

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 21-HK-17177
---------------------------------

PURCHASING AUTHORITY NUMBER (if applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

## CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## CONTRACTOR'S NAME

City of Merced, RH Community Builders LP, and UP Holdings California, LLC

2. The term of this Agreement is:

## START DATE

Upon HCD Approval

## THROUGH END DATE

Fifteen (15) Years from Effective Date

3. The maximum amount of this Agreement is:

\$24,024,054.00

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

EXHIBITS	TITLE	PAGES
Exhibit A	Authority, Purpose and Scope of Work	9
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C*	State of California General Terms and Conditions	GTC - 04/2017
Exhibit D	Homekey General Terms and Conditions	16
Exhibit E	Project-Specific Provisions and Special Terms and Conditions	7
TOTAL NUMBER OF PAGES ATTACHED		35

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>*

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

**CONTRACTOR**

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

See Attached

CONTRACTOR BUSINESS ADDRESS See Attached	CITY See Attached	STATE See Attached	ZIP See Attached
PRINTED NAME OF PERSON SIGNING See Attached	TITLE		
CONTRACTOR AUTHORIZED SIGNATURE See Attached	DATE SIGNED See Attached		

**STATE OF CALIFORNIA**

## CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS 2020 W. El Camino Ave., Suite 130	CITY Sacramento	STATE CA	ZIP 95833
PRINTED NAME OF PERSON SIGNING <b>Synthia Rhinehart</b>	TITLE Contracts Manager, Business & Contract Services Branch		
CONTRACTING AGENCY AUTHORIZED SIGNATURE <i>Synthia Rhinehart</i>	DATE SIGNED <b>5/27/2022</b>		

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

Exempt per; SCM Vol. 1 4.04.A.3 (DGS memo dated 06/12/1981)

STATE OF CALIFORNIA STANDARD AGREEMENT

STD 213 (Rev. 06/03)

City of Merced  
RH Community Builders LP  
UP Holdings California, LLC  
21-HK-17177

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CONTRACTOR

City of Merced  
a California Municipal Corporation

By: Stephanie Dietz Date: 5/25/22  
Stephanie Dietz  
City Manager

APPROVED AS FOR FORM:

[Signature] 5/19/2022  
City Attorney Date

Address:  
678 West 18th Street  
Merced, CA 95340

UP Holdings, LLC, dba UP Holdings California, LLC,  
an Illinois limited liability company registered to do  
business in the State of California

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cullen J. Davis, its manager

Address:  
8083 N Figarden Drive #656  
Fresno, CA 93722

RH Community Builders LP  
a California limited partnership

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Wayne Rutledge  
CEO

Address:  
2550 West Clinton Avenue, Suite 142  
Fresno, CA 93705

Prep Date: 04/14/2022

Account Number: n/a

Amount: n/a

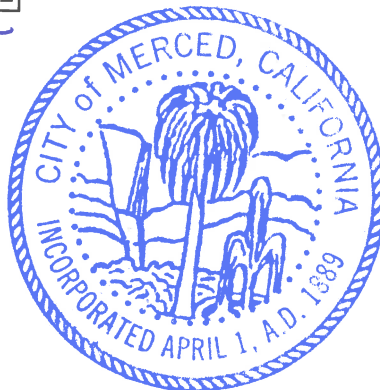
VERIFIED

BY:   
Finance Officer

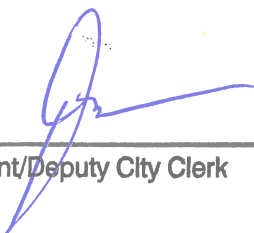
FINANCE ENTRY	
Contract No:	301979
Vendor Number:	n/a
P.C. Number:	n/a
Funds Available:	No funds to encumber. <i>xc 5/23/22</i>
	05/23/22

*MR\*14336 5/24/22 xl*

*PL 5/24/22*



ATTEST:  
CITY CLERK

BY:   
Assistant/Deputy City Clerk

STATE OF CALIFORNIA STANDARD AGREEMENT

STD 213 (Rev. 06/03)

City of Merced  
RH Community Builders LP  
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21-HK-17177

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

Date: 5/23/2022

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Address:

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Prep Date: 04/14/2022

## EXHIBIT A

### AUTHORITY, PURPOSE AND SCOPE OF WORK

#### 1. Authority

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

The Department issued a Homekey Program Notice of Funding Availability, Round 2 on September 9, 2021, which was subsequently amended on January 14, 2022 (the “**NOFA**”). The NOFA incorporates by reference the MHP, as well as the Multifamily Housing Program Final Guidelines, dated June 19, 2019 (“**MHP Guidelines**”), both as amended and in effect from time to time. Homekey grant funds are derived primarily from the state’s direct allocation of the federal Coronavirus State Fiscal Recovery Fund (“**CSFRF**”), which was established by the American Rescue Plan Act of 2021 (“**ARPA**”) (Pub.L. No. 117-2). Homekey funds are also derived from the State of California’s General Fund.

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

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

- A. AB 140;
- B. The above-referenced MHP statutory scheme;

Homekey Program – Round 2 (Homekey)  
NOFA Date: September 9, 2021, and amended on January 14, 2022  
Project Name: Twelve Thirteen  
Approved Date: 01-24-2022  
Prep. Date: 04-14-2022

## EXHIBIT A

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

### 2. **Purpose**

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

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

### 3. **Definitions**

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

- A. “**AMI**” means Area Median Income.
- B. “**Application**” means the application for Grant funds that was submitted in response to the Department’s NOFA.
- C. “**Assisted Unit**” means a Homekey-funded residential dwelling unit that is subject to rent, income, occupancy, and other restrictions in accordance with Program Requirements. See also “**Youth Assisted Unit**.”
- D. “**Chronically Homeless**” is defined in accordance with Part 578.3 of Title 24 of the Code of Federal Regulations.

## EXHIBIT A

- E. **“Co-Applicant”** means the nonprofit corporation, for-profit corporation, limited liability company, and/or limited partnership that applied for an award of Homekey Grant funds with the Eligible Applicant (i.e., a Public Entity or Tribal Entity).
- F. **“Designated Payee”** means the Co-Grantee that will serve as the payee of the Program Grant funds. If applicable, the Designated Payee is identified at Exhibit E of this Agreement.
- G. **“Eligible Applicant”** means the Public Entity or Tribal Entity that applied for an award of Homekey Grant funds.
- H. **“Eligible Uses”** means the activities that may be funded by the Homekey Program Grant. Those activities are listed at Paragraph 4 of this Agreement, and at Health and Safety Code section 50675.1.3, subdivision (a).
- I. **“Expenditure Deadline for Capital Funds”** means the date by which the capital expenditure award must be fully expended. This deadline is eight (8) months from the date of the Grantee’s award unless the Department has approved an alternate arrangement in advance and in writing.
- J. **“Expenditure Deadline for Operating Funds”** means the date by which the operating subsidy award must be fully expended. This deadline is **June 30, 2026**.
- K. **“Grantee”** means the Eligible Applicant (and, if applicable, the Co-Applicant) that has been awarded funds under the Program, and that will be held responsible for compliance with and performance of all Program Requirements. The Grantee may comprise one or more entities, so long as the Grantee structure includes an “Eligible Applicant,” as defined in the NOFA and as set forth above. **“Grantee”** refers, both individually and collectively, to the Co-Applicant and/or the Eligible Applicant that received a Homekey Grant after submitting an Application or a joint Application to the Department. When the Grantee comprises two or more entities, each entity may be referred to as a **“Co-Grantee.”** On the STD 213 portion of this Agreement, the Grantee is identified as the Contractor.
- L. **“Homeless Youth”** means a child, youth, or current or former foster youth through the age of 25 who qualifies as “homeless” under any of the relevant definitions set forth or identified at Part 578.3 of Title 24 of the Code of Federal Regulations.
- M. **“Homeless Youth Project”** means a Project that was prioritized to receive set-aside Homekey funds because **(i)** at least 25 percent of its Assisted Units will be restricted to Homeless Youth or Youth at Risk of Homelessness; **(ii)** the Grantee jointly applied

Homekey Program – Round 2 (Homekey)

NOFA Date: September 9, 2021, and amended on January 14, 2022

Project Name: Twelve Thirteen

Approved Date: 01-24-2022

Prep. Date: 04-14-2022

## EXHIBIT A

and/or partnered with a nonprofit corporation with experience serving the foregoing subpopulation; and (iii) the Project is in reasonable proximity to youth-centered amenities, such as community colleges, universities, trade schools, apprenticeship programs, employment programs, childcare centers for parenting youth, and community centers for youth. Alternatively, “**Homeless Youth Project**” means a Project that was prioritized to receive set-aside Homekey funds because it will provide Supportive Services for Youth Assisted Units using a Positive Youth Development (PYD) model and trauma-informed care.

- N. “**Interim Housing**” or “**Transitional Housing**” means any facility that is primarily intended to provide temporary shelter or lodging for the Target Population, and which does not require occupants to sign leases or occupancy agreements, or to pay any rent, fees, or charges.
- O. “**Local Public Entity**” is defined at Health and Safety Code section 50079, and means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, tribally designated housing entity as defined in Section 4103 of Title 25 of the United States Code and Section 50104.6.5, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and also includes any state agency, public district, or other political subdivision of the state, and any instrumentality thereof, that is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income. In addition, and in accord with this Health and Safety Code definition, the term “**Local Public Entity**” also includes two or more local public entities acting jointly.
- P. “**Performance Milestones**” means the indicators and metrics of progress and performance that are identified as such at Exhibit E of this Agreement. Grantee’s failure to satisfy any one of the Performance Milestones will constitute a breach of this Agreement and will entitle the Department to exercise any and all available remedies, including the recapture of disbursed Grant funds and the cancellation of this Agreement.
- Q. “**Permanent Housing**” means housing, dwellings, or other living accommodations where the landlord does not limit the tenant’s length of tenancy, the landlord does not restrict the tenant’s movements, and the tenant has a lease and is subject to the rights and responsibilities of tenancy.

## EXHIBIT A

- R. **“Program Requirements”** means the legal authority and Program materials listed at Paragraph 1.A – G, above.
- S. **“Project”** means a structure or set of structures with common financing, ownership, and management and which provides Permanent Housing, Interim Housing, or Transitional Housing for the Target Population.
- T. **“Public Entity”** is defined in accordance with Health and Safety Code section 50675.1.3, subdivision (a), and means a city, a county, a city and county, and any other state, regional, or Local Public Entity, including any council of government, metropolitan planning organization, and regional transportation planning agency designated in Section 29532.1 of the Government Code. For purposes of this Agreement, a **“Local Public Entity”** is defined in accordance with Health and Safety Code section 50079 and as set forth above.
- U. **“Scope of Work”** or **“Work”** means the work to be performed by the Grantee to accomplish the Program purpose.
- V. **“Supportive Services”** means social, health, educational, income support, employment, and housing stability services and benefits; coordination of community building and educational activities; individualized needs assessment and case management; and individualized assistance with obtaining services and benefits.
- W. **“Target Population”** means individuals and families who are “homeless” or “at risk of homelessness,” as those terms are defined in Part 578.3 of Title 24 of the Code of Federal Regulations, and who are inherently impacted by or at increased risk for medical diseases or conditions due to the COVID-19 pandemic or other communicable diseases.
- X. **“TCAC”** means the California Tax Credit Allocation Committee.
- Y. **“Tribal Entity”** means an entity that meets any of the following criteria:
- i. Meets the definition of Indian tribe under section 4103(13)(B) of title 25 of the United States Code;
  - ii. Meets the definition of Tribally Designated Housing Entity under section 4103(22) of title 25 of the United States Code;
  - iii. Is not a federally recognized tribe, but is either:
    - I. Listed in the petitioner list of the Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary – Indian Affairs of the

## EXHIBIT A

Department of the Interior pursuant to Part 82.1 of Title 25 of the Code of Federal Regulations; or

- II. Is an Indian tribe located in the State of California and identified on the contact list maintained by the Native American Heritage Commission for the purpose of consultation pursuant to Government Code section 65352.3.

**Z. “Youth Assisted Unit”** means an Assisted Unit serving Homeless Youth or Youth at Risk of Homelessness. See also “**Assisted Unit.**”

**AA. “Youth at Risk of Homelessness”** means a child, youth, or current or former foster youth through the age of 25 who qualifies as “at risk of homelessness” or “homeless” under any of the relevant definitions set forth or identified at Part 578.3 of Title 24 of the Code of Federal Regulations.

### 4. Eligible Uses

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

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

## EXHIBIT A

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

### 5. **Rent Standards**

Permanent Housing. Rent limits for initial occupancy, and for each subsequent occupancy, of an Assisted Unit shall not exceed 30 percent of that Assisted Unit's designated income-eligibility level.

Interim Housing, Transitional Housing. No rent shall be charged to the Target Population residents of Interim Housing or Transitional Housing.

### 6. **Program Deadlines**

For Projects that involve acquisition, the Grantee shall expend any capital expenditure award and the Project escrow must be closed by the Expenditure Deadline for Capital Funds.

For Projects that involve construction and/or rehabilitation, the Grantee shall expend any capital expenditure award by the Expenditure Deadline for Capital Funds, and complete any construction or rehabilitation activities within twelve (12) months of the date of the award.

All acquisition-only Projects shall achieve full occupancy of the Assisted Units within ninety (90) calendar days of the Expenditure Deadline for Capital Funds. Otherwise, Projects shall achieve full occupancy of the Assisted Units within ninety (90) calendar days of construction and/or rehabilitation completion. For purposes of this paragraph, "full occupancy" means fully occupied with consideration for an average 10 percent vacancy rate at any given time.

Projects that received a bonus award for expedited occupancy shall achieve full occupancy within eight (8) months of the date of the award. For purposes of this paragraph, "full occupancy" means fully occupied with consideration for an average 10 percent vacancy rate at any given time. No bonus award shall be granted for expedited occupancy if the Grantee requests and the Department approves an extension for full occupancy.

## EXHIBIT A

Grantee may ask the Department for an extension to complete construction and/or rehabilitation, where the Grantee clearly demonstrates that the extension is due to circumstances or conditions beyond the Grantee's control, and that granting the extension will enable the construction and/or rehabilitation to be completed and full occupancy of the Assisted Units to be achieved. Where the Department grants an extension for completion of construction and/or rehabilitation, the Expenditure Deadline for Capital Funds and the deadline for full occupancy of the Assisted Units may also be extended within the constraints of applicable law.

Grantee shall expend any Homekey-funded operating subsidy award by the Expenditure Deadline for Operating Funds.

### 7. **Performance Milestones**

Grantee shall complete each of the Performance Milestones set forth at Exhibit E of this Agreement by the date designated for such completion therein (each, a "**Milestone Completion Date**"). The Performance Milestones shall include, but not be limited to, any applicable Expenditure Deadline for Capital Funds, Expenditure Deadline for Operating Funds, occupancy deadline, or expedited occupancy deadline.

Grantee may apply to the Department for an extension of any such Milestone Completion Date. Approval of any such extension request shall be in the Department's reasonable discretion. In no event will the Department approve an extension request in the absence of Grantee's demonstration of good cause for said extension, along with Grantee's reasonable assurances that the extension will not result in Grantee's failure to meet other Performance Milestones or any Expenditure Deadline under this Agreement.

### 8. **Reporting Requirements**

Grantee shall submit an annual Homekey Program and Expenditure Report, and comply with all additional reporting requirements, as set forth and specified at Section 601 of the NOFA, all in accordance with the Milestone Completion Date(s) set forth at Exhibit E of this Agreement.

After satisfaction of each Performance Milestone, the Grantee shall promptly report its progress, in writing, to the Department.

Upon the Department's request and as specified, the Grantee shall provide progress reports in connection with the development plan and any updates to the timeline for

## EXHIBIT A

completion of the Project. The development plan should include the Project's completion milestones and any updates or substantial changes.

In addition, the Grantee shall submit to the Department such periodic reports, updates, and information as deemed necessary by the Department to monitor compliance and/or perform Program evaluation. Any requested data or information shall be submitted in electronic format on a form provided by the Department.

Grantee shall, at the request of the Department, report back on any racial equity strategies described in the Homekey Application.

### 9. **Department Contract Coordinator**

The Department's Contract Coordinator for this Agreement is the Deputy Director of the Division of State Financial Assistance, or the Deputy Director's designee. Unless otherwise informed, Grantee shall mail any notice, report, or other communication required under this Agreement by First-Class Mail to the Department Contract Coordinator at the following address or email to Homekey2SGM@hcd.ca.gov:

California Department of Housing and Community Development  
Attention: Homekey Program – Round 2 (Homekey)  
State Grant Management Section  
2020 West El Camino Avenue, Suite 400, 95833  
P. O. Box 952050  
Sacramento, CA 94252-2050

### 10. **Grantee Contract Coordinator**

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

## EXHIBIT B

### BUDGET DETAIL AND PAYMENT PROVISIONS

#### 1. Budget Detail

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

#### 2. Conditions of Disbursement

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

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

Homekey Program – Round 2 (Homekey)

NOFA Date: September 9, 2021, and amended on January 14, 2022

Project Name: TwelveThirteen

Approved Date: 01-24-2022

Prep. Date: 04-14-2022

## EXHIBIT B

title and current title status;

- I. Any forms, certifications, or documentation required pursuant to Paragraph 5–Additional Conditions Precedent to Disbursement of Exhibit E of this Agreement; and
- J. Any other forms, certifications, or documentation deemed necessary by the Department prior to disbursement of Grant funds.

### 3. Performance

After disbursement of the funds, the Grantee shall meet each Performance Milestone set forth at Exhibit E by the relevant Milestone Completion Date. After satisfaction of each Performance Milestone, the Grantee shall promptly report its progress, in writing, to the Department. Grantee may apply to the Department for an extension of any Milestone Completion Date based on good cause shown and best efforts and assurances from the Recipient for timely completion of the remaining Performance Milestones.

FAILURE TO SATISFY ANY ONE OF THE PERFORMANCE MILESTONES WILL CONSTITUTE A BREACH OF THIS AGREEMENT AND ENTITLES THE DEPARTMENT TO MANDATE THE GRANTEE TO RETURN TO THE DEPARTMENT ANY FUNDS DISBURSED; IN ANY SUCH INSTANCE, THE DEPARTMENT MAY ALSO CANCEL THIS AGREEMENT WITHOUT OWING ANY DAMAGES OR OTHER PAYMENT TO GRANTEE.

### 4. Fiscal Administration

- A. Grantee shall either deposit the Grant funds with an escrow company licensed to do business in the State of California and in good standing, or deposit the Grant funds in an interest-bearing checking or savings account insured by the federal or state government. All interest earned from the deposit of Grant funds shall be used for eligible Program activities.
- B. Any capital expenditure award funds that have not been expended by the Expenditure Deadline for Capital Funds must be returned to the Department with accrued interest. Any operating subsidy award funds that have not been expended by the Expenditure Deadline for Operating Funds must be returned to the Department with accrued interest. Checks shall be made payable to the Department of Housing and Community Development and shall be mailed to the

Homekey Program – Round 2 (Homekey)

NOFA Date: September 9, 2021, and amended on January 14, 2022

Project Name: TwelveThirteen

Approved Date: 01-24-2022

Prep. Date: 04-14-2022

**EXHIBIT B**

Department at the address below, no later than thirty (30) calendar days after the applicable Expenditure Deadline.

Department of Housing and Community Development  
Accounting Division, Suite 300  
2020 W. El Camino Avenue  
Sacramento, California 95833

**5. Duplication of Benefit**

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

## EXHIBIT D

### **HOMEKEY GENERAL TERMS AND CONDITIONS**

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

- A. This Agreement, when fully executed by the Department and the Grantee, is effective upon the date of the Department representative's signature on the STD 213, Standard Agreement (such date, the "**Effective Date**").
- B. This Agreement shall terminate fifteen (15) years after the Effective Date, as stated in Paragraph 2 of the STD 213, Standard Agreement (such date, the "**Expiration Date**").
- C. Grantee will receive the disbursement of Program funds after satisfying all conditions precedent to such disbursement, as set forth under Paragraph 2 of Exhibit B and, as necessary and applicable, under Paragraph 5 – Additional Conditions Precedent to Disbursement of Exhibit E.
- D. Any expenses incurred prior to March 3, 2021, after the Expenditure Deadline for Capital Funds, or after the Expenditure Deadline for Operating Funds, respectively and as applicable, are not eligible for payment under the Program, unless an alternate arrangement is legally permissible and has been approved by the Department in advance and in writing.
- E. Grant funds that have not been expended by the applicable Expenditure Deadlines shall revert to the Department in the absence of an alternate arrangement that has been approved by the Department in advance and in writing.

#### **2. Termination for Cause**

The Department may terminate this Agreement for cause at any time by giving at least fourteen (14) calendar days' advance written notice to the Grantee. Upon such termination, Grantee shall return any unexpended funds to the Department within thirty (30) calendar days of the date on the Department's written notice of termination, unless the Department has approved an alternate arrangement in advance and in writing, as provided below. Such termination will not limit any other remedies that may be available to the Department under this Agreement, at law, or in equity.

Homekey Program – Round 2 (Homekey)

NOFA Date: September 9, 2021, and amended on January 14, 2022

Project Name: TwelveThirteen

Approved Date: 01-24-2022

Prep. Date: 04-14-2022

## EXHIBIT D

Cause shall consist of Grantee's breach of, or failure to satisfy, any of the terms or conditions of this Agreement. Cause includes but is not limited to the following:

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

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

### 3. Cancellation

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

#### **4. Eligible Activities**

Grant funds awarded to the Grantee shall be applied to the eligible uses set forth at Exhibit A and described in greater detail at Exhibit E. Payment for any cost which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee.

#### **5. Performance Milestones**

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

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### 6. **Article XXXIV**

Per Health and Safety Code section 37001, subdivision (h)(2), article XXXIV, section 1 of the California Constitution (“**Article XXXIV**”) is not applicable to development that consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof, of lodging facilities or dwelling units using moneys received from CSFRF established by ARPA. As such, Article XXXIV is not applicable to Homekey-funded development, construction, or acquisition.

### 7. **Appraisals**

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

### 8. **Compliance with Prevailing Wage Law**

Grantee’s Project is subject to state and federal prevailing wage law. Grantee is urged to seek professional legal advice about prevailing wage law requirements and Grantee’s potential obligations thereunder. Prior to disbursing the Grant funds, the Department will require a certification of compliance with California’s prevailing wage law, as well as all applicable federal prevailing wage law. The certification must verify that prevailing wages have been or will be paid if such payment is required by law, and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by Grantee and its general contractor(s).

### 9. **Environmental Conditions**

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

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report for the Department's approval if the Project involves rehabilitation or demolition of existing improvements.

### 10. **Insurance**

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

If Grantee is self-insured, in whole or in part, as to any of the required types and levels of coverage, the Grantee shall provide the Department with a written acknowledgment of its self-insured status prior to disbursement of any Grant funds. If the Grantee abandons its self-insured status at any time after execution of this Agreement, the Grantee shall immediately notify the Department, and shall promptly comply with the insurance coverage requirements under the Program.

### 11. **Operating Funds**

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

### 12. **Relocation**

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

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

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

One-for-one replacement of Assisted Units is permissible if approved in advance by the Department per Section 301 of the NOFA, after the Department's determination, in its sole and absolute discretion, that such replacement will not reduce the inventory of units that are already available at affordable rents to households that are at or under 30 percent AMI.

**14. Site Control**

Unless and except as otherwise expressly approved in writing by the Department or provided at Exhibit E to this Agreement, the Grantee shall have control of the property at all times, and such control shall not be contingent on the approval of any other party. The status and nature of the Grantee's title and interest in the property must be acceptable to the Department. Site control may be evidenced by one of the following:

- A. Fee title.
- B. A leasehold interest on the property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with, and satisfaction of, all program objectives and requirements, including, without limitation, those set forth in this Agreement. If the Grantee's interest in the property is a leasehold, and the lessee and the lessor are affiliated or related parties, then the Department may require that both the lessee and the lessor must execute this Agreement.
- C. An executed disposition and development agreement, or irrevocable offer of dedication to a public agency.
- D. A sales contract, or other enforceable agreement for the acquisition of the property. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of

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additional or supplemental evidence of eventual site control closer to any projected close of escrow).

- E. A letter of intent, executed by a sufficiently authorized signatory of the Grantee, that expressly represents to the Department, without condition or reservation, that, upon successful application, the Grantee shall purchase or otherwise acquire a sufficient legal interest in the property to accomplish the purpose of the award. The letter of intent must also be duly acknowledged by the party selling or otherwise conveying an interest in the subject property to the Grantee. If this form of evidence was relied upon at the time of Application, the Department may impose additional Performance Milestones (e.g., presentation of additional or supplemental evidence of eventual site control closer to any projected close of escrow).
- F. Other evidence of site control that gives the Department assurance (equivalent to A-E above) that the Grantee will be able to complete the Project in a timely manner and in accordance with the Program's objectives and requirements, including, without limitation, those set forth or referenced in this Agreement.

### 15. **Adaptability and Accessibility**

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

### 16. **Title Status and Reports**

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

### 17. **Title Insurance**

Grantee shall provide evidence of title insurance and an ALTA As-Built Survey that are acceptable to the Department. The condition of title, the insurer, the liability

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amount, the form of policy, and the endorsements shall be subject to Department approval. The policy shall insure that Grantee holds good and marketable title (fee simple or leasehold).

### 18. **Property Management Plan**

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

### 19. **Supportive Services Plan**

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

### 20. **Compliance with Title VI of the Civil Rights Act of 1964**

Grantee and any of its contractors, subcontractors, successors, transferees, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the U.S. Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement.

### 21. **Nondiscrimination**

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

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- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and the U.S. Department of the Treasury's implementing regulations at 31 CFR Part 22;
- B. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.);
- C. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794);
- D. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.);
- E. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.); and
- F. The State of California nondiscrimination statutes, regulations, and standards set forth and identified in the NOFA and at Exhibit C of this Agreement.

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

**22. Affirmative Fair Housing Marketing Plan and Fair Housing Compliance**

Grantee shall develop and implement an affirmative fair housing marketing plan that is satisfactory to the Department. Appropriate aspects of the initial plan shall be incorporated into the ongoing management plan to ensure positive outreach and

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informational efforts to those who are least likely to know about and apply for Interim Housing, Transitional Housing, or Permanent Housing. Grantee is encouraged to refer to the guidelines for Affirmative Fair Housing Marketing Plans issued by the U.S. Department of Housing and Urban Development (“HUD”). Grantee shall comply with all applicable state and federal fair housing laws.

### 23. **Grantee Acknowledgment of the Pet Friendly Housing Act of 2017**

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

### 24. **Final Certificate of Occupancy**

Grantee shall provide a final certificate of occupancy (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

### 25. **Occupancy**

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

### 26. **Tenant Selection**

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

### 27. **Participation in Statewide HDIS/HMIS**

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

### **28. Restrictive Covenants and Regulatory Agreements**

A restrictive covenant, regulatory agreement, or similar use restriction shall be recorded against the Project real property, depending on the Project type. For Interim Housing or Transitional Housing Projects that will not result in Permanent Housing, the Department will prepare, and the Public Entity shall cause, a 15-year restrictive covenant to be recorded against the Project real property. For Interim Housing or Transitional Housing Projects that will ultimately result in Permanent Housing, the Public Entity or Tribal Entity shall prepare and cause a 15-year restrictive covenant to be recorded against the Project real property. For Permanent Housing Projects, the Public Entity or Tribal Entity shall prepare and cause a 55-year regulatory agreement to be recorded against the Project real property. For Permanent Housing Projects located on tribal trust land, a 50-year use restriction shall be recorded against the Project real property.

All use restrictions shall require integration of the Target Population within all entrances, common areas, and buildings that comprise the Project.

All use restrictions shall include occupancy and rent restrictions that maintain the Project’s accessibility to the Target Population over the full term of the use restriction.

All use restrictions are subject to the advance written approval of the Department, and shall be acceptable to the Department in form, substance, and priority. Project-specific requirements and deadlines are set forth at Exhibit E of this Agreement.

### **29. Restrictions on Sales, Transfers, and Encumbrances**

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

### **30. Retention, Inspection, and Audit of Records**

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Grantee is responsible for maintaining records which fully disclose the activities funded by the Grant. Grantee shall retain all records for a period of five (5) years after the expiration of this Agreement, unless a longer retention period is stipulated. If any litigation, claim, negotiation, audit, monitoring, inspection or other action commences during this required retention period, all records must be retained until a full and final resolution of the action.

The Department, as well as its appointees, employees, agents, and delegates, shall have the right to review, obtain, and copy all records pertaining to performance under this Agreement. The U.S. Department of the Treasury and any authorized oversight body or representative, including, without limitation, the Treasury's Office of Inspector General, the Government Accountability Office, and the Pandemic Relief Accountability Committee, shall have the right of access to such records in order to conduct audits or other investigations. Grantee shall provide any relevant information requested, and shall permit access to its premises, upon reasonable notice and during normal business hours, for the purpose of interviewing employees and inspecting and copying books, records, accounts, and other relevant material.

At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Project. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The audit shall be performed by a qualified state, local, independent, or Department auditor. Where an independent auditor is engaged, the audit services agreement shall include a clause which permits the Department to have access to the independent auditor's relevant papers, records, and work product.

If there are audit findings, the Grantee shall submit a detailed response to the Department for each audit finding. The Department will review the response. If the Department determines, in its sole and absolute discretion, that the response is satisfactory, the Department will conclude the audit process and notify the Grantee in writing. If the Department determines, in its sole and absolute discretion, that the response is not satisfactory, the Department will contact the Grantee, in writing, and explain the action required to cure any audit deficiencies. Such action could include the repayment of ineligible costs or other remediation.

If so directed by the Department upon the termination or expiration of this Agreement, the Grantee shall deliver all records, accounts, documentation, and other materials

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that are relevant to this Agreement to the Department as depository.

### 31. **Site Inspection**

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

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

Grantee agrees to comply with all state and federal laws, rules, guidelines, and regulations that are applicable to the Project, including those that pertain to construction, health and safety, labor, fair employment practices, and equal opportunity.

### 33. **Updated Information**

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

### 34. **Survival of Obligations**

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

### 35. **Litigation**

Grantee shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement, the Program Requirements, the interests of the Department, and the objectives of the Homekey Program.

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**36. Entire Agreement; Severability**

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

**37. Modification or Waiver under AB 1010**

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

**38. Waivers**

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

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

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

**40. Single Audit Requirements**

Grantee is responsible for complying, as necessary, with the Single Audit Act and its

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implementing regulation at 2 Code of Federal Regulations part 200, subpart F regarding audit requirements.

### 41. **Disputes**

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

### 42. **Consent**

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

### 43. **Grantee Liability**

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

### 44. **Defense and Indemnification**

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

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proceeding, Grantee shall, individually or jointly, pay to the Department, immediately upon demand, the amount of all attorneys' fees and costs incurred by the Department in connection therewith.

**45. Time Is of the Essence**

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

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**PROJECT-SPECIFIC PROVISIONS AND SPECIAL TERMS AND CONDITIONS**  
**Permanent Housing**

**A. PROJECT-SPECIFIC PROVISIONS**

<b>Project Name</b> TwelveThirteen <b>Street Address</b> 1213 V Street Merced, CA 95341  <b>County of Merced</b>			<b>Assessor Parcel Number (APN):</b>  031-271-017-000		
# of Bedrooms	Units	Non-Homekey Units	Homekey-Assisted Units	AMI Income Limit	Restriction to Subset of Target Population
Manager Unit	1	0	1	N/A	N/A
0 (Studio)	45	0	45	30%	Chronically Homeless
0 (Studio)	50	0	50	30%	N/A
Totals:	96	0	96		

1. **Permanent Housing – Award, Disbursement, and Eligible Use(s)**. Grantee received Homekey Program award letter on March 28, 2022 (the “**Award Date**”). Pursuant to that award letter, the Grantee is receiving Homekey Grant funds in the amount of \$23,074,054.00 (the “**Award**”). The Payee of these funds is the City of Merced. Grantee will use the funds to provide Permanent Housing for the Target Population. Specifically, the Grantee will apply these funds towards the following eligible use(s):
  - a. Acquisition and rehabilitation of a hotel to provide Permanent Housing for the Target Population
  - b. Capitalization of an operating subsidy for the Assisted Units

Grantee’s Award includes \$19,462,962.00 for capital expenditures and \$3,411,092.00 for operating funds. The Expenditure Deadline for Capital Funds is

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set forth herein as a Milestone Completion Date. The Expenditure Deadline for Operating Funds is set forth herein as a Milestone Completion Date.

Grantee's Award includes \$100,000.00 for relocation costs. The Department has awarded this money in accordance with the NOFA. This amount represents one-half of the relocation cost per door. The Grantee is responsible for paying the balance of any and all relocation costs necessitated by the Project.

Grantee will receive additional funds in the amount of \$950,000.00 (the "**Bonus Award**") if the Project's Assisted Units achieve full occupancy (with consideration for an average of 10 percent vacancy) within eight (8) months of the Award Date. The occupancy deadline in connection with Grantee's Bonus Award is set forth herein as a Milestone Completion Date. The Department will not disburse the Bonus Award until it receives documentary evidence, in form and substance reasonably satisfactory to the Department, that the Milestone Completion Date has been met. Grantee shall only use such Bonus Award for its incurred or prospective operating costs for the Project. If Grantee duly satisfies all requirements and conditions relative to the Bonus Award, Grantee's total award amount will be \$24,024,054.00 (the "**Total Award Amount**").

- 2. Project Narrative.** TwelveThirteen is a project that will acquire and rehabilitate an existing hotel to create 96 studio units in Merced, California. Off-site amenities, located within one-half mile of the project include a public bus stop, grocery store, health facility, and pharmacy. Four two-story buildings will house tenant units for Chronically Homeless and Homeless populations, and will include an internal common area, central laundry, manager's office and a supportive services office.

**Obligation to Serve Subsets of the Target Population.** Grantee shall ensure that at least 25 percent of the Project's Assisted Units are restricted to occupancy by the Chronically Homeless. Grantee shall ensure that at least 50 percent of the Project's Assisted Units are restricted to occupancy by the Homeless.

- 3. Scope of Work.** The Grantee will acquire the hotel site and rehabilitate the site to include 45 units for the Chronically Homeless, 50 units for the Homeless populations. The site will include the manager's residential unit and office, supportive services office, community space and a central laundry. Each unit will include a kitchenette, refrigerator, stove or hot plate and microwave, and will be furnished with a bed, dresser, table, desk and chairs. The units will be pre-wired for cable and internet access.

**EXHIBIT E**

Grantee shall assure that the case manager ratio for this project will be maintained at 5:1 for both the Homeless and the Chronically Homeless population.

Grantee will serve as the lead provider for community support services and will partner with Turning Point Community Program, Merced County Behavioral Health and Recovery Services, and Merced County Human Services Agency to provide Homeless and Chronically Homeless tenants the following supportive services:

- Case management.
- Behavioral health services.
- Physical health services.
- Assistance obtaining benefits and essential documentation.
- Education and employment services
- Other services such as housing retention skills, legal assistance, family connection services.

Supportive services on-site staffing includes the following positions:

- Tenancy Support Case Managers (5.0 FTE)
- Behavioral Health Worker (1.0 FTE)
- Community Coordinator (2.0 FTE)
- Program Manager (1.0 FTE)

**4. Grantee Contract Coordinator.**

Authorized Representative Name:	Stephanie Dietz
Authorized Representative Title:	City Manager
Entity Name:	City of Merced
Address:	678 West 18 <sup>th</sup> Street, Merced, CA 95340
Telephone No.:	209-385-6834

Homekey Program – Round 2 (Homekey)

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Project Name: TwelveThirteen

Approved Date: 01-24-2022

Prep. Date: 04-14-2022

**EXHIBIT E**

E-Mail Address:	DietzS@cityofmerced.org
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Authorized Representative Name:	Jessica Hoff Berzac
Authorized Representative Title:	President
Entity Name:	UP Holdings California, LLC
Address:	7370 N. Lincoln Ave., Suite A, Lincolnwood, IL 60712
Telephone No.:	559-624-8000
E-Mail Address:	jessica@upholdings.net

Authorized Representative Name:	Wayne Rutledge
Authorized Representative Title:	CEO
Entity Name:	RH Community Builders LP
Address:	2550 W Clinton Ave #142, Fresno, CA 93705
Telephone No.:	559-492-1373
E-Mail Address:	wayne@rhcbfresno.com

**5. Additional Conditions Precedent to Disbursement.**

Grantee must provide satisfactory proof of General Liability Insurance that meets the requirements in the Homekey Round 2 NOFA §800(ii) and must provide satisfactory proof of Property-Hazard Insurance that meets the requirements in §800(v) prior to the disbursement of funds.

The Grantee shall submit an updated supportive services plan, including a property management plan for the Project and such plan must be approved by the Department in its sole and reasonable discretion, before the disbursement of \$3,411,092.00 of the Award granted for operations.

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Grantee shall submit a relocation plan that complies with all applicable local, state, and federal relocation law, and such plan must be approved by the Department in its sole and reasonable discretion.

**6. Budget Detail.**

Grantee is obligated to cover the Project’s development, operations and service costs for five (5) years. Grantee will satisfy this obligation by leveraging funding commitments, or other reasonable funding assurances, from the following funding sources:

- Homekey award dated March 28, 2022, for a funding commitment of \$24,024,054.00 for acquisition, construction, and supportive services.
- Letter from UP Holdings California LLC and RH Community Builders LP dated January 28, 2022, for a funding commitment of \$400,000.00 for acquisition and/or rehabilitation costs.
- Central Valley Community Foundation letter dated January 31, 2022, for a funding commitment of \$100,000.00 for rehabilitation costs.
- City of Merced letter dated January 21, 2022, for a funding commitment of \$1,690,462.00 of HOME and HOME ARP funds for rehabilitation costs

Grantee shall maintain the ongoing affordability of the Project by leveraging the following non-Homekey sources of rental or operating subsidies:

- Merced City and County Continuum of Care letter dated December 8, 2021, commits rental and/or leasing assistance for up to 45 units with an estimated value of \$1,954,800.00 over five years.

**7. Performance Milestones.**

<b>Performance Milestones</b>	<b>Milestone Completion Date</b>
The Project’s escrow must be closed, and the capital funds must be fully expended	November 28, 2022

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Performance Milestones	Milestone Completion Date
All Homekey-funded construction or rehabilitation must be completed.	March 28, 2023
Full occupancy by the Target Population must be accomplished in accordance with the descriptions and representations set forth in the Application.	November 28, 2022
A copy of Grantee’s written nondiscrimination policy (in accordance with <u>Exhibit D</u> of this Agreement) must be submitted to the Department.	November 28, 2022
A [DRAFT] Regulatory Agreement or other use restriction must be submitted to the Department for review and approval.	November 28, 2022
A Department-approved Regulatory Agreement or other use restriction must be recorded against the Project real property as specified and described in the NOFA and this Agreement.	March 28, 2023
Homekey-funded operating funds must be fully expended.	June 30, 2026
A Homekey Program and Expenditure Report must be submitted to the Department as specified and described in the NOFA.	January 31 – Each year for five (5) years following the Effective Date of this Agreement

**B. SPECIAL TERMS AND CONDITIONS**

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## EXHIBIT E

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

1. **Use Restriction.** The state, regional, local, or tribal Grantee shall ensure that the Project is duly encumbered with a 55-year covenant, declaration, regulatory agreement, or similar use restriction (the “**Regulatory Agreement**”) that **(a)** is recorded in first position against the Project for the benefit of the state, regional, local, or tribal Grantee; **(b)** restricts the use, operation, occupancy, and affordability of the Project in accordance with this Agreement and the applicable Program Requirements; **(c)** duly names the Department as a third-party beneficiary with the right and privilege, but not the obligation, of enforcement thereof; and **(d)** is otherwise in form and substance acceptable to the Department.

The Regulatory Agreement must be recorded against the real property of the Project site by the Milestone Completion Date set forth herein. The Grantee shall obtain the Department’s express written approval of the Regulatory Agreement prior to the recordation of the same. After recordation, the Grantee shall promptly provide the Department with a conformed copy of the recorded Regulatory Agreement.

Unless otherwise authorized by the prior and express written approval of the Department, the Regulatory Agreement must be recorded as a lien against the Project in first position, and must remain in first position, over all other Project agreements, covenants, or other matters of record on the real property for the period of affordability required by the Program.

2. Grantee has made the following accessibility commitments with respect to the Project: The Project will exceed the state and federal accessibility requirements set forth in the NOFA. At least 15 percent of the Project’s Assisted Units must have features accessible to persons with mobility disabilities, as specified and described in the NOFA; and at least 10 percent of the Project’s units must have features accessible to persons with hearing or vision disabilities, as specified and described in the NOFA.

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