trust, or any documents provided previously or in the future by Maker or Owner to Noteholder.

(iv) Maker or Owner fails to perform any term, condition, or promise contained in any other loan, grant or agreement made in connection with the purchase of the Property, and such failure continues beyond the expiration of any applicable notice, grace, or cure period.

(B) Notice of Default. Maker and Owner (together with the other parties listed in the "Notice" provision set forth in Exhibit "B" of the Loan Agreement) will be notified in writing by Noteholder of the occurrence of a Default. If the Default is not cured to Noteholder's reasonable satisfaction within thirty (30) days after the date on which the notice is delivered (or Maker and Owner fail to commence to take action within thirty (30) days if the work to be undertaken to cure the default cannot be completed within 30 days and the diligently pursue to completion), Noteholder at its option, may declare that portion of the Outstanding Principal attributable to the remainder of the Loan Term, together with all accrued interest thereon, immediately due and payable and may invoke any or all remedies permitted by this Note, the County Leasehold Deed of Trust, or any of the Loan Documents, without further notice or demand on Maker, except as required by law.

(C) No Waiver by Noteholder. Even if, at a time when Maker or Owner is in Default, the Noteholder does not require Maker to pay immediately the Outstanding Principal attributable to the remainder of the Loan Term as described in Subparagraph 4(B) above, the Noteholder will still have the right to do so if Maker or Owner is in Default at a later time (beyond the expiration of all applicable notice, grace, and cure periods).

(D) Payment of Noteholder's Cost and Expenses. If the Noteholder requires Maker to pay the Outstanding Principal attributable to the remainder of the Loan Term as described in Subparagraph 4(B) above, the Noteholder will have the right to be paid back by Owner for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorney's fees and court costs, if any.

(E) Cure by Constituent Parties. Noteholder hereby agrees that any cure of any Default that is made or tendered by any of Maker's or Owner's limited partners, members, or their constituent parties shall be deemed to be a cure by Maker and shall be accepted or rejected on the same basis as if made or tendered by Maker.

5. GIVING NOTICE

Unless applicable law requires a different method, any notice that must or may be given to Maker or Owner under this Note will be given by overnight delivery, hand delivery or by mailing same by first class mail, postage prepaid, return receipt requested, to Maker and Owner at Maker's and Owner's respective address above or at a different address if Maker or Owner give the Noteholder a notice of Maker's or Owner's different address.

Any notice that must be given to the Noteholder under this Notice will be given by mailing it first class mail, postage prepaid, return receipt requested, to the Noteholder at the address stated above or at a different address if Noteholder gives the Maker a notice of Noteholder's different address.

Any notice to be given under this Note shall also be given to the parties listed in the "Notice" provision set forth in **Exhibit "B"** attached to the Loan Agreement, including without limitation:

Magnificat Permanent Affordable, LLC
c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green

And

Hudson-FM SLP Caroline LLC
c/o Hudson Housing Capital LLC
630 Fifth Avenue, 28th Floor
New York, New York 10111
Attention: Joseph A. Macari
Fax No.: (212) 218-4467

6. NONRECOURSE

Notwithstanding anything to the contrary herein, the Noteholder shall have no recourse against the Maker or its affiliates, members, partners, or other constituent members for payment and performance of all of the obligations, covenants and agreements of Maker or Owner under the Loan Agreement, this Note and the documents governing and/or securing the same including, but not limited to, the County Leasehold Deed of Trust (collectively, the "**Loan Documents**"), except to the full extent of all of the Property which constitutes security for this Note.

7. WAIVERS

Maker waives notice of intention to accelerate, except as provided in Section 6(B) above, and the rights of presentment and notice of dishonor. "Presentment" means the right to require the Noteholder to demand payment of amounts due. "Notice of dishonor" means the right to require the Noteholder to give notice to other persons that amounts due have not been paid.

8. PREPAYMENT OF NOTE

Maker reserves the right to prepay the outstanding principal of this Note at any time prior to maturity without penalty, subject to receipt of Owner's prior written consent.

9. THE TERMS

The terms "Maker" and "Noteholder" and other nouns and pronouns include the plural if more than one. The terms "Maker" and "Noteholder" also include their respective heirs, personal representatives, and assigns.

10. SECURED NOTE

This Note is secured by the Collateral Assignment, collaterally assigning Maker's interest in the County Leasehold Deed of Trust. In addition to the protections given to the Noteholder under this Note, the effect of the Collateral Assignment protects the Noteholder from possible losses that might result if Maker does not keep the promises made in this Note.

11. PURPOSE OF LOAN

The Loan shall be used to assist Owner in the development of the 149-unit 3300 Caroline Street at 3300 Caroline Street, Houston, Texas, 77004. The Project will be a new four-story elevator-served building consisting of 149 efficiency apartments, shared space for the supportive programs and office space for the Magnificat staff, and otherwise in accordance with the terms of the Loan Agreement and the other Loan Documents. Maker is loaning the proceeds of the Loan to Owner (the "**Conduit Loan**"), and the proceeds of the Conduit Loan will be used by Owner for the payment of the costs to acquire a leasehold interest in the Property and construct the Project. Furthermore, the Loan shall be used for the Owner to maintain ownership of the Project at the completion of construction. Per the terms of the Loan Agreement, Owner represented and agreed that Owner will comply with all applicable Texas General Land Office (GLO), and U.S. Department of Housing and Urban Development regulations and guidelines during the Affordability Period as they exist now or as they may be modified in the future. Subrecipient and Maker and Owner agree to provide within ten (10) days after request such affidavits and other documents as Noteholder may from time to time request in order to assure that Maker and Owner are in compliance with this Note, the County Leasehold Deed of Trust, and applicable governmental regulations.

(Executed on the following page)

MAKER:

NHPF Caroline Conduit, LLC,
a Texas limited liability company

By: The NHP Foundation,
a District of Columbia nonprofit corporation,
its Manager

By: _____
Neal Drobenare, Senior Vice President

EXHIBIT B
SCOPE OF SERVICES

I. Application

This Scope of Services is based on the proposal prepared and submitted by Magnificat Permanent Affordable, LLC ("**Applicant**") to the Harris County Community Services Department ("**Lender**"), however, in the event of any conflict between the proposal and any provision contained herein, this Agreement shall control. In addition to the activities listed below, Magnificat Permanent Affordable, LLC, a Texas limited liability company ("**Subrecipient and Maker**") agrees to operate this Project in accordance with the CDBG-DR funds; HCCSD requirements; and all other federal, state, and local regulations.

II. Project Description

The Subrecipient and Maker shall be responsible for implementing the 3300 Caroline Street Project ("**Project**") during the term of this Agreement. The scope of the Project includes, but is not limited to, new construction of a 149-unit building to provide permanent supportive housing (PSH) for homeless adults, in which 76 units (which is 51% of the total number of units) will be CDBG-DR assisted and occupied by income-eligible homeless residents of Harris County. The Project shall include 76 CDBG-DR Units (51% of total Units). The Project shall contain fifteen (15) High HOME Rent Limit Units, thirty-one (31) Low HOME Rent Limit Units, and thirty (30) units with rents at or below 60% of Low HOME Rent Limit units for a total of 76 CDBG-DR Assisted Units. The Subrecipient and Maker will maintain ownership of the Project at Project Completion.

The total amount of the CDBG-DR funds is \$8,538,278.00, which includes the charges for HCCSD project management and oversight and Harris County Engineering Department (HCED) inspections (\$400,870.00) and a Construction Management cost (\$120,000.00), totaling \$520,870.00. The Project property is located at 3300 Caroline Street, Houston, TX 77004, Precinct 1.

The Subrecipient and Maker shall ensure that personnel and contractors providing services under this Agreement have all licenses required by law and/or are qualified to perform the services required under this Agreement. The Subrecipient and Maker shall further ensure that all Program and/or facility licenses necessary to provide the required services are current and that HCCSD shall immediately be notified if any such required licenses become invalid or are canceled during the term of this Agreement.

III. Activities

Activity #1 Site Control

Site control for the Project is held by Subrecipient and Maker for 3300 Caroline Street pursuant to the terms of the Ground Lease, sited on the Land, which is located at 3300 Caroline Street, Houston, Harris County, Texas.

Activity #2 Leverage Funds

The Subrecipient and Maker will submit a log of sources and usage for all leveraged funds, as contained in **Exhibit "D"** of this Agreement. In the event that additional funds are secured prior

to the completion of lease-up, the Subrecipient and Maker will immediately submit a revised log of sources and uses.

Activity #3 Construction

The Subrecipient and Maker shall acquire a leasehold interest in the Land and construct thereon the 149-unit 3300 Caroline Street multifamily complex to provide permanent supportive housing (PSH) for homeless adults of Harris County (76 of the units shall be CDBG-DR assisted units). The entire Project shall consist of 149 Affordable Zero-Bedroom Efficiency units.

Activity #4 Housing Quality Standards

The execution of this Agreement by Subrecipient and Maker acknowledges Subrecipient and Maker's understanding that housing assisted with CDBG-DR funds must meet all applicable federal, state and local housing quality standards and code requirements. Subrecipient and Maker shall ensure that all of the 149 units in this Project meet Lender's "Harris County Affordable Housing Standards and Minimum Property Standards for Multi-Family Housing of New Construction and Rehabilitation," see **Exhibit "E."** Subrecipient and Maker shall inspect units annually based upon Housing Quality Standards (HQS) during the Affordability Period. HCCSD will also inspect all of the units annually based upon HQS during the Affordability Period.

Activity #5 ENERGY STAR Certification

All new and substantial rehabilitation and new construction in residential buildings shall be designed to meet the standard for ENERGY STAR Qualified New Homes or the Qualified Multifamily High Rise Building program certifications as in existence on the date of the closing and funding of the Loan. All procedures used for this rating shall comply with National Home Energy Rating System guidelines as in existence on the date of the closing and funding of the Loan. The Subrecipient and Maker shall consult the EPA ENERGY STAR program website at www.energystar.gov for more information to determine the applicable program. The Subrecipient and Maker shall provide proof to the Grantee of Home Energy Rating System Program verification of ENERGY STAR certification.

Activity #6 Tenant Eligibility

Income

Subrecipient and Maker shall collect documentation prior to leasing CDBG-DR assisted units for tenant occupancy verifying that each household meets HOME income eligibility and specified low-income requirements in accordance with the Fair Housing Act, during the Affordability Period. Under the terms of this Agreement, and in accordance with HCCSD requirements, the Affordability Period shall be twenty (20) years beginning after Project Completion.

Subrecipient and Maker shall determine household income for all adult members in CDBG-DR assisted units over 18 years of age by assembling source documentation from all sources. Subrecipient and Maker shall calculate annual income by utilizing the Section 8 definition of determining annual income. Subrecipient and Maker shall consider any likely changes in income, as eligibility is based on anticipated income during the next twelve (12) months. Source

documentation shall include, but not limited to: two (2) months of pay stubs, or verification of employment, and social security income, monthly bank statements for the most recent two (2) month period, interest statements, and unemployment compensation statements, etc. Subrecipient and Maker must verify proof of income from all applicable sources for all adult family members.

Documentation of Homelessness

The Subrecipient and Maker shall maintain adequate documentation of homelessness status to determine the eligibility of persons approved to be housed at the Project. The Subrecipient and Maker shall maintain a copy of the documentation in the participant/tenant's file. Such documentation shall meet the U.S. Department of Housing and Urban Development's definition of homeless which is defined as a person who lacks a fixed, regular, and adequate nighttime residence meaning:

- Has a primary nighttime residence that is a public or private place not meant for human habitation;
- Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing (must have originally come from the streets or emergency shelter), and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or
- Is exiting an institution where s(he) has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution; or
- Any individual or family who is fleeing, or is attempting to flee, domestic violence; has no other resources; and lacks the resources or support networks to obtain other permanent housing.

Coordinated Intake/Assessment

The Subrecipient and Maker agrees to comply with requirements of the community-wide coordinated intake/assessment system. Subrecipient and Maker understands that if such community-wide coordinated intake/assessment system includes a referral process for transitional and permanent housing; the Subrecipient and Maker must agree to take referrals for tenancy through the system subject to the Project's residential lease and program requirements and target population criteria.

Felony Convictions

Subrecipient and Maker shall deny assistance regarding tenant felony convictions as stated in the *Harris County Housing Authority 2019 Administrative Plan, Chapter 3, Part III, Section-3-III.B. Mandatory Denial of Assistance* pursuant to 24 CFR 982.553(a), pursuant to the two enumerated categories below. Applicants, including any members of the household, with applicable history of criminal convictions will be denied assistance if such history includes the following: (a) current or past drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing; and/or (b) being subject to a lifetime registration requirement under a state sex offender registration program.

Subrecipient and Maker shall comply with all tenant and participant protection requirements at 24 C.F.R. §92.253 as provided for in the Lease Addendum, **Exhibit "S."** The Lease Addendum will be completed with each tenant with the execution of each lease and maintained in the tenant file.

Activity #8 Affordability Periods and Rent Schedule

Subrecipient and Maker must maintain a minimum of 76 **Floating** CDBG-DR assisted rental units (Fifteen (15) zero-bedroom, efficiency units at High HOME rent limits, Thirty-One (31) zero-bedroom, efficiency units at low HOME rent limits, and Thirty (30) zero-bedroom, efficiency units at 60% of low HOME rent limits at the Project; all of which must be occupied by income-eligible homeless residents earning 80 percent or less of Median Family Income (MFI) according to the High and Low HOME rents published annually by HUD (24 C.F.R. §92.252), and CDBG-DR RFP/RFA application requirements for a period no less than twenty (20) years from the date of Project Completion. The **Floating** unit numbers will be assigned to Harris County for the duration of the Affordability Period and made part of the **Exhibit J**, Regulatory Agreement and Declaration of Restrictive Covenants. Subrecipient and Maker must utilize the Allowances for Tenant-Furnished Utilities and Other Services approved annually by HCCSD. Alternatively, Subrecipient and Maker may, with Grantee's prior consent, submit and use the utility allowances derived by a third party which utilized the Energy Consumption Model Methodology, as approved in 26 CFR 1.42-10 and in the Texas Administrative Code, Title 10, Part 1, Chapter 10, Subchapter E, §10.614, Utility Allowances, or subsequent revisions and/or substitutions thereto.

Percentage of Median Family Income (MFI)	No. of Affordable Zero (0)-Bedroom Efficiency Units Set Aside for 20-Year Affordability Period	Applicable Rent for Total by Income Category (Rents Shall Not Exceed)
Extremely Low-income households (30% or less) 24 C.F.R. §92.252	30	30 units at 60% of Low HOME Rent
Very Low-income households (50% or less) 24 C.F.R. §92.252	31	31 units at Low HOME Rent
Low-income households (80% or less) 24 C.F.R. §92.252	15	15 units at High HOME Rent
Total Number of Units	76	76

****Timing of compliance, as units become available and all within 12 months after Project Completion. The CDBG-DR requirements are 51% of 149 total units = 76 units total under CDBG-DR. 2020 HUD HOME Rent Limits apply.**

Activity #9 Documentation & Reporting

Subrecipient and Maker must document and report demographic information, including race, sex, age, disability, and homelessness for all participants in the Grantee's **76** Floating CDBG-DR Assisted units, 100% of which must be CDBG-DR income-eligible persons. The Subrecipient and Maker shall recertify tenant income on an annual basis during the Affordability Period. The Subrecipient and Maker shall recertify household income on the anniversary of the original income evaluation or at lease renewal. The Subrecipient and Maker shall collect income documentation and place tenant income recertification documentation in the respective tenant file.

Initial Lease-Up – Prior to commencing lease-up, Subrecipient and Maker must submit a rent schedule for CDBG-DR assisted units for review and approval. On a monthly basis, Subrecipient and Maker will complete and report the initial lease-up of at least 95% of the 76 CDBG-DR assisted units on the Rental Housing Compliance Report Form, **Exhibit "T."**

Quarterly and Annual Reporting – Subrecipient and Maker must complete and submit an annual Rental Housing Project Compliance Report Form (**Exhibit "T"**) throughout the 20-year Affordability Period for compliance with HCCSD and CDBG-DR requirements.

Activity #10 Section 504 Rehabilitation Act of 1973

Prior to Project Completion, Subrecipient and Maker shall specify the units, which shall be distributed among Zero (0) Bedroom Efficiency Units that comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. 706, as amended), and the terms of this Agreement, which prohibits discrimination against the handicapped in any federally assisted program. The Grantee will inspect the specified units and property for compliance during construction. The Subrecipient and Maker shall complete or cause to complete relevant portions of the Section 504 Survey and Section 504 Transition Plan Format, **Exhibit "U"** and will maintain this information on file for public view and on-site monitoring by the Grantee and the U.S. Department of Housing and Urban Development.

Subrecipient and Maker shall comply with all the requirements of the Section 504 Rehabilitation Act; and, pursuant to Hurricane Harvey CDBG-DR affordable rental housing requirements, the Subrecipient and Maker shall be required, in accordance with the Affordable Rental Housing CDBG-DR RFA/RFP, to provide a minimum for new construction of two (2) additional units above the standard 5% Mobility-Impaired units, and one (1) additional units above the standard 2% Sensory-Impaired Units consisting of the following: Mobility-Impaired Units (10 total) and Sensory-Impaired Units (4 total), for a total of 14 units.

Number of Section 504 Units	Zero (0)- Bedroom Efficiency Units
Units Supporting Mobility-Impaired Tenants	10
Units Supporting Sensory-Impaired Tenants	4
Total	14

Activity #11 Affirmative Marketing

- a. In accordance with **Exhibit "G,"** the Subrecipient and Maker must document and report affirmative fair housing activities on HUD Form 935.2A on a quarterly basis. After Lease-Up is achieved, if any affirmative marketing activities are conducted, a record of the activities, including copies of publications, must be kept in the property leasing office for the Grantee's review.
- b. Following Project Completion, Subrecipient and Maker agrees to register the property with the Harris County Housing Resource Center and maintain an active listing of unit availability on the affordable housing searchable database.

Activity #12 Participation in HMIS for Projects Providing Services to the Homeless

Grantee requires Subrecipient and Maker creating and/or providing transitional and permanent supportive housing for homeless persons to participate in the local Homeless Management Information System (HMIS). Recipients of HCCSD funds are required to use HMIS to collect data and report on outputs and outcomes. The Subrecipient and Maker agrees to participate in HMIS and report data as required by HCCSD in such a system. Notwithstanding anything to the contrary set forth in the Agreement or the other County Loan Documents, Subrecipient and Maker will hold a unit open that is designated for transitional and permanent supportive housing for homeless persons for thirty (30) days, after which, if no such persons have been identified the unit may be leased to persons who do not satisfy the transitional and permanent supportive housing for homeless standards.

Activity #13 Matching Funds Requirement

HOME Program funds used for affordable housing activities are required to be matched according to 24 C.F.R. §92.218. The matching contribution must total not less than twenty-five percent (25%) of HOME Program funds expended. Eligible forms of matching contributions must be met in accordance with 24 C.F.R. §92.220. The Match has been waived by HUD and a matching contribution is not required.

Activity #14 TABA/TAS UFAS Requirements, and Americans with Disabilities Act 1990 (2010 Standards for Accessible Design)

Subrecipient and Maker shall cause its Architect/Engineer to furnish documentation prior to construction demonstrating that the Project meets the requirements of the Texas Architectural Barriers Act (TABAA) and Texas Accessibility Standards (TAS). Subrecipient and Maker shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of TABAA and TAS. Further, Subrecipient and Maker shall at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the requirements of Section 504, UFAS, the requirements of the Americans with Disabilities Act of 1990 (ADA) Title II (28 C.F.R. Part 35) and Title III (28 C.F.R. Part 36) 2010 Standards for Accessible Design.

Subrecipient and Maker shall document and report the results of all inspection activities to HCCSD, upon request by HCCSD. Upon Project Completion, the Subrecipient and Maker shall submit documentation from the Texas Department of Licensing and Regulation (TDLR) indicating that the Project complies with TABAA and TAS.

Activity #15 ACTIVITIES, SCHEDULE, AND REQUIRED DOCUMENTS

Construction or Rehabilitation

	Activity Name	Schedule	Reports and Compliance Documents
No.	Construction	Time Frames	Submission
1.	Design	Within 1 month from the date of the Agreement, subject to events of force majeure and all applicable notice, grace and cure periods, the Subrecipient and Maker shall submit the compliance documents to the Lender for review and approval.	Final set of permitted drawings, plans, cost estimates (the County hereby acknowledges its approval of the drawings and plans submitted to the County as of the date hereof, bid specifications and construction documents
2.	Bid Out	Within fifteen (15) days after the Lender's approval of the bid specifications (HCED Permitting and Architecture and Engineering approval), the Subrecipient and Maker shall advertise the project for at least two (2) consecutive weeks.	Copy of bid advertisement with affidavit
3.	Pre-bid Conference	The Subrecipient and Maker shall hold a Pre-Bid Conference, at least one (1) week before bids are due.	Copy of attendance roster and meeting notes
4.	Bid Opening	The Subrecipient and Maker held a Bid Opening, at a minimum of two (2) weeks after the initial advertisement of project.	N/A
5.	Bids, Bid Tabulation and Recommendations	Within fifteen (15) days from the date of the Bid Opening, based upon the Consultant's bid review and tabulation, and recommendation, the Subrecipient and Maker shall submit the compliance documents to the Lender for review and approval.	Copy of all bids, bid bonds, tabulation and Consultant's recommendations
6.	Notice of Award	Within fifteen (15) days after the Lender's approval of the lowest and most responsible bid, the Subrecipient and Maker shall issue the Notice of Award to the contractor.	Copy of Notice of Award
	DRAFT Construction Contract	Within thirty (30) days after the Lender's written approval of the lowest and most responsible bid, the Subrecipient and Maker shall submit the compliance document to the Grantee for review and approval.	Copy of the draft construction contract
7.	Executed Construction Contract	Within fifteen (15) days after the Lender's approval of the draft construction contract, the Subrecipient and Maker shall execute the construction contract.	ORIGINAL copy of the executed construction contract
	Third-Party Plans, Drawings, and	Prior to issuing the Notice to Proceed, the Subrecipient and Maker shall require that its architect submit third-party review documentation	Copy of letters from reviewing entity.

	Specification Review	for TAS, TABA, and Section 504, UFAS, and ADA 2010 with any deficits noted. 3 rd Party review and Certification for Section 504 ADA 2010, and Fair Housing shall be required. A 3 rd Party Independent Cost Estimate shall also be conducted and required prior to a Bid Opening.	
8.	Pre-construction Conference	Prior to commencement of construction, the Subrecipient and Maker shall schedule and hold the Pre-construction Conference with Lender.	Copy of attendance roster and meeting notes
9.	Construction Start Date	Within thirty (30) days of the date of the closing and funding of the Loans as shown on Exhibit D, the Subrecipient and Maker shall issue the Notice to Proceed to the contractor.	Copy of Notice to Proceed
10.	DBRA Compliance Documents	Within seven (7) days of the Construction Start Date and during the project construction, the Subrecipient and Maker shall submit or cause to be submitted original compliance documents on a weekly basis.	Original DBRA documentation
11.	Survey, Inspection, and Testing	The Subrecipient and Maker shall perform survey, inspection and testing during the course of implementing the project, as applicable.	Copy of survey, inspection and testing reports, as applicable
12.	Final Walkthrough and Final Punch List	At the completion of the construction activities, the Subrecipient and Maker shall hold a Final Walkthrough and issue the Final Punch List, as applicable.	Copy of Final Punch List, if applicable
13.	Third-Party Construction Review	The Subrecipient and Maker shall require that its architect submit third-party review of completed construction stating TAS, TABA, and Section 504, UFAS, and ADA 2010 compliance. A 3 rd Party Independent Cost Estimate is required and must be in place prior to any bid opening.	Copy of letters from reviewing entities
14.	Energy Star Certification	3 rd Party review and Certification is required from the Subrecipient and Maker. Within five (5) days of receipt of the Energy Star Certification, the Subrecipient and Maker shall forward a copy of the Certification to the Grantee.	Copy of Certification
15.	Certificate of Occupancy	<p>Within five (5) days of receipt of the Certificate of Occupancy, the Subrecipient and Maker shall forward a copy of the Certificate to the Grantee.</p> <p>The Subrecipient and Maker shall ensure that, except in cases of force majeure, the construction of the Project shall be completed on or before the expiration of eighteen (18) months following the Construction Start Date pursuant to Texas GLO contract requirements.</p>	Copy of Certificate of Occupancy

Time/Date variances to the schedule may be approved by the Executive Director of HCCSD, or his designee, if reasonable justification is provided for the delay.

The Subrecipient and Maker shall forward compliance documents upon completion of the activity, or as noted in the schedule.

In addition to the normal administrative services required as part of this Agreement, Subrecipient and Maker agrees to document progress using reporting requirements specified in Section VIII of this Agreement.

The Scope of Services to be provided by the Subrecipient and Maker may be amended to include other activities authorized under federal law that are approved in writing by the Executive Director, HCCSD and within the same general type of services described herein.

Notices

Unless applicable law requires a different method, all notices and communications concerning this Agreement shall be sent to the parties listed below. All such notice and communications shall be sent by overnight delivery, hand delivery or by mailing same by first-class mail, postage prepaid, return receipt requested, to the applicable party at their respective address below or at a different address if the applicable party gives the other parties notice of its new address. Such notices and communications shall be deemed delivered upon the addressee's receipt or refusal of receipt thereof:

Lender Department

Adrienne M. Holloway, Ph.D.
Executive Director
Harris County Community
Services Department
8410 Lantern Point Drive
Houston, Texas 77054
adrienne.holloway@csd.hctx.net

Subrecipient and Maker

Magnificat Permanent Affordable, LLC
c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green
tgreen@nhpfoundation.org

And

Hudson-FM SLP Caroline LLC
c/o Hudson Housing Capital LLC
630 Fifth Avenue, 28th Floor
New York, New York 10111
Attention: Joseph A. Macari
Fax No.: (212) 218-4467



EXHIBIT C

HARRIS COUNTY COMMUNITY SERVICES DEPARTMENT CONSTRUCTION POLICIES & GUIDELINES

These policies are intended to assist those entities receiving Harris County Home Investment Partnership (HOME) Program and Community Development Block Grant (CDBG) funds. They will facilitate Subrecipient and Maker's understanding and compliance with applicable federal and county regulations, policies and processes where the Subrecipient and Maker is responsible for design, bidding and construction contract administration. If clarification is needed, call LaToya Ricketts, HD&SI Manager at (832) 927-4822.

1. If federal funds will be used to retain consultants, Subrecipient and Maker must advertise the Request for Qualification Statement (RFQ)/Request for Proposals Statement (RFP) in the Houston Chronicle, local area newspapers, trade magazines and/or periodicals for a period of not less than thirty (30) days. Subrecipient and Maker shall submit the draft RFQ/RFP to Harris County Community Services Department (HCCSD) for approval prior to placing the advertisement and shall maintain a copy of the approved advertisement. The responding consultant's SF 254 and 255 qualification statements must be submitted to HCCSD for review prior to commissioning the consultants. Upon approval by HCCSD, Subrecipient and Maker may retain consultant(s).

2. Subrecipient and Maker shall advertise for bids for all subcontracts and lower tier subcontracts and award contracts to the **lowest and most responsible bidder(s)**, in compliance with the State of Texas bidding procedures and the Sections listed below from 2 C.F.R. §200:

Section 200.302 "Financial Management" (except subparagraph a)

Section 200.318 "General Procurement Standards"

Section 200.333 "Retention and Access Requirements for Records"

Section 200.336 "Access to Records"

3. The preliminary drawings must be within the previously approved Project scope. All construction projects must comply with Harris County requirements and the policies and procedures of Harris County's Engineering Department (HCED), Purchasing Agent, Auditor and HCCSD.

Subrecipient and Maker will incorporate into the construction documents any and all Department of Housing and Urban Development requirements. Final documents must be approved by HCCSD in writing prior to advertising for bids.

4. Prior to award of contract, HCCSD will review the bid documents, the bidder's qualification statements, minority business plan and financial statements to ensure that the contractor/subcontractor has a good contracting record, adequate capitalization, equipment, and personnel to successfully complete the construction of the Project, meets minority participation goals and that the bidder has not been debarred by HUD from working on federal contracts.

5. Subrecipient and Maker, the consultant, and HCCSD will conduct a pre-bid meeting, bid opening, and a pre-construction conference with the contractor and all subcontractor(s).
6. The Grantee shall furnish the Subrecipient and Maker with specific compliance documentation at the pre-construction conference with the contractor. Without exception, the Subrecipient and Maker and the contractor shall be responsible for ensuring compliance by all subcontractors working on the Project jobsite with employees covered by the Davis-Bacon Act.
7. Subrecipient and Maker shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the construction contract. HCCSD will have final authority in all construction disputes.
8. Subrecipient and Maker and contractor will be responsible for preparing monthly pay requests to be reviewed by the consultant prior to submittal for payment. Preparation will consist of a site meeting with the consultant and the contractor's representative to accurately determine the percentage completion of various components of the work and time used. Subrecipient and Maker, the consultant, and the contractor will be required to sign each monthly estimate prior to being processed for payment. Subrecipient and Maker, through its Representative, shall ensure that the work performed by the selected contractor shall be subject to retainage under Section 53.101 of the Texas Property Code.
9. All change orders must be approved in writing by Subrecipient and Maker prior to any alterations or modifications of the work or specifications. Subrecipient and Maker will be responsible for any increase in cost based on any change order required due to errors and/or omissions. Total aggregate Changes in Contract will not exceed twenty-five (25) percent of the **original construction contract** amount awarded to the lowest and most responsible bidder.
10. **Subrecipient and Maker will submit or cause to be submitted, weekly payrolls for general contractor and all subcontractors to HCCSD for review. HCCSD will review all payrolls and conduct worker interviews and will hold the general contractor responsible for compliance with labor, EEO and minority business requirements. Harris County, through HCCSD, reserves the right to withhold funds from the general contractor to compensate workers in accordance with the appropriate wage scales as promulgated by the U.S. Department of Labor.**
11. Subrecipient and Maker shall cause the Project contractor to submit the following documentation to HCCSD **prior** to award of the construction contract for subcontractors:
 - Copy of the bid advertisement.
 - Copy of the bid tabulations.
 - Copies of all bids submitted.
 - Copies of bidders' bid bonds or cashier's checks, if applicable.
 - Copy of the minutes and attendance roster of the bid opening.
 - Consultant's recommendation of contractor subcontractor.
 - Request authorization from HCCSD to award project to lowest and most responsible bidder.
12. Subrecipient and Maker must submit the following documentation **after** award of contract:
 - Copy of Subrecipient and Maker's performance, payment and maintenance bonds.
 - Copy of "Certificate of Authority" issued by the State Board of Insurance of Texas for the surety company. Only companies listed in the Department of the Treasury Circular #570 (or most recent issue) will be accepted.

- Certification of bid award by Subrecipient and Maker to Project Contractor.
- Original copy of the executed contract between the successful bidder and the Subrecipient and Maker.
- Copy of the document that activates payment to Project contractor (i.e., purchase order).
- Copy of subcontractor list.
- Schedule of values based on standard Construction Specifications Institute (CSI) format (32 divisions) and given in labor and materials listed separately per line item including overhead and profit for each.
- Construction schedule (Critical Path Method).

13. Davis-Bacon and Related Acts Requirements

Basic labor standards compliance parameters involve the payment to construction laborers and mechanics not less than the prevailing wage rate established in the wage determination for the type (classification) of work and the hours of work they actually performed. Contractors and subcontractors and any lower-tier subcontractors (employers) are required to prepare, certify and submit weekly payroll reports reflecting all of the laborers and mechanics (employees) engaged in construction of the site of the work. Employers may also be required to submit related documents in order to demonstrate compliance with these standards.

Each contract subject to federal (Davis-Bacon) labor standards requirements must contain the appropriate HUD contract provisions containing the labor standards clauses. These clauses correspond to the DOL Regulations prescribing the responsibilities of the contractor and obligating the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages that may be found due. These contract clauses are described below.

A. Responsibility of the Principal Contractor.

Basic labor standards compliance parameters involve the payment to all construction laborers and mechanics not less than the prevailing wage rate established in the wage determination for the type (classification) of work and the hours of work, they actually perform. Contractors and subcontractors and any lower-tier subcontractors (employers) are required to prepare, certify and submit weekly reports reflecting all of the laborers and mechanics (employees) engaged in construction of the site of the work. Employers may also be required to submit related documentation in order to demonstrate compliance with these compliance parameters.

The principal contractor (also referred to as the prime contractor) shall be responsible for the full compliance of all employers (contractors, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the Project. For ease of reference, the term "**contractor**" shall mean the principal or prime contractor; "**subcontractor**" shall mean any and all subcontractors and lower-tier subcontractors; and the term "**employer**" shall include the contractor and any subcontractors and lower-tier subcontractors.

B. Davis-Bacon Definitions & Compliance Parameters

Definitions.

- a. **Laborer or mechanic.** "**Laborers**" and "**mechanics**" are those individuals whose duties are manual or physical in nature including workers who are performing the work of a trade (e.g., electrician). These terms include apprentices, trainees and helpers and, for contracts subject to the Contract Work Hours and Safety Act (CWHSSA), watchmen and guards.
 - 1) **Working foremen.** Foremen or supervisors that perform construction work and devote more than 20% of their time as a laborer or mechanic are treated as "laborers" or "mechanics" for labor standards purposes.
 - 2) **Exclusions.** Persons whose duties are primarily administrative, managerial or clerical are not laborers or mechanics.
 - 3) **Employee.** Every person who performs the work of a laborer or mechanic is "**employed**" regardless of any contractual relationship, which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor shall ensure the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

See also Labor Relations Letter LR-96-01, Labor standards compliance requirements for self-employed laborers and mechanics.

- b. **Apprentice.** An "**apprentice**" is a person employed and individually registered in a bona fide apprenticeship program, including Step-Up apprenticeship programs designed for Davis-Bacon construction work. Bona fide programs are those that have been registered with the DOL, Bureau of Apprenticeship and Training (BAT) or with a BAT-recognized State Apprenticeship Agency (SAC).
 - 1) **Probationary apprentice.** A person in the first ninety (90) days of probationary employment as an apprentice in a bona fide apprenticeship program but who has not yet been formally registered in such program may be considered an "apprentice" provided that the BAT or SAC has certified that such person is eligible for probationary employment as an apprentice.
 - 2) **Pre-apprentice.** A person who is employed as a "**pre-apprentice**," that is, in a preparatory position that may result in registration in an apprenticeship program is not considered to be an "apprentice."
 - 3) **Ratio to apprentices and trainees to journeymen.** The maximum number of apprentices or trainees employed on the site of work may not exceed the ratio of apprentices or trainees to journeymen permitted to the employer in the certified program.

- c. **Prevailing Wages.** The term "**wages**" means the basic hourly rate of pay plus any contribution irrevocably made by a contractor or subcontractor (employer) to a bona fide fringe benefit fund, plan or program.
- d. **Piecework.** Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung; a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates **provided** the weekly earnings are sufficient to satisfy the wage requirement based upon actual hours, including any overtime, worked. If the weekly piece rate earnings are not sufficient, the employer shall re-compute weekly earnings based upon actual hours worked and the rate on the wage decision for the work classification(s) involved.
- e. **Fringe benefits** include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the above; unemployment benefits, life insurance, vacation or holiday pay; defraying costs of apprenticeship or similar programs; or other bona fide fringe benefits. In addition to contributions, fringe benefits may reflect the rate of costs to the employer that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible program. Fringe benefits do not include benefits required by other Federal, State or local law.
- f. **Site of work.** The "**site of work**" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. "Site of work" includes other adjacent or nearby property used by the contractor/subcontractor in the construction of the Project (e.g., fabrication sites) provided they are dedicated exclusively or nearly so to the performance of the contract or project and are so located in proximity to the actual construction location that it would be reasonable to include them.
- g. **Overtime.** Overtime hours are defined as all hours worked on the site of the work in excess of forty (40) hours in any workweek. Overtime hours shall be compensated at not less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.
- h. **Deductions.** The employer may make payroll deductions as permitted by DOL Regulations 29 C.F.R. Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.
- i. **Proper classification of work.** Each laborer and mechanic shall be classified in accordance with the work classifications listed on the wage determination and the actual type of work he/she performed and shall be paid the appropriate wage rate and fringe benefits for the classification regardless of the level of skill.

- j. **Split classification.** Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification provided that the employer maintains time records that accurately set forth the time spent in each classification in which work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.
- k. **Additional classifications and wage rates.** If the general contractor determines that the wage decision does not include a classification or classifications needed for the construction of the Project, then the general contractor shall submit to HCCSD a request for an **additional classification and wage rate**. HCCSD shall review and forward the request for additional work classification and wage rate to HUD for review and preliminary approval. HUD shall review and shall forward the request for additional classification and wage rate to DOL for final review and approval. NOTE that the final decision rests with DOL.

The general contractor shall make the request for additional classification and wage rate in writing. All third-party subcontractors shall submit their request for additional classification and wage rate to their general contractor for further processing. All requests shall identify the Project, the Project's wage decision, the additional work classification(s) that is (are) missing and recommend a wage rate and fringe benefits (usually the rate the employer already is paying to the employees performing the work) for that classification. The primary contractor may need to describe the work that the new classification will perform.

The additional classification and wage rate request may be approved if:

- 1) The requested classification is used by construction contractors in the area of the Project. The area is usually defined as the *county* where the Project is located.
- 2) The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. In other words, if there already is an Electrician classification and wage rate on the wage decision, the general contractor cannot request another Electrician classification and wage rate.
- 3) The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. For example, the wage rate proposed for a trade classification such as Electrician shall be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision. And,
- 4) The workers that will be employed in the added classification (if it is already known who the workers are or will be), or the workers' representative, must agree with the proposed wage rate.

HCCSD Review. Grantee shall review the request for additional classification and wage rate to determine whether the request meets the DOL rules outlined above and forwards the request to HUD for further review and preliminary approval. If additional information is required, HCCSD shall contact the general contractor for more information. HCCSD shall inform the general contractor in writing in the event that HCCSD's review finds that the

request does not meet the above-described rules. The written response shall also inform the general contractor of their option to revise and resubmit their request for additional classification and wage rate in order to meet the above-described rules.

HUD Review. The HUD Labor Relations field staff shall review the request for additional classification and wage rate to determine whether the request meets the DOL rules outlined above. If additional information is required, HUD shall contact HCCSD for more information. If the HUD Labor Relations review finds that the request meets the rules, HUD shall forward to HCCSD their preliminary approval on the request and refer it to DOL for final review and approval. HCCSD shall inform the general contractor of HUD's preliminary approval and referral to the DOL.

If HUD Labor Relations review finds that the request for additional classification and wage rate does not meet the above-described rules, HUD shall not approve the request. In this case, HUD shall forward to DOL the request with an explanation why HUD believes the request should not be approved. NOTE that the DOL holds the authority on the final decision on the request. HCCSD shall inform the general contractor of HUD's disapproval/referral letter to the DOL.

DOL Review and Decision. The DOL shall respond to HUD in writing about the additional classification request and wage rate request. HUD shall forward to HCCSD the final decision from DOL on the request, while HCCSD, in turn, informs the prime contractor of DOL's final decision to be implemented at the job site.

If DOL does not approve the contractor's request, DOL's written response to HUD shall include information about the classification and wage rate that shall be used by the contractor at the job site. Upon receipt from HUD copy of the DOL's response and instructions, HCCSD shall inform the general contractor of DOL's denial and of any instructions about the classification and wage rate to be used at the job site.

Additional classification criteria and procedures are discussed in more detail in DOL Regulations 29 C.F.R. § 5.5 and HUD Handbook 1344.1.

C. Reporting Requirements

(i) **Payrolls and Basic Records.**

Payrolls and basic records relating to such payrolls shall be maintained by each employer with respect to his/her own workforce employed on the site of the work. The principal contractor shall maintain such records relative to all laborers and mechanics working on the site of the work. Payrolls and related records shall be maintained during the course of the construction work and preserved by the contractor and all employers for at least three (3) years following the completion of the work. Such records shall contain:

- a. The name, address and social security number of each laborer and mechanic.
- b. His or her correct work classification(s).
- c. Hourly rates of pay including rates of contributions or costs anticipated for fringe benefits;
- d. Daily and weekly number of hours worked, including any overtime hours;

- e. Deductions made and actual net wages paid;
- f. Evidence pertaining to any fringe benefit programs;
- g. Evidence of the approval of any apprenticeship or trainee program, the registration of each apprentice or trainee and the ratios and wage rates contained in the program.

Grantee may obtain copies of the WH-347 from the HUD Labor Relations Field staff for their jurisdiction.

(ii) Certified Payroll Reports (CPR).

Certified weekly payroll reports (CPRs) shall be submitted with respect to each week any contract work is performed. Each contractor and subcontractor (employer) shall prepare and certify such payroll reports to demonstrate compliance with the labor standards requirements. The principal contractor is responsible for full compliance with regard to its own workforce and with regard to the compliance of every subcontractor. For this reason, all CPRs and any related records are submitted to HCCSD through the principal contractor.

1. **CPR format.** CPR information shall be submitted in any form provided that the LCA Labor Standards Designee can reasonably interpret the information to monitor employer compliance with the labor standards. Employers are encouraged to utilize DOL Payroll Form WH-347. The LCA shall make available to each principal contractor a limited number of copies of the WH-347 for the contractor's reproduction and use.

2. **Submission requirements.** CPRs shall be submitted for each employer beginning with the first week such employer performs work on the site of the work until the work has been completed for the Project. CPRs shall be submitted promptly following the close of each such pay week.

3. **Project and Employer Information.** Each payroll shall identify the employer's name and address, the Project name and number, Project address, and the week ending date.

4. **Employee Information.** The payroll on which each employee appears shall contain the employee's name, and unique employee number.

5. **Apprentices or Trainees.** The first payroll on which any apprentice or trainee appears shall be accompanied with a copy of that apprentice's or trainee's registration in an approved program. A copy of the approved program pertaining to the wage rates and ratios shall also accompany the first CPR on which the first apprentice or trainee appears.

6. **Split Classifications.** For an employee that worked in a split classification, the employer shall make a separate entry for each classification of work performed distributing the hours of work for each classification, accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon total gross amount earned for all classifications. The division of hours worked in different classifications shall be accurately maintained and clearly reported.

7. **Hours worked at other job sites.** The CPRs should reflect ONLY hours worked at the site of work. If an employee performs work at job sites other than the Project for which the CPR is prepared, those "other jobs" hours should not be reported on the CPR. In these cases, the employer should list the employee's name, classification, hours performed on this Project only, and the rate of pay and gross

earnings earned on this Project. Deductions and net pay may be reflected based upon the employee's total earnings (for all projects) for the week.

8. Rate of Pay. Employers shall report the basic hourly rate of pay for each employee for this Project. If the wage decision includes a fringe benefit and the employer does not participate in approved fringe benefit programs, the employer shall add the fringe benefit rate to the basic hourly rate of pay. Also, the employer shall list the overtime rate if overtime hours are worked.

9. Piecework. For any piece-work employee, the employer shall compute an *effective hourly rate of pay* for each employee each week based on the employee's piece-work earnings for that week. To compute the effective hourly rate of pay, the employer shall divide the piecework earnings by the total number of hours worked each week, including consideration for overtime hours.

The effective hourly rate shall be reflected on the certified payroll and the hourly rate of pay may not be less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate of pay changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

NOTE that the overtime rate for piecework shall be computed at one and one-half times the basic rate of pay plus any fringe benefits.

10. Gross Wages Earned. The employer shall show the gross amount of wages earned for work performed on this Project. NOTE that the employees with work hours and earnings on other projects, the employer shall show gross wages for this Project over gross earnings for all projects (for example, \$425.40/\$764.85) and base deductions and net pay for "all projects" earnings for that week.

11. Deductions. The employer shall report the amounts of any deductions from the gross earnings. "Other" deductions shall be identified (for example, Savings Account, Loan Repayment, Child Support, etc.). Any voluntary deductions, that is, not required by law or by an order of proper authority, shall be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. Written authorization shall be signed by the employee and shall accompany the first payroll on which the deduction appears.

12. Net Pay. The employer shall report the net pay on each payroll submitted.

13. Statement of Compliance (Weekly Payroll Certification). Each weekly payroll shall be accompanied by a "Statement of Compliance." The Statement of Compliance shall be executed by the original signature of the principal executive of the employer or of a person authorized in writing by the principal. The Statement of Compliance shall contain the language prescribed on DOL Form WH-348 or the reverse side of Form WH-347, which shall certify to the following:

That the weekly payroll contains the information required to be maintained and that the information is correct and complete;

That each laborer or mechanic (including each apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3; and

That each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. If the employer pays a portion of the required fringe benefits to programs and the balance directly to the employee, the employer shall explain those differences in the spaces provided on the Statement of Compliance. If the employer pays the fringe benefits directly to the employees, then the employer shall add the cash equivalent of the fringe benefits to the reported basic hourly rate of pay.

14. **"No Work" payrolls.** Employers are required to submit a "No Work" notice for weeks during which no work was performed on the site of the work, provided that the CPRs are numbered sequentially or that the employer has provided written notice that its work on the Project has been suspended.

15. **Falsification.** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) Other reports

- a. Quarterly Employment Data Report;
- b. Certificate From Contractor Appointing Officer or Employees to Supervise Payment of Employees;
- c. Section 3 Employment and Minority Business Plan; New Hires Section 3 Monthly Compliance Report;
- d. Certificate for Contracts, Grants, Loans and Cooperative Agreements; and
- e. Contractor and Subcontractor(s) Profile(s); and
- f. Section 3 Certification requirements

(iv) Inspection of Records and On-site Interviews.

Each employer shall make the required records (CPRs and related documents) available for inspection, copying or transcription by authorized representatives of the LCA, HUD or DOL. In addition, each employer shall permit authorized representatives to interview employees during working hours on the job site. Failure by any employer to submit the required records or to make them available, or to permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit the records on request or to make them available may be grounds for debarment action pursuant to 29 C.F.R. §5.12.

(v) Requests by Outside Parties for Payrolls.

In order to protect the personal privacy interests of employees, copies of weekly payrolls shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act (FOIA) unless the employee's personal identifiers (e.g., name, address, social security number) are first deleted.

(vi) **Confidentiality.**

The identity of any person providing information concerning the labor standards compliance of any contractor or subcontractor shall not be disclosed in any manner to anyone other than Grantee or Federal officials unless written consent is provided in advance by such person. Additionally, any portions of a statement or written document provided by such person, which would reveal the identity of the source, shall not be disclosed without prior written consent. Disclosure of such statements and documents shall be governed by the provisions of the FOIA and the Privacy Act of 1974.

- a. **Privacy Act Release.** Grantee's Labor Standards Designee shall make available a Privacy Act Release format to each person making a statement or providing documentation that alleges underpayment of wages. The format shall permit such person to indicate whether disclosure of identity is authorized.

Grantee may develop a form for its use in its jurisdiction for this purpose.

- b. **Department of Labor (DOL) Investigative Materials.** From time to time, the DOL may furnish investigatory materials to Grantee or HUD in the course of its administration and enforcement operations. None of the material, other than computations of back wages and liquidated damages and the summary of back wages due, may be disclosed in any manner to anyone other than Grantee or HUD staff responsible for administering the contract without prior approval from the DOL.

Subrecipient and Maker shall ensure compliance with the Davis-Bacon and Related Acts requirements and shall furnish or cause to furnish the required reports documenting compliance with the Davis-Bacon and Related Acts requirements. Grantee will review all certified payrolls and conduct worker interviews and will hold the contractor responsible for compliance with labor, EEO and minority business requirements. The County, through HCCSD, reserves the right to withhold funds from the general contractor to compensate workers in accordance with the appropriate wage scales as promulgated by the U.S. Department of Labor.

D. Compliance Violation(s) Provisions

As required by the Davis-Bacon Act and applicable Harris County Guidelines, Subrecipient and Maker, and the contractor, through Subrecipient and Maker, shall be assessed fines for compliance violations.

- (vii) Lender shall issue a written Notice of Non-Compliance or wage restitution letter detailing each violation as it arises with instructions on how to cure the violation. The Notice of Non-Compliance or wage restitution letter shall provide for a fifteen (15) to thirty (30) calendar day grace period from the date of the written notice or letter for corrective actions.
- (viii) Violations shall be punished against Subrecipient and Maker or the contractor through Subrecipient and Maker on a per day/per violation basis and, provided the Grantee has not received reports documenting corrective actions.

16. Subrecipient and Maker will not be permitted to perform any "force account work," wherein Subrecipient and Maker uses his or her own employees, materials, and/or equipment. All portions of construction work will be subject to the competitive bidding process referenced above.

17. Subrecipient and Maker's contractor shall furnish, deliver, and install one 4'-0" X 8'-0" project sign according to Harris County specifications. Subrecipient and Maker will ensure that the specifications will be made part of the project manual and the cost of the project sign will be included in all bids.
18. Subrecipient and Maker's contractor, on all building projects, shall furnish, deliver, and install one 18" X 24" bronze plaque built according to Harris County specifications. Subrecipient and Maker will ensure that the specifications will be made part of the project manual and the cost of the plaque will be included in all bids.

EXHIBIT D

BUDGET

**Magnificat Permanent Affordable, LLC
3300 Caroline Street Project
Maximum Amount to be Paid Under this Agreement**

It is expressly agreed and understood that the total to be paid by Lender under this Agreement shall not exceed EIGHT MILLION FIVE HUNDRED THIRTY-EIGHT THOUSAND TWO HUNDRED SEVENTY-EIGHT DOLLARS AND 00/100 (\$8,538,278.00), as certified available by the Harris County Auditor and as evidenced by the issuance of a Purchase Order from the Harris County Purchasing Agent.

Description		Harris County CDBG-DR Funds	City of Houston CDBG-DR Funds	CDBG-DR Leverage	TOTAL
Acquisition		\$ -	\$ 6,960,000	\$ 90,000	\$ 7,050,000
Off-Site		\$ -	\$ -	\$ -	\$ -
Site Work		\$ 720,899	\$ -	\$ 1,351,218	\$ 2,072,117
Direct Construction		\$ 6,353,285	\$ 5,825,478	\$ 5,451,404	\$ 17,630,167
Other Construction		\$ 943,224	\$ -	\$ 2,399,339	\$ 3,342,563
General Soft Costs		\$ -	\$ 1,955,086	\$ 724,501	\$ 2,679,587
Construction Financing		\$ -	\$ 100,000	\$ 628,727	\$ 728,727
Permanent Loan Financing		\$ -	\$ -	\$ 400,000	\$ 400,000
Syndication		\$ -	\$ 159,436	\$ 373,245	\$ 532,681
Reserves		\$ -	\$ -	\$ 632,712	\$ 632,712
Developer Fees		\$ -	\$ -	\$ 3,639,000	\$ 3,639,000
Subtotal		\$ 8,017,408	\$ 15,000,000	\$ 15,690,147	\$ 38,707,555
CSD Management and Oversight and HCED Inspections		\$ 400,870			\$ 400,870
Construction Manager (Fixed \$120,000)		\$ 120,000			\$ 120,000
Subtotal		\$ 8,538,278	\$ 15,000,000	\$ 15,690,147	\$ 39,228,425
SOURCES (PERMANENT)			AMOUNT		
Harris County CSD CDBG-DR			\$ 8,538,278		
City of Houston CDBG-DR			\$ 15,000,000		
Enterprise LIHTC			\$ 13,668,770		
"Office Contribution" Seller Note			\$ 1,384,584		
Sponsor Loan			\$ 636,793		
Total Sources			\$ 39,228,425		
Total Uses			\$ 39,228,425		

EXHIBIT E

**HARRIS COUNTY AFFORDABLE HOUSING STANDARDS AND MINIMUM PROPERTY STANDARDS
FOR MULTIFAMILY HOUSING NEW CONSTRUCTION AND REHABILITATION**

<https://csd.harriscountytexas.gov/Pages/HCAffordableHousingStandards.aspx>

EXHIBIT F

ARCHITECT/BUILDER'S CERTIFICATION

**Harris County Community Services Department
ARCHITECT/BUILDER'S CERTIFICATION OF PLANS AND
SPECIFICATIONS**

I. Project Name: _____

II. Project Property Address (street, city, State, & zip code):

III. Does the Project design comply with the International Energy Conservation Code, Chapter 11 of the State of Texas' International Residential Code (IRC) and requirements of the Energy Star Program? _____ (yes or no)

IV. Builder or Builder's Agent, or Architect of Record: I hereby certify that the information is true and accurate. Based upon my review, I hereby certify that such plans and specifications comply with the applicable building code specified above as well as complying with the HUD construction requirements.

a. Name of Builder's Company or Builder's Agent, or Architect of Record:

b. Street Address: _____

c. City, State, Zip Code: _____

d. Name & Title of Builder or Builder's Agent, or Architect of Record:

e. Signature of Builder or Builder's Agent, or Architect of Record:

f. Telephone Number (include area code): _____

****Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

EXHIBIT G

HARRIS COUNTY'S AFFIRMATIVE MARKETING POLICY AND PROCEDURES

This affirmative marketing policy pertains to all Harris County Community Services Department (HCCSD) projects receiving CDBG-DR/HOME and HOME program funds for HUD-assisted housing containing five or more units. HCCSD will annually assess the affirmative marketing program to determine its success and will take any necessary corrective actions.

The affirmative marketing requirements and procedures include the following:

1. HCCSD will use the Equal Housing Opportunity logotype and/or slogan in all press releases or notices to the public or solicitations pertaining to housing of more than five (5) units.
2. HCCSD will notify the local Houston Community Housing Resource Board on an annual basis of its commitment to an affirmative marketing program.
3. HCCSD will require Subrecipient and Maker of HUD-assisted housing of five or more units to adhere to the following:

When advertising or listing vacancies, Subrecipient and Maker/Owners must use major and community newspapers, community contacts and Equal Housing Opportunity logotypes or slogans. Subrecipient and Maker/Owners must also display the Fair Housing poster in high traffic areas on the premises of the assisted housing.

Subrecipient and Maker/Owners must perform special outreach to persons in the housing market area who are not likely to apply for the housing without special outreach. Targets of special outreach could include community centers, places of worship, employment centers, housing counseling agencies, etc.

HCCSD will assess the results of efforts taken by the Subrecipient and Maker to affirmatively market the housing units. Copies of all materials used to affirmatively market the housing and records describing actions taken by the Subrecipient and Maker to affirmatively market the housing must be submitted to HCCSD on a quarterly basis. The quarterly report must also include information on families residing within the property. The family information must include the following: the number of units and monthly rent (utilities included) by bedroom size; number of tenants remaining in place; size of household and for each head of household, age, race, sex, and gender.

HCCSD will assess the success of the affirmative marketing efforts. If the affirmative marketing efforts do not result in attracting eligible persons from all racial, ethnic and gender-groups in the housing market area, HCCSD will determine the necessary corrective actions. Subrecipient and Makers that fail to comply with affirmative marketing requirements will face the possibility that housing assistance payments will be abated until corrective action is taken. If the Subrecipient and Maker fails to take corrective action before the expiration of all applicable notice and cure periods, the remainder of the loan may be due and payable upon demand.

Note to all applicants/respondents: This form was developed with Nuance, the official HUD software for the creation of HUD forms. HUD has made available instructions for downloading a free installation of a Nuance reader that allows the user to fill-in and save this form in Nuance. Please see <http://portal.hud.gov/hudportal/documents/huddoc?id=nuancereaderinstall.pdf> for the instructions. Using Nuance software is the only means of completing this form.

Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing

**U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity**

OMB Approval No. 2529-0013
(exp. 12/31/2016)

1a. Project Name & Address (including City, County, State & Zip Code) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black;">1b. Project Contract Number</td> <td style="width: 50%; border-bottom: 1px solid black;">1c. No. of Units</td> </tr> <tr> <td style="border-bottom: 1px solid black; height: 20px;"></td> <td style="border-bottom: 1px solid black; height: 20px;"></td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">1d. Census Tract</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black; height: 20px;"></td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black;">1e. Housing/Expanded Housing Market Area</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black; height: 20px;">Housing Market Area:</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black; height: 20px;">Expanded Housing Market Area:</td> </tr> </table>	1b. Project Contract Number	1c. No. of Units			1d. Census Tract				1e. Housing/Expanded Housing Market Area		Housing Market Area:		Expanded Housing Market Area:	
1b. Project Contract Number	1c. No. of Units														
1d. Census Tract															
1e. Housing/Expanded Housing Market Area															
Housing Market Area:															
Expanded Housing Market Area:															
1f. Managing Agent Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address <div style="border: 1px solid black; height: 20px;"></div>															
1g. Application/Owner/Developer Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address <div style="border: 1px solid black; height: 20px;"></div>															
1h. Entity Responsible for Marketing (check all that apply) <input type="checkbox"/> Owner <input type="checkbox"/> Agent <input type="checkbox"/> Other (specify) <div style="border: 1px solid black; width: 150px; height: 15px; display: inline-block;"></div> Position, Name (if known), Address (including City, County, State & Zip Code), Telephone Number & Email Address <div style="border: 1px solid black; height: 20px;"></div>															
1i. To whom should approval and other correspondence concerning this AFHMP be sent? Indicate Name, Address (including City, State & Zip Code), Telephone Number & E-Mail Address. <div style="border: 1px solid black; height: 20px;"></div>															
2a. Affirmative Fair Housing Marketing Plan Plan Type: <div style="border: 1px solid black; padding: 2px;">Please Select Plan Type</div> Date of the First Approved AFHMP: <div style="border: 1px solid black; width: 100px; height: 15px; display: inline-block;"></div> Reason(s) for current update: <div style="border: 1px solid black; height: 15px; width: 100%;"></div>															
2b. HUD-Approved Occupancy of the Project (check all that apply) <input type="checkbox"/> Elderly <input type="checkbox"/> Family <input type="checkbox"/> Mixed (Elderly/Disabled) <input type="checkbox"/> Disabled															
2c. Date of Initial Occupancy <div style="border: 1px solid black; height: 20px;"></div>	2d. Advertising Start Date Advertising must begin <i>at least</i> 90 days prior to initial or renewed occupancy for new construction and substantial rehabilitation projects. Date advertising began or will begin <div style="border: 1px solid black; width: 100px; height: 15px; display: inline-block;"></div> For existing projects, select below the reason advertising will be used: <div style="border: 1px solid black; padding: 5px;"> To fill existing unit vacancies <input type="checkbox"/> To place applicants on a waiting list <input type="checkbox"/> (which currently has <div style="border: 1px solid black; width: 30px; height: 15px; display: inline-block;"></div> individuals) To reopen a closed waiting list <input type="checkbox"/> (which currently has <div style="border: 1px solid black; width: 30px; height: 15px; display: inline-block;"></div> individuals) </div>														

3a. Demographics of Project and Housing Market Area

Complete and submit Worksheet 1.

3b. Targeted Marketing Activity

Based on your completed Worksheet 1, indicate which demographic group(s) in the housing market area is/are /least likely to apply for the housing without special outreach efforts. (check all that apply)

- | | | | |
|--|---|--|--|
| <input type="checkbox"/> White | <input type="checkbox"/> American Indian or Alaska Native | <input type="checkbox"/> Asian | <input type="checkbox"/> Black or African American |
| <input type="checkbox"/> Native Hawaiian or Other Pacific Islander | <input type="checkbox"/> Hispanic or Latino | <input type="checkbox"/> Persons with Disabilities | |
| <input type="checkbox"/> Families with Children | <input type="checkbox"/> Other ethnic group, religion, etc. (specify) | <div style="border: 1px solid black; height: 20px; width: 250px;"></div> | |
-

4a. Residency Preference

Is the owner requesting a residency preference? If yes, complete questions 1 through 5.

Please Select Yes or No

If no, proceed to Block 4b.

(1) Type

Please Select Type

(2) Is the residency preference area:

The same as the AFHMP housing/expanded housing market area as identified in Block 1e?

Please Select Yes or No

The same as the residency preference area of the local PHA in whose jurisdiction the project is located?

Please Select Yes or No

(3) What is the geographic area for the residency preference?

(4) What is the reason for having a residency preference?

(5) How do you plan to periodically evaluate your residency preference to ensure that it is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a)?

Complete and submit Worksheet 2 when requesting a residency preference (see also 24 CFR 5.655(c)(1)) for residency preference requirements. The requirements in 24 CFR 5.655(c)(1) will be used by HUD as guidelines for evaluating residency preferences consistent with the applicable HUD program requirements. See also HUD Occupancy Handbook (4350.3) Chapter 4, Section 4.6 for additional guidance on preferences.

4b. Proposed Marketing Activities: Community Contacts

Complete and submit Worksheet 3 to describe your use of community contacts to market the project to those least likely to apply.

4c. Proposed Marketing Activities: Methods of Advertising

Complete and submit Worksheet 4 to describe your proposed methods of advertising that will be used to market to those least likely to apply. Attach copies of advertisements, radio and television scripts, Internet advertisements, websites, and brochures, etc.

5a. Fair Housing Poster

The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Check below all locations where the Poster will be displayed.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Other (specify)

5b. Affirmative Fair Housing Marketing Plan

The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check below all locations where the AFHMP will be made available.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Other (specify)

5c. Project Site Sign

Project Site Signs, if any, must display in a conspicuous position the HUD approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Check below all locations where the Project Site Sign will be displayed. Please submit photos of Project signs.

☐ Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Entrance to Project ☐ Other (specify)

The size of the Project Site Sign will be x

The Equal Housing Opportunity logo or slogan or statement will be x

6. Evaluation of Marketing Activities

Explain the evaluation process you will use to determine whether your marketing activities have been successful in attracting individuals least likely to apply, how often you will make this determination, and how you will make decisions about future marketing based on the evaluation process.

7a. Marketing Staff

What staff positions are/will be responsible for affirmative marketing?

7b. Staff Training and Assessment: AFHMP

(1) Has staff been trained on the AFHMP?

(2) Has staff been instructed in writing and orally on non-discrimination and fair housing policies as required by 24 CFR 200.620(c)?

(3) If yes, who provides instruction on the AFHMP and Fair Housing Act, and how frequently?

(4) Do you periodically assess staff skills on the use of the AFHMP and the application of the Fair Housing Act?

(5) If yes, how and how often?

7c. Tenant Selection Training/Staff

(1) Has staff been trained on tenant selection in accordance with the project's occupancy policy, including any residency preferences?

(2) What staff positions are/will be responsible for tenant selection?

7d. Staff Instruction/Training:

Describe AFHM/Fair Housing Act staff training, already provided or to be provided, to whom it was/will be provided, content of training, and the dates of past and anticipated training. Please include copies of any AFHM/Fair Housing staff training materials.

Public reporting burden for this collection of information is estimated to average six (6) hours per initial response, and four (4) hours for updated plans, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget (OMB) control number.

Purpose of Form: All applicants for participation in FHA subsidized and unsubsidized multifamily housing programs with five or more units (see 24 CFR 200.615) must complete this Affirmative Fair Housing Marketing Plan (AFHMP) form as specified in 24 CFR 200.625, and in accordance with the requirements in 24 CFR 200.620. The purpose of this AFHMP is to help applicants offer equal housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The AFHMP helps owners/agents (respondents) effectively market the availability of housing opportunities to individuals of both minority and non-minority groups that are least likely to apply for occupancy. Affirmative fair housing marketing and planning should be part of all new construction, substantial rehabilitation, and existing project marketing and advertising activities.

An AFHM program, as specified in this Plan, shall be in effect for each multifamily project throughout the life of the mortgage (24 CFR 200.620(a)). The AFHMP, once approved by HUD, must be made available for public inspection at the sales or rental offices of the respondent (24 CFR 200.625) and may not be revised without HUD approval. This form contains no questions of a confidential nature.

Applicability: The form and worksheets must be completed and submitted by all FHA subsidized and unsubsidized multifamily housing program applicants.

INSTRUCTIONS:

Send completed form and worksheets to your local HUD Office, Attention: Director, Office of Housing

Part 1: Applicant/Respondent and Project

Identification. Blocks 1a, 1b, 1c, 1g, 1h, and 1i are self-explanatory.

Block 1d- Respondents may obtain the Census tract number from the U.S. Census Bureau (<http://factfinder2.census.gov/main.html>) when completing Worksheet One.

Block 1e- Respondents should identify both the housing market area and the expanded housing market area for their multifamily housing projects. Use abbreviations if necessary. A **housing market area** is the area from which a multifamily housing project owner/agent may reasonably expect to draw a substantial number of its tenants. This could be a county or Metropolitan Division. The U.S. Census Bureau provides a range of levels to draw from.

An **expanded housing market area** is a larger geographic area, such as a Metropolitan Division or a Metropolitan Statistical Area, which may provide additional demographic diversity in terms of race, color, national origin, religion, sex, familial status, or disability.

Block 1f- The applicant should complete this block only if a Managing Agent (the agent cannot be the applicant) is implementing the AFHMP.

Part 2: Type of AFHMP

Block 2a- Respondents should indicate the status of the AFHMP, i.e., initial or updated, as well as the date of the first approved AFHMP. Respondents should also provide the reason (s) for the current update, whether the update is based on the five-year review or due to significant changes in project or local demographics (See instructions for Part 9).

Block 2b- Respondents should identify all groups HUD has approved for occupancy in the subject project, in accordance with the contract, grant, etc.

Block 2c- Respondents should specify the date the project was/will be first occupied.

Block 2d- For new construction and substantial rehabilitation projects, advertising must begin at least 90 days prior to initial occupancy. In the case of existing projects, respondents should indicate whether the advertising will be used to fill existing vacancies, to place individuals on the project's waiting list, or to re-open a closed waiting list. Please indicate how many people are on the waiting list when advertising begins.

Part 3 Demographics and Marketing Area.

"Least likely to apply" means that there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Block 3a - Using Worksheet 1, the respondent should indicate the demographic composition of the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area. The applicable housing market area and expanded housing market area should be indicated in Block 1e. Compare groups within rows/across columns on Worksheet 1 to identify any under-represented group(s) relative to the surrounding housing market area and expanded housing market area, i.e., those group(s) "least likely to apply" for the housing without targeted outreach and marketing. If there is a particular group or subgroup with members of a protected class that has an identifiable presence in the housing market area, but is not included in Worksheet 1, please specify under "Other."

Respondents should use the most current demographic data from the U.S. Census or another official source such as a local government planning office. Please indicate the source of your data in Part 8 of this form.

Block 3b - Using the information from the completed Worksheet 1, respondents should identify the demographic group(s) least likely to apply for the housing without special outreach efforts by checking all that apply.

Part 4 - Marketing Program and Residency Preference (if any).

Block 4a - A residency preference is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). Respondents should indicate whether a residency preference is being utilized, and if so, respondents should specify if it is new, revised, or continuing. If a respondent wishes to utilize a residency preference, it must state the preference area (and provide a map delineating the precise area) and state the reason for having such a preference. The respondent must ensure that the preference is in accordance with the non-discrimination and equal opportunity requirements in 24 CFR 5.105(a) (see 24 CFR 5.655(c)(1)).

Respondents should use Worksheet 2 to show how the percentage of the eligible population living or working in the residency preference area compares to that of residents of the project, project applicant data, census tract, housing market area, and expanded housing market area. The percentages would be the same as shown on completed Worksheet 1.

Block 4b - Using Worksheet 3, respondents should describe their use of community contacts to help market the project to those least likely to apply. This table should include the name of a contact person, his/her address, telephone number, previous experience working with the target population(s), the approximate date contact was/will be initiated, and the specific role the community contact will play in assisting with affirmative fair housing marketing or outreach.

Block 4c - Using Worksheet 4, respondents should describe their proposed method(s) of advertising to market to those least likely to apply. This table should identify each media option, the reason for choosing this media, and the language of the advertisement. Alternative format(s) that will be used to reach persons with disabilities, and logo(s) that will appear on the various materials (as well as their size) should be described.

Please attach a copy of the advertising or marketing material.

Part 5 – Availability of the Fair Housing Poster, AFHMP, and Project Site Sign.

Block 5a - The Fair Housing Poster must be prominently displayed in all offices in which sale or rental activity takes place (24 CFR 200.620(e)). Respondents should indicate all locations where the Fair Housing Poster will be displayed.

Block 5b -The AFHMP must be available for public inspection at the sales or rental office (24 CFR 200.625). Check all of the locations where the AFHMP will be available.

Block 5c -The Project Site Sign must display in a conspicuous position the HUD-approved Equal Housing Opportunity logo, slogan, or statement (24 CFR 200.620(f)). Respondents should indicate where the Project Site Sign will be displayed, as well as the size of the Sign and the size of the logo, slogan, or statement. **Please submit photographs of project site signs.**

Part 6 - Evaluation of Marketing Activities.

Respondents should explain the evaluation process to be used to determine if they have been successful in attracting those individuals identified as least likely to apply. Respondents should also explain how they will make decisions about future marketing activities based on the evaluations.

Part 7 - Marketing Staff and Training.

Block 7a - Respondents should identify staff positions that are/will be responsible for affirmative marketing.

Block 7b - Respondents should indicate whether staff has been trained on the AFHMP and Fair Housing Act. Please indicate who provides the training and how frequently. In addition, respondents should specify whether they periodically assess staff members' skills in using the AFHMP and in applying the Fair Housing Act. They should state how often they assess employee skills and how they conduct the assessment.

Block 7c - Respondents should indicate whether staff has been trained on tenant selection in accordance with the project's occupancy policy, including residency preferences (if any). Respondents should also identify those staff positions that are/will be responsible for tenant selection.

Block 7d - Respondents should include copies of any written materials related to staff training, and identify the dates of past and anticipated training.

Part 8 - Additional Considerations.

Respondents should describe their efforts not previously mentioned that were/are planned to attract those individuals least likely to apply for the subject housing.

Part 9 - Review and Update.

By signing the respondent assumes responsibility for implementing the AFHMP. Respondents must review their AFHMP every five years or when the local Community Development jurisdiction's Consolidated Plan is updated, or when there are significant changes in the demographics of the project or the local housing market area. When reviewing the plan, the respondent should consider the current demographics of the housing market area to determine if there have been demographic changes in the population in terms of race, color, national origin, religion, sex, familial status, or disability. The respondent will then determine if the population least likely to apply for the housing is still the population identified in the AFHMP, whether the advertising and publicity cited in the current AFHMP are still appropriate, or whether advertising sources should be modified or expanded. Even if the demographics of the housing market area have not changed, the respondent should determine if the outreach currently being performed is reaching those it is intended to reach as measured by project occupancy and applicant data. If not, the AFHMP should be updated. The revised AFHMP must be submitted to HUD for approval. HUD may review whether the affirmative marketing is actually being performed in accordance with the AFHMP. If based on their review, respondents determine the AFHMP does not need to be revised, they should maintain a file documenting what was reviewed, what was found as a result of the review, and why no changes were required. HUD may review this documentation.

Notification of Intent to Begin Marketing.

No later than 90 days prior to the initiation of rental marketing activities, the respondent must submit notification of intent to begin marketing. The notification is required by the AFHMP Compliance Regulations (24 CFR 108.15). The Notification is submitted to the Office of Housing in the HUD Office servicing the locality in which the proposed housing will be located. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the monitoring office will review any previously approved plan and may schedule a pre-occupancy conference. Such conference will be held prior to initiation of sales/rental marketing activities. At this conference, the previously approved AFHMP will be reviewed with the applicant to determine if the plan, and/or its proposed implementation, requires modification prior to initiation of marketing in order to achieve the objectives of the AFHM regulation and the plan.

OMB approval of the AFHMP includes approval of this notification procedure as part of the AFHMP. The burden hours for such notification are included in the total designated for this AFHMP form.

Worksheet 1: Determining Demographic Groups Least Likely to Apply for Housing Opportunities
(See AFHMP, Block 3b)

In the respective columns below, indicate the percentage of demographic groups among the project's residents, current project applicant data, census tract, housing market area, and expanded housing market area (See instructions to Block 1e). If you are a new construction or substantial rehabilitation project and do not have residents or project applicant data, only report information for census tract, housing market area, and expanded market area. The purpose of this information is to identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability. If there is significant under-representation of any demographic group among project residents or current applicants in relation to the housing/expanded housing market area, then targeted outreach and marketing should be directed towards these individuals least likely to apply. Please indicate under-represented groups in Block 3b of the AFHMP. **Please attach maps showing both the housing market area and the expanded housing market area.**

Demographic Characteristics	Project's Residents	Project's Applicant Data	Census Tract	Housing Market Area	Expanded Housing Market Area
% White					
% Black or African American					
% Hispanic or Latino					
% Asian					
% American Indian or Alaskan Native					
% Native Hawaiian or Pacific Islander					
%Persons with Disabilities					
% Families with Children under the age of 18					
Other (specify)					

Worksheet 2: Establishing a Residency Preference Area (See AFHMP, Block 4a)

Complete this Worksheet if you wish to continue, revise, or add a residency preference, which is a preference for admission of persons who reside or work in a specified geographic area (see 24 CFR 5.655(c)(1)(ii)). If a residency preference is utilized, the preference must be in accordance with the non-discrimination and equal opportunity requirements contained in 24 CFR 5.105(a). This Worksheet will help show how the percentage of the population in the residency preference area compares to the demographics of the project's residents, applicant data, census tract, housing market area, and expanded housing market area. **Please attach a map clearly delineating the residency preference geographical area.**

Demographic Characteristics	Project's Residents (as determined in Worksheet 1)	Project's Applicant Data (as determined in Worksheet 1)	Census Tract (as determined in Worksheet 1)	Housing Market Area (as determined in Worksheet 1)	Expanded Housing Market Area (as determined in Worksheet 1)	Residency Preference Area (if applicable)
% White						
% Black or African American						
% Hispanic or Latino						
% Asian						
% American Indian or Alaskan Native						
% Native Hawaiian or Pacific Islander						
% Persons with Disabilities						
% Families with Children under the age of 18						
Other (specify)						

Worksheet 3: Proposed Marketing Activities –Community Contacts (See AFHMP, Block 4b)

For each targeted marketing population designated as least likely to apply in Block 3b, identify at least one community contact organization you will use to facilitate outreach to the particular population group. This could be a social service agency, religious body, advocacy group, community center, etc. State the names of contact persons, their addresses, their telephone numbers, their previous experience working with the target population, the approximate date contact was/will be initiated, and the specific role they will play in assisting with the affirmative fair housing marketing. Please attach additional pages if necessary.

Targeted Population(s)	Community Contact(s), including required information noted above.

Worksheet 4: Proposed Marketing Activities – Methods of Advertising (See AFHMP, Block 4c)

Complete the following table by identifying your targeted marketing population(s), as indicated in Block 3b, as well as the methods of advertising that will be used to market to that population. For each targeted population, state the means of advertising that you will use as applicable to that group and the reason for choosing this media. In each block, in addition to specifying the media that will be used (e.g., name of newspaper, television station, website, location of bulletin board, etc.) state any language(s) in which the material will be provided, identify any alternative format(s) to be used (e.g. Braille, large print, etc.), and specify the logo(s) (as well as size) that will appear on the various materials. Attach additional pages, if necessary, for further explanation. Please attach a copy of the advertising or marketing material.

Targeted Population(s)→ Methods of Advertising ↓	Targeted Population:	Targeted Population:	Targeted Population:
Newspaper(s)			
Radio Station(s)			
TV Station(s)			
Electronic Media			
Bulletin Boards			
Brochures, Notices, Flyers			
Other (specify)			

EXHIBIT H , COST CONTROL REPORT/REIMBURSEMENT SUMMARY (EXAMPLE BELOW)

COST CONTROL REPORT/REIMBURSEMENT SUMMARY						
Project Title: _____			Purchase Order No: _____			
Contact Person: _____			THIS INVOICE INCLUDES: <input checked="checked" type="checkbox"/> HOME <input type="checkbox"/> CDBG-D INVOICE NUMBER: _____ Supplemental: <input type="checkbox"/> Y (X in box if "yes") Invoice #: _____			
Address: _____						
Telephone: _____						
E-Mail Address: _____						
Alternate Contact Name: _____ Ext. _____						
EXPENDITURE REPORT – PROGRAM CATEGORIES						
Program:	Program Budget (CSD Share)	As of Last Month Cumulative Expenses	This Month	YTD	% of CSD Share	Budget Balance
Acquisition	-			0.00	0%	0.00
Construction	500,000.00			0.00	0%	500,000.00
General Soft Costs	-			0.00	0%	0.00
Construction Financing	-			0.00	0%	0.00
Permanent Financing	1,385,135.00			0.00	0%	1,385,135.00
Syndication				0.00	0%	0.00
Reserves				0.00	0%	0.00
Developer Fees				0.00	0%	0.00
				0.00	0%	
TOTAL	\$1,885,135.00	\$0.00	\$0.00	\$0.00	0%	\$1,885,135.00
RECAP OF MATCHING FUNDS REQUIREMENTS						
Match Funds	Committed Amount	This Month	Previous Months	YTD	Matched %	Amount Left to Meet Match Obligation
	\$318,998.00	\$0.00	\$0.00	\$0.00	0%	\$318,998.00
						\$0.00
						\$0.00
Also, I (we) certify that the above information accurately reflects the costs and records of this subrecipient or contractor and were prepared in accordance with the terms of agreement with Harris County.						
Prepared By: Signature _____			Authorized Officer: Signature _____			
Prepared By: Full Name _____			Authorized Officer: Full Name _____			
Date _____			Date _____			
For HCCSD Use Only: <div style="display: flex; justify-content: space-between;"> <div> _____ _____ _____ </div> <div> GM Review Finance Review Completed Review </div> </div>						
Comments: ***Note: All supporting documentation related to this claim is available within the files of the subrecipient and/or CSD; as per this invoice's related contract. Additionally, such documentation will be made available at the request of the County Auditor's Office or CSD.						

EXHIBIT I

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF OR ALL THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

COUNTY LEASEHOLD DEED OF TRUST TO SECURE PERFORMANCE

Date: November ____, 2021

MAKER: **MAGNIFICAT PERMANENT AFFORDABLE, LLC**,
a Texas limited liability company

MAKER's Mailing Address: c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green

Trustee: **ADRIENNE M. HOLLOWAY, Ph.D.**, Executive Director
Harris County Community Services Department of Harris
County, Texas (or her successor in office)

Trustee's Mailing Address (including county): 8410 Lantern Point Drive, Houston,
Harris County, Texas 77054

Beneficiary: **NHPF Caroline Conduit, LLC**, a Texas limited liability
company

**Beneficiary's Mailing Address (including
county):** c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green

County: **HARRIS COUNTY**, a body politic and corporate under the
laws of the State of Texas

County's Mailing Address (including county): 1001 Preston Street, Suite 911, Houston,
Harris County, Texas 77002

Property – A leasehold interest in the land described in **Exhibit "A,"** attached hereto and made a part hereof
for all purposes, together with the improvements located or hereafter located on said land:

City Liens (including recording information, if available): The liens evidenced by the City Loan Documents
(as defined in the Loan Agreement).

Subordinate Liens (including recording information if available): The liens evidenced by the Subordinate Loan
Documents (as defined in the Loan Agreement)

Other Exceptions to Conveyance and Warranty:

Easements, rights of way and prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and other instruments that affect the Property.

LOAN

On or about November 9, 2021, Maker, Beneficiary and County entered into a Loan Agreement (the "**Loan Agreement**") for Maker to provide housing for eligible homeless residents of Harris County. The order approving such Loan Agreement is recorded in the Harris County Clerk's Commissioners Court Minutes. The Loan Agreement and Order approving the same are incorporated in this document by reference for all purposes. The amount of the CDBG-DR Program Loan is \$8,538,278.00.

With respect to said CDBG-DR Program Loan:

1. County made a \$8,538,278.00 loan to Beneficiary evidenced by the Loan Note dated as of the date hereof, executed by Beneficiary for the benefit of County (the "**Loan Note**");
2. Beneficiary, in turn, loaned the proceeds of the Loan Note to Maker as evidenced by Promissory Note dated as of the date hereof, executed by Maker for the benefit of Beneficiary (the "**Collateral Note**");
3. In order to secure Beneficiary's obligations under the Loan Note, Beneficiary collaterally assigned its interest under the Collateral Note and this County Leasehold Deed of Trust to Secure Performance (this "**County Leasehold Deed of Trust**" or this "**deed of trust**") to County pursuant to that Collateral Assignment of Note and Liens dated of even date hereof and executed by Beneficiary for the benefit of County (the "**Collateral Assignment**").

For value received and to secure performance of the obligations of Maker contained in the Loan Agreement and in this County Leasehold Deed of Trust and to further secure performance of the obligations of Subrecipient and Maker on any other agreements executed by Maker and Harris County, Maker conveys the Property to Trustee in trust, subject, however, to the Other Exceptions to Conveyance and Warranty.

Subrecipient and Maker warrants and agrees to defend the title to the Property.

SUBRECIPIENT AND MAKER'S ADDITIONAL OBLIGATIONS

Maker agrees to:

1. Keep the Property in good repair and condition, ordinary wear and tear excepted;
2. Pay all taxes and assessments, if any, on the Property before past due and provide Beneficiary with evidence of such payment within ten days of such payment;
3. Preserve the lien's priority as it is established in this deed of trust;
4. Maintain, in a form acceptable to Beneficiary, an insurance policy that:
 - a. covers all improvements to their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
 - b. contains an 80 percent coinsurance clause;
 - c. provides fire and extended coverage, including windstorm coverage;

- d. protects Beneficiary with a standard mortgage clause;
 - e. provides flood insurance at any time the Property is in a flood hazard area; and
 - f. contains such other coverage as Beneficiary may reasonably require;
5. Comply at all times with the requirements of the 80 percent coinsurance clause;
 6. Deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary ten (10) days prior to expiration;
 7. Pay the City Liens in accordance with, and abide by all of the terms of, the City Loan Documents (in all material respects);
 8. Comply at all times with the terms of any restrictive covenants applicable to the Property; and
 9. Provide such financial reports and other documents as described in the Loan Agreement.

BENEFICIARY'S RIGHTS

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If Maker fails to perform any obligations, Beneficiary may perform those obligations and be reimbursed by Maker on demand at Beneficiary's address for any sums so paid, including reasonable attorney's fees, plus interest at 12 percent per annum. The sum to be reimbursed shall be secured by this deed of trust.
3. Notwithstanding any provision to the contrary, Beneficiary acknowledges and agrees that any principal, interest, or other payments that that Maker is required to pay directly to Harris County as a result of Beneficiary's collateral assignment of the Collateral Note and this County Leasehold Deed of Trust shall be credited toward Maker's obligations to pay principal, interest, and other payments to Beneficiary.
4. If Maker fails to perform any of Maker's obligations under this deed of trust or if Maker fails to perform any obligation under the Loan Agreement or if default occurs under any of the City Loan Documents or any other agreement between Harris County and Maker, and the default is continuing beyond the expiration of all applicable notice, grace, and cure periods, as may be required by law or by written agreement (notwithstanding anything to the contrary set forth in this County Leasehold Deed of Trust, the notice and cure provisions set forth in the Loan Agreement shall be applicable to this County Leasehold Deed of Trust), then Beneficiary may:
 - a. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - b. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on any sums owed Beneficiary.

TRUSTEE'S DUTIES

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended.

2. Sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Maker, subject to the City Liens and to other exceptions to conveyances and warranty; and
3. From the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure, including a commission to trustee of 5 percent of the bid;
 - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
 - c. any amount required by law to be paid before payment to Maker; and
 - d. to Maker, any balance.

GENERAL PROVISIONS

1. If any of the Property is sold under this deed of trust, Maker shall immediately surrender possession to the purchaser. If Maker fails to do so, Maker shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created.
5. If any portion of any sums owed to Beneficiary cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Maker assigns to Beneficiary all sums payable to or received by Maker from condemnation of all or part of the Property; from private sales in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any reasonable expenses incurred, including reasonable attorney's fees, Beneficiary may release any remaining sums to Maker or apply such sums to reduce any sums owed Beneficiary. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums. This Section 6 shall be subject to the terms of the Intercreditor, Subordination, and Funding Agreement dated on or about the date hereof, executed by the City, Maker, Beneficiary, MHI (hereinafter defined), and the County (the "**Subordination Agreement**").
7. Maker assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Leases are not assigned. Maker warrants the validity and enforceability of the receipts of the assignment. Maker may as Beneficiary's licensee collect rent and other income and receipts as long as there is no default under the Loan Agreement or this deed of trust that is continuing beyond the expiration of all applicable notice and cure periods. If there is a default in performance of the Loan Agreement or this deed of trust that is continuing beyond the expiration of all applicable notice and cure periods, Beneficiary may terminate Maker's license to collect and then as Maker's agent may rent the Property if it is vacant and collect all rent and other income receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to reasonable expenses incurred in exercising Beneficiary's rights and remedies and then to obligations under the Loan Agreement and/or this deed of trust in the order determined by Beneficiary. Beneficiary

is not required to act under this paragraph and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Maker becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law. This Section 7 shall be subordinate to the terms of the Subordination Agreement.

Notwithstanding any other provision in this County Leasehold Deed of Trust to the contrary, all provisions related to the assignment of the rents in this County Leasehold Deed of Trust are subject to the terms, provisions, and conditions of the Texas Assignment of Rents Act ("**TARA**"), as codified in Tex. Prop. Code, Chapter 64, as the same may be amended, modified, or supplemented from time to time. To the extent that specific terms and requirements of this County Leasehold Deed of Trust conflict with the specific terms and requirements of TARA, (i) to the extent such terms and requirements of TARA may be superseded by an agreement between the parties, the specific terms and requirements of this County Leasehold Deed of Trust hereby supersede such specific terms and requirements of TARA; and (ii) to the extent that such terms and requirements of TARA cannot be superseded by an agreement between the parties, the specific terms and requirements of TARA shall control, and the parties further agree that all other terms and requirements of this County Leasehold Deed of Trust shall not otherwise be impaired or superseded thereby and shall remain in full force and effect. This County Leasehold Deed of Trust is intended to be a "Security Instrument" for purposes of TARA and the indebtedness evidenced by the Loan Note (the "**Indebtedness**") shall be a secured obligation for purposes of TARA.

8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted payment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all instruments concerning the debt.
9. Maker hereby covenants, represents and warrants to Beneficiary that Maker's intended occupancy, operation, and use of the Property do not and will not violate any applicable environmental law pertaining to health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-75 (1986) as amended by the Superfund Amendments and Reauthorization Act, Publ. L. No. 99-499, 100 Stat. 1613 (1986) ("CERCLA"), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-91 (1985) as amended from time to time ("RCRA"); and the Texas Water Code, as amended from time to time, the Texas Solid Waste Disposal Act, as amended from time to time. Beneficiary makes no representations or warranties whatsoever to Maker regarding the presence or absence of hazardous or toxic materials in, at or under the Property.
10. When the context requires, singular nouns and pronouns include the plural.
11. This deed of trust shall bind, inure to the benefit of, and be exercised by, successors in interest of all parties.

SECURITY AGREEMENT

1. In addition to creating a deed of trust lien on all the real and other property described above, Maker also grants to Beneficiary a security interest in Maker's right, title, and interest in and to all of the Property other than the real property pursuant to the Texas Uniform Commercial Code ("**UCC**"). Maker grants to Beneficiary a security interest in all of Maker's right, title, and interest in and to the equipment, accounts, general intangibles, fixtures and other personal property used or acquired

for use, on or in connection with the use or operation of the Property, or otherwise related to the Property and all products and proceeds thereof; all of which are hereinafter referred to as the “**Collateral**” for the purposes of this section of this deed of trust. In this section of this deed of trust the Beneficiary is sometimes called the “**Secured Party**”.

2. Maker covenants and agrees with Secured Party that:

- (a) In addition to and cumulative of any other remedies granted in this deed of trust to Secured Party or the Trustee, Secured Party or the Trustee may, upon or at any time default has occurred under this deed of trust that is continuing beyond the expiration of all applicable notice, grace, and cure periods, proceed under the Uniform Commercial Code as to all or any part of the Collateral and shall have and may exercise with respect to the Collateral all the rights, remedies and powers of a Secured Party under the Uniform Commercial Code, including without limitation, the right and power to sell, at public or private sale or sales, or otherwise dispose of, lease or use the Collateral and any part or parts thereof in any manner authorized or permitted under the Uniform Commercial Code after default by a Debtor, and to apply the proceeds thereof toward payment of any reasonable costs, expenses, attorney's fees and legal expenses incurred by Secured Party, and toward payment of the Indebtedness in such order or manner as Secured Party may elect. Among the rights of Secured Party, upon and during the continuation of an event of default beyond the expiration of all applicable notice and cure periods, and without limitation, Secured Party shall have the right to take possession of the Collateral and to enter upon any premise where the same may be situated for such purpose without being deemed necessary, appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish or otherwise prepare the Collateral for sale, lease other use or disposition as herein authorized. Maker agrees that if notice of such sale or disposition is mailed, postage prepaid, to Maker at the address designated at the beginning of this deed of trust (or if no address is designated, at Maker's most recent address as shown by the records of the Secured Party) at least ten (10) days before the time of any public sale or disposition, or the date after which the Collateral will be sold or disposed of by private sale, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of any such notice.
- (b) Secured Party is expressly granted the right, at its option, to transfer at any time to itself, to its nominee, the Collateral or any part thereof, and to receive the monies, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for the Indebtedness or to apply it on the principal and interest or other amount owing on any of the Indebtedness, whether or not then due, in such order or manner as Secured Party may elect. All rights to marshaling of assets or sale in inverse order of alienation, including any such rights with respect to the Collateral are hereby waived.
- (c) All recitals in any instrument of assignment or any other instrument executed by Secured Party incident to sale, transfer, assignment, lease or other disposition or use of the Collateral or any part thereof hereunder shall be full proof of the matters stated therein, and no other proof shall be required to establish the full legal propriety of the sale or other action or of any fact, condition or thing incident thereto and all recitals in any instrument shall be presumed conclusively to have performed or to have occurred.
- (d) Secured Party may require Maker to assemble the tangible Collateral and make it available to Secured Party at a place to be designed by Secured Party that is reasonably convenient to both parties. All reasonable expenses of retaking, holding preparing for sale, lease, or other use or disposition, selling, leasing or otherwise using or disposing of the Collateral which are

incurred or paid by Secured Party as authorized or permitted hereunder, including also all reasonable attorney's fees, legal expenses and costs shall be added to the Indebtedness secured by this deed of trust and Maker shall be liable, therefore.

- (e) Should Secured Party elect to exercise its rights under said Uniform Commercial Code as to part of the personal property or fixtures described herein, this election shall not preclude any other exercise of the rights and remedies granted by the other sections of this deed of trust as to the remaining personal property or fixtures.
 - (f) Secured Party may, at its election, at any time after delivery of this deed of trust, sign one or more copies hereof in order that such copies may be used as a financing statement under said Uniform Commercial Code. Said signature by Secured Party may be placed between the last sentence of this deed of trust and Maker's acknowledgement or may follow Maker's acknowledgement. Secured Party's signature need not be acknowledged and is not necessary to the effectiveness hereof as a deed of trust, mortgage, assignment, pledge, and security agreement or (unless otherwise required by applicable law) as a financing statement.
 - (g) So long as any loan conditions remain unsatisfied on the Indebtedness, Maker will not execute and therefore will not be filed in any public office any financing statement or statements affecting the Collateral other than financing statements in favor of the City or Secured Party hereunder, unless prior written specific consent and approval of Secured Party shall have been first obtained.
 - (h) Secured Party is authorized to file in any jurisdiction where Secured Party deems it necessary, a financing statement or statements and one or more continuation statement, and at the request of Secured Party, Maker will join Secured Party in executing one or more financing statements, continuation statements or both pursuant to said Uniform Commercial Code in form satisfactory to Secured Party, and will pay the cost of filing or recording in all public offices at any time and from time to time whenever filing or recording of any financing statement, continuation statement or this deed of trust is deemed by Secured Party to be necessary or desirable.
 - (i) Certain of the Collateral is or will become "fixtures" (as that term is defined in said Uniform Commercial Code) on the real estate described or referred to in this deed of trust, and this deed of trust upon being filed for record in the real estate records of the county wherein such fixtures are situated shall operate also as a financing statement upon such of the Collateral which is or may become fixtures.
3. Maker further warrants and represents to Secured Party that, except for the security interest granted hereby in the Collateral, the security interests granted to the City under the City Loan Documents, the security interests granted to MHI under the Subordinate Loan Documents, and the security interests granted to Bridge Lender (as defined in the Loan Agreement under the Bridge Loan Documents (as defined in the Loan Agreement), Maker is the legal and equitable owner and holder of the Collateral free of any adverse claim and free of any security interest or encumbrance except only those (if any) expressly hereinafter referred to or described, and Maker agrees to defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein. Maker further warrants and represents that, except as set forth in the City Loan Documents, the Subordinate Loan Documents, and the Bridge Loan Documents, Maker has not heretofore signed any financing statement directly or indirectly affecting the Collateral or any part thereof, and no such financing statement signed by Maker is now on file in any public office except only those statement (if any) true and correct copies of which have been delivered to Secured Party.

4. In the event of a foreclosure sale under this deed of trust, Maker agrees that all the Property may be sold as a whole at Beneficiary's option and that the Property need not be present at the place of sale.

RESTRICTIONS ON TRANSFER

If all or any part of the Property is sold, conveyed, leased for a period longer than three (3) years, leased with an option to purchase, or otherwise sold (including by contract for deed), without the prior written consent of the Beneficiary, then the Beneficiary may at the Beneficiary's option declare the outstanding principal balance of the Loan Agreement, plus accrued interest, to be immediately due and payable; provided, however, notwithstanding anything to the contrary set forth in any of the Loan Documents, the following shall be permitted without The County's or Beneficiary's consent: (i) the Investor Member's (as defined in the Loan Agreement) transfer of its interest in Maker, (ii) the Investor Member's removal and substitution of Maker's managing member pursuant to the Amended and Restated Operating Agreement of Maker; (iii) the Bridge Lender's removal and substitution of Maker's managing member pursuant to the Collateral Assignment of Managing Member Interest and Security Agreement from Maker's managing member in favor of Bridge Lender and (iv) the exercise, subject to the terms below, of the right of first refusal and/or option to purchase by The NHP Foundation ("NHPF"), MHI or an affiliate of MHI that is also member of Maker's managing member ("Qualified Affiliate"). Notwithstanding the foregoing, Harris County acknowledges that (i) MHI holds an option to purchase the membership interests of (x) the Maker's managing member and (y) Investor Member or to purchase the Project at the end of the fifteen-year Tax Credit Compliance Period and (ii) MHI or a Qualified Affiliate and NHPF hold rights of first refusal to acquire the Project at the end of the fifteen-year Tax Credit Compliance Period. Such acquisitions are preapproved and require no further consent from Harris County, but any further transfers of such interests shall not be permitted without the consent of the Executive Director of HCCSD and any further transfers without consent shall be deemed a default hereunder. At any time after the acquisition of said membership interest, Harris County acknowledges that (a) MHI Special Member, LLC a Texas limited liability company, and NHPF, respectively, may purchase the Collateral Note pursuant to their respective purchase agreement(s); provided that such exercising party(ies) assume(s) all obligations of the Maker under the Loan Agreement and the Loan Documents and provided further that no other transfers of the Collateral Note shall be permitted and any additional transfer shall be deemed a Default hereunder. The Collateral Note and the documents securing or evidencing same (including the Deeds of Trust) may not be amended, modified, released or terminated without the express written consent of the Executive Director of HCCSD.

CURE BY LIMITED PARTNERS, MEMBERS OR CONSTITUENT PARTIES

Beneficiary hereby agrees that any cure of any default that is made or tendered by any of Maker's limited partners, members, or their constituent parties shall be deemed to be a cure by Maker and shall be accepted or rejected on the same basis as if made or tendered by Maker.

STANDSTILL

During such time as an affiliate of Beneficiary is in Maker's ownership structure, Beneficiary shall not enforce any of its rights or remedies under this County Leasehold Deed of Trust, including without limitation, legal actions against Maker such as self-help foreclosure, litigation, arbitration or other legal proceedings, whether by claim, counterclaim, demand, action or cause of action concerning this County Leasehold Deed of Trust. Notwithstanding the foregoing, the terms of this "STANDSTILL" provision shall not apply to Harris County to the extent it is exercising its rights under the Collateral Assignment and this County Leasehold Deed of Trust.

CITY LIEN

Beneficiary hereby approves of, and acknowledges and agrees that, Maker will enter into the City Loan Documents with the City, and that the lien secured by this County Leasehold Deed of Trust and Beneficiary's rights under this County Leasehold Deed of Trust shall be of equal priority to the City's Liens and the City's rights under the City Loan Documents, as more particularly described in the Subordination Agreement.

SUBORDINATE LIEN

Beneficiary hereby approves of, and acknowledges and agrees that, Maker will enter into the Subordinate Loan Documents with MHI, and that the lien secured by this County Leasehold Deed of Trust and Beneficiary's rights under this County Leasehold Deed of Trust shall be senior in priority to the Subordinate Liens and MHI's rights under the Subordinate Loan Documents, as more particularly described in the Subordination Agreement.

BRIDGE LOAN

Beneficiary hereby approves of, and acknowledges and agrees that, Maker will enter into the Bridge Loan Documents with Bridge Lender.

[Executed on the following pages]

Executed to be effective as of the date first set forth above.

MAKER:

Magnificat Permanent Affordable, LLC

a Texas limited liability company

By: NHPF Caroline MM, LLC,
a Texas limited liability company,
its managing member

By: Jamestown Affordable Housing, Inc.,
a District of Columbia non-profit corporation,
its manager

By: _____
Neal Drobenare, Vice President

THE DISTRICT OF COLUMBIA §

This instrument was acknowledged before me on this ____ day of _____, 2021,
by Neal Drobenare, Vice President of Jamestown Affordable Housing, Inc., a District of Columbia non-profit
corporation, manager of NHPF Caroline MM, LLC, a Texas limited liability company and Managing Member of
MAGNIFICAT PERMANENT AFFORDABLE, LLC, a Texas limited liability company, on behalf of said limited
liability company.

[S E A L]

Notary Public

Accepted by:

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

HARRIS COUNTY

By: _____
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2273

By: _____
ADRIENNE M. HOLLOWAY, Ph.D.
Executive Director, Community Services
Department

ACKNOWLEDGEMENT

This instrument was acknowledged before me on _____, 2021, by Adrienne M. Holloway, Ph.D., Executive Director of the Community Services Department, a Department of Harris County, a body corporate and politic under the laws of the State of Texas, as the act and deed of Harris County as authorized by order of the Commissioners Court of Harris County.

Notary Public in and for the State of Texas

EXHIBIT "A"

Legal Description

Lot 1 of Caroline Place, as recorded under County Clerk's File No. RP-2021-159768, Volume 694, Page 437, Map Records, Harris County, Texas, being a subdivision of 1.148 acres of land, being a Replat of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Block 5 of Cushing Park as recorded under Volume 1, Page 30, Map Records, Harris County, Texas, located in the Obediance Smith Survey, A-696 and the James S. Holman Survey, A-323, City of Houston, Harris County, Texas.

(TO BE ADJUSTED ACCORDING TO FINAL SURVEY)

EXHIBIT I-2

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF OR ALL THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

COUNTY FEE DEED OF TRUST TO SECURE PERFORMANCE

Date: November ____, 2021

MAKER: **MHI Landholdings LLC**, a Texas limited liability company

MAKER's Mailing Address:

With a copy to:

c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green

Trustee: **ADRIENNE M. HOLLOWAY, Ph.D.**, Executive Director
Harris County Community Services Department of Harris
County, Texas (or her successor in office)

Trustee's Mailing Address (including county): 8410 Lantern Point Drive, Houston,
Harris County, Texas 77054

Beneficiary: **Harris County**, a body politic and corporate under the laws
of the State of Texas

Beneficiary's Mailing Address (including county): c/o Community Services Department
8410 Lantern Point Drive, Houston, Texas 77054

County: **HARRIS COUNTY**, a body politic and corporate under the
laws of the State of Texas

County's Mailing Address (including county): 1001 Preston Street, Suite 911, Houston,
Harris County, Texas 77002

Property – A fee interest in the land described in **Exhibit "A,"** attached hereto and made a part hereof for all purposes, together with the improvements located or hereafter located on said land:

City Liens (including recording information, if available): The liens evidenced by the City Loan Documents (as defined in the Loan Agreement)

Other Exceptions to Conveyance and Warranty:

Easements, rights of way and prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and other instruments that affect the Property.

LOAN

On or about November 9, 2021, Magnificat Permanent Affordable, LLC, a Texas limited liability company ("MPA"), NHPF Caroline Conduit, LLC, a Texas limited liability company (known herein and in the Loan Agreement as the "Nonprofit," and referred to as "Conduit" in this County Fee Deed of Trust) and County entered into a Loan Agreement (the "**Loan Agreement**") for MPA to provide housing for eligible homeless residents of Harris County. The order approving such Loan Agreement is recorded in the Harris County Clerk's Commissioners Court Minutes. The Loan Agreement and Order approving the same are incorporated in this document by reference for all purposes. The amount of the CDBG-DR Program Loan is \$8,538,278.00.

With respect to said CDBG-DR Program Loan:

1. County made a \$8,538,278.00 loan to Beneficiary evidenced by the Loan Note dated as of the date hereof, executed by Beneficiary for the benefit of County (the "**Loan Note**");
2. Conduit, in turn, loaned the proceeds of the Loan Note to MPA as evidenced by Promissory Note dated as of the date hereof, executed by MPA for the benefit of Conduit (the "**Collateral Note**");
3. In order to secure Conduit's obligations under the Loan Note, Conduit collaterally assigned its interest under the Collateral Note and the County Leasehold Deed of Trust to Secure Performance (the "**County Leasehold Deed of Trust**") to County pursuant to that Collateral Assignment of Note and Liens dated of even date hereof and executed by Conduit for the benefit of County (the "**Collateral Assignment**"); and
4. Maker has agreed to pledge its Fee Interest in the Property through this "**County Fee Deed of Trust**" or this "deed of trust"..

For value received and to secure performance of the obligations of Conduit contained in the Loan Agreement and in this County Fee Deed of Trust and to further secure performance of the obligations of Maker on any other agreements executed by Maker and Harris County, Maker conveys the Property to Trustee in trust, subject, however, to the Other Exceptions to Conveyance and Warranty.

Maker warrants and agrees (a) to defend the title to the Property; (b) to enforce the rights of landlord in the Ground Lease between Maker, as landlord, and MPA, as tenant; and (c) its Fee Interest in the Property is pledged as security for both the Indebtedness pursuant to the Loan Note and the obligations of Maker pursuant to the Regulatory Agreement and Declaration of Covenants and Restrictions.

BENEFICIARY'S RIGHTS

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If Maker fails to perform any obligations, Beneficiary may perform those obligations and be reimbursed by Maker on demand at Beneficiary's address for any sums so paid, including

reasonable attorney's fees, plus interest at 12 percent per annum. The sum to be reimbursed shall be secured by this County Fee Deed of Trust.

3. Reserved.
4. If Maker fails to perform any of Maker's obligations under this County Fee Deed of Trust or if a default occurs under any of the County Loan Documents, City Loan Documents or any other agreement between Harris County and Maker, and the default is continuing beyond the expiration of all applicable notice, grace, and cure periods, as may be required by law or by written agreement (notwithstanding anything to the contrary set forth in this County Fee Deed of Trust, the notice and cure provisions set forth in the Loan Agreement shall be applicable to this County Fee Deed of Trust), then Beneficiary may:
 - a. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - b. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on any sums owed Beneficiary.

TRUSTEE'S DUTIES

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended.
2. Sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Maker, subject to the City Liens and to other exceptions to conveyances and warranty; and
3. From the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure, including a commission to trustee of 5 percent of the bid;
 - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
 - c. any amount required by law to be paid before payment to Maker; and
 - d. to Maker, any balance.

GENERAL PROVISIONS

1. If any of the Property is sold under this County Fee Deed of Trust, Maker shall immediately surrender possession to the purchaser. If Maker fails to do so, Maker shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this County Fee Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created.
5. If any portion of any sums owed to Beneficiary cannot be lawfully secured by this County Fee Deed of Trust, payments shall be applied first to discharge that portion.
6. Maker assigns to Beneficiary all sums payable to or received by Maker from condemnation of all or part of the Property; from private sales in lieu of condemnation, and from damages caused by

public works or construction on or near the Property. After deducting any reasonable expenses incurred, including reasonable attorney's fees, Beneficiary may release any remaining sums to Maker or apply such sums to reduce any sums owed Beneficiary. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums. This Section 6 shall be subject to the terms of the Intercreditor, Subordination, and Funding Agreement dated on or about the date hereof, executed by the City, Maker, Conduit, MPA and the County (the "**Subordination Agreement**").

7. Maker assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Leases are not assigned. Maker warrants the validity and enforceability of the receipts of the assignment. Maker may as Beneficiary's licensee collect rent and other income and receipts as long as there is no default under the Loan Agreement or this deed of trust that is continuing beyond the expiration of all applicable notice and cure periods. If there is a default in performance of the Loan Agreement or this County Fee Deed of Trust that is continuing beyond the expiration of all applicable notice and cure periods, Beneficiary may terminate Maker's license to collect and then as Maker's agent may rent the Property if it is vacant and collect all rent and other income receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to reasonable expenses incurred in exercising Beneficiary's rights and remedies and then to obligations under the Loan Agreement and/or this County Fee Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Maker becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law. This Section 7 shall be subordinate to the terms of the Subordination Agreement.

Notwithstanding any other provision in this County Fee Deed of Trust to the contrary, all provisions related to the assignment of the rents in this County Fee Deed of Trust are subject to the terms, provisions, and conditions of the Texas Assignment of Rents Act ("**TARA**"), as codified in Tex. Prop. Code, Chapter 64, as the same may be amended, modified, or supplemented from time to time. To the extent that specific terms and requirements of this County Fee Deed of Trust conflict with the specific terms and requirements of TARA, (i) to the extent such terms and requirements of TARA may be superseded by an agreement between the parties, the specific terms and requirements of this County Fee Deed of Trust hereby supersede such specific terms and requirements of TARA; and (ii) to the extent that such terms and requirements of TARA cannot be superseded by an agreement between the parties, the specific terms and requirements of TARA shall control, and the parties further agree that all other terms and requirements of this County Fee Deed of Trust shall not otherwise be impaired or superseded thereby and shall remain in full force and effect. This County Fee Deed of Trust is intended to be a "Security Instrument" for purposes of TARA and the indebtedness evidenced by the Loan Note (the "**Indebtedness**") shall be a secured obligation for purposes of TARA.

8. Interest on the debt secured by this County Fee Deed of Trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted payment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all instruments concerning the debt.

9. Maker hereby covenants, represents and warrants to Beneficiary that Maker's intended occupancy, operation, and use of the Property do not and will not violate any applicable environmental law pertaining to health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-75 (1986) as amended by the Superfund Amendments and Reauthorization Act, Publ. L. No. 99-499, 100 stat. 1613 (1986) ("CERCLA"), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-91 (1985) as amended from time to time ("RCRA"); and the Texas Water Code, as amended from time to time, the Texas Solid Waste Disposal Act, as amended from time to time. Beneficiary makes no representations or warranties whatsoever to Maker regarding the presence or absence of hazardous or toxic materials in, at or under the Property.
10. When the context requires, singular nouns and pronouns include the plural.
11. This deed of trust shall bind, inure to the benefit of, and be exercised by, successors in interest of all parties.

SECURITY AGREEMENT

1. In addition to creating a deed of trust lien on all the real and other property described above, Maker also grants to Beneficiary a security interest in all of Maker's right, title, and interest in and to the Property other than the real property pursuant to the Texas Uniform Commercial Code ("**UCC**"). Maker grants to Beneficiary a security interest in all of Maker's right, title, and interest in and to the equipment, accounts, general intangibles, fixtures and other personal property used or acquired for use, on or in connection with the use or operation of the Property, or otherwise related to the Property and all products and proceeds thereof; all of which are hereinafter referred to as the "**Collateral**" for the purposes of this section of this deed of trust. In this section of this deed of trust the Beneficiary is sometimes called the "**Secured Party**".
2. Maker covenants and agrees with Secured Party that:
 - (a) In addition to and cumulative of any other remedies granted in this deed of trust to Secured Party or the Trustee, Secured Party or the Trustee may, upon or at any time default has occurred under this deed of trust that is continuing beyond the expiration of all applicable notice, grace, and cure periods, proceed under the Uniform Commercial Code as to all or any part of the Collateral and shall have and may exercise with respect to the Collateral all the rights, remedies and powers of a Secured Party under the Uniform Commercial Code, including without limitation, the right and power to sell, at public or private sale or sales, or otherwise dispose of, lease or use the Collateral and any part or parts thereof in any manner authorized or permitted under the Uniform Commercial Code after default by a Debtor, and to apply the proceeds thereof toward payment of any reasonable costs, expenses, attorney's fees and legal expenses incurred by Secured Party, and toward payment of the Indebtedness in such order or manner as Secured Party may elect. Among the rights of Secured Party, upon and during the continuation of an event of default beyond the expiration of all applicable notice and cure periods, and without limitation, Secured Party shall have the right to take possession of the Collateral and to enter upon any premise where the same may be situated for such purpose without being deemed necessary, appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish or otherwise prepare the Collateral for sale, lease other use or disposition as herein authorized. Maker agrees that if notice of such sale or disposition is mailed, postage prepaid, to Maker at the address designated at the beginning of this deed of trust (or if no address is designated, at Maker's most recent address as shown by the records of the Secured Party) at least ten (10) days before the time of any public sale or disposition, or the date after which the Collateral will be sold or disposed of by private sale,

such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of any such notice.

- (b) Secured Party is expressly granted the right, at its option, to transfer at any time to itself, to its nominee, the Collateral or any part thereof, and to receive the monies, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for the Indebtedness or to apply it on the principal and interest or other amount owing on any of the Indebtedness, whether or not then due, in such order or manner as Secured Party may elect. All rights to marshaling of assets or sale in inverse order of alienation, including any such rights with respect to the Collateral are hereby waived.
- (c) All recitals in any instrument of assignment or any other instrument executed by Secured Party incident to sale, transfer, assignment, lease or other disposition or use of the Collateral or any part thereof hereunder shall be full proof of the matters stated therein, and no other proof shall be required to establish the full legal propriety of the sale or other action or of any fact, condition or thing incident thereto and all recitals in any instrument shall be presumed conclusively to have performed or to have occurred.
- (d) Secured Party may require Maker to assemble the tangible Collateral and make it available to Secured Party at a place to be designed by Secured Party that is reasonably convenient to both parties. All reasonable expenses of retaking, holding preparing for sale, lease, or other use or disposition, selling, leasing or otherwise using or disposing of the Collateral which are incurred or paid by Secured Party as authorized or permitted hereunder, including also all reasonable attorney's fees, legal expenses and costs shall be added to the Indebtedness secured by this deed of trust and Maker shall be liable, therefore.
- (e) Should Secured Party elect to exercise its rights under said Uniform Commercial Code as to part of the personal property or fixtures described herein, this election shall not preclude any other exercise of the rights and remedies granted by the other sections of this deed of trust as to the remaining personal property or fixtures.
- (f) Secured Party may, at its election, at any time after delivery of this deed of trust, sign one or more copies hereof in order that such copies may be used as a financing statement under said Uniform Commercial Code. Said signature by Secured Party may be placed between the last sentence of this deed of trust and Maker's acknowledgement or may follow Maker's acknowledgement. Secured Party's signature need not be acknowledged and is not necessary to the effectiveness hereof as a deed of trust, mortgage, assignment, pledge, and security agreement or (unless otherwise required by applicable law) as a financing statement.
- (g) So long as any loan conditions remain unsatisfied on the Indebtedness, Maker will not execute and therefore will not be filed in any public office any financing statement or statements affecting the Collateral other than financing statements in favor of the City or Secured Party hereunder, unless prior written specific consent and approval of Secured Party shall have been first obtained.
- (h) Secured Party is authorized to file in any jurisdiction where Secured Party deems it necessary, a financing statement or statements and one or more continuation statement, and at the request of Secured Party, Maker will join Secured Party in executing one or more financing statements, continuation statements or both pursuant to said Uniform Commercial Code in form satisfactory to Secured Party, and will pay the cost of filing or recording in all public offices at any time and from time to time whenever filing or recording of any financing statement, continuation statement or this deed of trust is deemed by Secured Party to be necessary or desirable.

- (i) Certain of the Collateral is or will become "fixtures" (as that term is defined in said Uniform Commercial Code) on the real estate described or referred to in this deed of trust, and this deed of trust upon being filed for record in the real estate records of the county wherein such fixtures are situated shall operate also as a financing statement upon such of the Collateral which is or may become fixtures.
- 3. Maker further warrants and represents to Secured Party that, except for the security interest granted hereby in the Collateral and the security interest granted to the City under the City Loan Documents, Maker is the legal and equitable owner and holder of the Collateral free of any adverse claim and free of any security interest or encumbrance except only those (if any) expressly hereinafter referred to or described, and Maker agrees to defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein. Maker further warrants and represents that, except as set forth in the City Loan Documents, Maker has not heretofore signed any financing statement directly or indirectly affecting the Collateral or any part thereof, and no such financing statement signed by Maker is now on file in any public office except only those statement (if any) true and correct copies of which have been delivered to Secured Party.
- 4. In the event of a foreclosure sale under this deed of trust, Maker agrees that all the Property may be sold as a whole at Beneficiary's option and that the Property need not be present at the place of sale.

RESTRICTIONS ON TRANSFER

If all or any part of the Property is sold, conveyed, leased for a period longer than three (3) years, leased with an option to purchase, or otherwise sold (including by contract for deed), without the prior written consent of the Beneficiary, then the Beneficiary may at the Beneficiary's option declare the outstanding principal balance of the Loan Agreement, plus accrued interest, to be immediately due and payable; provided, however, notwithstanding anything to the contrary set forth in any of the Loan Documents, the following shall be permitted without The County's or Beneficiary's consent: (i) the Investor Member's (as defined in the Loan Agreement) transfer of its interest in MPA, (ii) the Investor Member's removal and substitution of MPA's managing member pursuant to the Amended and Restated Operating Agreement of MPA, as may be amended; (iii) the Bridge Lender's (as defined in the Loan Agreement) removal and substitution of MPA's managing member pursuant to the Collateral Assignment of Managing Member Interest and Security Agreement from MPA's managing member in favor of Bridge Lender and (iv) the exercise, subject to the terms below, of the right of first refusal and/or option to purchase by The NHP Foundation ("NHPF"), MHI or an affiliate of MHI that is also member of MPA's managing member ("Qualified Affiliate"). Notwithstanding the foregoing, Harris County acknowledges that (i) MHI holds an option to purchase the membership interests of (x) the MPA's managing member and (y) Investor Member or to purchase the Project at the end of the fifteen-year Tax Credit Compliance Period and (ii) MHI or a Qualified Affiliate and NHPF hold rights of first refusal to acquire the Project at the end of the fifteen-year Tax Credit Compliance Period. Such acquisitions are preapproved and require no further consent from Harris County, but any further transfers of such interests shall not be permitted without the consent of the Executive Director of HCCSD and any further transfers without consent shall be deemed a default hereunder. At any time after the acquisition of said membership interest, Harris County acknowledges that (a) MHI Special Member, LLC a Texas limited liability company, and NHPF, respectively, may purchase the Collateral Note pursuant to their respective purchase agreement(s); provided that such exercising party(ies) assume(s) all obligations of the MPA under this Loan Agreement and the Loan Documents and provided further that no other transfers of the Collateral Note shall be permitted and any additional transfer shall be deemed a Default hereunder. The Collateral Note and the documents securing or evidencing same (including the Deeds

of Trust) may not be amended, modified, released or terminated without the express written consent of the Executive Director of HCCSD.

CURE BY LIMITED PARTNERS, MEMBERS OR CONSTITUENT PARTIES

Beneficiary hereby agrees that any cure of any default that is made or tendered by any of MHA's and/or Maker's limited partners, members, or their constituent parties shall be deemed to be a cure by Maker and shall be accepted or rejected on the same basis as if made or tendered by Maker.

STANDSTILL

During such time as an affiliate of Beneficiary is in Maker's ownership structure, Beneficiary shall not enforce any of its rights or remedies under this County Fee Deed of Trust, including without limitation, legal actions against Maker such as self-help foreclosure, litigation, arbitration or other legal proceedings, whether by claim, counterclaim, demand, action or cause of action concerning this County Fee Deed of Trust. Notwithstanding the foregoing, the terms of this "STANDSTILL" provision shall not apply to Harris County to the extent it is exercising its rights under the Collateral Assignment, this County Fee Deed of Trust, or the County Leasehold Deed of Trust..

CITY LIEN

Beneficiary hereby approves of, and acknowledges and agrees that, Maker will enter into the City Loan Documents with the City, and that the lien secured by this County Fee Deed of Trust and Beneficiary's rights under this County Fee Deed of Trust shall be of equal priority to the City's Liens and the City's rights under the City Loan Documents, as more particularly described in the Subordination Agreement.

[Executed on the following pages]

Executed to be effective as of the date first set forth above.

MAKER:

MHI LANDHOLDINGS LLC,
a Texas limited liability company

By: Magnificat Houses, Inc.,
a Texas nonprofit corporation,
its sole member

By: _____
John Boyles, Executive Director

TEXAS §

This instrument was acknowledged before me on this ____ day of _____, 2021,
by John Boyles, Executive Director of Magnificat Houses, Inc., a Texas non-profit corporation, sole member of
MHI Landholdings LLC, a Texas limited liability company, on behalf of said limited liability company.

[S E A L]

Notary Public, State of Texas

Accepted by:

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

HARRIS COUNTY

By: _____
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2273

By: _____
ADRIENNE M. HOLLOWAY, Ph.D.
Executive Director, Community Services
Department

ACKNOWLEDGEMENT

This instrument was acknowledged before me on _____, 2021, by Adrienne M. Holloway, Ph.D., Executive Director of the Community Services Department, a Department of Harris County, a body corporate and politic under the laws of the State of Texas, as the act and deed of Harris County as authorized by order of the Commissioners Court of Harris County.

Notary Public in and for the State of Texas

EXHIBIT "A"

Legal Description

Lot 1 of Caroline Place, as recorded under County Clerk's File No. RP-2021-159768, Volume 694, Page 437, Map Records, Harris County, Texas, being a subdivision of 1.148 acres of land, being a Replat of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Block 5 of Cushing Park as recorded under Volume 1, Page 30, Map Records, Harris County, Texas, located in the Obediance Smith Survey, A-696 and the James S. Holman Survey, A-323, City of Houston, Harris County, Texas.

(TO BE ADJUSTED ACCORDING TO FINAL SURVEY)

EXHIBIT J

REGULATORY AGREEMENT and DECLARATION OF COVENANTS AND RESTRICTIONS

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Regulatory Agreement and Declaration of Covenants and Restrictions is executed to be effective as of November ____, 2021.

A. WHEREAS, **Magnificat Permanent Affordable, LLC**, a Texas limited liability company, herein called "**Subrecipient and Maker**," has received Community Development Block Grant Disaster Recovery (CDBG-DR) Harvey 2017 loan out of funds (the "**CDBG-DR Funds**") Harris County, herein called "**Harris County**," received from the Texas General Land Office (GLO) and the United States Department of Housing and Urban Development (HUD) pursuant to a Loan Agreement between Harris County, Subrecipient and Maker, and **NHPF Caroline Conduit, LLC**, a Texas limited liability company (the "**Loan Agreement**").

B. WHEREAS, Nonprofit loaned the CDBG-DR Funds to Subrecipient and Maker pursuant to the Loan Agreement and Subrecipient and Maker desires and intends to utilize said loan funds for the purpose of construction of the 3300 Caroline Street Project (the "**Project**"), a 149-unit multifamily complex for permanent supportive housing (PSH), for homeless adults located on the real property described in **Exhibit "A,"** attached hereto and incorporated herein for all purposes (the "**Property**").

C. WHEREAS, Harris County and Subrecipient and Maker entered into the Loan Agreement which, in part, governs the manner in which Harris County administers the CDBG-DR Program funding for the Project in a manner consistent with the standards required as a condition of providing these funds. The project shall include the and new construction of 3300 Caroline Street Project, a 149-unit multifamily complex for permanent supportive housing (PSH) for homeless adults of Harris County, with seventy-six (76) units set aside for CDBG-DR assisted units as provided in the Loan Agreement (hereinafter, the "**Project**"). The seventy-six (76) CDBG-DR assisted units required herein shall (i) be the same seventy-six(76) "Designated Units" in the City Loan Documents, (ii) be subject to all requirements thereunder and herein, and (iii) in the event of conflict, the most restrictive requirements shall control.

D. WHEREAS, Subrecipient and Maker has executed that County Leasehold Deed of Trust to Secure Performance dated of even date herewith (the "**County Leasehold Deed of Trust**"), formally encumbering Subrecipient and Maker's interest in the Property to Trustee, Adrienne M. Holloway, Ph.D., Executive Director, Community Services Department of Harris County, Texas, for the benefit of Nonprofit, said County Leasehold Deed of Trust being collaterally assigned by Nonprofit to Harris County pursuant to that Collateral Assignment of Note and Liens executed by Nonprofit and dated of even date herewith. In addition, MHI Landholdings, LLC, a Texas limited liability company, has executed that County Fee Deed of Trust to Secure Performance dated of even date herewith (the "**County Fee Deed of Trust**") formally encumbering the fee interest in the Property to Trustee, Adrienne M. Holloway, Ph.D., Executive Director, Community Services Department of Harris County, Texas, for the benefit of Harris County

E. WHEREAS, Harris County has required the Subrecipient and Maker to: (1) formally encumber the Property by filing this Regulatory Agreement and Declaration of Covenants and Restrictions (this "**Declaration**") of record in the Real Property Records of Harris County, Texas; and, (2) expressly agree: (a) that a number of units be set aside at the Property for the benefit of certain income-eligible homeless Harris County residents, as required by the Loan Agreement; and (b) that the rent to be charged for such units so set aside shall be subject to the rent limitations as set forth in the Loan Agreement.

Subrecipient and Maker must maintain a minimum of 76 **Floating** CDBG-DR assisted rental units (Thirty (30), Zero- Bedroom Efficiency - 60% of Low HOME Rent), (Thirty-One (31)), Zero- Bedroom Efficiency - Low HOME Rent), and (Fifteen (15), Zero- Bedroom Efficiency - High HOME Rent) at the Project; all of which must be occupied by income-eligible homeless residents earning 80 percent or less of Median Family Income (MFI) according to the High and Low HOME rents published annually by HUD (24 C.F.R. §92.252), and CDBG-DR RFP/RFA application requirements, for a period of twenty (20) years from the date of Project Completion (as defined in the Loan Agreement). The 76 **Floating** units (described in the table below) will be, for the duration of the Affordability Period (as defined in the Loan Agreement), subject to the terms set forth in this Declaration. Subrecipient and Maker must utilize the Allowances for Tenant-Furnished Utilities and Other Services approved annually by HCCSD.

Percentage of Median Family Income (MFI)	No. of Affordable Zero (0)-Bedroom Efficiency Units Set Aside for 20-Year Affordability Period	Applicable Rent for Total by Income Category (Rents Shall Not Exceed)
Extremely Low-income households (30% or less) 24 C.F.R. §92.252	30	30 units at 60% of Low HOME Rent
Very Low-income households (50% or less) 24 C.F.R. §92.252	31	31 units at Low HOME Rent
Low-income households (80% or less) 24 C.F.R. §92.252	15	15 units at High HOME Rent
Total Number of Units	76	76

NOW, THEREFORE, the undersigned, for good and valuable consideration, hereby acknowledges and declares as follows:

1. The obligations of the Subrecipient and Maker under the Loan Agreement are hereby acknowledged and affirmed as covenants and restrictions running with the Property that shall be binding on any subsequent owner of the Property so long as this Declaration is in effect.
2. The purpose of the Subrecipient and Maker's utilization of said funds is for new construction of the Project and maintain Ownership of the Project at the completion of construction (subject to the Ground Lease).

Subrecipient and Maker must maintain a minimum of **76 Floating** CDBG-DR-assisted rental units at the Project in the numbers described in the table above and per **Exhibit "B"** attached to the Loan Agreement and made a part of it for all purposes, which CDBG-DR-assisted rental units must be occupied by income-eligible homeless residents pursuant to Activity #8 of the Loan Agreement earning 80 percent or less of Median Family Income (MFI) according to the High and Low HOME rents published annually by HUD (24 C.F.R. §92.252) for a period of twenty (20) years from the date of Project Completion. Subrecipient and Maker must utilize the Allowances for Tenant-Furnished Utilities and Other Services approved annually by HCCSD.

3. The rent charged and to be charged for the units described in Paragraph 2 above must be affordable rent and shall be subject to the limitations on the amount of rent that may be charged as set forth in 24 C.F.R. §570.208 (a)(3), as same may be amended from time to time.
4. These restrictions and covenants shall be covenants running with the land and will be binding upon any subsequent owner of the Property. These restrictions and covenants will automatically expire, if not sooner released by Harris County by instrument recorded in the Real Property Records of Harris County, Texas, at the expiration of the twenty (20) year Affordability Period (as set forth in 24 C.F.R. §92.254(a)(4), which said Affordability Period shall commence upon Project Completion as described in the Loan Agreement.
5. These restrictive covenants may be enforced by legal action filed by Harris County.

[Executed on the following page]

EXECUTED to be effective as of the date first set forth above.

SUBRECIPIENT AND MAKER:

Magnificat Permanent Affordable, LLC
a Texas limited liability company

By: NHPF Caroline MM, LLC
a Texas limited liability company,
its managing member

By: Jamestown Affordable Housing, Inc.,
a District of Columbia nonprofit corporation,
its manager

By: _____
Neal Drobenare, Vice President

THE DISTRICT OF COLUMBIA

This instrument was acknowledged before me on this ____ day of _____, 2021,
by Neal Drobenare, Vice President of Jamestown Affordable Housing, Inc., a District of Columbia non-profit
corporation, manager of NHPF Caroline MM, LLC, a Texas limited liability company and Managing Member of
MAGNIFICAT PERMANENT AFFORDABLE, LLC, a Texas limited liability company, on behalf of said limited
liability company.

[S E A L]

Notary Public

Accepted by:

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

HARRIS COUNTY

By: _____
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2273

By: _____
ADRIENNE M. HOLLOWAY, Ph.D.
Executive Director, Community Services
Department

ACKNOWLEDGEMENT

This instrument was acknowledged before me on _____, 2021, by Adrienne M. Holloway, Ph.D., Executive Director of the Community Services Department, a Department of Harris County, a body corporate and politic under the laws of the State of Texas, as the act and deed of Harris County as authorized by order of the Commissioners Court of Harris County.

Notary Public in and for the State of Texas

EXHIBIT "A"

Legal Description

Lot 1 of Caroline Place, as recorded under County Clerk's File No. RP-2021-159768, Volume 694, Page 437, Map Records, Harris County, Texas, being a subdivision of 1.148 acres of land, being a Replat of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, Block 5 of Cushing Park as recorded under Volume 1, Page 30, Map Records, Harris County, Texas, located in the Obediance Smith Survey, A-696 and the James S. Holman Survey, A-323, City of Houston, Harris County, Texas.

(TO BE ADJUSTED ACCORDING TO FINAL SURVEY)

Exhibit K

INTERCREDITOR, SUBORDINATION AND FUNDING AGREEMENT

[DOCUMENT TO BE FORTHCOMING]

EXHIBIT L

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 20____.

By

(Signature)

(Type or Print Name)

(Title)

Covered Action: _____
(Program, Project or Activity)

EXHIBIT M

EQUAL OPPORTUNITY IS THE LAW

The Subrecipient and Maker is prohibited from discriminating on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in programs regardless of funding source.

If you think that you have been subjected to discrimination under a CDBG, ESG, or HOME -funded program or activity, you may file a complaint with Harris County Community Services Department (Grantee) within 180 days from the date of the alleged violation with the Equal Opportunity Officer (or the person designated for this purpose).

If you elect to file your complaint with the Subrecipient and Maker you must wait until the Subrecipient and Maker issues a decision or until 90 days have passed, whichever is sooner. If Subrecipient and Maker has not provided you with a written decision within 90 days of the filing of the complaint, you need not wait for a decision to be issued but may file a complaint with Grantee within 30 days of the expiration of the 90-day period. If you are dissatisfied with the Subrecipient and Maker's resolution of your complaint, you may file a complaint with Grantee. Such complaint must be filed within 30 days of the date you received notice of the Subrecipient and Maker's proposed resolution.

FAIR HOUSING COMPLAINTS

Grantee Contact:

Adrienne M. Holloway, Ph.D., Executive Director
Harris County Community Services Department (HCCSD)

Housing and Community Resource Center
Attn: Linda Hudson, Grievance/Compliance Officer

8410 Lantern Point Drive
Houston, Texas 77054
Telephone: (832) 927-4700
TDD: (713) 695-2395

EXHIBIT N
GRIEVANCE INFORMATION FORM

PLEASE PRINT OR TYPE ALL INFORMATION

- I. Complainant: Please provide the following information concerning the person or organization filing the complaint.

Social Security Number: _____/_____/_____

Name: _____ Telephone Number(s): _____

Address: _____

Home: _____

Work: _____

- II. Action Complained of: Please describe in detail the action(s) that you are complaining about. (Attach additional pages if necessary)

Do you believe that your complaint involves a violation of the CDBG regulations, the CDBG grant or other agreement under the Housing and Community Development Act? ☐ Yes ☐ No

If yes, please reference the provision(s) violated:

- III. Respondent(s): Please name the person(s) or organization(s) that you believe to be responsible for the action(s) that you complained about:

Name(s): _____

Address(es): _____

Explain how each Respondent is responsible for the action(s) that you are complaining about: (attach additional pages if necessary)

Complainant's Signature

Date

**EXHIBIT O
CONFLICT OF INTEREST**

All Applicants

The standards in 2 CFR §200.112 provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a **financial or other interest** in the firm selection for an award.

CDBG and HOME Applicants Only

The CDBG regulations at 24 CFR §570.611 and HCCSD regulations provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or Subrecipient and Maker that is receiving CDBG-DR funds and (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG-DR funds; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or financial benefit from a CDBG-assisted activity, or have an financial interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have an immediate family ties or business ties, during their tenure or for one (1) year thereafter.

IF NO CONFLICTS EXIST, COMPLETE THE FOLLOWING:

<input type="checkbox"/>	I certify that no conflict of interest exists between Harris County and _____ (Name of Organization)
<input type="checkbox"/>	I certify that no conflict of interest exists between the subcontractors of and _____ (Name of Organization)
IF THERE IS A CONFLICT, COMPLETE THE FOLLOWING:	
<input type="checkbox"/>	I certify that a conflict of interest does exist between Harris County and _____ (Name of Organization)
<input type="checkbox"/>	I certify that a conflict of interest does exist between _____ and (Name of subcontractor) _____ (Name of Organization)

Describe the nature of the conflict of interest below: (Please identify the individual, employment, and the conflict or potential conflict [their affiliation with your organization]).

Signature of Authorized Agency Official	Date
Typed Name and Title	

EXHIBIT P CONFLICT OF INTEREST DISCLOSURE STATEMENT

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT		FORM CIS
<p>(Instructions for completing and filing this form are provided on the next page.)</p>		
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.</p>		<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> OFFICE USE ONLY </div> <div style="border: 1px solid black; padding: 5px; min-height: 150px;"> <p>Date Received</p> </div>
1	Name of Local Government Officer	
2	Office Held	
3	Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code	
4	Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3.	
5	List gifts accepted by the local government officer and any family member, if aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100 during the 12-month period described by Section 176.003(a)(2)(B).	
	<p>Date Gift Accepted _____ Description of Gift _____</p> <p>Date Gift Accepted _____ Description of Gift _____</p> <p>Date Gift Accepted _____ Description of Gift _____</p> <p style="text-align: center;">(attach additional forms as necessary)</p>	
6	AFFIDAVIT	
	<p>I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to each family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a)(2)(B), Local Government Code.</p>	
	<p>_____</p> <p>Signature of Local Government Officer</p>	
	<p>AFFIX NOTARY STAMP / SEAL ABOVE</p>	
	<p>Sworn to and subscribed before me, by the said _____, this the _____ day</p> <p>of _____, 20_____, to certify which, witness my hand and seal of office.</p>	
	<p>_____ Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath</p>	

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a misdemeanor.

Refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

INSTRUCTIONS FOR COMPLETING THIS FORM

The following numbers correspond to the numbered boxes on the other side.

- 1. Name of Local Government Officer.** Enter the name of the local government officer filing this statement.
- 2. Office Held.** Enter the name of the office held by the local government officer filing this statement.
- 3. Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code.** Enter the name of the vendor described by Section 176.001(7), Local Government Code, if the vendor: a) has an employment or other business relationship with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code; b) has given to the local government officer or a family member of the officer one or more gifts as described by Section 176.003(a)(2)(B), Local Government Code; or c) has a family relationship with the local government officer as defined by Section 176.001(2-a), Local Government Code.
- 4. Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3.** Describe the nature and extent of the employment or other business relationship the vendor has with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code, and each family relationship the vendor has with the local government officer as defined by Section 176.001(2-a), Local Government Code.
- 5. List gifts accepted, if the aggregate value of the gifts accepted from vendor named in item 3 exceeds \$100.** List gifts accepted during the 12-month period (described by Section 176.003(a)(2)(B), Local Government Code) by the local government officer or family member of the officer from the vendor named in item 3 that in the aggregate exceed \$100 in value.
- 6. Affidavit.** Signature of local government officer.

Local Government Code § 176.001(2-a): "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.

Local Government Code § 176.003(a)(2)(A):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or

- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

- (2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

EXHIBIT R
LEAD-SAFE HOUSING RULE – APPLICABILITY FORM

Address/location of the subject property:

Regulation Eligibility Statements (check all that apply):

_____ Property is receiving federal funds.

_____ Unit was built prior to 1978.

Note: If both Eligibility Statements above have been checked, continue with the Exemption Statements below. Otherwise, the regulations do not apply, sign and date the form.

Regulation Exemption Statements [24 CFR 35.115] (check all that apply)

_____ Emergency repairs to the property are being performed to safeguard against imminent danger to human life, health or safety, or to protect the property from further structural damage due to natural disaster, fire or structural collapse. The exemption applies only to repairs necessary to respond to the emergency.

_____ The property will not be used for human residential habitation. This *does not* apply to common areas such as hallways and stairways of residential and mixed-use properties.

_____ Housing "exclusively" for the elderly or persons with disabilities, with the provision that children less than six years of age *will not* reside in the dwelling unit.

_____ An inspection performed according to HUD standards found the property contained no lead-based paint.

_____ According to documented methodologies, lead-based paint has been identified and removed; and the property has achieved clearance.

_____ The rehabilitation will not disturb any painted surface.

_____ The property has no bedrooms.

_____ The property is currently vacant and will remain vacant until demolition.

If any of the above Exemption Statements have been checked, the Regulation does not apply. In all cases, sign and date the form.

I, _____, certify that the information listed above is true and accurate to the best of my knowledge.

Signature

Date

Organization

EXHIBIT S

LEASE ADDENDUM



Tenant Name:

Unit:

This lease addendum adds the following paragraphs to the Lease between the Tenant and Landlord referred to above.

- A. **Purpose of the Addendum:** This lease for the above-referenced unit is being amended to include the provisions of this addendum because Federal Funds were utilized under a CDBG/HOME Assistance Program with the Harris County Community Services Department (HCCSD).
- B. **Conflict with Other Provisions of the Lease:** In case of any conflict between the provisions of this Addendum and other sections of the Lease, the provisions of this Addendum shall prevail.
- C. **Prohibited Lease Provision:** Any portion of the Lease which falls within the classifications below shall not apply and not be enforced by the Landlord.
- (1) *Confession of Judgment:* Consent by the Tenant to be sued, to admit guilt, or to a Judgment in favor of the landlord in a lawsuit brought in connection with the Lease.
 - (2) *Treatment of Property:* Agreement by the Tenant that the Landlord may take or hold the Tenant's property, or may sell such property, without notice to the Tenant and a court decision on the rights of the parties.
 - (3) *Excusing the Landlord from Responsibility:* Agreement by the Tenant not to hold the Landlord or Landlord's agent legally responsible for any action or failure to act, whether intentional or negligent.
 - (4) *Waiver of Legal Notice:* Agreement by the Tenant that the Landlord may institute a lawsuit without notice to the tenant.
 - (5) *Waiver of Court Proceedings for Eviction:* Agreement by the Tenant that the Landlord may evict the Tenant Family (i) without instituting a civil court proceeding in which the Family has the opportunity to present a defense, or (ii) before a decision by the court on the rights of the parties.
 - (6) *Waiver of Jury Trial:* Authorization to the Landlord to waive the Tenant's right to a trial by jury.
 - (7) *Waiver of Right to Appeal Court Decision:* Authorization to the Landlord to waive the Tenant's right to appeal a court decision or waive the Tenant's right to sue to prevent a judgment from being put into effect.
 - (8) *Tenant Chargeable with Cost of Legal Actions Regardless of Outcome of the Lawsuit:* Agreement by the Tenant to pay lawyer's fees or other legal costs whenever the Landlord decides to sue, whether or not the Tenant wins.
 - (9) *Mandatory supportive services.* Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

TENANT SIGNATURES	LANDLORD SIGNATURES
Tenant Name:	Name:
Signature and Date:	Signature:
Tenant Name:	Date:
Signature and Date:	

EXHIBIT T

HOME rent units ⁽⁸⁾	
Low	High

Instructions for Completing the Rental Housing Project Compliance Monthly and Quarterly Report

1. Project Name: Enter the name of the housing complex.
2. Project Number: *To be completed by Harris County Community Services Department (HCCSD).*
3. Address: Enter the full address of the property.
4. Reporting Period: If during lease-up, indicate monthly reporting period. Otherwise indicate the appropriate Quarter.
5. Quarterly submittal: Indicate the appropriate Quarter.
6. No. of Units: Indicate the total number of units of the housing complex.
7. No. of HOME units: Indicate the total number of HOME-assisted units.
8. HOME Rent Units: Indicate the total of number LOW and HIGH HOME-assisted units.
9. Unit #: Enter the unit number for the HOME-assisted unit.
10. L or H: Enter L or H to indicate whether Low or High HOME Rent unit.
11. % of Median Income: Indicate the percentage of the Median Income (see code on the report).
12. Tenant Name: Enter the full name of the tenant.
13. Type of HH: Enter the type(s) of Household (see code on the report). Household may have more than (1) type
14. Ethnicity: Indicate Y or N for Hispanic.
15. Race: Indicate the code of the race (see code on the report)
16. #Persons: Enter the number of persons in the household: 1,2,3,4,5,6,7, 8 or more persons at the time of tenant application.
17. #Bedrooms: Enter 0 for single room occupancy (SRO) unit or for efficiency unit, 1 for 1 bedroom, 2 for 2 bedrooms, 3 for 3 bedrooms, 4 for 4 bedrooms, and 5 for 5 or more bedrooms.

Initial Occupancy

18. Date: Enter the lease date.
19. Utility Allowance: Enter the utility allowance at the time of initial occupancy.
20. Tenant Payment Amount: Enter the amount the tenant pays for the rent.
21. Rent: Enter the maximum monthly rent amount at the time of initial occupancy.
22. Annual Gross Income: Enter the monthly gross household income at the time of initial occupancy.
23. Lease Addendum: Indicate Y or N if the tenant has completed a Lease Addendum.
24. HQS Inspection Date: Enter the date that HCIS performed initial unit inspection.

**Instructions for Completing the Rental Housing Project Compliance Monthly and Quarterly Report
Re-certification (most recent first)**

Enter the appropriate information for all dates of re-certification; utilize, as many lines as needed to complete this information.

25. Date: Enter the recertification date.
26. Utility Allowance: Enter the utility allowance at the time of re-certification.
27. Tenant Payment Amount: Enter the amount the tenant pays for the rent.
28. Rent: Enter the maximum monthly rent amount at the time of re-certification.
29. Annual Gross Income: Enter the total monthly gross household income at the time of re-certification.
30. Lease Addendum: Indicate Y or N if the tenant file has Lease Addendum from HCCSD.
31. Property Inspection Date: Enter date property management performed unit inspection.
32. HQS Date: Enter date HCIS performed unit inspection.
33. Date Submitted: Enter the date this report was submitted to HCCSD
34. Submitted by: Enter the name of the person submitting the report.
35. Reviewed: *To be completed by HCCSD project monitor.*
- * Move-Out For Each Vacated Assisted Unit** **Complete the Occupancy Information plus the following:**
Move-Out Date: _____

EXHIBIT U

SECTION 504 SURVEY & SECTION 504 TRANSITION PLAN FORMAT

When answering the following questions, check whatever statements apply to your agency and list any additional steps taken under "Other." The statements listed are some of the most common actions or procedures taken by agencies and are only listed to simplify the evaluation process.

Part I (to be completed by all subrecipients)

A. Notification/Communication

1. What steps have been taken to make certain that all beneficiaries and employees are aware of their rights under Section 504? (Mark all that apply)

☐ Policy statement regarding Equal Employment Opportunity is posted in a prominent place for public notice

☐ It is our policy to discuss information concerning Section 504 during all employment interviews and to answer questions concerning applicant and employee rights.

☐ An EEO/Affirmative Action Specialist is available to offer consultation to applicants for employment

☐ Public notices about meetings, hearing, etc. include a statement regarding accommodations for disabled can be made upon request

☐ Other

Explain:

Describe any policy that needs to be established as a result of this review:

2. How does your organization ensure that communication with disabled applicants, participants and members of the public are as effective as communications with non-disabled individuals?

a. For any written materials produced on a program or service, indicate whether the following alternative formats are provided: (mark all that apply)

☐ Audiotape ☐ Braille ☐ Reader ☐ Aide ☐ Mailed to home ☐ Large print format ☐ Interpreter

☐ Other (Explain):

b. How would a disabled learn about auxiliary aids and services, and how could they request such assistance from you?

c. How will you ensure that meetings, hearings, and conferences are accessible for individuals with communication disabilities?

d. Do you currently offer TDD (telecommunication device for the disabled) access within your communication system?

e. Is 911 or E-911 emergency service offered within your jurisdiction? If so, is there a TDD connected to your system?

f. Do you have a toll-free number to access services and programs? If so, is it usable by persons with hearing impairments?

g. Do you have any public telephones within your facilities? If so, is at least one phone hearing aid compatible?

h. If you determine that equally effective communication cannot be provided, please state why the service, program or activity would be fundamentally altered or result in undue financial and administrative burdens?

Describe alternative actions that will be taken to provide the benefits or services to the maximum extent possible.

☐ Yes ☐ No

_____ Public notice issued which contains a non-discrimination on the basis of disability statement.

Agency letterhead has TDD# listed.

Agency business cards have TDD# listed.

Policy statement regarding non-discrimination on the basis of disability is posted in conspicuous places.

Explain:

B. Policies and Procedures

1. In the area of employment, can you ensure that no discrimination based on disability exists in your agency in the area of:

- Recruitment/advertising and the application process for employment? ☐ Yes ☐ No
- Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring? ☐ Yes ☐ No
- Rates of pay or any other form of compensation and changes in compensation? ☐ Yes ☐ No
- Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists? ☐ Yes ☐ No
- Leaves of absence, sick leave, or any other leave? ☐ Yes ☐ No
- Selection of financial support for training, including apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training? ☐ Yes ☐ No
- Employer-sponsored activities, including social and recreational programs? ☐ Yes ☐ No
- Any other term, condition or privilege of employment? ☐ Yes ☐ No

2. What policies, procedures, or modifications have been taken to ensure that no qualified disabled person is denied the opportunity to participate in or benefit from services because of his/her disability and all qualified disabled persons are afforded opportunities to participate in or benefit from services provided to non-disabled persons:

☐ There is a policy in place to assure that appropriate assistance can be made available upon request.

☐ Application procedures have been developed for disabled individuals requiring special accommodations.

☐ Physical accommodations have been made to accommodate disabled persons (water fountains, elevator buttons, pay phones, bathrooms, etc.)

☐ Other:

Are these policies written? ☐ Yes ☐ No

If no, what actions are taken to ensure that they are maintained?

3. Identify any program qualifications, eligibility, admission requirements, or licensing standards that an individual must meet that might negatively affect individuals with disabilities. For each item answered that appears to have a negative effect, describe action(s) planned to reduce or eliminate the disparate impact.

a. Do you currently provide a qualified disabled individual the opportunity to participate in, or benefit from, the aid, benefit, or service you provide? Examples, might include accessibility to the spectator seating area at ☐ yes a ☐ no city's baseball field, or the rodeo arena at the county fairgrounds.

b. Do you provide opportunities for participation or benefit to the disabled, equal to opportunities afforded the population at large? ☐ Yes ☐ No

c. Do you avoid providing different or separate aids, benefits, or services to a qualified individual with a disability unless proven necessary to make them as effective as the aids, benefits or services provided to others? ☐ Yes ☐ No

d. Do you allow qualified disabled individuals a full opportunity to participate in all local policy planning or advisory boards? This includes providing reasonable accommodations in the scheduling of time and/or location of meetings, use of auxiliary aids including guide dogs, etc.

☐ Yes ☐ No

4. Describe procedures established to ensure that no disabled person will be discriminated against as a result of methods of administration or through direct or contractual arrangements with your agency.

☐ All contractors and subcontractors are made aware of Section 504 requirements and appropriate training is offered.

☐ Language is included in agency contracts that ensures that contractors take steps to facilitate the participation of qualified individuals with disabilities in the activity they operate on behalf of the agency.

☐ During monitoring, contractor's/subcontractor's policies are reviewed for compliance with Section 504 requirements.

☐ Other

Explain:

C. Program Accessibility

NOTE: One of the most effective approaches to examining service and program accessibility is to conduct a "client path analysis." This analysis is simply a walk-through of the process needed for a citizen to participate in a service your agency provides. There are generally two aspects to the analysis: (a) analysis of the physical path traveled, and (b) analysis of the administrative requirements of the service delivery, (i.e. eligibility criteria, application procedures).

1. Are all qualified disabled persons given the opportunity to participate in or benefit from services or activities that your organization offers?

☐ Yes ☐ No

2. Check all actions that apply to your organization's policies on program accessibility:

☐ Employment Practices

☐ Common areas (bathrooms, hallways, doors, meeting rooms, etc.) are accessible

☐ Telecommunication Device for the Deaf (TDD) is available and advertised

☐ All material relating to agency and services it provides can be made available in other formats (i.e. Braille, audiotape, etc.) upon request and public is aware that this service is available.

☐ Public meetings are held in areas that are accessible.

☐ Other

Explain:

3. Are any structural changes needed to make programs accessible?

☐ Yes ☐ No

If yes, describe:

Describe alternatives to structural changes that have been used or considered (e.g. rescheduling or relocating activities, redesigning of equipment) in order to achieve program accessibility.

4. If the agency undertakes acquisition, rehabilitation, or construction of facilities with federal funds, is there a policy in place that ensures tha such facilities will be accessible for persons with disabilities? (Carried out in accordance with the Uniform Federal Accessibility Standards (UFAS):

☐ Yes ☐ No

5. Describe any other policies, practices, or methods your agency has developed to include disabled persons in its programs and activities:

D. Emergency Evacuation

1. Describe how your agency notifies employees and members of the public of an emergency.

2. Are adequate policies/methods in place to ensure that individuals with disabilities can be accomodated in the event of an emergency?

☐ Yes ☐ No

Please describe your policies and methods:

Part II (to be completed by subrecipients with 15 or more employees)

1. Do you have a written policy regarding non-discrimination on the basis of disability that is in compliance with HUD requirements? ☐ Yes ☐ No

If you answered No to this question, you may contact HCCSD offices for a sample policy.

2. Does your Notice of Nondiscrimination include the following?

- a. Contact information for your 504/ADA coordinator ☐ Yes ☐ No
- b. How to request auxiliary aids or other services ☐ Yes ☐ No
- c. That alternative formats are available ☐ Yes ☐ No
- d. That a complaint grievance procedure has been adopted ☐ Yes ☐ No

3. Do you have a grievance procedure? ☐ Yes ☐ No

If you answered No, then you must adopt one for compliance with Section 504. If you answered Yes, does it include the following:

- a. A statement allowing an individual to submit a grievance in alternative formats. ☐ Yes ☐ No
- b. A time limit for filing a grievance ☐ Yes ☐ No
- c. Information on how to also file a complaint through the appropriate local, State or Federal agencies. ☐ Yes ☐ No

4. Who in your agency has been designated to coordinate grievance procedures?

5. Who is responsible for coordinating the agency's Section 504 responsibilities?

Part III Consultation (to be completed by all subrecipients)

What steps have been taken to consult with interested persons, including disabled persons or organizations representing disabled persons, in achieving compliance with Section 504? (Mark all that apply)

Disabled staff within agency consulted	Name of person(s) consulted and date of consultation:
Disabled program participants or beneficiaries consulted.	Name of person(s) consulted and date of consultation:
Organization(s) representing disabled persons consulted	Name of organization(s) and date(s) consulted:

Describe any alterations that need to be made within facilities or program design as a result of consultation:

--

To the best of my knowledge and belief, the statements made in this self-evaluation are true and correct and this document has been reviewed and

Printed Name and Title, Authorized Official

Signature, Authorized Official

Date

Sample Nondiscrimination Policy

It is the policy and commitment of [insert name of company here] that it does not discriminate on the basis of race, color, sex, national origin, disability, religion, familial status, or source of income in the rental of its residential dwellings. [Insert name of company] affirms its policy of equal housing opportunity pursuant to state and federal fair housing laws.

Harassment or intimidation of a tenant, staff person or guest because of that person's race, color, national origin, religion, sex, disability, familial status, or source of income, is specifically prohibited and may be grounds for termination of employment and/or of tenancy. Harassment and intimidation includes abusive, foul or threatening language or behavior.

It is also the policy of this property that all qualified individuals with a disability are entitled to a reasonable accommodation or modifications to the property that will permit the individual an equal opportunity to use and enjoy the premises. Requests for exceptions to community rules, policies, practices, or services or structural modifications should be made to: _____

Issues of discriminatory treatment, harassment, or intimidation on any of these bases should immediately be reported to _____ and, if substantiated, prompt action will be taken to remedy the actions taken.

Internal Non-Discrimination Policy for Staff.

In furtherance of [insert company name here]'s commitment to equal housing opportunity:

All applications, leases, and tenant rules of this property shall contain the following language, "All persons will be treated fairly and equally without regard to race, color, religion, sex, familial status, disability, national origin, or source of income."

All advertising (newspapers, brochures, yellow pages, in the telephone directory, etc) pertaining to this property shall contain an Equal Housing Opportunity Logotype, statement or slogan as a means of educating the home-seeking public that the Respondent's properties are available to all persons regardless of race, color, sex, religion, familial status, disability, national origin, or source of income.

All staff shall model appropriate non-discriminatory behavior and strive to cultivate and maintain a living environment that is free from discrimination. All staff shall be trained in fair housing laws.

Procedures to follow when a tenant makes a request for a reasonable Accommodation/Modification.

<Organization Name Here>

Section 504 Transition Plan Format

Original Plan date:		Revision Date:		Revision Date:	
Revision date:		Revision Date:		Revision Date:	
Revision date:		Revision Date:		Revision Date:	

Please list your agency's plan for implementing structural, procedural or policy changes identified in your Section 504 Survey in this plan. Please include all action items to be taken by your agency to obtain compliance with Section 504. If any action item cannot be completed within a reasonable time frame due to budget constraints, please indicate this in the Comments column by that action item. Note: If action item is structural, please indicate the facility location address in the Action Description. For procedural and policy actions, if the action item relates to a specific program please include the name of the program or service in the Action Description.

Action Type (structural, procedural, or policy related)	Action Description	Person Responsible for implementation	Projected Start date for action	Projected Completion Date for action	Projected Cost for completing project	Comments
Example: Structural	Modify bathrooms for handicapped accessibility. Location: 1001 Preston, Houston, TX 77002	John Lee	1-Apr-09	30-May-09	\$ 3,500.00	Modifications will be delayed to allow funds to be identified during our annual budgeting process.
Example: Policy	Incorporate written procedures for home visits when applicant is disabled for Home Repair Program	Diana Moore	25-Aug-08	15-Sep-08	\$ -	

EXHIBIT V - REGULATION REFERENCE INFORMATION

24 C.F.R. §92	HOME Investment Partnerships Program Final Rule
24 C.F.R. §92.205(a)(1)	Eligible Activities
24 C.F.R. §92.207 (b)	Eligible administrative and planning costs -Staff and overhead
24 C.F.R. §92.206	Eligible Project Cost
24 C.F.R. §92.206(d)(6)	Related Soft Cost- Staff and overhead
24 C.F.R. §92.203 (b)	Income Determinations
24 C.F.R. Part 35	Lead-Based Paint Poisoning Prevention in Certain Residential Structures
24 C.F.R. §84.62	Suspension/Termination
24 C.F.R. §92.218	Matching Contribution Requirements
24 C.F.R. §92.220	Form of Matching Contribution
24 C.F.R. §92.4	Waiver and Suspension of Requirement for Disaster Areas
24 C.F.R. §92.251	Property Standards
24 C.F.R. Part 8	Nondiscrimination Based On Handicap In Federally Assisted Programs and Activities of the Department of Housing and Urban Development
24 C.F.R. Part 3280	State and Local Assistance
24 C.F.R. §92.254(a)(5)(ii)	Resale and Recapture
24 C.F.R. §92.254(a)(4)	Periods of Affordability
24 C.F.R. §92.257	Religious Organization
24 C.F.R. §92.351	Affirmative Marketing, Minority Outreach Program
OMB Circular A-87	Cost Principles for State, Local, and Indian Tribal Governments
OMB Circular A-102	Grants and Cooperative Agreements with State and Local Governments
OMB Circular A-110	Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
OMB Circular A-122	Final Revision of OMB Circular A-122 Cost Principles For Non Profit Organizations
2 C.F.R. §200	Audit Requirements for Non-Profit Organizations
24 C.F.R. §92.508	Record keeping
24 C.F.R. §92.505	Applicability of Uniform Administrative Requirements
Subpart K of 24 C.F.R. Part 92	Program Administration
24 C.F.R. §92.503 (b)(8)	Repayment
24 C.F.R. §92.205	Eligible activities: General
24 C.F.R. §92.208	Eligible Community Housing Development Organization
24 C.F.R. §92.503	Subrecipient and Maker-operating expense and capacity building costs.
24 C.F.R. §92.205 (a)(1)	Program Income, Repayment and Recaptured Funds.
2 C.F.R. §200	Eligible Activities
2 C.F.R. §200.328	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
2 C.F.R. §200.328	Disposal of Property
OMB Circular A-110, Subpart C	Property Subrecipient and Maker/Revert
	Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospital and Other Non-Profit Organization- Post Award Requirements.
24 C.F.R. §92.353	Displacement, Relocation and Acquisition
24 C.F.R. §92.350	Other Federal Requirements
24 C.F.R. §92.354	Labor
24 C.F.R. §92.356	Conflict of Interest
24 C.F.R. §92.257	Religious Organizations
24 C.F.R. §92.355	Lead-Based Paint
24 C.F.R. §58.35(b)	Categorical Exclusion
24 C.F.R. §58.34	Determination of Exemption

EXHIBIT W, REQUIRED FEDERAL GRANT CONTRACT PROVISIONS

Pursuant to 2 C.F.R. Part 200 Appendix II, the Contractor shall agree to the following, in addition to other provisions required by the federal agency or non-federal entity, all contracts made by the non-federal entity under the federal award must contain provisions covering the following, as applicable:

- I.** Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- II.** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be effected and the basis for settlement.
- III.** Equal Employment Opportunity
 - (1) If this contract is a non-construction contract, the Contractor agrees as follows:
 - (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
 - (d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (e) The Contractor will comply with all provisions of Executive Order 11246 - Equal Employment Opportunity, as Amended (Order 11246) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- (f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - (h) The Contractor will include the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (2) If this contract is a construction contract, the Contractor agrees as follows:
- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
 - (d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under

this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) The Contractor will include the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with

respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

IV. Davis Bacon Act

The Contractor hereby agrees to abide by the Davis-Bacon Act and Related Acts, including the Copeland "Anti-Kickback" Act. The Contractor shall require that all subcontractors abide by the Davis-Bacon Acts and Related Acts.

Applicability – The Davis-Bacon and Related Acts apply to all construction work financed in whole or in part with federal assistance including rehabilitation of residential property, if such property contains 8 or more units.

Exceptions – The provisions relating to wages pursuant to Davis-Bacon and Related Acts requirements in any contract or agreement for assistance, sale, or lease, shall not apply to any individual who performs services for which the individual volunteered, or does not receive compensation for such services, or is paid expenses, reasonable benefits, or a nominal fee for such services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor (DOL)) to all laborers and mechanics on federally funded and District of Columbia construction projects in excess of \$2,000.00. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

The Davis-Bacon wage rate applies to The U. S. Department of Housing and Urban Development (HUD) projects because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1937, the National Housing Act, the Housing and Economic Development Act of 1974, the National Affordable Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are referred to as the Davis-Bacon and Related Act or DBRA. The DOL has published rules and pertinent implementation information concerning Davis-Bacon and other laws in the Code of Federal Regulations (CFR). These regulations are found in Title 29 C.F.R. Parts 1, 3, 5, 6 and 7.

Part 1 of the DOL regulation (29 CFR) explains how the DOL establishes and publishes DBA wage determinations (e.g. wage decisions) and provides instructions on how to use the determinations. Part 3 of the DOL regulation (29 CFR) describes the Copeland Act. The Copeland Act (Anti—Kickback Act) makes it a federal crime for anyone to require any laborer or mechanic (employed on a federal or federally-assisted project) to kickback (i.e. give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly-certified payroll reports (CPRs) and regulates permissible payroll deductions. Part 5 of the DOL regulation (29 CFR) covers the labor standards provisions relating to the Davis-Bacon Act wage rates and the responsibilities of Contractors and contracting agencies to administer and enforce the provisions. Part 6 of the DOL regulation (29 CFR) provides for administrative proceedings enforcing federal labor standards on construction and service contracts. Last, Part 7 of the DOL regulation (29 CFR) sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

All suspected or reported violations shall be reported to the awarding agency.

V. Contract Work Hours and Safety Act

The Contractor hereby agrees to abide by the Contract Work Hours and Safety Act (40 U.S.C. 3701–3708). The Contract Work Hours and Safety Act (CWHSSA) require time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous. The CWHSSA applies to both direct federal contracts and to indirect federally-assisted contracts except where the assistance is solely in the nature of loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty (\$10/day per violation). Intentional violations of CWHSSA

standards can be considered for federal criminal prosecution. The Contractor shall include a provision requiring adherence to Contract Work Hours and Safety Act in all subcontracts.

VI. Patents and Copyrights

If this agreement results in any copyrightable material, the Grantee and/or the Grantor reserves the right to royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes. Recipients shall have no obligation to the federal government with respect to program income earned from license fees and royalties for copyrighted materials, patents, patent applications, trademarks, and inventions produced under this award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

VII. Federal Environmental Regulations

Contractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387) and all other relevant federal environmental regulations.

Contractors securing a contract in excess of \$100,000.00 will not expend such funds by making use of subcontracting with facilities included on the Environmental Protection Agency List of Violating Facilities as per Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations 40 CFR 15.4.

Violations of this provision or of the aforementioned acts shall be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

VIII. Debarment and Suspension

A contract award shall not be made with any party listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors shall not hire subcontractors on any of the aforementioned lists.

IX. Byrd Anti-Lobbying Amendment

In accordance with the Byrd Amendment, U.S. Code Title 31 Chapter 13 §1352 the Contractor shall certify and shall require that all subcontractors certify the following:

- 1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

X. Solid Waste Removal

The Contractor shall comply and shall require subcontractors to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a

manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

XI. Failure to Comply

Failure to comply with any part these provisions constitutes a material breach of this Agreement. The event of such a breach may result in compensation being withheld or suspended, termination of the Agreement, or suspension or debarment of the Contractor. The Contractor shall also be liable for all damages available under 2 CFR Part 200 and statutes and regulations related to the formation and execution of this Agreement. The Grantor and Grantee are also entitled to all relief available under 2 CFR Part 200 and all statutes and regulations related to the formation and execution of this Agreement.

EXHIBIT X, CDBG-DR FEDERAL REGULATIONS

A grantee and all subgrantees shall abide by all local, state, and federal regulations of the Community Development Block Grant (CDBG). A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section and any applicable amendments.

(i) Contract provisions. A grantee and all subgrantees shall comply with the following:

1. Title I of the Housing and Community Development Act of 1974;
2. 24 CFR Part 570 Community Development Block Grants (CDBG) and Community Development Block Grants Disaster Recovery (CDBG-DR) regulations;
3. Public Law December 27, 2017 (Vol. 82, Federal Register 61320-61323) (Appropriation Act that provides funding specifically for Hurricane Harvey);
4. Uniform Relocation Act (URA) (29 CFR Part 24, et al.) (42 USC 4601-4655);
5. Davis-Bacon Act (40 U.S.C. 276a to 276a-7);
6. Citizen Participation Plan; Local Governments (24 CFR 91.105);
7. Contract Work Hours and Safety Standards Act (40 USC 327);
8. Kickbacks from Public Works Employees (18 USC 874);
9. Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to The Contract Work Hours And Safety Standards Act) (9 CFR Part 5) (Section 110 of the Housing and Community Development Act of 1974), Copeland Anti-Kick Back (18 USC 874);
10. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) and implementing regulations at 24 CFR Part 135;
11. Hatch Act (5 USC 1501-1508) (5 USC Chapter 15);
12. Insurance and Bonding (24 CFR 200);
13. Documentation and Record Keeping (24 CFR 570);
14. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) (updated version of 24 CFR Part 85);
15. Procurement and Contractor Oversight (2 CFR 200);
16. Nondiscrimination (24 CFR Part 6), Architectural Barriers Act (42 USC 4151-4157) and the Americans with Disabilities Act (ADA) (42 USC 12131; 47 USC 155, 201, 218, and 225), State and Local Nondiscrimination Provisions, and Title VI of the Civil Rights Act of 1964 (24 CFR Part 1);
17. Affirmative Action (Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR Chapter 60), Women-and Minority-Owned Businesses (W/MBE) (2 CFR Part 200);
18. Limited English Proficiency (LEP) (Title VI of the Civil Rights Act of 1964; Executive Order 13166);
19. Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) and Duplication of Benefits (42 U.S.C. § 5155);
20. National Environment Policy Act of 1969 (24 CFR Part 50);
21. Cash Management Improvement Act (31 CFR Part 205);
22. Government Debarment and Suspension and Government wide Requirements for Drug-Free Workplace (24 CFR Part 24) (Executive Order 12549: Debarment and Suspension);
23. Environmental Review (24 CFR Part 58); The Clean Air Act (42 USC 7401 et seq.), Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency 40 CFR Parts 6, 51, 93), Federal Water Pollution Control Act (33 USC 1251, et seq.), Flood Disaster Protection (Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a, Section 582 of the National Flood Insurance Reform Act of 1994, as amended – 42 USC 5154a), Lead Based Paint (24 CFR Part 35; 42 USC 4851-4856), Historic Preservation (National Historic Preservation Act of 1966);
24. Federal Funding Accountability and Transparency Act (FFATA) of 2006 (2 CFR Part 170);
25. Section 104(d) Relocation and One-for-One Replacement Requirements (24 CFR Part 42); and
26. Whistleblower Protection Act (41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908; 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation); and
27. all applicable Federal Register Notices.

EXHIBIT Y

SECURITY, PLEDGE AND ASSIGNMENT OF ACCOUNT (AFFORDABLE HOUSING COMPLIANCE MONITORING FEES)

THIS SECURITY AGREEMENT, PLEDGE AND ASSIGNMENT OF ACCOUNT (this "**Agreement**") dated and effective as of _____, 2021, is made by and between **MAGNIFICAT PERMANENT AFFORDABLE, LLC**, a Texas limited liability company ("**Pledgor**"), whose address is c/o The NHP Foundation, 122 East 42nd Street, Suite. 4900, New York, NY 10168, Attention: Terry Green, and **HARRIS COUNTY**, a Texas local government corporation organized and existing under the laws of the State of Texas ("**Secured Party**"), whose address is 8410 Lantern Point Drive, Houston, Texas 77054 in care of Harris County Community Services Department, Attention: Office of Financial Services.

RECITALS

- A. WHEREAS, Pledgor has entered into a certain Loan Agreement of even date herewith (as amended, modified or supplemented and in effect from time to time, the "**Loan Agreement**"), in connection with Pledgor's development of 3300 Caroline Street (the "**Project**").
- B. WHEREAS, Secured Party has implemented an Annual Monitoring Fee Policy for multi-unit rental projects in order to fund the long-term monitoring of the Project during the Affordability Period (as defined in the Loan Agreement).
- C. WHEREAS, the annual monitoring fee (the "**Compliance Monitoring Fees**") will be assessed in the amount described in Attachment A, with the first payment due at the time that the permanent financing closing/conversion for the Project occurs.
- D. WHEREAS, the Loan Agreement contemplates that Pledgor will enter into this Agreement pursuant to which Pledgor agrees to hold in reserve certain revenue in the Bank Account (hereinafter defined) for the payment of Compliance Monitoring Fees that are due to the Secured Party, and to grant a security interest in the Bank Account to Secured Party.

NOW THEREFORE, in consideration of the premises and intending to be legally bound hereby, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Pledgor agrees as follows:

DEFINITIONS

- a. Bank Account shall mean that certain bank account in which the Pledged Deposits will be held in reserve for payment of the Compliance Monitoring Fees to the Secured Party.
- b. County shall mean Harris County, Texas.
- c. Compliance Monitoring Fee shall mean the fee to cover associated costs incurred by the Secured Party necessary to conduct compliance monitoring in amount established in Attachment A, attached hereto and made a part hereof.
- d. Obligations shall have the meaning set forth in Section 1 below.

- e. Pledged Deposits shall mean the non-negotiable Compliance Monitoring Fee due at the time that the permanent financing closing/conversion for the Project occurs and due on an annual basis in subsequent years in the amount equal to two (2) times the total annual monitoring fee as established in the year the final Certificate of Occupancy is issued.
- f. Security Agreement or Agreement shall mean this Security Agreement, Pledge and Assignment of Account by and between Pledgor and Secured Party in connection with the Loan Agreement.

OBLIGATIONS

1. Obligations. The Bank Account (as defined herein) and the Pledged Deposits shall secure the following obligations, indebtedness, and liabilities (all such obligations, indebtedness, and liabilities being hereinafter sometimes called the "**Obligations**"):

- a. The obligations and indebtedness of Pledgor to Secured Party evidenced by this Agreement;
- b. The obligations and indebtedness of Pledgor to Secured Party under the Loan Agreement;
- c. All future advances, if any, by Secured Party to Pledgor;
- d. All costs and expenses, including, without limitation, all reasonable attorneys' fees and legal expenses, incurred by Secured Party to preserve and maintain the Bank Account (as hereinafter defined) and the Pledged Deposits, collect the obligations herein described, and enforce this Agreement; and
- e. All extensions, renewals, and modifications of any of the foregoing.

2. Reserved.

3. Security Interest In Bank Account. All amounts required to be deposited in an operating account pursuant to the terms of this Agreement, together with all proceeds and products thereof, shall be held in Bank Account Number _____ (such property being hereinafter called the "**Bank Account**"), on deposit with _____ (the "**Bank**"). In order to further secure the payment and performance of the Obligations of Pledgor, Pledgor hereby grants to Secured Party a security interest in the funds in the Bank Account, and in all proceeds and products thereof, whether now owned or existing or hereafter arising or acquired and wherever arising. Pledgor shall sign and deliver and cause the Bank to sign and deliver to Secured Party any documents or instruments, in form and content reasonably acceptable to Pledgor and Bank, that Secured Party considers necessary to obtain, maintain and perfect this security interest in the Bank Account, including, without limitation, a Deposit Account Control Agreement by and among Pledgor, Secured Party and Bank covering the Bank Account, in form and content reasonably acceptable to all parties. At any time that the Bank Account has on deposit less than two (2) times the annual monitoring fee, the Pledgor shall not withdraw or transfer any funds from the Bank Account unless the Secured Party has provided its prior written consent to such withdrawal or transfer or until such time as all indebtedness owing from Pledgor to the Secured Party hereunder has been paid in full.

4. Termination. Upon the earlier to occur of (a) the expiration of the Affordability Period, or (b) Pledgor's satisfaction in full of the Obligations, Secured Party agrees to release and terminate its security interest in the Bank Account.

REPRESENTATIONS AND WARRANTIES

To induce Secured Party and Pledgor to enter into this Agreement, Pledgor represents and warrants to Secured Party that:

- a. Title. Except for the security interest granted herein, Pledgor owns the Bank Account and the Pledged Deposits free and clear of any lien, security interest, or other encumbrance other than liens permitted by the Loan Agreement. Pledgor has authority to execute and deliver this Agreement.
- b. Financing Statements. No financing statement, security agreement, or other lien instrument covering all or any part of the Pledged Deposits or Bank Account is on file in any public office, except as may have been filed in favor of Secured Party.
- c. Deliverables. An accurate complete copy of the Loan Agreement has been provided to the Secured Party, including all amendments, supplements, attachments and exhibits thereto. The Loan Agreement is in full force and effect. To the best of Pledgor's knowledge, no defaults or events which with the passage of time or the giving of notice may become defaults under the Loan Agreement have occurred and remain uncured as of the date hereof.

COVENANTS

Pledgor covenants and agrees with Secured Party that until the Obligations are paid and performed in full:

- a. Maintenance. Pledgor has not made and will not make any pledge, assignment or transfer of the Bank Account or the Pledged Deposits except to Secured Party. So long as the Obligations are outstanding, Pledgor shall not assign, transfer, withdraw, cancel, redeem or seek repayment of the Pledged Deposits or the Bank Account, or any part thereof without the prior written consent of Secured Party, except as otherwise provided in the Loan Agreement. Pledgor shall promptly notify Secured Party of any claim, action or proceeding affecting title to the Bank Account or Pledged Deposits, or any part thereof or the security interest therein, and at the request of Secured Party, Pledgor will appear in and defend any such action or proceeding.
- b. Modification of Bank Account and Pledged Deposits/Reserves. Pledgor shall do nothing to impair the rights of Secured Party in the Bank Account and Pledged Deposits.
- c. Further Assurances. At any time and from time to time, upon the request of Secured Party, and at the sole expense of Pledgor, Pledgor shall promptly execute and deliver all such further instruments and documents and take such further action as Secured Party may reasonably deem necessary or desirable to preserve and perfect its security interest in the Bank Account and Pledged Deposits, including, without limitation, the execution and filing of such financing statements as Secured Party may require. A carbon, photographic, or other reproduction of this Agreement or of any financing statement covering the Bank Account and Pledged Deposits or any part thereof shall be sufficient as a financing statement and may be filed as a financing statement.

- d. Inspection Rights. Pledgor shall permit Secured Party and its representatives, at Secured Party's expense, to examine, inspect, and copy Pledgor's books and records regarding the Bank Account at any reasonable time after reasonable prior notice and not more frequently as twice in any calendar year.
- e. Notification. Pledgor shall promptly notify Secured Party of any lien, security interest, encumbrance, or claim made or threatened against the Bank Account or the Pledged Deposits.
- f. Corporate Changes. Pledgor shall not change its name, identity, or corporate structure in any manner that might make any financing statement filed in connection with this Agreement misleading without giving at least thirty (30) days' prior written notice to Secured Party. Pledgor shall not change its principal place of business, chief executive office, or the place where it keeps its books and records unless it shall have given Secured Party at least thirty (30) days' prior written notice thereof and shall have taken all action deemed necessary or desirable by Secured Party to cause its security interest in the Bank Account and Pledged Deposits to be perfected with the priority required by this Agreement.
- g. Collection of Pledged Deposits and/or Transfer of Funds. Subject to the provisions of applicable law and the Loan Agreement, Pledgor covenants and agrees (i) to use its best efforts to cause each party to said agreements to pay to Secured Party when due all Pledged Deposits and to provide for the payment of the Obligations in accordance with the terms of this Agreement, and (ii) not to transfer any funds from the Bank Account to any other fund defined under the Loan Agreement.

RIGHTS OF SECURED PARTY

- 1. Power of Attorney. Pledgor hereby irrevocably constitutes and appoints Secured Party and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the name of Pledgor or in its own name, upon the occurrence and during the continuation beyond all applicable notice, grace, and cure periods of an Event of Default, to take any and all action and to execute any and all documents and instruments that Secured Party at any time and from time to time deems necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, Pledgor hereby gives Secured Party the power and right on behalf of Pledgor and in its own name to do any of the following during such time as an Event of Default has occurred and is continuing, without notice to or the consent of Pledgor:
 - a. To demand, sue for, collect, or receive in the name of Pledgor, or in its own name, any money or property at any time payable or receivable on account of or in exchange for any of the Pledged Deposits or Bank Account and, in connection therewith, endorse checks, notes, drafts, acceptances, money orders, documents of title, or any other instruments for the payment of money under the Pledged Deposits or Bank Account or any policy of insurance;
 - b. To pay or discharge taxes, liens, security interests, or other encumbrances levied or placed on or threatened against the Pledged Deposits or Bank Account; and
 - c. To (i) receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of the Pledged Deposits or Bank Account; and (ii) to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of

the Pledged Deposits or Bank Account as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and Pledgor's expense, at any time, or from time to time, all acts and things which Secured Party deems necessary to protect, preserve, or realize upon the Pledged Deposits or Bank Account and Secured Party's security interest therein.

2. This power of attorney is a power coupled with an interest and shall be irrevocable. Secured Party shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges, and options expressly or implicitly granted to Secured Party in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. Secured Party shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or in its capacity as attorney-in-fact except acts or omissions resulting from its willful misconduct. This power of attorney is conferred on Secured Party solely to protect, preserve, and realize upon its security interest in the Pledged Deposits and Bank Account. Secured Party shall not be responsible for any decline in the value of the Pledged Deposits or Bank Account and shall not be required to take any steps to preserve rights against prior parties or to protect, preserve, or maintain any security interest or lien given to secure the Pledged Deposits and Bank Account.
 - a. Performance by Secured Party. If an Event of Default has occurred and is continuing, Secured Party itself may, at its sole discretion, cause or attempt to cause performance or compliance with the terms hereof at the expense of Secured Party, together with interest thereon at the maximum non-usurious rate per annum permitted by applicable law, shall be payable by Pledgor to Secured Party on demand and shall constitute Obligations secured by this Agreement. Notwithstanding the foregoing, it is expressly agreed that Secured Party shall not have any liability or responsibility for the performance of any obligation of Pledgor under this Agreement.
 - b. Assignment by Secured Party. Secured Party may from time to time assign the Pledged Deposit or Bank Account and any portion thereof, and the assignee shall be entitled to all of the rights and remedies of Secured Party under this Agreement in relation thereto.

DEFAULT

1. Events of Default. The term "**Event of Default**" shall mean a Default, as defined in the Loan Agreement, that is continuing beyond the expiration of all applicable notice, grace, and cure periods provided for in this Agreement or in the Loan Agreement (such notice, grace and cure periods set forth in the Loan Agreement are incorporated herein by reference).
2. Rights and Remedies. Upon the occurrence and during the continuation of an Event of Default, Secured Party shall have the following rights and remedies:
 - a. Reserved.
 - b. In addition to all other rights and remedies granted to Secured Party in this Agreement and in any other instrument or agreement securing, evidencing, or relating to the Obligations or any part thereof, Secured Party shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted by the State of Texas. Without limiting the generality of the foregoing, Secured Party may (i) without demand or notice to Pledgor, collect, receive, or take

possession of the Pledged Deposits and the Bank Account or any part thereof, and/or (ii) sell or otherwise dispose of the Pledged Deposits or Bank Account, or any part thereof for cash, on credit, or for future delivery. Pledgor agrees that Secured Party shall not be obligated to give more than ten (10) days prior written notice of the time and place of any public sale or of the time after which any private sale may take place and that such notice shall constitute reasonable notice of such matters. Pledgor shall be liable for all expenses of retaking, holding, preparing for sale, or the like, and all reasonable attorneys' fees, legal expenses, and all other costs and expenses incurred by Secured Party in connection with the enforcement of Secured Party's rights under this Agreement. Secured Party shall apply the Pledged Deposits and/or Bank Account against payment of any other Obligations in such order and manner as Secured Party may elect in its sole discretion.

- c. Secured Party may cause any or all of the Pledged Deposits and Bank Account to be transferred into the name of Secured Party or the name or names of Secured Party's nominee or nominees.
- d. If an Event of Default shall occur and remain uncured, Secured Party may withdraw and apply all sums from the Bank Account to the payment of the Compliance Monitoring Fee(s) in such order as specified therein and to the payment of any other Obligations in such order, proportion and priority as Secured Party may determine in its sole discretion. Secured Party's right to withdraw and apply amounts in the Bank Account shall be in addition to all other rights and remedies provided to Secured Party under this Agreement and at law or in equity.

MISCELLANEOUS

1. No Waiver; Cumulative Remedies. No failure on the part of Secured Party to exercise and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
2. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Pledgor and Secured Party and their respective successors and assigns, except that Pledgor may not assign any of its rights or obligations under this Agreement without the prior written consent of Secured Party.
3. Amendment. The provisions of this Agreement may be amended or waived only by an instrument in writing signed by the Parties hereto.
4. Notices. All notices and other communications provided for in this Agreement shall be given as provided in the Loan Agreement.
5. Applicable Law; Venue; Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the applicable laws of the United States of America. This Agreement has been entered into in Harris County, Texas, and it shall be performed for all purposes in Harris County, Texas.
6. Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
7. Survival of Representations and Warranties. All representations and warranties made in this Agreement or in any certificate delivered pursuant hereto shall survive the execution and delivery of

this Agreement, and no investigation by Secured Party shall affect the representations and warranties or the right of Secured Party to rely upon them.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
9. Waiver of Bond. If Secured Party seeks to take possession of any or all of the Pledged Deposits or Bank Account by judicial process, Pledgor hereby irrevocably waives any bonds and any surety or security relating thereto that may be required by applicable law as an incident to such possession and waives any demand for possession prior to the commencement of any such suit or action.
10. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
11. Obligations Absolute. Until the termination of this Agreement as provided in Section 4 of the section titled "Obligations," the obligations of Pledgor under this Agreement shall be absolute and unconditional and, except upon payment and performance of the Obligations in full, shall not be released, discharged, or reduced, or in any way impaired by any circumstance whatsoever, including, without limitation, any amendment, modification, extension, or renewal of this Agreement, the Obligations, or any document or instrument evidencing, securing or otherwise relating to the Obligations, or any release or subordination of Bank Account, or any waiver, consent, extension, indulgence, compromise, settlement, or other action or inaction in respect of this Agreement, the Obligations, or any document or instrument evidencing, securing, or otherwise relating to the Obligations, or any exercise or failure to exercise any right, remedy, power, or privilege in respect of the Obligations. Secured Party shall not have any liability or responsibility for the performance of any obligation of Pledgor under this Agreement.
12. ENTIRE AGREEMENT. THIS AGREEMENT AND THE LOAN AGREEMENT, THE LOAN NOTE AND THE PLEDGE EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES HERETO.

[Executed on the following page]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date first set forth above.

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

CHRISTIAN D. MENELEE
County Attorney

HARRIS COUNTY

By: _____
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2273

By: _____
ADRIENNE M. HOLLOWAY, Ph.D.
Harris County Community Services Dept.
Executive Director

MAGNIFICAT PERMANENT AFFORDABLE, LLC
a Texas limited liability company

By: NHPF Caroline MM, LLC,
a Texas limited liability company,
its Managing Member

By: Jamestown Affordable Housing, Inc.
a District of Columbia nonprofit corporation,
its Manager

By: _____
Neal Drobenare, Vice President

ATTACHMENT A

CURRENT AFFORDABLE HOUSING COMPLIANCE MONITORING FEE RATE SCHEDULE

(Annual Fee Schedule is available at www.csd.hctx.net)

The following calculation is the method used for determining the annual compliance monitoring fee.

3300 Caroline Street PROJECT

Designated Number of Affordable			76
Housing Units First Year of Affordability	X		1
Fee per Affordable Units	X	\$	50
Total Payment due Harris County			\$3,800

An additional non-negotiable compliance monitoring fee of \$150 per visit will be applied in the following situations;

1. Selected affordable unit(s) were not able to be accessed during scheduled review time;
2. Eligible tenants were not provided proper notification to allow entrance to the unit for inspection by Department staff;
3. Department staff must conduct a return visit to check applicable deficiencies or errors noted during the initial (first) monitoring inspection visit; or
4. Department staff could not complete the initial monitoring inspection due to an owner or management representative was unavailable onsite at the scheduled time designated for the monitoring fieldwork.

If any of the listed situations should occur, Department monitoring staff will notify the HCCSD, Office of Financial Services by completing the Notice of Return Monitoring Visit (NRMV).

Nonpayment of monitoring fees will result in enforcement of all contractual provisions stipulated in the executed Agreement and potentially the filing of Property Liens on the related affordable housing project.

Monitoring fee rates are subject to change on an annual basis and, when deemed appropriate, will be updated to reflect current affordable housing monitoring "level of effort" and the necessary amount to recover monitoring costs.

Compliance Monitoring Fee Schedule

Department #289/CSD/Financial Services/Monitoring and Compliance Revised 03.2017

EXHIBIT Z

GUARANTY OF PAYMENT AND COMPLETION (This "Guaranty")

THE NHP FOUNDATION, a District of Columbia nonprofit corporation ("**Guarantor**"), for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and to induce **HARRIS COUNTY**, a political subdivision under the laws of the State of Texas ("**Lender**"), to loan funds to or for the account of **NHPF Caroline Conduit, LLC**, a Texas limited liability company ("**Borrower**"), which will in turn loan such funds to **MAGNIFICAT PERMANENT AFFORDABLE, LLC**, a Texas limited liability company ("**Owner**"), and at the special instance and request of Lender and Borrower and but for this Guaranty, such loan would not be made by Lender or entered into by Borrower, hereby executes this Guaranty of Payment and Completion (this "**Guaranty**") to be effective as of _____, 2021, and agrees with Lender as follows:

1. Guarantor absolutely and unconditionally guarantees the payment to Lender of the following when due (the "**Guaranteed Indebtedness**"):

Any and all indebtedness of Borrower and Owner to Lender whether now existing or hereafter arising pursuant to the terms of the Loan Agreement dated November 9, 2021, executed by Owner, Borrower, and Lender (as may be amended, modified, supplemented, and restated from time to time, the "**Loan Agreement**"), including without limitation, all sums owing with respect to the Loan Note of even date herewith, in the stated principal amount of \$8,538,278.00, executed by Borrower to the order of the Lender, together with any and all renewals, modifications, extensions, increases, replacements, restatements, and/or rearrangements thereof (collectively referred to herein as the "**Note**"). All capitalized terms used but not defined in this Guaranty shall have the meanings assigned to such terms in the Loan Agreement.

2. Guarantor guarantees Owner's performance of its obligation to complete the construction of the Project under and in accordance with the terms of the Loan Agreement and the other documents governing, securing, and/or evidencing the loan (the "**Loan**") evidenced by the Loan Agreement (collectively, the "**Loan Documents**"). Without limiting the generality of the foregoing, Guarantor guarantees that: (a) construction of the Project shall commence, and Project Completion shall occur, within the time limits set forth in the Loan Documents (as such time limits may be extended); (b) the Project shall be completed substantially in accordance with the Approved Plans and the other provisions of the Loan Documents; and (c) the Project shall be constructed and completed free and clear of any mechanic's liens and materialman's liens (unless contested, insured over or bonded). With respect to the foregoing, and without limiting Lender's other rights under this Guaranty, but subject to delays caused by events of force majeure (as defined in the Loan Agreement), if construction of the Project is not commenced and completed in the manner and within the time required by the Loan Documents, other than as a result of Lender's failure to make advances of the Loan when Lender is required by the Loan Documents, or if, prior to the expiration of the time limits for said completion set forth in the Loan Documents, the construction of the Project should cease or be halted prior to completion and such cessation or halt, after the expiration of all applicable notice, grace, and cure periods, constitutes a Default, then Guarantor shall, upon written demand of Lender: (i)

proceed to complete the construction of the Project in accordance with the requirements of the Loan Documents; and (ii) pay and discharge all liens and other claims (unless contested, insured over or bonded) for labor performed and material and specially fabricated materials furnished in connection with the Project, including, without limitation, all cost overruns. Without in any way limiting the above obligations of Guarantor, Lender shall make the undisbursed Loan funds available to Guarantor (pursuant to the terms of the Loan Documents) for the purposes of completing the Project and fulfilling Guarantor's other obligations under this Guaranty; provided, however, that the obligation of Lender to make such undisbursed Loan funds available to Guarantor is conditioned upon there being no continuing default (past all applicable notice, grace, and cure periods) by Guarantor under this Guaranty that would not be cured by Guarantor's continued construction of the Project.

3. If the Guaranteed Indebtedness is not paid when due, and this Guaranty is placed in the hands of an attorney for collection, or if this Guaranty is enforced by suit or through the Probate or Bankruptcy Court or through any judicial proceedings, Guarantor shall pay to Lender an amount equal to the reasonable attorneys' fees and collection costs incurred by Lender in the collection from Guarantor (but not from Owner, Borrower or any other party) of the Guaranteed Indebtedness.

4. This is an absolute, complete, and continuing Guaranty, and, except as otherwise expressly provided in the Loan Documents, no notice of the Guaranteed Indebtedness or any extension of credit already or hereafter contracted by or extended to Borrower need be given to Guarantor. Owner, Borrower and Lender may rearrange, extend, and/or renew the Guaranteed Indebtedness without notice to Guarantor and in such event Guarantor will remain fully bound hereunder on the Guaranteed Indebtedness. Except for any notice required by the Loan Documents (including, without limitation, the same notice and opportunity to cure as provided to Owner and Borrower in the Loan Documents), Guarantor expressly waives all notices of any kind, presentment for payment, demand for payment, protest, notice of protest, notice of intent to accelerate, notice of acceleration, dishonor, diligence, notice of any adverse change in the financial condition of Owner or Borrower, notice of any adjustment, indulgence, forbearance or compromise that might be granted or given by Lender to Owner or Borrower, and also notice of acceptance of this Guaranty, acceptance on the part of Lender being conclusively presumed by his request for this Guaranty and delivery of the same to it. The liability and obligations of Guarantor hereunder shall not be affected or impaired by any action or inaction by Lender in regard to any matter waived or notice of which is waived by Guarantor in this Section or in any other Section of this Guaranty.

5. Guarantor authorizes Lender, without notice to Guarantor and without affecting Guarantor's liability hereunder (except as otherwise provided in this Guaranty), to (a) take and hold security for the payment of the Guaranteed Indebtedness, and to exchange, enforce, waive and/or release any such security; (b) apply such security and direct the order or manner of sale thereof as Lender in its discretion may determine, provided such is exercised in accordance with the terms of the other Loan Documents; (c) obtain a guaranty of the Guaranteed Indebtedness from any one or more other parties whomsoever and to enforce, waive, rearrange, modify, limit or release at any time or times such other parties from their obligations under such guaranties; and (d) fully or partially release at any time any Guarantor which executes this Guaranty whether with or without consideration.

6. Guarantor waives any right to require Lender to (a) proceed against or make any effort at the collection of the Guaranteed Indebtedness from Borrower or any other guarantor or party liable for the Guaranteed Indebtedness; (b) proceed against or exhaust any other collateral held by Lender; or (c)

pursue any other remedy in Lender's power whatsoever. Guarantor waives any defense arising by reason of any disability or lack of corporate authority or power of Owner, Borrower or any other guarantor of the Guaranteed Indebtedness, and Guarantor shall remain liable under this Guaranty regardless of whether Owner, Borrower or any other guarantor is found not liable on the Guaranteed Indebtedness for any reason including, without limitation, insanity, minority, disability, bankruptcy, insolvency, death or corporate dissolution. Guarantor waives the benefit of any right of discharge under Chapter 43 of the Texas Civil Practice and Remedies Code and all other rights of sureties and guarantors under such Chapter and under any amendments, recodifications, supplements or any successor statute or law of or to any such statute or law. Guarantor waives all rights and defenses under Sections 51.003, 51.004 and 51.005 of the Texas Property Code and under any amendments, recodifications, supplements or any successor statute or law of or to any such statute or law. Guarantor waives all rights and defenses arising under Rule 31 of the Texas Rules of Civil Procedure, Section 17.001 of the Texas Civil Practice and Remedies Code, Chapter 43 of the Texas Civil Practice and Remedies Code, and under any amendments, recodifications, supplements or any successor statute or law. The Guarantor waives marshalling of assets and liabilities, sale in inverse order of alienation, and all other defenses given to sureties and guarantors under any statute, common law, law in equity or otherwise other than actual payment of the indebtedness and performance of the actions constituting the Obligations. Until this Guaranty terminates pursuant to Section 21 hereof, this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Indebtedness is rescinded or must otherwise be returned by Lender upon the insolvency, bankruptcy or reorganization of Owner, Borrower or otherwise, all as though such payment had not been made and will, thereupon, guarantee payment of such amount as to which refund or restitution has been made, together with reasonable costs and fees of collection (including reasonable attorneys' fees).

7. In addition to the representations and warranties of Guarantor made elsewhere in this Guaranty, Guarantor represents and warrants to Lender that:

(a) The execution and delivery by Guarantor of this Guaranty does not cause Guarantor to become insolvent, undercapitalized, or unable to pay his debts as they become due;

(b) Except for liabilities previously disclosed as of the date of this Guaranty by Guarantor to Lender in writing, Guarantor does not have any other material liabilities. Except as previously disclosed to Lender in writing, there is no litigation, administrative proceeding, investigation, or other action of any nature pending or, to the actual knowledge of Guarantor, threatened against Guarantor, before any court or administrative agency which is reasonably likely to result in a judgment or liability which may materially and adversely affect the business or the assets of Guarantor or the right of Guarantor to carry on business as now conducted; and

(c) The execution and delivery of this Guaranty by Guarantor has benefitted, and does benefit, Guarantor, directly and indirectly, in excess of the value guaranteed, or to be guaranteed hereunder.

8. The liability and obligations of Guarantor hereunder shall not be affected or impaired by (a) the failure of Lender or any other party to exercise diligence or reasonable care in the preservation, protection or other handling or treatment of all or any part of the collateral securing payment of all or any part

of the Guaranteed Indebtedness, (b) the failure of any security interest or lien intended to be granted or created to secure the Guaranteed Indebtedness to be properly perfected or created or the unenforceability of any security interest or lien for any other reason, or (c) the subordination of any such security interest or lien to any other security interest or lien.

9. Lender may pursue any remedy available to Lender under the Loan Documents without altering the obligations of Guarantor hereunder and without liability to Guarantor, even though Lender's pursuit of such remedy may result in Guarantor's loss of rights of subrogation or to proceed against others for reimbursement or contribution or any other right. In no event shall any payment by Guarantor entitle it, by subrogation or otherwise, to any rights against Borrower or any right to participate in any security now or hereafter held by Lender prior to the earlier of (a) the termination of this Guaranty in accordance with the terms of Section 21, or (b) the payment in full of all of the Guaranteed Indebtedness.

10. Should the status of Owner or Borrower change in any way, including, without limitation, as a result of any dissolution of Owner or Borrower, any sale, lease or transfer of any or all of the assets of Owner or Borrower, any changes in the shareholders, partners or members of Owner or Borrower, or any reorganization of Owner or Borrower, this Guaranty shall continue, and shall cover the Guaranteed Indebtedness under the new status.

11. The liability of Guarantor for the payment of the Guaranteed Indebtedness shall be primary and not secondary.

12. Guarantor is familiar with and has independently reviewed the books and records regarding the financial condition of Owner and Borrower and is familiar with the value of any and all collateral intended to be granted as security for the payment of the Guaranteed Indebtedness. Guarantor is not, however, relying on such financial condition or such collateral as an inducement to enter into this Guaranty.

13. This Guaranty was reviewed by Guarantor, and Guarantor acknowledges and agrees that Guarantor (a) understands fully all of the terms of this Guaranty and the consequences and implications of Guarantor's execution of this Guaranty, and (b) has been afforded an opportunity to have this Guaranty reviewed by, and to discuss the terms, consequences and implications of this Guaranty with, an attorney or such other persons as Guarantor may have desired. Guarantor and Lender agree that this Guaranty accurately and completely embodies the entire agreement between Guarantor and Lender with respect to the respective rights, objections and liabilities of Guarantor and Lender hereunder, and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. Guarantor acknowledges that Guarantor is not relying on any representations (oral or otherwise) of Lender, or any other party, other than as expressly described in this Guaranty.

14. Guarantor shall furnish to Lender all such financial statements and other information relating to the financial condition, properties, and affairs of Guarantor as Lender may from time to time reasonably request.

15. All amounts becoming payable by Guarantor to Lender under this Guaranty shall be payable at 8410 Lantern Point Drive, Houston, Texas 77054, Attn: Executive Director, Harris County Community Services Department.

16. All notices, demands, requests, and other communications permitted or required

under this Guaranty shall be provided in the manner required by Exhibit B of the Loan Agreement.

17. It is the intention of the parties hereto to comply strictly with all applicable usury laws; accordingly, it is agreed that notwithstanding any provisions to the contrary in this Guaranty, or in any documents securing payment hereof or otherwise relating hereto, in no event shall this Guaranty or such documents require the payment or permit the collection of an aggregate amount of interest in excess of the maximum amount permitted by such laws, including the laws of the State of Texas and the laws of the United States of America. If any such excess of interest is contracted for, charged or received under this Guaranty or under the terms of any documents securing payment hereof or otherwise relating hereto, or if under any circumstances, the amount of interest (including all amounts payable hereunder which are not denominated as interest but which constitute interest under the applicable laws) contracted for, charged or received under this Guaranty shall exceed the maximum amount of interest permitted by the applicable usury laws, then in any such event (a) the provisions of this paragraph shall govern and control, (b) Guarantor shall not be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by the applicable usury laws, (c) any such excess interest which may have been collected shall be either applied as a credit against the then unpaid Guaranteed Indebtedness or, if the Guaranteed Indebtedness shall have been paid in full, refunded to Guarantor, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under the applicable usury laws as now or hereafter construed by the courts having jurisdiction thereof. It is further agreed that without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received under this Guaranty or under such other documents which are made for the purpose of determining whether such rate exceeds the maximum lawful contract rate, shall be made, to the extent permitted by applicable usury laws, by amortizing, prorating, allocating and spreading in equal parts during the full period during which this Guaranty is to be in effect, all interest at any time contracted for, charged or received from Guarantor or otherwise by the holder or holders hereof in connection with this Guaranty.

18. In case any of the provisions of this Guaranty shall for any reason be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Guaranty shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

19. In all instances herein, the singular shall be construed to include the plural and the masculine to include the feminine. In the event more than one party executes this Guaranty as a guarantor, then each Guarantor agrees to be jointly and severally liable for the Guaranteed Indebtedness. All covenants, agreements, representations and warranties made in this Guaranty are made by each Guarantor individually and collectively, and on a joint and several basis.

20. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE UNITED STATES OF AMERICA WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PRINCIPLES OR RULES.

21. Upon the earlier of (a) Project Completion, or (b) the payment in full of all of the Guaranteed Indebtedness, this Guaranty shall automatically terminate and be cancelled and Guarantor shall thereafter have no further liabilities or obligations under this Guaranty and the other Loan Documents. If the Guaranteed Indebtedness is paid in full, upon Guarantor's request, Lender shall assign all of its right, title, and interest in and to the Loan Documents to Guarantor. Additionally, notwithstanding anything to the

contrary set forth in this Guaranty and/or the other Loan Documents, this Guaranty shall automatically terminate if Lender terminates the Loan Agreement pursuant to the terms of Section XII(B) (Termination Without Cause) of the Loan Agreement.

22. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER GUARANTOR NOR LENDER SHALL ASSERT, AND BOTH HEREBY WAIVE, ANY CLAIM AGAINST THE OTHER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (AS OPPOSED TO DIRECT OR ACTUAL DAMAGES) ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF, THIS GUARANTY OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED HEREBY, INCLUDING WITHOUT LIMITATION, THE OTHER LOAN DOCUMENTS.

Executed to be effective as of the date set forth herein above.

APPROVED AS TO FORM:

CHRISTIAN D. MENESEE
County Attorney

HARRIS COUNTY

By: _____
RANDY KEENAN
Assistant County Attorney
CA File No.: 21GEN2273

By: _____
ADRIENNE M. HOLLOWAY, Ph.D.
Harris County Community Services Dept.,
Executive Director

GUARANTOR:

The NHP Foundation, a District of Columbia nonprofit corporation

By: _____

Name: Neal Drobenare

Title: Senior Vice President

EXHIBIT AA

RESERVED

EXHIBIT BB

"NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF OR ALL THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER."

COLLATERAL ASSIGNMENT OF NOTE AND LIENS

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

Effective as of _____, 2021, **NHPF Caroline Conduit, LLC**, a Texas limited liability company ("**Assignor**"), has collaterally TRANSFERRED AND ASSIGNED and by these presents does hereby collaterally TRANSFER AND ASSIGN unto **HARRIS COUNTY**, a body politic and corporate under the laws of the State of Texas ("**Assignee**"), a security interest (the "**Security Interest**") in all right, title and interest of Assignor in and to (a) the Promissory Note listed on Exhibit "A" attached hereto (the "**Collateral Note**"), (b) that County Leasehold Deed of Trust to Secure Performance dated of even date herewith executed by **MAGNIFICAT PERMANENT AFFORDABLE, LLC**, a Texas limited liability company ("**Owner**"), for the benefit of Assignor (the "**County Leasehold Deed of Trust**," and all documents and instruments securing, governing or evidencing the loan evidenced by the Collateral Note (collectively, the "**Collateral Loan Documents**"), and (c) all of the liens and security interests granted to Assignor in the Collateral Loan Documents or otherwise securing the Collateral Note (collectively, the "**Collateral Liens**"); and, further, Assignor hereby collaterally TRANSFERS AND ASSIGNS unto Assignee a security interest in all of the rights, privileges, obligations, securities, equities, powers, benefits, claims, priorities, demands, titles, or interests now owned or held by Assignor in and to the Collateral Note, the other Collateral Loan Documents, and the Collateral Liens.

This Collateral Assignment is made to secure performance of Assignor's obligations under and pursuant to that certain Loan Agreement (the "**Loan Agreement**") dated November 9, 2021, executed by Assignor, Assignee and Owner, including, without limitation, all renewals, replacements, rearrangements, substitutions, restatements, and extensions now or hereafter executed in connection therewith.

Assignor represents and warrants to Assignee that (a) Assignor is the sole legal and equitable owner and holder of the Collateral Note and the indebtedness evidenced thereby, (b) Assignor has not assigned, mortgaged, pledged, hypothecated or otherwise transferred its right, title or interest in and to the Collateral Note, any indebtedness evidenced thereby, the Collateral Loan Documents or any of the Collateral Liens to any party other than Assignee, (c) the Collateral Note is in all respects current and in good standing and is not overdue or subject to any credits or offsets, (d) neither the maker of the Collateral Note, nor any surety or guarantor of the Collateral Note, has raised any counterclaim, defense, allowance, adjustments, dispute, objection, or complaint regarding their respective liability on any of the Collateral Note or under any Collateral Loan Document, (e) the Collateral Note and the Collateral Loan Documents have not been amended, altered,

or modified since the date of the execution thereof, (f) no default, or event which with notice, lapse of time, or both would constitute a default, under the Collateral Note or the Collateral Loan Documents has occurred, and (g) Assignor has the full right and authority to sell, assign, pledge, mortgage, hypothecate, transfer and grant a security interest in the Collateral Note, the Collateral Loan Documents, and the Collateral Liens.

When a Default exists under and as defined in the Loan Agreement and is continuing beyond the expiration of all applicable notice and cure periods, Assignee shall, in addition to the rights and remedies provided for in the Loan Agreement and the Collateral Loan Documents, have the right to sell the Collateral Note in any manner afforded to Assignee under the laws of the State of Texas, including the exercise of all rights of a secured creditor under the UCC as defined below. The proceeds of the sale shall be applied toward the payment of all sums due and unpaid pursuant to the Loan Agreement.

The requirement of notice to Assignor of the time and place of any public sale of the Collateral Note, or of the time after which any private sale or any other intended disposition thereof is to be made, shall be met if such notice is sent by overnight delivery, hand delivery or by mailing same by first class mail, postage prepaid, return receipt requested mailed, to Assignor at the following address:

If mailed/delivered:

MAGNIFICAT PERMANENT AFFORDABLE, LLC
c/o The NHP Foundation
122 East 42nd Street, Ste. 4900
New York, NY 10168
Attn.: Terry Green

or such other address provided to Assignee by Assignor in writing, at least thirty (30) days before the date of any public sale or at least thirty (30) days before the time after which any private sale or disposition is to be made, unless a longer period of time is required pursuant to the Uniform Commercial Code as adopted in the State of Texas (the "**UCC**"), in which case, applicable provisions of the UCC shall control.

Assignor authorizes Assignee to give notice to the maker of the Collateral Note of the existence of this Collateral Assignment and to instruct such maker, upon receipt of notice from Assignee that a Default exists under the Loan Agreement or under this Collateral Assignment that is continuing beyond the expiration of all applicable notice, grace and cure periods, to direct all payments due and payable under the Collateral Note to Assignee.

Assignor retains the right to collect and receive any and all sums becoming due upon the Collateral Note, unless and until a Default exists under the Loan Agreement that is continuing beyond the expiration of all applicable notice and cure periods. Assignor shall not agree to amend, alter, or modify the Collateral Note or the Collateral Loan Documents without the prior written consent of the Assignee, not to be unreasonably withheld.

This Collateral Assignment shall in no manner impair or affect any of the other liens granted by Assignor to Assignee, and no security hereafter taken therefor shall in any manner impair or affect the security hereby given, it being agreed that all such present and future security shall be cumulative security and that Assignee may foreclose under any of such security, as Assignee may elect, without waiving the other.

This Collateral Assignment shall expire and be of no further effect once the Affordability Period (as defined in the Loan Agreement) has expired (in the event Assignee has not previously executed a written release of this Collateral Assignment).

THIS COLLATERAL ASSIGNMENT CONSTITUTES THE ENTIRE AGREEMENT WITH RESPECT TO THE SUBJECT HEREOF AND SHALL SUPERSEDE ANY PRIOR AGREEMENT BETWEEN THE PARTIES, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT HEREOF. FURTHERMORE, IN THIS REGARD, THIS COLLATERAL ASSIGNMENT AND THE OTHER WRITTEN LOAN DOCUMENTS REPRESENT, COLLECTIVELY, THE FINAL AGREEMENT AMONG THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF SUCH PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Executed on the following page]

EXECUTED to be effective as of the date first set forth above.

MAKER:

NHPF CAROLINE CONDUIT, LLC,
a Texas limited liability company

By: The NHP Foundation,
a District of Columbia nonprofit corporation,
its Manager

By: _____
Neal Drobenare, Senior Vice President

THE DISTRICT OF COLUMBIA §

This instrument was acknowledged before me on this ____ day of _____, 2021, by Neal Drobenare the Senior Vice President of The NHP Foundation, a District of Columbia nonprofit corporation, the Manager of **NHPF CAROLINE CONDUIT, LLC** , a Texas limited liability company, on behalf of said limited liability company.

S E A L

Notary Public, State of Texas

EXHIBIT A

Promissory Note dated as of _____, 2021, executed by **MAGNIFICAT PERMANENT AFFORDABLE, LLC. ("Borrower")**, payable to the order of **NHPF Caroline Conduit, LLC ("Lender")**, in the original principal amount of \$8,538,278.00, which is secured by, among other things, a Leasehold Deed of Trust to Secure Performance executed by Borrower to Adrienne M. Holloway, Ph.D., Trustee, for the benefit of Lender covering the real property more particularly described in the following legal description.

PROPERTY DESCRIPTION

[To be inserted]

EXHIBIT CC-1
EXECUTED GUARANTY

To be attached

EXHIBIT CC-2
EXECUTED LOAN NOTE

To be attached

EXHIBIT CC-3

RESERVED

EXHIBIT CC-4

**EXECUTED SECURITY, PLEDGE AND ASSIGNMENT OF ACCOUNT (AFFORDABLE HOUSING
COMPLIANCE MONITORING FEES)**

To be attached

EXHIBIT CC-5

**EXECUTED COUNTY LEASEHOLD DEED OF TRUST TO SECURE PERFORMANCE and COUNTY
FEE DEED OF TRUST**

To be attached

EXHIBIT CC-6

EXECUTED COLLATERAL ASSIGNMENT OF NOTE AND LIENS

To be attached

EXHIBIT CC-7

EXECUTED REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

To be attached

EXHIBIT CC-8

EXECUTED INTERCREDITOR AND SUBORDINATION AGREEMENT

To be attached

EXHIBIT DD

NOTICE OF ENVIRONMENTAL CLEARANCE

To be attached

EXHIBIT EE

APPLICATION AND CERTIFICATION FOR PAYMENT

(To Be Attached)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the _____ day of _____, 20____ with the following members present, to-wit:

Lina Hidalgo	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Adrian Garcia	Commissioner, Precinct No. 2
Tom S. Ramsey, P.E.	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

and the following members absent, to-wit: _____, constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF A LOAN AGREEMENT BETWEEN HARRIS COUNTY AND
MAGNIFICAT PERMANENT AFFORDABLE, LLC FOR THE 3300 Caroline Street PROJECT**

Commissioners _____ introduced an order and made a motion that the same be adopted. Commissioners _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Now, therefore, be it ordered by the Commissioners Court of Harris County, Texas that:

RECITALS:

This Loan Agreement (this "**Agreement**") is made and entered into by and between (i) **Harris County**, a body politic and corporate under the laws of the State of Texas, herein called "**Harris County**" or "**Grantee**;" (ii) **NHPF Caroline Conduit, LLC**, a Texas limited liability company, herein called "**Nonprofit**," and (iii) **Magnificat Permanent Affordable, LLC**, a Texas limited liability company, herein called "**Subrecipient and Maker**." The proposed project is located at 3300 Caroline Street, Houston, Texas, 77004, Precinct 1; and

A. WHEREAS, on August 25, 2017, Harris County sustained significant damage when Hurricane Harvey made landfall as a Category 4 hurricane and over the next four days dropped as much as 60 inches of rain along the Gulf Coast, including Harris County, that resulted in a Presidentially Declared Disaster; and

B. WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has allocated \$5.024 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Texas in response to Hurricane Harvey, DR-4332, through the publication of the Federal Register, Vol. 83, No. 28, Friday, February 9, 2018; and

C. WHEREAS, in the State of Texas Action Plan submitted to HUD on May 8, 2018 by the Texas General Land Office (GLO), the State of Texas (the "**State**") made a direct allocation of \$1,115,386,830 in Community Development Block Grant Disaster Recovery (CDBG-DR) funding to Harris County; and

D. WHEREAS, GLO, on May 9, 2018, notified Harris County to complete a Supplemental Action Plan for 2017 Hurricane Harvey Texas CDBG-DR Round One funding, which will be amended into the State's Action Plan; and

E. WHEREAS, in accordance with GLO requirements, on July 10, 2018, the Harris County Commissioners Court approved the Harris County Supplemental Action Plan and resolved to submit the plan to the GLO; and

F. WHEREAS, on February 11, 2019, the GLO and Harris County entered into a Subrecipient Agreement (Agreement: 19-147-002-B490) to provide hurricane disaster recovery housing and planning services utilizing HUD Community Development Block Grant Disaster Recovery (CDBG-DR) funds appropriated under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law No. 115-56). The Subrecipient Agreement, as amended, commits \$1.092 billion to Harris County housing recovery programs. Amendment 3 to the State Action Plan was approved by HUD on June 13, 2019 and (a) increased the Affordable Rental Housing Program allocation from \$204.5 million to \$224.5 million for Affordable Rental projects, and (b) provides, in Section 8.04 that Harris County make all contractors and subcontractors subject to all the "duties, requirements, and obligations" of Harris County under the Subrecipient Agreement, and

G. WHEREAS, on August 11, 2020, Harris County Commissioners Court approved funding for the 3300 Caroline Street Project, under Project Number D2017-089 (CDBG-DR), including the construction of 3300 Caroline Street, a new four-story elevator-served building consisting of 149 efficiency apartments, shared space for the supportive programs and office space for the Magnificat Houses, Inc., a Texas nonprofit corporation ("**MHI**") staff (the "**Project**"). Notwithstanding anything in this Agreement to the contrary, the Project will, for all purposes, be treated as new construction. The funding approval obligates \$8,538,278.00 in 2017 Hurricane Harvey Texas CDBG-DR funds. Pursuant to a Ground Lease between Subrecipient and Maker, as tenant, and **MHI Landholdings LLC**, a Texas limited liability company ("**Ground Lessor**"), as landlord (the "**Ground Lease**"), Subrecipient and Maker will acquire a leasehold interest in the land (the "**Land**") described in Exhibit A attached to the Deeds of Trust (hereinafter defined), and construct 3300 Caroline Street on said land, a new 149-unit four-story elevator-served building consisting of 149 efficiency apartments, shared space for the supportive programs and office space for the MHI staff. The 76 restricted **Floating** units (being 51% of the total units) will be CDBG-DR assisted units (Low-to-Moderate Income tenants). The total Harris County funding for the new construction of the Project will be \$8,538,278.00, with the estimated total of all funding related to such new construction of the Project being approximately \$39,228,425.00, and Subrecipient and Maker will maintain ownership of the Project at Project Completion (hereinafter defined in Paragraph II (D) (3)). In addition to other funds, the Project is partially funded by (a) the City of Houston, with \$15,000,000.00 in Community Development Block Grant Disaster Recovery Harvey

funds (CDBG-DR Funds) (the "**City Loan**") from the City of Houston (the "**City**") pursuant to the terms of the documents governing, securing, and/or evidencing the City Loan, including without limitation the Restrictive Covenants executed by Subrecipient and Maker for the benefit of the City (the "**City Restrictions**") (collectively, the "**City Loan Documents**"); (b) MHI Landholdings LLC, Texas limited liability company ("**Subordinate Lender**"), with a \$2,358,371.00 loan (the "**Subordinate Loan**") pursuant to the terms of the documents governing, securing, and/or evidencing the Subordinate Loan (collectively, the "**Subordinate Loan Documents**"); and (c) KeyBank National Association, a national banking association ("**Bridge Lender**"), with a \$5,000,000.00 loan (the "**Bridge Loan**") pursuant to the terms of the documents governing, securing, and/or evidencing the Bridge Loan (collectively, the "**Bridge Loan Documents**"); and

H. WHEREAS, the 3300 Caroline Street project was selected to receive CDBG-DR funds via a project application process which opened on November 6, 2019, and closed January 22, 2020; and

I. WHEREAS, the 3300 Caroline Street project received GLO conditional approval on March 18, 2021; and

J. WHEREAS, the Grantee wishes to engage Subrecipient and Maker in utilizing CDBG-DR funds and enter into a Loan (the "**Loan**") from Grantee to Nonprofit, which will in turn simultaneously loan such funds to Subrecipient and Maker to pay for the partial costs of new construction of the Project and increase affordable housing for low-income households of Harris County, which is an eligible activity under the rules and regulations regarding the CDBG-DR Program, and to maintain Subrecipient and Maker's ownership of the Project at the completion of construction. Further, Subrecipient and Maker and its respective constituent entities and operating or partnership agreements must be acceptable to Harris County Community Services Department (HCCSD) in all respects; and

K. WHEREAS, Grantee acknowledges and agrees that Nonprofit shall loan the proceeds of the Loan to Subrecipient and Maker (the "**Partnership Loan**") pursuant to the terms of a separate loan agreement between Nonprofit, as lender, and Subrecipient and Maker, as borrower, which has been or will be approved by Grantee. Subrecipient and Maker will use the proceeds of the Partnership Loan for the payment of the costs to acquire a leasehold interest in the Land and construct the Project. To secure the Loan, Nonprofit will collaterally assign the Partnership Loan and the documents governing, evidencing, and/or securing the Partnership Loan to Grantee, including without limitation (a) that certain Collateral Note executed by Subrecipient and Maker for the benefit of Nonprofit (the "**Collateral Note**"), and (b) that certain County Leasehold Deed of Trust to Secure Performance executed by Subrecipient and Maker for the benefit of Nonprofit (the "**County Leasehold Deed of Trust**") and the County Fee Deed of Trust to Secure Performance executed by MHI Landholdings LLC for the benefit of Grantee (the "**County Fee Deed of Trust**"), which are collectively referred to herein as the "**Deeds of Trust**", and (c) all of the other documents governing, evidencing, and/or securing the Partnership Loan (collectively, together with the Collateral Note and the Deeds of Trust, (the "**Partnership Loan Documents**"), pursuant to a Collateral Assignment of Note and Liens dated of even date with the Partnership Loan Documents and executed by Nonprofit for the benefit of the Grantee (the "**Collateral Assignment**"); and

L. WHEREAS, the Subrecipient and Maker shall ensure recognition of the role of Grantee in providing services through this Agreement; and all activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient and Maker will include

reference to HCCSD for the support provided herein in all publications made possible with funds made available under this Agreement.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

Section 1. The recitals set forth in this order are true and correct.

Section 2. The County Judge of Harris County, or her designee, is hereby authorized to execute the Loan Agreement between (i) Harris County; and (iii) Magnificat Permanent Affordable, LLC, a Texas limited liability company, for the partial funding of new construction, and financing of the 3300 Caroline Street Project, in the amount not to exceed \$8,538,278.00. The Loan Agreement is attached hereto and made a part hereof for all purposes.

Section 3. The Community Services Department and its Director, or her designee, are authorized to take such actions and execute such other documents as they deem necessary or convenient to carry out the purposes of this order.