

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

# **CONTRACT REVIEW AND APPROVAL FORM**

## **SECTION I - GENERAL INFORMATION**

<b>1. Contractor:</b> Housing for Homeless, Inc.		<b>2. Amount:</b> N/A
<b>3. Fund/Account #:</b> N/A	<b>4. Department Name:</b> Housing and Human Services	
<b>5. Contract Description:</b> Affordable Rental Housing for Person at or below 80% Area Medium Income		
<b>6. Contract Monitor:</b> Brian Breslin		<b>8. Contract Type:</b>  GRANT
<b>7. Dept/Office Director:</b> Ian Golden		
<b>9. Type of Procurement:</b> Request for Qualifications (RFQ)		

## **SECTION II - REVIEW AND APPROVAL TO ADVERTISE**

### **APPROVAL**

#### **COUNTY OFFICE**

**YES**

**NO**

**SIGNATURE**

User Agency

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☐

Purchasing

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☐

Risk Management

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County Attorney

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## **SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

### **APPROVAL**

#### **COUNTY OFFICE**

**YES**

**NO**

**SIGNATURE**

User Agency

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Ian Golden

Digitally signed by Ian Golden  
Date: 2020.05.04 10:45:00 -04'00'

Purchasing

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Darling, Steven

Digitally signed by Darling, Steven  
Date: 2020.05.12 13:14:54 -04'00'

Risk Management

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Lairsey, Matt

Digitally signed by Lairsey, Matt  
Date: 2020.05.12 12:39:38 -04'00'

County Attorney

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## **SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

# CONTRACT REVIEW AND APPROVAL FORM

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### APPROVAL

#### COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

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Purchasing

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Risk Management

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County Attorney

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## SECTION III - CONTRACTS MANAGEMENT DATABASE CHECKLIST

### APPROVAL

#### COUNTY OFFICE

YES

NO

SIGNATURE

User Agency

☒
☐

Ian Golden

Digitally signed by Ian Golden  
Date: 2020.05.04 10:45:00 -04'00'

Purchasing

☐
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Risk Management

☐
☐

County Attorney

☒
☐

*[Signature]* 5/14/2020

## SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
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"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**RENTAL HOUSING HOME AGREEMENT  
BETWEEN  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS  
AND  
HOUSING FOR HOMELESS, INC.**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the County), and Housing for Homeless, Inc. (hereinafter referred to as the Owner).

**WHEREAS**, The Department of Housing and Urban Development has allocated HOME Investment Partnership (HOME) funds to Brevard County to fund housing programs that meet local needs and priorities; and

**WHEREAS**, the County in accordance with the HOME Program Regulations 24 CFR Part 92, allocates HOME funds for projects that result in the creation of affordable housing for low income households; and

**WHEREAS**, the Brevard County Affordable Housing Council has recommended and the County desires to award three housing units to the Owner to serve as affordable rental housing for persons at or below 80% Area Medium Income for a period of 17 years; and

**WHEREAS**, the Owner agrees that the project as it pertains to the three housing units located at 6090 Grissom Parkway, Titusville, Florida, 1616 Tropic Street, Titusville, Florida and 1618 Tropic Street, Titusville, Florida (hereinafter "Project" and as defined more particularly hereinbelow) will be carried out in accordance with HOME project requirements in 24 CFR Part 92, as applicable, as well as other applicable HOME federal requirements and the terms of this agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and obligations contained, including the attachments, and subject to the terms and conditions hereinafter stated, the parties mutually understand and agree as follows:

**SECTION I. DEFINITIONS:**

**Affordability:** refers to the requirements of the HOME Program that relate to the cost of housing at initial occupancy through established timeframes, as prescribed in the HOME regulations. Affordability requirements vary depending on the nature of the HOME-assisted activity, such as homeownership or rental housing.

**Area Median Income (AMI):** the median family income adjusted for family size as published by the Department of Housing and Urban Development (HUD) annually.

**Annual Income:** Projected annual income established in compliance with HOME and State Housing Initiatives Partnership (SHIP) regulations, specifically established at 24 CFR Part 5.609.

**Community Housing Development Organization (CHDO):** A private, non-profit organization that meets a series of qualifications prescribed in the HOME regulation 24 CFR Part 92.2. A participating jurisdiction must award at least fifteen percent of its annual HOME allocation to CHDOs. CHDOs may own, develop, or sponsor HOME-financed housing.

**Department:** Housing and Human Services Department of Brevard County.

**Director:** The Director of the Housing and Human Services Department.

**Fair Housing:** Requirements for non-discrimination based on race, color, sex, disability, religion, familial status or national origin in accordance with Federal Regulations 24 CFR 100-146 and State Law FS 760.

**Hard Costs:** costs associated with the construction of a project.

**HOME-Assisted Units:** Units within a HOME project for which rent, occupancy, and/or long-term affordability restrictions apply. The number of units designated as HOME-assisted affects the maximum HOME subsidies that may be provided to a project.

**HOME Funds:** All appropriations for the HOME Program, plus all repayments and interest or other applicable return on investment of these funds.

**HOME Investment Partnership Act (HOME):** The act that created a formula-based allocation program intended to support State and local affordable housing programs. The goal of the program is to increase the supply of affordable rental and ownership housing through acquisition, construction, reconstruction, and moderate or substantial rehabilitation activities.

**HUD:** The United States Department of Housing and Urban Development.  
**Low-Income:** individual whose gross annual income does not exceed eighty percent of the AMI (adjusted for family size).

**New Construction:** the creation of new dwelling units. Any project that includes the creation of additional dwelling units outside the existing walls of a structure is also considered new construction.

**Owner:** Housing for Homeless, Inc.

**Project:** one or more buildings on a single site or multiple sites that are under common ownership, management, and financing to be assisted with HOME funds as a single undertaking.

**Project Completion:** the stage at which all necessary title transfer requirements and construction work have been performed: the project complies with all HOME funds requirements; the final draw-down has been disbursed for the project; and the project completion information has been entered in the Integrated Disbursement and Information System (IDIS), established by HUD.

## **SECTION II: USE OF HOME FUNDS**

The Owner agrees to maintain and manage the Project consisting of three housing rental units as affordable housing to persons whose income is at or below eighty percent of the area medium income for the remaining term of affordability of 17 years unless extended in accordance with the provisions of this agreement.

## **SECTION III: TIMING AND DURATION OF AGREEMENT**

The term of this agreement between the County and the Owner shall begin on the date of execution by both parties and shall continue for 17 years unless extended in accordance with the provisions of this agreement.

## **SECTION IV: AFFORDABILITY REQUIREMENTS**

1. The units shall meet the affordability requirements in 24 CFR 92.252 and the applicable property standards in 24 CFR 92.251 throughout the affordability period as contained in the HOME Requirements in Attachment E, attached hereto and incorporated by reference. The affordability of the units shall be for seventeen years for persons at or below eighty percent AMI. The Owner shall sign a seventeen-year mortgage deed and security note, and a land use restriction agreement, all of which are made a part hereof by reference and attached as Attachment A, Attachment B and Attachment C, respectively, for the Project properties.

2. Owner shall repay the original loan of \$238,000.00 if the housing fails to meet the affordability requirements for the entire specified time period. The County shall follow the Recapture Guidelines set forth in the Annual Action Plan (available for review upon request) for the repayment of HOME funds to a homebuyer.

## **SECTION V: INCOME, RENT AND OCCUPANCY REQUIREMENTS**

1. The Owner shall make income determinations. On an annual basis, the County shall provide guidance on using HOME income and rent limits. In addition, the County will provide the Owner with current income and rent limits and other applicable HOME requirements annually. The Owner shall abide by the Income Rental Limits as applicable, a copy of which is attached hereto and incorporated by reference as Attachment D. The Owner shall immediately implement the new limits upon receipt of those limits from the County and shall continue doing for the remaining seventeen years of affordability.

2. **Income:** The HOME program has income targeting requirements. The HOME project shall meet all requirements in accordance with 24 CFR 92.203. Each family shall meet the established annual income requirements published by HUD to participate as a beneficiary of this HOME-funded project.

- a. **Income Limits:** The HOME Program requires every HOME-assisted unit be occupied by a low household, in accordance with 24 CFR 92.216. HUD determines area median income on an annual basis, based on geographic area and family size.
- b. **Income Targeting:** Income targeting requirements are imposed on the project at initial occupancy and during the remaining period of affordability. Income targeting is defined as the number of low tenants that shall occupy the HOME-assisted units. Income targeting requirements at initial occupancy may differ from those required during the period of affordability.
  - i. **Income Targeting at Initial Occupancy:** For each annual HOME allocation that the County receives, one hundred percent of the initial households assisted through all of the County's rental housing programs (including tenant-based rental assistance) shall be households whose incomes are at or below sixty percent AMI per 24 CFR 92.216(a).
  - ii. **Income Targeting During the Affordability Period:** After the initial occupancy the County requires that all units be occupied by persons whose income is at or below eighty percent AMI for the duration of the affordability period.
- c. The Owner shall collect and maintain project beneficiary information pertaining to household size, income levels and household characteristics used to determine low income benefits. Income documentation shall be in an acceptable format consistent with HOME requirements.
- d. In the County's sole discretion, a HOME-assisted unit with over income tenants will continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants. The Owner shall take actions satisfactory to the County to ensure that all vacancies are filled in accordance with 24 CFR 92.252(i) until the noncompliance issue is corrected.

3. **Rent:**

- a. **Applicable Rent Limits:** Rent limits are to be set in accordance with 24 CFR 92.252. For all units, the rent shall be no more than thirty percent of the actual tenant's gross household income.
- b. **Utility Allowances and Fees:** Tenants shall be responsible for all utility payments and applicable fees. The Owner shall deduct the established maximum monthly allowance for utilities and services (excluding

telephone) from rent. The Tenant shall be responsible for all payments and fees which exceed the established monthly allowance.

- c. **Initial Rent Schedule:** The initial rent schedule will be based on the units in the project, identified by the unit number and/or bedroom size as identified in 24 CFR 92.252(c) and 92.504(c)(3).
- d. **Adjusting Rents:** The Owner may adjust the rents, in accordance with the annual published rent limits, with approval from the County. Any rent adjustments are subject to the tenant's lease agreement. All tenant leases shall specify that the tenants receive at least thirty days written notice prior to implementing a rent increase. The Owner shall not raise rents above the HOME rent limits.

## SECTION VI: PROJECT REQUIREMENTS

1. Tenants of HOME-assisted units shall be protected by a written lease, occupancy agreement or comparable legal document. The Owner shall adhere to the following lease requirements:

- a. **Lease length:** The lease shall be executed for a minimum of one year, unless the Owner and the tenant mutually agree to a shorter period. If the tenant has agreed to a different lease term, the term may not be for a period less than thirty days and the agreement should be noted in writing and maintained in the tenant's file.
- b. **Termination of tenancy:** The written agreement shall state that the Owner cannot terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds, except for allowable reasons: serious or repeated violations of the terms and conditions of the lease; violating Federal, state or local law; completion of tenancy for transitional housing projects; or other just causes. The lease shall also let tenants know that they will be served a written notice at least thirty days before the termination of tenancy, specifying the grounds for the termination or refusal to renew the lease.
- c. Tenant leases shall comply with applicable state and local tenant-landlord laws.

2. The Lease may not contain the following provisions, in accordance with 24 CFR 92.253:

- a. Agreement to be sued. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease;
- b. Treatment of property. Agreement by the tenant that the Owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning

disposition of personal property remaining in the housing unit after the tenant has vacated the unit. The Owner may dispose of this personal property in accordance with State law;

- c. Excusing Owner from responsibility. Agreement by the tenant not to hold the Owner or the Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- d. Waiver of notice. Agreement of the tenant that the Owner may institute a lawsuit without notice to the tenant;
- e. Waiver of legal proceedings. Agreement by the tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- f. Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury;
- g. Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
- h. Tenant chargeable with cost of legal actions regardless of outcome.

3. Owner understands that property standards apply throughout the affordability period.

## **SECTION VII: PROPERTY STANDARDS**

Housing that is constructed or rehabilitated with HOME funds shall meet all local codes and ordinances at the time of project completion. The Owner agrees to abide by applicable property standards in accordance with 24 CFR 251 and local land use and zoning requirements.

## **SECTION VIII: COMPLIANCE MONITORING**

1. Monitoring will include compliance with all contractual requirements, including, but not limited to, reporting, record retention and project development. In addition, the project is subject to ongoing HOME compliance requirements for seventeen years from the date of execution of this Agreement. During this compliance period, the Owner shall assure continued compliance with HOME requirements. Compliance for rental units shall include maintaining property standards, occupancy, and rent limits compliance.

2. **Project Development:** The County shall monitor the Owner for the following items prior to initial occupancy of the units (from the Developer's Property Management Handbook).

- a. Affirmative Marketing Policy and Procedures as required by 24 CFR 92.351 (A copy of which is attached hereto and incorporated by this reference as Attachment E).



- b. Tenant Selection Policies and Procedures (to include over-income tenants)
- c. Application form
- d. Income Verification and Certification Forms
- e. Lease agreement including Prohibited Clauses Identified in 24 CFR 92.253(b) (A copy of which is attached hereto and incorporated by this reference as Attachment E)
- f. HOME Income Limits as stated in 24 CFR 92.203, as may be revised from time to time. (A copy of which is attached hereto and incorporated by this reference as Attachment E)
- g. HOME Rent Limits, as may be revised from time to time. (A copy of which is attached hereto and incorporated by this reference as Attachment D)

3. On-going Monitoring for the Term of Affordability:

- a. Affordability of the units
- b. Rent limits
- c. Tenants eligibility
- d. Physical inspection of the units
- e. Financial review

## **SECTION IX: ENFORCEMENT PROVISIONS**

1. Timely completion of the work specified in this agreement is an integral and essential part of performance. The expenditure of HOME funds is subject to federal deadlines and could result in the loss of federal funds. By the acceptance and execution of this agreement, the Owner shall complete the project as expeditiously as possible and the Owner shall make every effort to ensure that the project will proceed and not be delayed. Failure to meet these deadlines may result in the cancellation of this contract and the revocation of HOME funds.

2. Funds shall remain as a deferred interest free loan for a period of seventeen years from the execution of this Agreement. The loan may be forgiven or extended at the sole discretion of the County. The loan for the Project hereunder as to both principal and interest shall be assumable upon project sale, transfer or refinancing if the proposed Owner of the Project is an eligible nonprofit organization as approved by the County and the proposed Owner of the Project agrees to maintain all set asides and other requirements of the HOME Program for the period originally specified. In the event Owner proposes to sell or transfer the Project, the County reserves the first right of refusal for the purchase at the current market value minus awards. Owner shall send notice to County of the Owner's intent to sell or transfer the Project via certified mail, return receipt requested. The County shall have 180 days from the date of receipt of the notice in order to provide the Owner written acceptance or refusal of the offer.

Moreover, in the event of a sale during the affordability period (voluntary or involuntary), Owner shall pay to County a proportionate amount of any equity created by the use of HOME investment as set forth in the mathematical formula contained in the County's Annual Action Plan, as may be amended.

3. In the event the above-stated conditions are not met, the loan for the Project hereunder as to both principal and interest shall be due in full upon the sale, transfer or refinancing of the Project.

4. Notwithstanding, payment of principal and interest in full, these restrictions shall remain in full force and effect for the term of this Agreement.

5. A default shall be the occurrence of any of the following events, and upon that occurrence the County may, at the County's discretion, declare all sums secured by the Owner to be immediately due and payable.

a. Non-performance by the Owner of any covenant, agreement, term or condition of the Mortgage, or of the Note, or of any other agreement made by the Owner with the County in connection with such indebtedness, after the Owner has been given due notice, as described hereafter, by the County of such nonperformance;

b. Failure of the Owner to perform any covenant, agreement, term or condition in any instrument creating a lien upon the mortgaged property, or any part thereof, which shall have priority over the lien of the Mortgage;

c. The County's discovery of the Owner's failure in any application of the Owner to the County to disclose any fact deemed by the County to be material, or the making therein, or in any of the agreements entered into by the Owner with the County (including, but not limited to, the Note and Mortgage) of any misrepresentation by, on behalf of, or for the benefit of the Owner.

6. Upon the occurrence of a default, the County shall notify the Owner of such default in writing, specifying:

a. The breach; and

b. The action required to cure such breach; and

c. A date not less than thirty (30) days from the date the Notice is hand delivered or mailed to the Owner by which such breach must be cured.

7. If the default is not cured on or before the date specified in the Notice, the County, at the County's option, may declare all of the sums secured by the Mortgage to be immediately due and payable without further demand.

8. The County shall give prior written notice of acceleration or default under the subordinate lien to any superior Mortgage Holders.

9. All sums repaid under the terms of this Agreement shall be paid to Brevard County Board of County Commissioners in care of the Housing and Human Services Department.

## **SECTION X: COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) PROVISION, AS APPLICABLE**

The Owner understands that the Owner is and shall remain in Community Housing Development Organization (CHDO) status for the term of this agreement in accordance with 24 CFR 92.300 – 301, as applicable. Owner shall provide information as may be requested by the County to document continued compliance, including but not limited to an annual Board roster and certification of continued compliance.

## **SECTION XI: ADMINISTRATIVE REQUIREMENTS**

### **1. Record Keeping**

The Owner shall be responsible for maintaining a project file and tenant files, with documentation relevant to this project such as, but not limited to, proposal, agreement, financial expenditures, reports, tenant income, and correspondence. All records shall be presented and maintained in sufficient detail as required to ensure a proper audit.

### **2. Record Retention**

The Owner shall retain sufficient records demonstrating compliance with the terms of this agreement for a period of five years after the expiration date of the agreement. If any audit findings have not been resolved at the end of the five-year period, the records shall be retained until resolution of the audit findings. State auditors and any persons duly authorized by the County shall have full access to, and shall have the right to examine any of said materials upon request.

General records for all rental housing units shall be maintained for five years after expiration or termination of the contract period. Records regarding tenant income, rent and inspection information shall be maintained for the most recent five years, until five years after the affordability period ends.

### **3. Public Records**

- a. Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Agreement must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Owner of the request and the Owner shall provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends or legal holidays) of the request so the County can comply with the requirements of Chapter 119, Florida Statutes, Florida Public Records

Law. The Owner may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

- b. If Owner fails to provide the requested public records to the County within a reasonable time, the Owner may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties pursuant to Section 119.10, Florida Statutes. The Owner's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination. If Owner claims certain information is exempt and/or confidential, it must cite to specific statutory provisions or case law in order to justify removal or redaction of said information.
- c. Should the County face any legal action to enforce inspection or production of the records within the Owner's possession and control, the Owner agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Owner shall hire and compensate attorney(s) to represent the Owner and County in defending such action. The Owner shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12, Florida Statutes.
- d. **IF THE OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OWNER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS BRITTANY RAY AT BRITTANY.RAY@BREVARDFL.GOV – AT 2725 JUDGE FRAN JAMIESON WAY, BLDG B-106, VIERA, FLORIDA 32940 AT (321) 633-2076.**

**4. Reporting**

- a. The Owner shall submit a Project Compliance Report yearly, attached hereto as Attachment F and made a part of by reference.
- b. The County retains the right to change the reporting requirements or data elements with notice to the Owner without an amendment to this contract.

**SECTION XII: PROVISIONS RELATED TO OTHER FEDERAL REQUIREMENTS**

- 1. Owner shall comply with the anti-lobbying certification:

a. 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, an officer or employee of Congress, or an employee of 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.

b. 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 any agency, a Member of Congress, 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.

2. Owner agrees to abide by all applicable federal requirements, attached hereto and made a part of by reference Attachment E.

### **SECTION XIII: GENERAL CONDITIONS**

#### **1. Indemnification**

The Owner shall indemnify and hold harmless the County and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the Owner, or anyone directly or indirectly employed by the Owner, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused, in part, by a party indemnified hereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by the Owner, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial Owner, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration has been exchanged for this provision.

#### **2. Amendments/Modifications to Contract**

This agreement, together with any attachments, task assignments and schedules constitute the entire agreement between the County and the Owner and supersedes all prior written or oral agreements or understandings. This agreement and any attachments, task assignments and schedules may only be amended, supplemented or cancelled by a written instrument duly executed by the parties hereto. The Chair of the Brevard County Board of County Commissioners shall have authority to execute all amendments and/or modifications to this Agreement.

#### **3. Insurance**

The Owner and/or the rental management company shall when at their own expense, keep in force and at all times maintain, during construction and then during the term of this Agreement, the insurance as listed below. The Owner will also be responsible for any losses incurred due to theft, vandalism or any other related losses until which time the property is sold.

- a. General Liability Insurance: General Liability Insurance issued by responsible insurance companies, and in a form acceptable to the County, with combined single limits of not less than One Million Dollars \$1,000,000.00 for Bodily Injury and Property Damage per occurrence.
- b. Directors and Officers Insurance: Directors and Officers coverage with minimum limits of One Million Dollars \$1,000,000.00.
- c. Workers' Compensation Coverage: Full and complete Workers' Compensation Coverage, as required by the State of Florida law shall be provided.
- d. Property Insurance: Coverage providing all risk insurance including windstorm protection, in an amount equal to the replacement cost of the structure.
- e. Insurance Certificates: The Owner shall provide the County with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said Liability Policies shall provide that the County be an additional insured. The County shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies, at least thirty days prior to the effective date of said action. Responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida shall issue all insurance policies. The Owner shall ensure that its insurance of its contracted agents is adequate and sufficient to cover the activities performed under this agreement and that the insurance requirements upon all Owner conform to and comply with all applicable local, state and/or federal requirements.

#### **4. Attorney's Fees**

In the event of any legal action to enforce the terms of this agreement, each party shall bear its own attorney's fees and costs.

#### **5. Governing Law**

This agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

#### **6. Compliance with Statutes**

It shall be the Owner's responsibility to comply with all federal, state and local laws including, but not limited to, those HOME Requirements made a part hereof by reference as Attachment E and all applicable Brevard County Ordinances.

**7. Venue**

Venue for any legal action by any party to this agreement to interpret, construe or enforce this agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

**8. Assignments**

The Owner shall not assign any portion of the agreement without written permission of the County.

**9. Termination**

If Owner fails or refuses to perform any of the provisions of this Agreement (hereinafter defined as a "breach"), the County shall give the Owner written notice of the existence and nature of the breach and Owner shall have the opportunity to correct such breach within thirty days of receipt of such notice. If Owner fails to cure the breach within the thirty-day period, County may immediately terminate this Agreement by sending written Notice of Termination to Owner and such termination shall be effective upon the Owner's receipt of the written Notice of Termination. Any work completed or services provided prior to the date of termination shall, at the option of the County, become the property of the County. The County shall be responsible only for payment for services provided prior to the effective date of termination. The County may also terminate this Agreement with twenty-four hours written notice based upon the availability of funds as determined by evaluation of the departmental expenditure goals and regulatory compliance by the Brevard County Director, Housing and Human Services Department. If applicable, if Owner is providing services for another Entity, in accordance with the terms and requirements of this Agreement, Owner and Entity shall have a separate contract or agreement outlining the terms and conditions of the services the Owner will be providing. In the event the contract between Owner and entity is terminated, cancelled, or otherwise because unenforceable, this contract shall be immediately terminated. The County shall send the Owner a Notice of Termination effective the same date as the termination date of the contract between Owner and entity. Owner shall receive payment for all work performed up to the date of the termination of the contract between Owner and the County.

**10. Independent Contractor**

The Owner shall perform under the terms of this agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in the agreement shall be interpreted or construed to constitute the Owner or any of its agents or employees to be the agent, employee or representative of the County.

**11. Right to Audit**

In the performance of this agreement, the Owner shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection by an authorized

representative of the County and shall be retained by the Owner for the entire term of this agreement in accordance with Section XI. 2. Record Retention. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Agreement, shall be subject to copyright by Owner in the United States or any other country.

## **12. Audits**

If the Owner is a local government or a non-profit organization as defined in Office of Management and Budget Circular A-133, as revised, and in the event that the Owner expends \$750,000 or more in federal awards in its fiscal year, the Owner shall have a single or program-specific audit conducted in accordance with the Single Audit Act Amendments of 1996, and Office of Management and Budget Circular A-133, as revised. In determining the federal awards expended in its fiscal year, the Owner shall consider all sources of Federal awards, including federal resources received from the County. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by Office of Management and Budget Circular A-133, as revised. An audit of the Owner conducted by an independent certified public accountant (CPA) licensed under Chapter 473, Florida Statutes, in accordance with the provisions of Office of Management and Budget Circular A-133, as revised, will meet the requirements of this paragraph. If the Owner expends less than \$500,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of Office of Management and Budget Circular A-133, as revised, is not required. In the event that the Owner expends less than \$500,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of Office of Management and Budget Circular A-133, as revised, the cost of the audit shall be paid from non-federal resources (such as the cost of such audit shall be paid from the Owner's resources obtained from other than federal entities).

In accordance with Office of Management and Budget Circular A-133, if applicable, the Owner shall submit to the County a copy of the audit and all related responses within one hundred twenty days after termination of this agreement. If unable to meet the audit deadline, the Owner shall submit a written request for an extension approval by the Director to the following address:

Housing and Human Services Department  
Ian Golden, Director  
2725 Judge Fran Jamieson Way, Building B-103  
Viera, Florida 32940

## **13. Unauthorized Alien Workers**

The County will not intentionally award publicly-funded contracts to any Owner who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act (INA)). The County shall consider an Owner's



intentional employment of unauthorized aliens as grounds for immediate termination of this agreement.

**14. Federal Tax ID Number**

The Owner shall provide to the County the Owner's Federal Tax ID Number or, if the Owner is a sole proprietor, a Social Security Number.

**15. County Conflict of Interest**

The Owner shall not engage the services of any person or persons now employed by the County, including any department, agency board or commission thereof, to provide services relating to this contract without written consent from the County. The Owner shall not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements. The Owner shall not award a contract or subcontract under this agreement to any company who the Owner has a financial or any other interest in, including but not limited to employing an employee, an employee of the Owner or any member of an employee's, agents, or officer's immediate family of the Owner employee, including officers, employees, agents, consultants or elected or appointed officials. The Owner and/or any of the aforementioned entities may not occupy a unit unless approved by the County.

**16. Public Entity Crimes**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an Owner, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for CATEGORY TWO for a period of thirty-six months from the date of being placed on the convicted vendor list.

**17. Information Release/Grantor Recognition**

All news releases, publicity releases, or advertisements relating to this agreement or the tasks or projects associated with the project, shall be submitted in writing to the County and be approved in advance of any release or publication. Releases shall identify the funding entity as well as the funding source.

**18. Debarment and Suspension**

The County will not intentionally award contracts to any agency or its Owner and/or subcontractors that:

- a. Have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local Department or agency;

- b. Have, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph b above; and
- d. Have, within a three-year period preceding this application/proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**19. E-Verify.**

- a. The County shall not enter into, or renew, a contract for goods or services with a contractor that is not enrolled in E-Verify. Any contractor providing goods or services to the County shall be contractually required to utilize E-Verify to confirm the employment eligibility of any employee hired during the contract term.
- b. The County shall verify the Owner's participation in E-verify Program by confirming their enrollment on the Department of Homeland Security E-verify Website. A contractor's whose participation cannot be verified on the Department of Homeland Security's E-verify Website shall provide acceptable evidence of their enrollment prior to award and the execution of a contract. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
- c. Owner shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and
- d. The Owner must meet this requirement, unless:
  - 1) the contract is solely for goods-based procurement where no services are provided; or
  - 2) where the requirement is waived by the Board of County Commissioners;
  - 3) the contract is being executed with a Sole Proprietor who does not hire employees and therefore not required to file a Department of Homeland Security Form I-9 (which is the necessary document used for performing an E-verify search); or
  - 4) the contract is being executed with a company based outside of the United States of America and does not have a corporation or office located within the United States of America and does not employ any United States of America citizens.

- e. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.
- f. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

#### **SECTION XIV: CONSTRUCTION OF AGREEMENT**

The parties hereby acknowledge that they fully reviewed this agreement and its attachments and have had an opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this agreement.

#### **SECTION XV: NOTICES**

All notices required or permitted by this agreement shall be in writing and shall be deemed delivered upon hand delivery, or three days following deposit in the United States Postal System, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

##### **FOR THE COUNTY:**

Housing and Human Services Department  
Ian Golden, Director  
2725 Judge Fran Jamieson Way, Building B  
Viera, Florida 32940

##### **FOR THE OWNER:**

Housing for Homeless Inc.  
Rob Cramp, Executive Director  
4087 US HWY 1, Suite 3  
Rockledge, Florida 32955

[The remainder of this page left intentionally blank.]

**IN WITNESS WHEREOF:** the parties have hereunto set their hands and seals on the day and year first above written.

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
Bryan Lober Chair,  
Originally approved by the Board on: July 24, 2012.

Reviewed as to form and legal content for  
use and reliance of Brevard County only.

  
\_\_\_\_\_  
Assistant County Attorney

**HOUSING FOR HOMELESS, INC.**

\_\_\_\_\_  
Rob Cramp, Executive Director

**STATE OF FLORIDA**

**COUNTY OF Brevard County**

The foregoing instrument was acknowledged before me, by means  
of ☐ physical presence or ☐ online notarization, on this \_\_\_\_ **day of**  
\_\_\_\_, **2020**, \_\_\_\_\_, who is/are personally  
known to me or has/have produced \_\_\_\_\_ as  
identification.

SEAL

\_\_\_\_\_  
Notary Public – State of Florida

My Commission Expires: \_\_\_\_\_

**GRISSOM/TROPIC HOME AGREEMENT**

**ATTACHMENT A**  
**MORTGAGE DEED AND SECURITY AGREEMENT 17 YEAR TERM**  
**Brevard County Board of County Commissioners**

**THIS MORTGAGE DEED AND SECURITY AGREEMENT** (Mortgage) made, executed and given this \_\_\_\_ day of \_\_\_\_\_, 2020 by **Housing for Homeless, Inc.** (individually and collectively, Mortgagor) with its principal place of business located at **4087 US HWY 1, Suite 3 Rockledge, Florida 32955**, to and in favor of the **Brevard County Board of County Commissioners**, a political subdivision of the State of Florida, with its principal place of business located at **2725 Judge Fran Jamieson Way, Viera, Florida 32940**, (herein designated as the Mortgagee) for funding assisted with Brevard County HOME Investment Partnership (HOME) funds for a rental unit for persons whose income is below eighty percent of the Area Median Income.

**WITNESSETH**, that for diverse good and valuable consideration of the aggregate sum named in the promissory note **\$XXXXXX**, which reference includes renewals thereof, hereinafter described, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto thee Mortgagee, in fee simple, all that certain tract of land, together with all improvements therein or thereon or as hereinafter described below, of which the Mortgagor is now or hereafter seized and possessed, located in Brevard County, State of Florida, as described at:

**XXXXXXXX, of the Public Records of Brevard County, Florida**  
**a/k/a XXXXXX, XXXXX, Florida XXXX**

**TOGETHER** with all and singular the structures, improvements and appurtenances thereunto which are now or hereafter placed upon said Property and the fixtures, machinery, equipment, and articles of personal property attached thereto or used in connection therewith, and all rents, issues, proceeds and profits accruing and to accrue from the Property and any deposits, fees and prepayments made to regulatory agencies for the benefit of the Property and any permits or reserved capacities or utility service obtained in consideration therefore, and all of the rights, title and interest of the Mortgagor of, in and to the lands lying in the bed of any street, road, avenue, alley or right-of-way in front of or adjoining the Property and to the strips and gores of land adjacent to or adjoining the Property or incidental thereto and in and to any and all water rights, easements and all of the estate and rights of the Mortgagor in and to the Property, all of which are included within the foregoing description and the addendum hereof, and all gas, steam, electric, water and other heating, cooking, refrigerating, lighting, plumbing, ventilating, irrigating, and power systems, machines, appliances, fixtures and appurtenances, which are now or hereafter pertain to or be used with, in or on the Property, even though they may be detached or detachable, with every privilege, right, title, interest and estate, dower and right of dower, reversion and easement thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise

appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also in the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Mortgagor in and to the same and every part and parcel thereof unto the Mortgagee in fee simple.

The Mortgagor, and Mortgagor's heirs, legal representatives, successors and assigns, hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the same in fee simple as aforesaid; that it shall be lawful for Mortgagee, at all times peaceably and quietly, to enter upon, hold, occupy and enjoy the Property and every part thereof; that said

Property is free from all encumbrances, except as stated herein; that Mortgagor and Mortgagor's heirs, legal representatives, successors and assigns, will make such further assurances to perfect the fee simple title to the Property in Mortgagee as may reasonably be required; and that Mortgagor does hereby fully warrant the title to the Property and every part thereof and shall defend the same against the claim of all persons whomsoever.

**PROVIDED ALWAYS** that, if Mortgagor shall pay unto the Mortgagee the indebtedness stated in the Note, a copy or copies of which is/are attached hereto and made a part hereof by reference, and shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and the estate hereby created shall cease and be null and void; otherwise, the Mortgagee may, at the Mortgagee's option, declare the entire balance of the indebtedness secured hereby due and payable. The principal sum together with interest thereon at the rate of 0% annum, shall become due at the completion of the 17 **term of this agreement** period, except that the entire principal shall be forgiven at the completion of the entire term of this agreement in accordance with the term of the 17-year mortgage note.

**AND MORTGAGOR DOES HEREBY COVENANT TO AND AGREE WITH MORTGAGEE AS FOLLOWS:**

1. To pay all and singular the principal and interest and other sums of money payable by virtue of the Note and Mortgage, or either, promptly on the days respectively the same severally come due. To perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants set forth in the Note and this Mortgage. The principal sum together with interest thereon at the rate of 0% annum, shall be forgiven at the completion of the 17 year period.

2. To pay all and singular the taxes, assessments, levies, liabilities, obligations and encumbrances of every nature on the Property each and every when due and payable, according to law, before they become delinquent; and, if the same shall not be promptly paid, the Mortgagee, at any time, either before or after delinquency, may pay the same without waiving or affecting its option to foreclose or any right hereunder, and every payment so made shall bear interest from the date

thereof at the highest legal rate permitted by the laws of the State of Florida, payable monthly, until repaid, and each such payment, together with said interest thereon, shall be secured by the lien of this Mortgage.

3. To keep the buildings and all equipment and personal property now or hereafter on the Property covered by this Mortgage insured in a sum equal to at least the balance of the Note and equal to an amount sufficient to comply with any co-insurance requirements covering the same under the laws of the State of Florida and the insurance contract, covering loss from both fire and extended coverage, making the loss under said policies, each and every, payable to Mortgagee as its interest may appear and naming Mortgagee as additional insured; and the policy or policies shall be held by Mortgagee and in the event any sum of money becomes payable under such policy or policies, the Mortgagee shall have the option to receive and apply the same on account of indebtedness hereby secured or may permit Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under and by virtue of this Mortgage. Mortgagee may place and pay for such insurance, or any part thereof, without waiving or affecting its option to foreclose or any right hereunder, and each and every payment so made shall bear interest from date thereof at the highest legal rate permitted by the laws of the State of Florida, payable monthly, until repaid, and each such payment, together with said interest thereon, shall be secured by the lien of this Mortgage.

4. To permit, commit or suffer no waste, impairment or deterioration of the Property, or any part thereof, and, upon the failure of the Mortgagor to keep the buildings or other improvements on the Property in good condition and repair, Mortgagee may demand the immediate repair of said buildings or other improvements or an increase in the amount of security or the immediate repayment of the debt hereby secured, and the failure of the Mortgagor to comply with said demand of the Mortgagee, for a period of 30 days, shall constitute a breach of the Mortgage and, at the option of Mortgagee, immediately mature the entire amount of principal and interest hereby secured, and Mortgagee immediately and without notice may institute proceedings to foreclose this Mortgage and may apply for and have appointed a receiver, as hereinafter provided.

5. The Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property; provided that the Mortgagee shall give the Mortgagor reasonable notice prior to any such inspection with reasonable cause related to the Mortgagee's interest in the Property.

6. To deliver to Mortgagee, on or before March 15 of each year, tax receipts evidencing the payment of all lawfully imposed taxes for the preceding calendar year, to deliver to Mortgagee receipts evidencing the payment of all liens for public improvements within 45 days after the same shall become due and payable; and to pay or discharge within 10 days after due date any and all government levies that may be made on the Property, on this Mortgage or Note, or in any other way resulting from the indebtedness secured by this Mortgage; and, if this condition be not complied with and performed, Mortgagee may, without waiving or affecting its option to foreclose, pay such

sum or sums which shall become part of the debt secured by this Mortgage and which shall bear interest, payable monthly until repaid, at the highest legal rate permitted by the laws of the State of Florida.

7. The Mortgagor shall indemnify and hold the Mortgagee harmless from and against all costs, expenses, liabilities, suits, claims and demand of every kind or nature by or on behalf of any person whomsoever arising out of any accident, injury or damage which may happen in, on or about the property, and for any matter or thing growing out of the condition, occupation, maintenance, modification or use of the property.

8. That, in the event of a breach by Mortgagor of any covenant contained in this Mortgage or in the Note or, Land Use Restriction Agreement, or if applicable, in an Acquisition & Preservation Loan Agreement or Construction Loan Agreement between Mortgagor and Mortgagee and covering the Property, or any part thereof, the terms of such agreement being incorporated herein by reference, Mortgagee is entitled to receive all rents, issues, proceeds and profits accruing and to accrue from the Property pursuant to Section 697.07, Florida Statutes and, upon Mortgagor's receipt of a written demand made by Mortgagee, all future payments shall be paid directly to Mortgagee. If a receiver is appointed by a court having jurisdiction hereof, pursuant to Paragraph 8 or other provisions of this Mortgage, the order appointing such a receiver may direct that said rents, issues, proceeds, profits shall be paid to the receiver after the date of appointment. Nothing in this paragraph shall require the appointment of a receiver or excuse Mortgagor from failing to make payments directly to Mortgagee upon receipt of written demand therefore.

9. That Mortgagee is entitled to the appointment of a receiver even if the market value of the Property exceeds the amount of balance owed on the Note and additional charges due under this Mortgage and the Note.

10. If proceedings under any bankruptcy or insolvency law are commenced by or against Mortgagor or if a general assignment for the benefit of creditors is made by Mortgagor, whether under state or federal law, or a trustee or receiver of all or a substantial part of Mortgagor's property, whether or not covered by the lien of the Mortgage, is appointed, then, at Mortgagee's option and if permitted by law, the whole of the unpaid principal sum and accrued interest remaining unpaid on the Note shall become immediately due and payable.

11. That, if a guarantor of the payment and performance of the covenants, conditions and agreements of this Mortgage and the Note shall die or if a petition shall be filed for any relief under the provisions of the federal Bankruptcy Act or any state insolvency statute by or against a guarantor or if a guarantor shall make a general assignment for the benefit of creditors or if a receiver shall be appointed for substantially all of the property of the guarantor, then, and in any of the foregoing events, the Note shall become immediately due and payable at the option of the Mortgagee.

12. That, if all or any part of the Property or an interest therein is sold or transferred by Mortgagor, whether voluntary or involuntary, without Mortgagee's prior



written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of 3 years or less not containing an option to purchase, Mortgagee may, at its option, declare all the sums secured by this Mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer for which such waiver of option is requested, the Mortgagee and the person or entity to whom the Property is to be sold or transferred reach agreement in writing that the credit of such third party is satisfactory to Mortgagee and that the interest payable on the Note shall be at such rate as Mortgagee shall request. If Mortgagee exercises such option to accelerate, Mortgagee shall mail Mortgagor notice of acceleration and such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Mortgagor shall pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice demand on Mortgagor, invoke any remedies permitted by this Mortgage and the Note.

13. If the Property or any part thereof shall be condemned and taken for public use under the power of eminent domain, Mortgagee shall have the right to require that all damages awarded for the taking of or damages to said Property shall be paid to Mortgagee up to the aggregate amount then unpaid on the Note and credited to the payment or payments last payable thereon.

14. That time is of the essence of this Mortgage and of the Note and no waiver of any obligation hereunder or in the Note shall at any time thereafter be held to be a waiver of the terms hereof or of the Note or other instruments secured hereby.

15. To comply with all the terms, provisions and conditions of any superior mortgage or lien encumbering the Property, including, but not limited to, those applicable to the payment of the principal and interest due under said superior mortgage or lien or *deed restrictions*. If Mortgagor fails to comply with each and every one of the terms, provisions and conditions of said encumbrance, the failure to comply or default on Mortgagor's part shall constitute a default under this Mortgage and the Note shall entitle Mortgagee, at its option, to exercise any and all of its rights and remedies hereunder. If foreclosure proceedings of any superior or inferior mortgage or any senior or junior lien of any kind should be instituted, Mortgagee may, at Mortgagee's option, immediately or thereafter, declare this Mortgage and the entire indebtedness secured hereby due and payable.

16. To the extent of the indebtedness of the Mortgagor to Mortgagee described herein, or secured hereby, Mortgagee is hereby subrogated to the lien or liens and to the rights of the Developers and holders of each and every mortgage, lien or other encumbrance on the Property which is or has been paid or satisfied, in whole or in part, out of the proceeds of the Note and the respective liens of said mortgages, liens, Deed Restrictions attached to this Mortgage Agreement or other encumbrances, shall be, and the same are hereby, preserved and shall pass to and be held by the Mortgagee herein as a security for the indebtedness to Mortgagee herein described or

hereby secured to the same extent that it would have been passed to and held by Mortgagee, had it been duly and regularly assigned, transferred, set over and delivered unto Mortgagee by separate assignment, notwithstanding the fact that the same may be satisfied and canceled of record.

17. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees and costs of abstracts of title, incurred or paid at any time by Mortgagee because or in the event of the failure on the part of the Mortgagor to duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of the Note and this Mortgage, any or either, and said costs, charges and expenses, each and every, shall be immediately due and payable whether or not there be notice, demand, attempt to collect or suit pending; then the full amount of each and every such payment shall bear interest from the date thereof until paid at the highest legal rate permitted by the laws of the State of Florida; and all said costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this Mortgage. Reference herein to "reasonable attorney's fees" shall include attorney fee incurred by the Mortgagee for appellate and bankruptcy proceedings incident to any action brought hereunder or upon the Note.

18. That, if any word, clause, term, phrase or paragraph used in the Note or this Mortgage should be held to be unenforceable by any court of competent jurisdiction, the same shall not affect, alter or otherwise impair the meaning of any other word, clause, term, phrase or paragraph in the Note and Mortgage, and the same shall stand in full force and effect and shall be obligatory upon the parties hereto and the assignees, heirs and legal representatives of the parties hereto.

19. That, except for any notice required under applicable law to be given in another manner, any notice to Mortgagee provided for or given pursuant to this Mortgage shall be given by mailing such notice, postage prepaid, by United States registered or certified mail, return receipt requested, to Mortgagee's address as stated herein or in the Note secured hereby or to such other address as Mortgagee may designate, in writing, by notice to Mortgagor from time to time.

20. That all remedies provided in this Mortgage or in the Note, other instrument secured hereby or incorporated by reference herein, are distinct and cumulative to any other right or remedy under this Mortgage or such other instrument or afforded by law or equity and may be exercised concurrently, independently or successively. The Note shall become due at the option of Mortgagee if any representation or warranty made or given by Mortgagor or otherwise made in writing in connection with the transaction evidence by this Mortgage shall prove to have been false or incorrect in any material respect as of date hereof and such defect (if curable) shall not have been cured within seven days from the date of the mailing of notice thereof to the Mortgagor.

21. That, notwithstanding anything to the contrary contained in this Mortgage or in the Note or in any other instruments securing the Note, Mortgagee may, at

Mortgagee's option, declare the entire indebtedness secured hereby, together with all interest thereon and all advances made by the Mortgagee hereunder, immediately due and payable in the event of the breach by Mortgagor of any covenant contained in this Mortgage or in the Note or, if applicable, in the Acquisition & Preservation Loan Agreement or a Construction Loan Agreement referred to in Paragraph 8. In the event of any conflict between the terms of this Mortgage and the terms of said loan agreement, the terms of the loan agreement shall prevail.

22. To collaterally assign, coincident herewith or hereafter, to Mortgagee, any lease or leases of all or of any portions of the Property. If such assignment is made and accepted by Mortgagee, Mortgagor shall perform promptly each and every covenant and agreement of any such lease that is to be kept or performed by the Mortgagor in Mortgagor's capacity as lessor and any violation on Mortgagor's part of any covenant or agreement in any such lease or in the assignment of said lease that is to be kept or performed by Mortgagor, or any violation on Mortgagor's part of any agreement by Mortgagor set out in such Assignment of Lease, shall constitute a breach of this Mortgage and thereupon Mortgagee may, at its option, without notice, declare the Note immediately due and payable. Mortgagor will advise Mortgagee promptly of the execution hereafter of any lease of all or any part of the Property and shall, upon Mortgagee's request, submit to Mortgagee for examination and approval any such lease. If Mortgagee so requests, Mortgagor shall specifically collaterally assign such lease to Mortgagee (in form acceptable to Mortgagee) and it is agreed that the provisions of this Mortgage with regard to Mortgagor's obligations and Mortgagee's rights with respect to leases and collateral assignment of the same shall apply to all such additional leases and assignments thereof. Mortgagee may, at its option, perform any covenant or provision of any such lease for and on behalf of the Mortgagor and at the Mortgagor's expense and any amount advanced for this purpose shall bear interest at the same rate as for other advances and shall be secured by this Mortgage and shall be payable upon demand. The security interest created by the following paragraph of this Mortgage is specifically intended to cover and include all leases of the Property, together with all amendments and supplements thereto, between Mortgagor as lessor and any tenants named therein as lessees including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacements of said leases, together with all the right, title and interest of Mortgagor as lessor hereunder, including, without and any tenants named therein as lessees, including all extended terms of all extensions and limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any and all of the rents, income, revenue, issues, profits and moneys payable as damages or in lieu of the rent, and moneys payable as the purchase price of the Property, or any part thereof, or of awards of claims for money and other sums of money payable or receivable hereunder, howsoever payable; and to bring actions and proceedings hereunder or for the enforcement thereof; and to do any and all things which Mortgagor or any lessor is or may be entitled to do under the lease, provided that the assignment made by this paragraph and the collateral assignment of lease, if any, entered into simultaneously herewith or subsequent hereto shall not impair or diminish any obligations of Mortgagor under the lease nor shall any obligations be imposed upon the Mortgagee, except at Mortgagee's option, to perform any duties or obligations imposed

by the terms of the lease upon the Mortgagor as lessor in said lease. Nothing herein contained, including the acceptance of a Collateral Assignment of Lease by Mortgagee, shall subordinate the lien of this Mortgage to such lease unless such subordination is specifically provided for herein or by separate written instrument executed by Mortgagee.

23. That, in addition to all other right, title and interest of Mortgagor granted, mortgaged, conveyed, pledged and assigned herein, or in instruments collateral hereto, Mortgagee shall have, and there is hereby created in favor of Mortgagee, a security interest in all equipment and fixtures now or hereafter attached to or used in connection with the Property, as well as any other property of Mortgagor as may be useful and necessary for operation of the Property, including, but not limited to, electrical, plumbing, heating and cooling systems, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by Mortgagor and is affixed, attached, or annexed to or used in connection with the Property, shall be and remain or become and constitute a portion of the Property and be subject to the lien of the security interest created by this Mortgage, together with all rents, income, revenues, issues and profits thereof and present and continuing right in the Mortgagee to make claim for, collect, receive and receipt for the same. Mortgagor will not remove, attempt to remove or permit to be removed any part of the Property, which includes items described in the security instrument referenced in Paragraph 22, without first and prior to removal thereof, having received permission in writing for such removal from Mortgagee. Mortgagor will immediately execute such Financing Statements and renewals thereof as may be periodically requested by Mortgagee. If Mortgagor fails or refuses to comply with such request, Mortgagee is irrevocably authorized to execute such documents as Mortgagee's attorney-in-fact.

24. To not use, nor knowingly permit the use of, the Property or any part thereof for any unlawful purpose or for the commission of a nuisance.

25. That neither the provisions of this Mortgage, nor of the Note, shall have the effect of or be construed as requiring or permitting the Mortgagor to pay interest in excess of the highest rate per annum allowed by the laws of the State of Florida on any item or items of indebtedness referred to in the Note or this Mortgage and, if any such excess interest be charged or paid, written notification thereof shall be given by Mortgagor to Mortgagee and such excess interest, together with interest thereon at the legal rate, shall, at Mortgagor's option, either be credited to the unpaid principal indebtedness secured hereby or reimbursed to the Mortgagor.

26. That any part of the security herein described and covered by the lien or this Mortgage may be released with or without consideration and without regard to the amount of consideration furnished without in anywise altering, varying or diminishing the force, effect or lien of this Mortgage or any renewal or extension of it, and the same shall continue as a lien on all Property not expressly released until all sums, with interest and charges hereby secured, be fully paid.

27. That the terms "hazardous waste", "hazardous substance", "disposal", "release", and "threatened release", as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et. Seq., ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA") the Hazardous Materials Transportation Act. 49 U.S.C. Section 6901, et. Seq., or other applicable state or federal laws, rules, or regulations adopted pursuant to any of the foregoing. Mortgagor represents and warrants to Mortgagee that: (a) during the period of Mortgagor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property; and (b) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any prior Developers or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) except as previously disclosed to and acknowledged by Mortgagee in writing, (i) neither Mortgagor, nor any tenant, Developer, agent or other authorized present or future user of the Property, shall use, generate, manufacture, store, treat, dispose of or release any hazardous waste or substance on, under or about the Property and (ii) any activity on the Property shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances, including, without limitation, those laws, regulations and ordinances described above. Mortgagor authorizes Mortgagee and Mortgagee's agents to enter upon the Property to make such inspections and tests as Mortgagee may deem appropriate to determine compliance by Mortgagor and the Property with the provisions hereof. Any inspections or tests made by Mortgagee shall be for Mortgagee's purposes and benefit only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other person or entity, governmental or otherwise. The representations and warranties continued herein are based on Mortgagor's due diligence in investigating the Property for hazardous waste. Mortgagor (a) releases and waives any present or future claims against Mortgagee for indemnity or contribution if Mortgagor becomes liable for cleanup or other costs under such laws, and (b) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this provision or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior or subsequent to Mortgagor's ownership or interest in the Property, whether or not the same was or should have been known to Mortgagor. The provisions of this paragraph, including the obligation to indemnify, shall survive the payment of the Note and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Property, whether by foreclosure or otherwise.

28. To maintain the Property, at Mortgagor's sole expense, and make such repairs and renovations as may, during the term of this Mortgage, be required for compliance with The Americans with Disabilities Act, 42. U.S.C. 12101, et. Seq. and

amendments thereto (ADA). Any notice or warning of violation or noncompliance of or with the provisions of ADA received by Mortgagor shall be sent in accordance with Paragraph 18 to Mortgagee within ten days after receipt thereof and Mortgagor shall have a period of thirty days thereafter (unless a shorter term is imposed by the notice or warning) within which to furnish to Mortgagee a written plan and time schedule for correcting the deficiency in accordance with the requirements of ADA.

29. This Mortgage shall, at the option of the Mortgagee, secure, in addition to the debt evidenced by the Note, any other liability or liabilities owned by the Mortgagor to the Mortgagee, whether direct or indirect, secured or unsecured, contingent or fixed, now due or to become due, or which may hereafter be contracted by virtue of any advances, disbursements, payments, charges or costs made or incurred by the Mortgagee under the terms of this Mortgage or any other instrument including, but not by way of limitation, promissory notes, guaranties, financing statements, security agreements, endorsements and overdrafts, though the aggregate outstanding amount at any time may exceed the amount originally secured hereby. Mortgagee shall be entitled to receive and retain the full amount of the debt evidenced by the Note and the other liabilities herein described in any action for foreclosure, redemption by the Mortgagor, accounting for the proceeds of a foreclosure sale, accounting for insurance proceeds or condemnation award.

30. To waive and renounce to the extent permitted by law any and all homestead and exemption rights Mortgagor may now or hereafter have as against the payment of the obligation evidences or secured hereby, or any portion thereof, or any other obligation or damage that may accrue to Mortgagee's benefit under the terms of the Note and this Mortgage.

31. To pay to Mortgagee a transfer fee each time the legal or beneficial title to the Property is conveyed or assigned. The amount of such fee will be a specified amount or a percent of the principal balance remaining unpaid on the Note at the time of conveyance or assignment, except that such transfer fee shall not exceed one percent of the then principal balance or \$300.00, whichever is greater. The collection of a transfer fee shall not be construed as authorizing the assumption of this Mortgage other than as provided hereinabove.

32. That Mortgagee shall not be responsible or liable to anyone other than the Mortgagor for Mortgagee's disbursement of or failure to disburse the funds or any part thereof evidenced by the Note, and no third party, including any creditor or subrogate of the Mortgagor, shall have any claim or right against the Mortgagee under this Mortgage or the Note for Mortgagee's administration of disbursement, nor shall the Mortgagee be liable for the manner in which any disbursements under this Mortgage or the Note may be applied or misapplied by the Mortgagor.

33. In this Mortgage and the Note, the singular shall include the plural and the masculine shall include the feminine and neuter. Whenever the term Mortgagor is used herein, it shall include corporate and individual mortgagors, their heirs, personal

representatives, trustees in dissolution, assigns and successors in interest in title to the Property.

34. This Mortgage, the Note and other instruments incidental hereto or referenced herein shall be construed according to the laws of the State of Florida, and the venue for any litigation brought on account of or incidental to this Mortgage shall be Brevard County, Florida, except that any foreclosure of this Mortgage will be filed in the county wherein the Property is located.

35. Mortgagee and Mortgagor hereby knowingly, voluntarily, and intentionally waive the right either may have to a trial by jury in respect to any litigation based hereon, or arising out of, under or in connection with this Mortgage and any agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or action of either party. This provision is a material inducement for Mortgagee entering into this transaction with Mortgagor.

36. Upon fulfillment of the requirements of this Mortgage, Note and Deed Restriction, the Mortgagee shall record a Satisfaction of Mortgage with the Clerk of the Court, Brevard County, Florida.

**IN WITNESS WHEREOF**, the Mortgagor has signed and sealed this Mortgage, the day and year first above written.

**HOUSING FOR HOMELESS, INC.**

\_\_\_\_\_  
Rob Cramp, Executive Director

**STATE OF FLORIDA**

**COUNTY OF Brevard County**

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, on this \_\_\_\_ day of \_\_\_\_\_, 2020, \_\_\_\_\_, who is/are personally known to me or has/have produced \_\_\_\_\_ as identification.

SEAL

\_\_\_\_\_  
Notary Public – State of Florida  
My Commission Expires: \_\_\_\_\_

**GRISSOM/TROPIC HOME AGREEMENT**

**ATTACHMENT B  
17 YEAR MORTGAGE NOTE**

**Brevard County Board of County Commissioners  
Brevard County, Florida**

**\$XXXXXX.00,**

**MONTH DAY, 2020**

**For Value Received**, the undersigned promises to pay to the order of Brevard County Board of County Commissioners, 2725 Judge Fran Jamieson Way, Building B, 1st Floor, Viera, Florida, the principal sum of **\$XXXXXX.00** together with interest thereon at the rate of zero percent per annum, shall be forgiven at the completion of the 17 years. The Mortgage note shall become due within **17 years** if all or any part of the Property or any interest in it is sold, transferred, gifted or otherwise conveyed, whether by voluntary act, involuntarily, by operation of law or otherwise, or if the Mortgagor is divested of title by judicial sale, levy or other proceeding, or if foreclosure action is instituted against the Property, or if the Mortgage is satisfied or refinanced, or if the Property is not utilized for affordable housing for persons with low income as defined by the HUD guidelines federal, state and local regulations. **The Lender reserves the first right of refusal for the purchase at the current market value minus awards** or to have all sums secured by this Mortgage become payable upon demand. In the event Borrower proposes to sell or transfer the Project, Borrower shall send notice to Lender of the Borrower's intent to sell or transfer the Project via certified mail, return receipt requested. The Lender shall have 180 days from the date of receipt of the notice in order to provide the Borrower written acceptance or refusal of the offer. In the event of a sale during the affordability period (voluntary or involuntary), Owner shall pay to County a proportionate amount of any equity created by the use of HOME investment as set forth in the mathematical formula contained in the County's Annual Action Plan, as may be amended. Upon fulfillment of the terms of this Mortgage, at the end of 17 years from the date of this note, this note shall be extinguished in full.

**THIS NOTE** is secured by a Mortgage dated the **day of \_\_\_\_\_ 2020** herewith and is to be construed and enforced according to the laws of the State of Florida; upon violation of the terms of the Mortgage and this note, the whole sum of the principal Failure to exercise this option by Brevard County shall not constitute a waiver of the right to exercise the same in the event of subsequent default.

A default shall be the occurrence of any of the following events, and upon that occurrence the Lender may, at the Lender's option, declare all sums secured by the Mortgage to be immediately due and payable.

- a. Nonperformance by the Borrower of any covenant, agreement, term or condition of the Mortgage, or of the Note, or of any other agreement made by the Borrower with the Lender in connection with such indebtedness, after the Borrower has been given due notice, as described hereafter, by the Lender of such nonperformance;



- b. Failure of the Borrower to perform any covenant, agreement, term or condition in any instrument creating a lien upon the mortgaged property, or any part thereof, which shall have priority over the lien of the Mortgage;
- c. The Lender's discovery of the Borrower's failure in any application of the Borrower to the Lender to disclose any fact deemed by the Lender to be material, or the making therein, or in any of the agreements entered into by the Borrower with the Lender (including, but not limited to, the Note and Mortgage) of any misrepresentation by, on behalf of, or for the benefit of the Borrower; and
- d. If property does not remain the principal residence of the Borrower, or if all or any part of the property or an interest therein is rented, leased, sold or transferred by the Borrower.

**OPTION OF LENDER UPON THE EVENT OF A DEFAULT:** Upon the occurrence of a default, the Lender shall send or hand deliver the Notice to the Borrower as is provided in Section XV of the Rental Housing Home Agreement, specifying:

- a. The breach;
- b. The action required to cure such breach; and
- c. A date not less than thirty days from the date the Notice is hand delivered or mailed to the Borrower by which such breach must be cured.

If the default is not cured on or before the date specified in the Notice, the Lender, at the Lender's option, may declare all of the sums secured by the Mortgage to be immediately due and payable without further demand.

The Lender shall give prior written notice of acceleration or default under the subordinate lien to the Mortgage Holder.

All sums repaid under the terms of this Agreement shall be paid to Brevard County Board of County Commissioners in care of Housing and Human Services Department.

**HOUSING FOR HOMELESS, INC.**

\_\_\_\_\_  
Rob Cramp, Executive Director

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

**ATTACHMENT C  
LAND USE RESTRICTION AGREEMENT**

This LAND USE RESTRICTION AGREEMENT (hereinafter called the Agreement) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2020 between **Housing for Homeless, Inc.** (hereinafter called the (Owner) and **Brevard County Board of County Commissioners**, a political subdivision of the State of Florida (hereinafter called the County) for property to be located at:

**XXXXXXXXXXXXXXXXXX, of the Public Records of Brevard County,  
Florida**

**a/k/a XXXXX, XXXXX, Florida XXXXX**

**PREAMBLE**

**WHEREAS**, the County has agreed under certain conditions to issue a deferred payment loan using Brevard County HOME Investment Partnership (HOME) funds to provide financing for acquisition & preservation of affordable rental housing for families who have an income below eighty percent of Area Median Income, located at the address to be occupied by eligible persons as described in Section II of the Rental Housing Home Agreement signed on \_\_\_\_\_; and

**WHEREAS**, in addition to any other requirements the County may impose incident to its mortgage, the Owner has agreed that the unit shall be leased, rented or made available on a continuous basis for rental to low-income persons as described in Section II of the Rental Housing Home Agreement signed on \_\_\_\_\_.

**WHEREAS**, should the Owner at any time disband their corporation, said property shall be transferred to another nonprofit approved by Brevard County.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Owner do hereby contract and agree as follows:

**AGREEMENT**

**ARTICLE I. RENTAL HOUSING RESTRICTIONS**

**1.1    Occupancy**

The housing unit must be set-aside for persons who upon initial occupancy of the unit must have annual gross incomes below eighty percent Area Medium Income for the Melbourne-Titusville-Palm Bay Metropolitan Statistical Areas with the understanding that initial occupancy is reserved for persons whose income is at or below eighty percent Area Medium Income for Melbourne-Titusville-Palm Bay Metropolitan Statistical Areas.

## **1.2 Income/Eligibility**

The owner shall verify and document the income of all tenants following HOME regulations. The annual income of tenants renting HOME-assisted units must be recertified each year. In accordance with the Florida Housing Finance Corporation's (FHFC) compliance guidelines, an increase in a tenant's income of up to one hundred forty percent of the applicable limit will not result in disqualification. However, the rent will be adjusted based on the new income. At an annual or interim recertification, if a tenant of a HOME-assisted unit realizes an increase in income that exceeds one hundred forty percent of the applicable limit, the tenant may no longer be counted toward satisfaction of the extremely low-income requirement. Each subsequent unit in the Project that becomes vacant shall be rented to an income-eligible tenant until the Project is again in compliance.

## **1.3 HOME Affordability**

All housing units are subject to affordability limits established for HOME-assisted rental units on annual basis.

## **1.4 Long-term Affordability**

The HOME-assisted unit shall be affordable for the duration of the Agreement. The loan for the Project hereunder as to both principal and interest shall be assumable upon project sale, transfer or refinancing if the proposed Owner of the Project is an eligible nonprofit organization as approved by the County and the proposed Owner of the Project agrees to maintain all set asides and other requirements of the HOME Program for the period originally specified.

In the event the above-stated conditions are not met, the loan for the Project hereunder as to both principal and interest shall be due in full upon the sale, transfer or refinancing of the Project.

Notwithstanding, payment of principal and interest in full, these restrictions shall remain in full force and effect for the term of this Agreement.

## **1.5 Housing Standards**

The Rental Unit assisted with HOME funds shall be in compliance with local code requirements for the duration of the affordability period. The Owner shall cooperate with the County by allowing on-site inspection of HOME assisted units for compliance with state law and local code requirements.

## **ARTICLE II. CONSIDERATION**

The County has authorized and issued a deferred payment loan to the Owner as an inducement to the Owner to operate the units in the Project for the benefit of low-income persons whose incomes are below eighty percent of Annual Median Income for the Palm Bay-Melbourne-Titusville, FL Metropolitan Statistical Area (MSA) for a period

of seventeen years following completion of the Project. In consideration of the issuance of the loan by the County for the foregoing purposes, the County and Owner have entered into this Agreement.

### **ARTICLE III. RELIANCE**

In performing its duties hereunder, the County may rely upon statements and certifications of the Owner, believed to be genuine and to have been executed by the proper person or persons, and upon audits of the books and records of the Owner pertaining to occupancy of the Project. The Owner may rely upon certification of low-income households reasonably believed to be genuine and to have been executed by the proper person or persons.

### **ARTICLE IV. TERM**

This Agreement shall become effective upon its execution and shall remain in full force and effect for a period of 17 years after initial occupancy.

### **ARTICLE V. INSURANCE**

The owner shall insure the property for the full replacement cost for the duration of the Land Use Restriction Agreement. Any such policy must be issued by a company acceptable to the County, include the County as an additional insured and provide for at least 30 days' notice prior to execution. The County shall receive written notice at least 30 days to any change in insurance coverage.

### **ARTICLE VI. CHANGE IN INSURANCE COVERAGE**

Subject to the superior rights of the holder of any first mortgage, in the event that the Project is damaged or destroyed, the Owner shall deposit with the County any insurance proceeds and shall promptly commence to rebuild, replace, repair or restore the Project in such manner as is consistent with the Mortgage Note and Agreement. The County shall make any such insurance proceeds available to provide funds for such restoration work. In the event the Owner fails to commence or to complete the rebuilding, repair, replacement or restoration of the Project after notice from the County, the County shall have the right, in addition to any other remedies granted in the Mortgage Note and Agreement or at law or in equity, to repair, restore, rebuild or replace the Project so as to prevent the occurrence of a default hereunder.

### **ARTICLE VII. SALE, TRANSFER OR REFINANCING OF THE PROJECT**

The loan for the Project hereunder as to both principal and interest shall be assumable upon project sale, transfer or refinancing if the proposed Owner of the Project is an eligible nonprofit organization as approved by the County and the proposed Owner of the Project agrees to maintain all set asides and other requirements of the HOME Program for the period originally specified. In the event Owner proposes to sell or transfer the Project, the County reserves the first right of refusal for the purchase at the current market value minus awards. Owner shall send notice to County

of the Owner's intent to sell or transfer the Project via certified mail, return receipt requested. The County shall have 180 days from the date of receipt of the notice in order to provide the Owner written acceptance or refusal of the offer. Furthermore, in the event of a sale during the affordability period (voluntary or involuntary), Owner shall pay to County a proportionate amount of any equity created by the use of HOME investment as set forth in the mathematical formula contained in the County's Annual Action Plan, as may be amended.

In the event the above-stated conditions are not met, the loan for the Project hereunder as to both principal and interest shall be due in full upon the sale, transfer or refinancing of the Project.

Notwithstanding, payment of principal and interest in full, these restrictions shall remain in full force and effect for the term of this Agreement.

#### **ARTICLE VIII. ENFORCEMENT**

Upon the occurrence of a default, the County shall notify the Owner of such default, specifying:

1. The breach; and
2. The action required to cure such breach; and
3. A date not less than thirty days from the date the Notice is hand delivered or mailed to the Borrower by which such breach must be cured.

If the default is not cured on or before the date specified in the Notice, the County, at the County's option, may declare all of the sums secured by the Mortgage to be immediately due and payable without further demand.

The County shall give prior written notice of acceleration or default under the subordinate lien to the Mortgage Holder.

All sums repaid under the terms of this Agreement shall be paid to Brevard County Board of County Commissioners in care of Housing and Human Services Department.

#### **ARTICLE IX. RECORDING AND FILING**

Upon execution and delivery by the parties hereto, the County shall cause this Agreement and all amendments and supplements hereto to be recorded and filed in the official public records of Brevard County.

#### **ARTICLE X. COVENANTS TO RUN WITH THE LAND**

This Agreement and the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and the County and their respective successors and assigns during the Term of this Agreement.

## **ARTICLE XI. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with respect to both substantive rights and with respect to procedures and remedies. Venue for any legal action by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

## **ARTICLE XII. ATTORNEY'S FEES AND COSTS**

In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

## **ARTICLE XIII. NOTICE AND EFFECT**

Any notice required to be given hereunder shall be given by personal delivery, by registered mail or by registered expedited service at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto, and any such notice shall be deemed received on the date of delivery if by personal delivery or expedited delivery service, or upon actual receipt if sent by registered mail.

### **FOR THE COUNTY**

Ian Golden, Director  
Housing and Human Services Department  
2725 Judge Fran Jamieson Way, Building B  
Viera, Florida 32940

### **FOR THE OWNER**

Housing for Homeless Inc.  
Rob Cramp, Executive Director  
4087 US HWY 1, Suite 3  
Rockledge, Florida 32955

I, the undersigned, have read and fully agree to abide by the terms and conditions of this Land Use Restriction Agreement.

Housing for Homeless, Inc.

\_\_\_\_\_  
Rob Cramp, Executive Director

**STATE OF FLORIDA**

**COUNTY OF Brevard County**

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, on this \_\_\_\_ **day of** \_\_\_\_\_, **2020**, \_\_\_\_\_, who is/are personally known to me or has/have produced \_\_\_\_\_ as identification.

SEAL

\_\_\_\_\_  
Notary Public – State of Florida  
My Commission Expires: \_\_\_\_\_

**ATTACHMENT D  
INCOME / RENTAL LIMITS**

**2019 INCOME LIMITS  
for Palm Bay-Melbourne-Titusville, Florida MSA**

<b>Household</b>	<b>Low Income</b>
1 person	\$36,900
2 persons	\$42,200
3 persons	\$47,450
4 persons	\$52,700
5 persons	\$56,950
6 persons	\$61,150
7 persons	\$65,350
8 persons	\$69,600

**2019 Rent Limits  
for Palm Bay-Melbourne-Titusville, FL MSA**

<b>EFFICIENCY</b>	<b>1 Bedroom</b>	<b>2 Bedrooms</b>	<b>3 Bedrooms</b>	<b>4 Bedrooms</b>	<b>5 Bedrooms</b>	<b>6 Bedrooms</b>
\$642	\$784	\$943	\$1,080	\$1,186	\$1,290	\$1,394



## **ATTACHMENT E HOME REQUIREMENTS**

### **24 CFR Part 85 ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS; 24 CFR 85.31 REAL PROPERTY:**

A. Title. Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

B. Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

C. Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:

a. Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

b. Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

c. Transfer of title. Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.

### **24 CFR PART 87 ANTI-LOBBYING:**

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, an officer or employee of Congress, or an employee of 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, amendments, or modification of any Federal contract, grant, loan, or cooperative agreement. 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 any agency, a Member of Congress, 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.

#### **24 CFR 92.203 INCOME DETERMINATIONS:**

A. The HOME program has income targeting requirements for the HOME program and the HOME projects. Each family must meet the established annual income requirements to participate as a beneficiary in any HOME program or HOME funded project.

a. For families who are tenants in HOME-assisted housing and not receiving HOME tenant-based rental assistance, the participating jurisdiction must initially determine annual income using the method in paragraph (a)(1)(i) of this section. For subsequent income determinations during the period of affordability, the participating jurisdiction may use any one of the following methods in accordance with § 92.252(h):

b. Examine the source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

c. Obtain from the family a written statement of the amount of the family's annual income and family size, along with a certification that the information is complete and accurate. The certification must state that the family will provide source documents upon request.

d. Obtain a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the family. The statement must indicate the tenant's family size and state the amount of the family's annual income; or alternatively, the statement must indicate the current dollar limit for very low- or low-income families for the family size of the tenant and state that the tenant's annual income does not exceed this limit.

B. For all other families, the participating jurisdiction must determine annual income by examining the source documents evidencing annual income (e.g., wage statement, interest statement, unemployment compensation statement) for the family.

a. When determining whether a family is income eligible, the participating jurisdiction must use one of the following three definitions of "annual income":

C. Annual income" as defined at 24 CFR 5.609 (except when determining the income of a homeowner for an owner-occupied rehabilitation project, the value of the

homeowner's principal residence may be excluded from the calculation of Net Family Assets); or

D. Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

- i. Wages, salaries, tips, commissions, etc.;
- ii. Self-employment income from owned non-farm business, including proprietorships and partnerships;
- iii. Farm self-employment income;
- iv. Interest, dividends, net rental income, or income from estates or trusts;
- v. Social Security or railroad retirement;
- vi. Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;
- vii. Retirement, survivor, or disability pensions; and
- viii. Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

E. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

#### **24 CFR 92.251 PROPERTY STANDARDS:**

A. Housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinance at the time of project completion. The housing must meet accessibility requirements at 24 CFR 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 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

B. An owner of rental housing assisted with HOME funds must maintain the housing in compliance with all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

#### **24 CFR 92.252 QUALIFICATION AS AFFORDABLE HOUSING, RENTAL HOUSING:**

A. The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet the following requirements to qualify as affordable housing. The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with § 92.254.

a. *Rent limitation.* HUD provides the following maximum HOME rent limits. The maximum HOME rents are the lesser of:

B. The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or

C. A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

a. *Additional Rent limitations.* In rental projects with five or more HOME-assisted rental units, twenty (20) percent of the HOME-assisted units must be occupied by very low- income families and meet one of following rent requirements:

1. The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a).

2. The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project- based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

b. 24 CFR Part 92.252 Subpart F *Initial rent schedule and utility allowances.* The participating jurisdiction must establish maximum monthly allowances for utilities and services (excluding telephone). The participating jurisdiction must review and approve rents proposed by the owner for units subject to the maximum rent limitations in paragraphs (a) or (b) of this section. For all units subject to the maximum rent limitations in paragraphs (a) or (b) of this section for which the tenant is paying utilities and services, the participating jurisdiction must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities and services.

c. *Nondiscrimination against rental assistance subsidy holders.* The owner cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982— Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

d. *Periods of Affordability.* The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the

following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

<b>Rental Housing Activity</b>	<b>Minimum period of affordability in years</b>
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New Construction or acquisition of newly constructed housing	20

*Subsequent rents during the affordability period.*

1. The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.

2. The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (f)(1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this section.

3. Any increase in rents for HOME-assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

e. *Adjustment of HOME rent limits for a particular project.*

1. Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits in this section.

2. HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.

f. *Tenant income.* The income of each tenant must be determined initially in accordance with § 92.203(a)(1)(i). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with one of the options in § 92.203 selected by the participating jurisdiction. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant's annual income through a statement and certification in accordance with § 92.203(a)(1)(ii), must examine the income of each tenant, in accordance with § 92.203(a)(1)(i), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant's statement and certification in accordance with § 92.203(a)(1)(ii) is not required to examine the income of tenants in multifamily or single-family projects unless there is evidence that the tenant's written statement failed to completely and accurately state information about the family's size or income.

g. *Over-income tenants.*

1. HOME-assisted units continue to qualify as affordable housing despite a temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken to ensure that all vacancies are filled in accordance with this section until the noncompliance is corrected.

2. Tenants who no longer qualify as low-income families must pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted income, except that tenants of HOME-assisted units that have been allocated low-income housing tax credits by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42. In addition, in projects in which the HOME units are designated as floating pursuant to paragraph (j), tenants who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

h. *Fixed and floating HOME units.* In a project containing HOME-assisted and other units, the participating jurisdiction may designate fixed or floating HOME units. This designation must be made at the time of project commitment. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each

substituted unit is comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

#### **24 CFR 92.253 TENANT AND PARTICIPANT PROTECTIONS**

A. Lease. The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner.

B. Prohibited lease terms. The lease may not contain any of the following provisions:

a. Agreement to be sued. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

b. Treatment of property. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;

c. Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

d. Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;

e. Waiver of legal proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

f. Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury;

g. Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

h. Tenant chargeable with cost of legal actions regardless of outcome.

#### **24 CFR 92.254(a)(2)(i) AFFORDABLE HOUSING:**

For single family homes that are newly constructed and/or acquired in standard condition (that is, the property meets local codes and standards without additional rehabilitation), the low-income buyer's purchase price cannot exceed 95 percent of the median purchase price for the area (24 CFR 92.254(a)(2)(i)).

## **24 CFR 92.257 FAITH-BASED ORGANIZATIONS:**

Faith-based organizations and churches are eligible to participate in the HOME program. The following conditions must be followed:

A. Religious activities must be voluntary. The Developer cannot require a beneficiary to participate in inherently religious activities such as worship or religious instruction.

B. Faith-based organizations are permitted to retain its independence from Federal, state, and local governments to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. It is acceptable for an organization's Board of Directors to be selected based on religious practice and that religious references in its mission statement and other governing documents are acceptable.

C. Discrimination based on religious affiliation is prohibited. The Developer and his/her agent(s), as applicable) must serve all eligible beneficiaries without regard to religion and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. In addition, the eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the religious organization (even if funded with other non-Federal sources).

D. 24 CFR Disposition of real property after the term of the grant, is subject to government-wide regulations governing real property disposition.

## **92.300 SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDO)**

A. Within 24 months after HUD notifies the participating jurisdiction of HUD's execution of the HOME Investment Partnerships Agreement, the participating jurisdiction must reserve not less than 15 percent of the HOME allocation for investment only in housing to be developed, sponsored, or owned by community housing development organizations. For a State, the HOME allocation includes funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, funds transferred from a State under § 92.102(b). The funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. The funds must be provided to a community housing development organization, its subsidiary or a partnership of which it or its subsidiary is the managing general partner. If a CHDO owns the project in partnership, it or its wholly owned for-profit or non-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective project control. In addition, a community housing development organization, in connection with housing it develops, sponsors or owns with HOME funds provided under this section, may provide direct homeownership assistance (e.g. down payment assistance) and not be considered a subrecipient.

B. The participating jurisdiction determines the form of assistance, e.g., grant or loan, that the community housing development organization receives and whether any proceeds must be returned to the participating jurisdiction or may be retained by the community housing development organization. While the proceeds the participating

## **GRISSOM/TROPIC HOME AGREEMENT**



jurisdiction permits the community housing development organization to retain are not subject to the requirements of this part, the participating jurisdiction must specify in the written agreement with the community housing development organization whether they are to be used for HOME-eligible or other housing activities to benefit low-income families. However, funds recaptured because housing no longer meets the affordability requirements under § 92.254(a)(5)(ii) are subject to the requirements of this part in accordance with § 92.503.

C. Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved consolidated plan and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable community housing development organizations, up to 20 percent of the minimum community housing development organization set aside of 15 percent specified in paragraph (a) of this section, above, (but not more than \$150,000 during the 24 month period) may be committed to develop the capacity of community housing development organizations in the jurisdiction.

D. Up to 10 percent of the HOME funds reserved under this section may be used for activities specified under § 92.301.

E. HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

F. If funds for operating expenses are provided under § 92.208 to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

G. Limitation on community housing development organization operating funds. A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This also includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as funds for operating expenses provided under § 92.208.

#### **24 CFR 92.301 PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS**

A. Project-specific technical assistance and site control loans.

a. General. Within the percentage specified in § 92.300(c), HOME funds may be used by a participating jurisdiction to provide technical assistance

and site control loans to community housing development organizations in the early stages of site development for an eligible project. These loans may not exceed amounts that the participating jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (a)(2) of this section. All costs must be related to a specific eligible project or projects.

b. Allowable costs. A loan may be provided to cover project costs necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, option to acquire property, site control and title clearance. General operational expenses of the community housing development organization are not allowable costs.

c. Repayment. The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

B. Project-specific seed money loans.

a. General. Within the percentage specified in § 92.300(c), HOME funds may be used to provide loans to community housing development organizations to cover preconstruction project costs that the participating jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees.

b. Eligible sponsors. A loan may be provided only to a community housing development organization that has, with respect to the project concerned, site control (evidenced by a deed, a sales contract, or an option contract to acquire the property), a preliminary financial commitment, and a capable development team.

c. Repayment. The community housing development organization must repay the loan to the participating jurisdiction from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the community housing development organization.

**24 CFR 92.350 OTHER FEDERAL REQUIREMENTS AND NON-DISCRIMINATION:**

Non-discrimination based on the protected classes as defined by the federal government.

#### **24 CFR 92.351 AFFIRMATIVE MARKETING; MINORITY OUTREACH:**

Affirmative marketing procedures must include affirmative marketing steps that consist of actions to provide information and otherwise attract eligible person in the housing market as to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

#### **24 CFR 92.352 ENVIRONMENTAL REVIEW:**

The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

1. The jurisdiction (e.g., the participating jurisdiction or State recipient) or insular area must assume responsibility for environmental review, decision-making, and action for each activity that it carries out with HOME funds, in accordance with the requirements imposed on a recipient under 24 CFR part 58. No funds may be committed to a HOME activity or project before the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58.
2. A State participating jurisdiction must also assume responsibility for approval of requests for release of HOME funds submitted by State recipients.
3. HUD will perform the environmental review, in accordance with 24 CFR part 50, for a competitively awarded application for HOME funds submitted to HUD by an entity that is not a jurisdiction.

#### **24 CFR 92.353 DISPLACEMENT, RELOCATION, AND ACQUISITION:**

A. Minimizing displacement. Consistent with the other goals and objectives of this part, the participating jurisdiction must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds. To the extent feasible, residential tenants must be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.

B. Temporary relocation. The following policies cover residential tenants who will not be required to move permanently but who must relocate temporarily for the project. Such tenants must be provided:

- a. Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs.
- b. Appropriate advisory services, including reasonable advance written notice of:

- i. The date and approximate duration of the temporary relocation;
- ii. The location of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period;
- iii. The terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling in the building/complex upon completion of the project; and
- iv. The provisions of paragraph (b)(1) of this section.

Relocation assistance for displaced persons: A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR part 24. A "displaced person" must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of the replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person also must be given, if possible, referrals to comparable and suitable, decent, safe, and sanitary replacement dwellings not located in such areas.

#### **24 CFR 92.354 LABOR**

##### **A. General.**

a. Every contract for the construction (rehabilitation or new construction) of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).

b. The contract for construction must contain these wage provisions if HOME funds are used for any project costs in § 92.206, including construction or no construction costs, of housing with 12 or more HOME-assisted units. When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers 12 or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of 12 or more HOME-assisted units, whether one or more than one project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than

the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

c. Participating jurisdictions, contractors, subcontractors, and other participants must comply with regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. Participating jurisdictions must require certification as to compliance with the provisions of this section before making any payment under such contract.

B. Volunteers. The prevailing wage provisions of paragraph (a) of this section do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work. See 24 CFR part 70.

C. Sweat equity. The prevailing wage provisions of paragraph (a) of this section do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payment.

#### **24 CFR 92.355 LEAD BASED PAINT:**

Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act, the Lead-Based Paint Hazard Reduction Act of 1992, and implementing regulations.

#### **24 CFR 92.356 CONFLICT OF INTEREST:**

A. In the procurement of property and services by participating jurisdictions, State recipients, and sub recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply. (b) *Conflicts prohibited*. No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are 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 benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds hereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

B.

a. *Persons covered*. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the participating jurisdiction, State recipient, or sub recipient which are receiving HOME funds. (d) *Exceptions: Threshold requirements*. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further

the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following: (1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and (2) An opinion of the participating jurisdiction's or State recipient's attorney that the interest for which the exception is sought would not violate State or local law. (e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements of paragraph (d) of this section, HUD will consider the cumulative effect of the following factors, where applicable: (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available; (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question; (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section; (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and (6) Any other relevant considerations. (f) *Owners and Developers.* (1) No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, developer or sponsor) whether private, for-profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (2) *Exceptions.* Upon written request of a housing owner or developer, the participating jurisdiction (or State recipient, if authorized by the State participating jurisdiction) may grant an exception to the provisions of paragraph (f) (1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the owner's or developer's HOME-assisted project. In determining whether to grant a requested exception, the participating jurisdiction shall consider the following factors:

- (i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (ii) Whether the person has withdrawn from his or her functions or responsibilities, or

the decision making process with respect to the specific assisted housing in question;(iii) Whether the tenant protection requirements of § 92.253 are being observed;(iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and(v) Any other factor relevant to the participating jurisdiction's determination, including the timing of the requested exception.

#### **24 CFR 92.503 (b) REPAYMENTS:**

Repayment of any HOME funds invest in housing that does not meet the affordability requirements for the period specified or a project that is terminated before completion for whatever reason, must be repaid by the Developer back to the County.

#### **24 CFR 92.504 PARTICIPATING JURISDICTION RESPONSIBILITIES; WRITTEN AGREEMENTS; ON-SITE INSPECTION:**

A. Responsibilities. The participating jurisdiction is responsible for managing the day to day operations of its HOME program, ensuring that HOME funds are used in accordance with all program requirements and written agreements, and taking appropriate action when performance problems arise. The use of State recipients, subrecipients, or contractors does not relieve the participating jurisdiction of this responsibility. The performance of each contractor and subrecipient must be reviewed at least annually.

B. Executing a written agreement. Before disbursing any HOME funds to any entity, the participating jurisdiction must enter into a written agreement with that entity. Before disbursing any HOME funds to any entity, a State recipient, subrecipient, or contractor which is administering all or a part of the HOME program on behalf of the participating jurisdiction, must also enter into a written agreement with that entity. The written agreement must ensure compliance with the requirements of this part.

C. Provisions in written agreements. The contents of the agreement may vary depending upon the role the entity is asked to assume or the type of project undertaken. This section details basic requirements by role and the minimum provisions that must be included in a written agreement.

1. State recipient. The provisions in the written agreement between the State and a State recipient will depend on the program functions that the State specifies the State recipient will carry out in accordance with § 92.201(b).

i. Use of the HOME funds. The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the State to effectively monitor performance under the agreement.

ii. Affordability. The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. iii. Program income. The agreement must state if program income

is to be remitted to the State or to be retained by the State recipient for additional eligible activities.

iii. Uniform administrative requirements. The agreement must require the State recipient to comply with applicable uniform administrative requirements, as described in § 92.505.

iv. Project requirement. The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.

v. Other program requirements. The agreement must require the State recipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the State recipient does not assume the State's responsibilities for release of funds under § 92.352 and the intergovernmental review process in § 92.357 does not apply to the State recipient.

vi. Affirmative marketing. The agreement must specify the State recipient's affirmative marketing responsibilities in accordance with § 92.351, if the HOME funds received by the State recipient will be used for housing containing five or more assisted units.

vii. Requests for disbursement of funds. The agreement must specify that the State recipient may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the State recipient requests funds from the State.

viii. Records and reports. The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the State in meeting its recordkeeping and reporting requirements.

ix. Enforcement of the agreement. The agreement must provide for a means of enforcement of affordable housing requirements by the State or the intended beneficiaries, if the State recipient will be the owner at project completion of the affordable housing. The means of enforcement may include liens on real property, deed restrictions, or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the HOME requirements. The agreement must specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the State recipient materially fails to comply with any term of the agreement. The State may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.

x. If the State recipient provides funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners,



homebuyers, tenants receiving tenant-based rental assistance, or contractors who are providing services to the State recipient, the State recipient must have a written agreement with such entities which meets the requirements of this section.

xi. Duration of the agreement. The duration of the agreement will depend on which functions the State recipient performs (e.g., whether the State recipient or the State has responsibility for monitoring rental projects for the period of affordability) and which activities are funded under the agreement.

1. Subrecipient. A subrecipient is a public agency or nonprofit selected by the participating jurisdiction to administer all or a portion of the participating jurisdiction's HOME Program. The agreement between the participating jurisdiction and the subrecipient must include:

xii. Use of the HOME funds. The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the period of the agreement. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction effectively to monitor performance under the agreement.

xiii. Program income. The agreement must state if program income is to be remitted to the participating jurisdiction or to be retained by the subrecipient for additional eligible activities.

xiv. Uniform administrative requirements. The agreement must require the subrecipient to comply with applicable uniform administrative requirements, as described in § 92.505.

xv. Other program requirements. The agreement must require the subrecipient to carry out each activity in compliance with all Federal laws and regulations described in subpart H of this part, except that the subrecipient does not assume the participating jurisdiction's responsibilities for environmental review under § 92.352 and the intergovernmental review process in § 92.357 does not apply.

xvi. Affirmative marketing. The agreement must specify the subrecipient's affirmative marketing responsibilities in accordance with § 92.351, if the HOME funds administered by the subrecipient will be used for housing containing five or more assisted units.

xvii. Requests for disbursement of funds. The agreement must specify that the subrecipient may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed. Program income must be disbursed before the subrecipient requests funds from the participating jurisdiction.

xviii. Reversion of assets. The agreement must specify that upon expiration of the agreement, the subrecipient must transfer to the participating jurisdiction any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

xix. Records and reports. The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

xx. Enforcement of the agreement. The agreement must specify remedies for breach of the provisions of the agreement. The agreement must specify that, in accordance with 24 CFR 85.43, suspension or termination may occur if the subrecipient materially fails to comply with any term of the agreement. The participating jurisdiction may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.

xxi. If the subrecipient provides HOME funds to for-profit owners or developers, nonprofit owners or developers, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreement which meets the requirements of this section.

2. For-profit or nonprofit housing owner, sponsor or developer (other than single-family owner-occupant).

i. Use of the HOME funds. The agreement between the participating jurisdiction and a for-profit or non-profit housing owner, sponsor or developer must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, and a budget. These items must be in sufficient detail to provide a sound basis for the participating jurisdiction to effectively monitor performance under the agreement.

ii. Affordability. The agreement must require housing assisted with HOME funds to meet the affordability requirements of § 92.252 or § 92.254, as applicable, and must require repayment of the funds if the housing does not meet the affordability requirements for the specified time period. If the owner or developer is undertaking rental projects, the agreement must establish the initial rents and the procedures for rent increases. If the owner or developer is undertaking homeownership projects for sale to homebuyers in accordance with § 92.254(a), the agreement must set forth the resale or recapture requirements which must be imposed on the housing.

iii. Project requirements. The agreement must require compliance with project requirements in subpart F of this part, as applicable in accordance with the type of project assisted.

iv. Property standards. The agreement must require the housing to meet the property standards in § 92.251 and the lead-based paint requirements in part 35, subparts A, B, J, K, M and R of this title, upon project completion. The agreement must also require owners of rental housing assisted with HOME funds to maintain the housing in compliance with § 92.251 for the duration of the affordability period.

v. Other program requirements. The agreement must require the owner, developer or sponsor to carry out each project in compliance with the following requirements of subpart H of this part:

1. If the project contains 5 or more HOME-assisted units, the agreement must specify the owner or developer's affirmative marketing responsibilities as enumerated by the participating jurisdiction in accordance with § 92.351.

2. The federal requirements and nondiscrimination established in § 92.350.

3. Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with § 92.353.

4. The labor requirements in § 92.354.

5. The conflict of interest provisions prescribed in § 92.356(f).

vi. Records and reports. The agreement must specify the particular records that must be maintained and the information or reports that must be submitted in order to assist the participating jurisdiction in meeting its recordkeeping and reporting requirements.

vii. Enforcement of the agreement. The agreement must provide for a means of enforcement of the affordable housing requirements by the participating jurisdiction or the intended beneficiaries. This means of enforcement may include liens on real property, deed restrictions or covenants running with the land. The affordability requirements in § 92.252 must be enforced by deed restriction. In addition, the agreement must specify remedies for breach of the provisions of the agreement.

viii. Requests for disbursement of funds. The agreement must specify that the developer may not request disbursement of funds under the agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount needed.

ix. Duration of the agreement. The agreement must specify the duration of the agreement. If the housing assisted under this agreement is rental housing, the agreement must be in effect through the affordability period required by the participating jurisdiction under § 92.252. If the housing assisted under this agreement is homeownership housing, the agreement must be in effect at least until completion of the project and ownership by the low-income family.

x. Community housing development organization provisions. If the nonprofit owner or developer is a community housing development organization and is using set-aside funds under § 92.300, the agreement must include the appropriate provisions under §§ 92.300 and 92.301.

1. Contractor. The participating jurisdiction selects a contractor through applicable procurement procedures and requirements. The contractor provides goods or services in accordance with a written agreement (the contract). For contractors who are administering all or a portion of the HOME program, the contract must include at a minimum the following provisions:

xi. Use of the HOME funds. The agreement must describe the use of the HOME funds, including the tasks to be performed, a schedule for completing the tasks, a budget, and the length of the agreement.

xii. Program requirements. The agreement must provide that the contractor is subject to the requirements in Part 92 that are applicable to the participating jurisdiction, except §§ 92.505 and 92.506 do not apply, and the contractor cannot assume the participating jurisdiction responsibilities for environmental review, decision making, and action under § 92.352. Where the contractor is administering only a portion of the program, the agreement must list the requirements applicable to the activities the contractor is administering.

xiii. Duration of agreement. The agreement must specify the duration of the contract. Generally, the duration of a contract should not exceed two years.

1. Homebuyer, homeowner or tenant receiving tenant-based rental or security deposit assistance. When a participating jurisdiction provides assistance to a homebuyer, homeowner or tenant the written agreement may take many forms depending upon the nature of assistance. As appropriate, it must include as a minimum:

a. For homebuyers, the agreement must conform to the requirements in § 92.254(a), the value of the property, principal residence, lease-purchase, if applicable, and the resale or recapture provisions. The agreement must specify the amount of HOME funds, the form of assistance, e.g., grant, amortizing loan, deferred payment loan, the use of the funds (e.g., down-payment, closing costs, rehabilitation) and the time by which the housing must be acquired.

b. For homeowners, the agreement must conform to the requirements in § 92.254(b) and specify the amount and form of HOME assistance, rehabilitation work to be undertaken, date for completion, and property standards to be met.

c. For tenants, the rental assistance contract or the security deposit contract must conform to §§ 92.209 and 92.253.

d. On-site inspections.

3. HOME assisted rental housing. During the period of affordability, the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of § 92.251 and to verify the information submitted by the owners in accordance with the requirements of § 92.252 no less than: every three years for projects containing 1 to 4 units; every two years for projects containing 5 to 25 units; and every year for projects containing 26 or more units. Inspections must be based on a sufficient sample of units.

#### **24 CFR PART 100 DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT:**

This act states that the following practices are prohibited: It is unlawful to refuse to sell or rent, or to negotiate for sale or rent, based on the protected classes. It is unlawful to discriminate in terms, conditions and privileges, services, and facilities. It is unlawful to discriminate in advertisements, statements, and notices.

#### **24 CFR 107.10:**

This regulation refers to the requirements of Executive Order 11063 – that all actions necessary and appropriate be taken to prevent discrimination because of race, color, religion, sex, and national origin in the sale, rental, leasing, or other disposition of residential property and related facilities, or in the use or occupancy thereof where such property or facilities are owned or operated by Federal Government or provided with federal assistance by the Department of Housing and Urban Development, and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by the Department.

#### **24 CFR 983.57 (e) SITE SELECTION STANDARDS; NEW CONSTRUCTION:**

A. A site for newly constructed housing must meet the following site and neighborhood standards:

B. The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed, and adequate utilities (water, sewer, gas, and electricity) and streets must be available to service the site.

C. The site must not be located in an area of minority concentration, except as permitted under paragraph (e)(3) of this section, and must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

a. A project may be located in an area of minority concentration only if:

b. Sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration (see paragraph (e)(3)(iii), (iv), and (v) of this section for further guidance on this criterion); or

c. The project is necessary to meet overriding housing needs that cannot be met in that housing market area (see paragraph (e) (3)(vi)) of this section for further guidance on this criterion).

d. As used in paragraph (e)(3)(i) of this section, sufficient does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality's population.

e. Units may be considered comparable opportunities, as used in paragraph (e)(3)(i) of this section, if they have the same household type (elderly, disabled, family, large family) and tenure type (owner/renter); require approximately the same tenant contribution towards rent; serve the same income group; are located in the same housing market; and are in standard condition.

i. Application of this sufficient, comparable opportunities standard involves assessing the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice:

ii. A significant number of assisted housing units are available outside areas of minority concentration.

iii. There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.

iv. There are racially integrated neighborhoods in the locality.

v. Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.

vi. Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.

- vii. A significant proportion of minority households have been successful in finding units in non-minority areas under the tenant-based assistance programs.
- f. Comparable housing opportunities have been made available outside areas of minority concentration through other programs.
  - i. Application of the overriding housing needs criterion, for example, permits approval of sites that are an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood and of sites in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a revitalizing area). An overriding housing need, however, may not serve as the basis for determining that a site is acceptable, if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.
  - ii. The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
  - iii. The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.
  - iv. The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.
  - v. Except for new construction, housing designed for elderly persons, travel time, and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive.

**AFFIRMATIVE MARKETING:**

The Developer will actively market the units to segments of the population that might otherwise not apply for the available housing. For any homeownership or rental projects that have five or more HOME-assisted units, the Developer must comply with applicable provisions of 24 CFR 92.351(a)(1). Affirmative marketing of the units must continue throughout the affordability period.

### **AMERICANS WITH DISABILITIES ACT (ADA) TITLE II:**

ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity.

### **AGE DISCRIMINATION:**

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are forty years of age or older from employment discrimination based on age.

### **CONFLICT OF INTEREST:**

No owner, developer, or sponsor of a project assisted with HOME funds. Whether private, for-profit, or non-profit (including CHDOs) may occupy a HOME assisted affordable housing unit in a project without the express written permission of the County. In addition, no officer, employee, agent, or consultant of the owner, developer, or sponsor may occupy a HOME assisted unit.

### **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:**

This Act, as amended, must be followed by the Developer. Mechanics and laborers employed on federally assisted construction projects are paid time and one-half for work in excess of forty hours per week and provides for the payment of liquidated damages where violations occur. All required safe and healthy working conditions identified in the Act must be followed.

### **COPELAND (ANTI-KICKBACK) ACT (40 USC 276c):**

This act governs the deductions from the paychecks that are allowable. Under this law, it is a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which the employee is entitled and requires all contractors to submit weekly payrolls and statements of compliance.

### **DAVIS BACON:**

In accordance with 24 CFR 92.354 (a), for construction or rehabilitation projects with twelve or more HOME-assisted units, the requirements of the Davis-Bacon Federal Labor Act (40 USC 276a-276a-5) must be followed. The Developer must agree to the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor under the Davis-Bacon Act. The Developer must also agree to contain these wage provisions in all contracts for construction for the project.

### **EXECUTIVE ORDER 11063 AND 12259:**

Addresses equal opportunity in housing, and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.



**EXECUTIVE ORDER 11246:**

The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, gender, or national origin.

**FAIR LABOR STANDARDS ACT of 1938:**

This Act, as amended, establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. Developers are also required to make the payment of wages for the entire time that an employee is required or permitted to work and established child labor standards.

**NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-EFFECTUATION IF TITLE VI OF THE CIVIL RIGHTS ACTS OF 1964 PART 1:**

The purpose of Part 1 effectuates the provisions of Title VI of the Civil Rights Act of 1964 to that end no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development (HUD).

**OMB CIRCULAR A-22 – COST PRINCIPLES FOR NON-PROFIT ORGANIZATIONS:**

Refers to “Cost Principles for Non-Profit Organizations” as stated in the Federal Register regarding allowable costs.

**SECTION 3:**

Created by Housing and Urban Development Act of 1968, Section 3 applies to public and Indian housing program, housing and community development programs, and other Federal and HUD assistance. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low-income person.

**SECTION 504 OF THE REHABILITATION ACT AND IMPLEMENTING REGULATIONS AT 24 CFR PART 8:**

Prohibits discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

**Subpart A, Section 92.2 of the HOME Final Rule:**

The Developer, if designated as a Community Development Organization (CHDO), shall meet the definition and requirements set forth by HUD.

## **TITLE II OF THE CIVIL RIGHTS ACT OF 1964:**

Title VII prohibits employment discrimination based on race, color, religion, sex, and national origin.

### **24 CFR 91.225: CERTIFICATIONS:**

A. General. The following certifications, satisfactory to HUD, must be included in the annual submission to HUD. (See definition of certification in 91.5.)

(1) Affirmatively furthering fair housing. Each jurisdiction is required to submit a certification that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

(2) Anti-displacement and relocation plan. Each jurisdiction is required to submit a certification that it has in effect and is following a residential ant displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG or HOME programs.

(3) Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

(4) Authority of jurisdiction. The jurisdiction must submit a certification that the consolidated plan is authorized under State and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

(5) Consistency with plan. The jurisdiction must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan. Where the HOPWA funds are to be received by a city that is the most populous unit of general local government in an EMSA, it must obtain and keep on file certifications of consistency from the authorized public officials for each other locality in the EMSA in which housing assistance is provided.

(6) Acquisition and relocation. The jurisdiction must submit a certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24.

(7) Section 3. The jurisdiction must submit a certification that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

(i) Community Development Block Grant program. For jurisdictions that seek funding under CDBG, the following certifications are required:

1. Citizen participation. Each jurisdiction must certify that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 91.105.

2. Community development plan. A certification that this consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the statute authorizing the CDBG program, as described in 24 CFR 570.2, and requirements of this part and 24 CFR part 570.

3. Following a plan. A certification that the jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

4. Use of funds. A certification that the jurisdiction has complied with the following criteria:

(8) With respect to activities expected to be assisted with CDBG funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The plan may also include CDBG-assisted activities that are certified to be designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs;

(9) The aggregate use of CDBG funds, including section 108 guaranteed loans, during a period specified by the jurisdiction, consisting of one, two, or three specific consecutive program years, shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period (see 24 CFR 570.3 for definition of CDBG funds); and

(10) The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if CDBG funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

(11) Excessive force. A certification that the jurisdiction has adopted and is enforcing:

(i) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

(ii) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(12) Compliance with anti-discrimination laws. The jurisdiction must submit a certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.

(13) Compliance with lead-based paint procedures. The jurisdiction must submit a certification that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

(14) Compliance with laws. A certification that the jurisdiction will comply with applicable laws.

(i) Emergency Shelter Grant program. For jurisdictions that seek funding under the Emergency Shelter Grant program, the following certifications are required:

(ii) In the case of assistance involving major rehabilitation or conversion, the applicant will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a 10-year period;

(iii) In the case of assistance involving rehabilitation less than that covered under paragraph (d)(1) of this section, the applicant will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a three-year period;

(iv) In the case of assistance involving essential services (including but not limited to employment, health, drug abuse, or education) or maintenance, operation, insurance, utilities and furnishings, the applicant will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure as long as the same general population is served;

(v) Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary;

(vi) It will assist homeless individuals in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for

achieving independent living, and other Federal, State, local, and private assistance available for such individuals;

(vii) It will obtain matching amounts required under 576.71 of this title;

(viii) It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project except with the written authorization of the person responsible for the operation of that shelter;

(ix) To the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this program, in providing services assisted under the program, and in providing services for occupants of facilities assisted under the program; and

(x) It is following a current HUD-approved consolidated plan (or CHAS).

1. A certification that the jurisdiction has established a policy for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

a. (d) HOME program. Each participating jurisdiction must provide the following certifications:

b. If it plans to use HOME funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

c. A certification that it is using and will use HOME funds for eligible activities and costs, as described in 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in 92.214 of this subtitle; and

(15) A certification that before committing funds to a project, the participating jurisdiction will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

(16) Housing Opportunities for Persons With AIDS. For jurisdictions that seek funding under the Housing Opportunities for Persons with AIDS program, a certification is required by the jurisdiction that:

(17) Activities funded under the program will meet urgent needs that are not being met by available public and private sources; and

(18) Any building or structure assisted under that program shall be operated for the purpose specified in the plan:

(i) For a period of not less than 10 years in the case of assistance involving new construction, substantial rehabilitation, or acquisition of a facility; or

(ii) For a period of not less than three years in the case of assistance involving non-substantial rehabilitation or repair of a building or structure.

## **24 CFR 91.325: CERTIFICATIONS**

### **A. General**

a. Affirmatively furthering fair housing. Each State is required to submit a certification that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the State, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. (See 570.487(b)(2)(ii) of this title.)

b. Anti-displacement and relocation plan. The State is required to submit a certification that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the CDBG or HOME programs.

c. Anti-lobbying. The State must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

d. Authority of State. The State must submit a certification that the consolidated plan is authorized under State law and that the State possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

e. Consistency with plan. The State must submit a certification that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

f. Acquisition and relocation. The State must submit a certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR part 24.

g. Section 3. The State must submit a certification that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

B. Community Development Block Grant program. For States that seek funding under CDBG, the following certifications are required:

a. Citizen participation. A certification that the State is following a detailed citizen participation plan that satisfies the requirements of 91.115, and that each unit of general local government that is receiving assistance from the State is following a detailed citizen participation plan that satisfies the requirements of 570.486 of this title.

b. Consultation with local governments. A certification that:

1. It has consulted with affected units of local government in the non-entitlement area of the State in determining the method of distribution of funding;

2. It engages or will engage in planning for community development activities;

3. It provides or will provide technical assistance to units of general local government in connection with community development programs;

4. It will not refuse to distribute funds to any unit of general local government on the basis of the particular eligible activity selected by the unit of general local government to meet its community development needs, except that a State is not prevented from establishing priorities in distributing funding on the basis of the activities selected; and

5. Each unit of general local government to be distributed funds will be required to identify its community development and housing needs, including the needs of the low-income and moderate-income families, and the activities to be undertaken to meet these needs.

c. Community development plan. A certification that this consolidated plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the statute authorizing the CDBG program, as described in 24 CFR 570.2, and requirements of this part and 24 CFR part 570.

d. Use of funds. A certification that the State has complied with the following criteria:

1. With respect to activities expected to be assisted with CDBG funds, the action plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The plan may also include CDBG-assisted activities that are certified to be designed to meet other community development needs having particular

urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs;

2. The aggregate use of CDBG funds, including section 108 guaranteed loans, during a period specified by the State, consisting of one, two, or three specific consecutive program years, shall principally benefit low- and moderate-income families in a manner that ensures that at least 70 percent of the amount is expended for activities that benefit such persons during the designated period (see 24 CFR 570.481 for definition of CDBG funds); and

3. The State will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if CDBG funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than with CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds if the State certifies that it lacks CDBG funds to cover the assessment.

e. Compliance with anti-discrimination laws. A certification that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations.

f. Excessive force. A certification that the State will require units of general local government that receive CDBG funds to certify that they have adopted and are enforcing:

i. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

ii. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

g. Compliance with laws. A certification that the State will comply with applicable laws.



C. Emergency Shelter Grant program. For States that seek funding under the Emergency Shelter Grant program, a certification is required by the State that it will ensure that its State recipients comply with the following criteria:

a. In the case of assistance involving major rehabilitation or conversion, it will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a 10-year period;

b. In the case of assistance involving rehabilitation less than that covered under paragraph (d)(1) of this section, it will maintain any building for which assistance is used under the ESG program as a shelter for homeless individuals and families for not less than a three-year period;

c. In the case of assistance involving essential services (including but not limited to employment, health, drug abuse, or education) or maintenance, operation, insurance, utilities and furnishings, it will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure as long as the same general population is served;

d. Any renovation carried out with ESG assistance shall be sufficient to ensure that the building involved is safe and sanitary;

e. It will assist homeless individuals in obtaining appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living, and other Federal, State, local, and private assistance available for such individuals;

f. It will obtain matching amounts required under 576.71 of this title;

g. It will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project except with the written authorization of the person responsible for the operation of that shelter;

h. To the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this program, in providing services assisted under the program, and in providing services for occupants of facilities assisted under the program; and

i. It is following a current HUD-approved consolidated plan.

j. A certification that the state has established a policy for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care, or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons.

D. HOME program. Each State must provide the following certifications:

a. If it plans to use program funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

b. A certification that it is using and will use HOME funds for eligible activities and costs, as described in 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in 92.214 of this subtitle; and

c. A certification that before committing funds to a project, the State or its recipients will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

E. Housing Opportunities for Persons With AIDS. For States that seek funding under the Housing Opportunities for Persons With AIDS program, a certification is required by the State that:

a. Activities funded under the program will meet urgent needs that are not being met by available public and private sources; and

b. Any building or structure purchased, leased, rehabilitated, renovated, or converted with assistance under that program shall be operated for not less than 10 years specified in the plan, or for a period of not less than three years in cases involving non-substantial rehabilitation or repair of a building or structure.

#### **24 CFR 91.425: CERTIFICATIONS**

A. Consortium certifications

a. General

i. Affirmatively furthering fair housing. Each consortium must certify that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the area, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

ii. Anti-displacement and relocation plan. Each consortium must certify that it has in effect and is following a residential anti-displacement and relocation assistance plan in connection with any activity assisted with funding under the HOME or CDBG program.

iii. Anti-lobbying. The consortium must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

iv. Authority of consortium. The consortium must submit a certification that the consolidated plan is authorized under State and local

law (as applicable) and that the consortium possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

v. Consistency with plan. The consortium must certify that the housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

vi. Acquisition and relocation. The consortium must certify that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24.

vii. Section 3. The consortium must certify that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

B. HOME program. The consortium must provide the following certifications:

a. If it plans to use HOME funds for tenant-based rental assistance, a certification that rental-based assistance is an essential element of its consolidated plan;

b. That it is using and will use HOME funds for eligible activities and costs, as described in 92.205 through 92.209 of this subtitle and that it is not using and will not use HOME funds for prohibited activities, as described in 92.214 of this subtitle; and

c. That before committing funds to a project, the consortium will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance than is necessary to provide affordable housing.

C. CDBG entitlement community certifications.

a. A CDBG entitlement community that is a member of a consortium must submit the certifications required by 91.225 (a) and (b), and, if applicable, of 91.225 (c) and (d).

I, the undersigned, have read and fully agree to abide by all applicable HOME Requirements as referenced above.

**Housing for Homeless, Inc.**

\_\_\_\_\_  
Rob Cramp, Executive Director

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

**IN WITNESS WHEREOF:** the parties have hereunto set their hands and seals on the day and year first above written.

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
Bryan Lober Chair,  
Originally approved by the Board on: July  
24, 2012.

Reviewed as to form and legal content for  
use and reliance of Brevard County only.

  
\_\_\_\_\_  
Assistant County Attorney

**HOUSING FOR HOMELESS, INC.**

\_\_\_\_\_  
Rob Cramp, Executive Director

**STATE OF FLORIDA**

**COUNTY OF Brevard County**

The foregoing instrument was acknowledged before me, by means  
of ☐ physical presence or ☐ online notarization, on this \_\_\_\_ **day of**  
\_\_\_\_, **2020**, \_\_\_\_\_, who is/are personally  
known to me or has/have produced \_\_\_\_\_ as  
identification.

SEAL

\_\_\_\_\_  
Notary Public – State of Florida

My Commission Expires: \_\_\_\_\_

**GRISSOM/TROPIC HOME AGREEMENT**

**ATTACHMENT F  
HOME COMPLIANCE REPORT**

**Project:** \_\_\_\_\_

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

**Address:** \_\_\_\_\_

**Reporting Period:** \_\_\_\_\_

No. of Units: \_\_\_\_\_ No. of HOME Units: \_\_\_\_\_ High HOME Rent: \_\_\_\_\_ Low HOME Rent Units: \_\_\_\_\_

A	B	C	D	E	F	G	H	I	J	K	L
Unit Number	No. Of Bedrooms	Low or High Home Rent Units Designation	Tenant Name	Household Size	Annual (Gross Income)	Date of Last Income Reexamination	Low or High Home Rent	Utility Allowance	Maximum Actual Rent (H-I)	Unit Compliance Y/N (County Only)	Comments