

AGREEMENT NUMBER HA-2016-XX-CoC

BETWEEN

HOUSING AUTHORITY OF THE CITY OF LOS ANGELES

AND

SPONSOR ORGANIZATION NAME

HUD GRANT NUMBER: CAXXXXL9DXXXXXX

COMPONENT TYPE: TENANT-BASED RENTAL ASSISTANCE (TRA)

THIS AGREEMENT is made and entered into this 1st day of May 2016 by and between the Housing Authority of the City of Los Angeles, State of California, a public body, corporate and politic (hereinafter referred to as the "Authority"), and **Sponsor organization name**, (hereinafter referred to as the "Service Provider").

WITNESSETH:

WHEREAS, the Continuum of Care Program ("Program"), previously known as the Shelter Plus Care Program, provides a combination of housing and supportive services to homeless persons with disabilities, primarily due to drugs, substance abuse, mental illness, and/or AIDS or related diseases ("Services"); and

WHEREAS, the Program provides grants to be used for rental assistance for permanent supportive housing for homeless persons with disabilities, which grant funds shall be matched by the Service Provider, except for leasing funds, with no less than 25% of funds or in-kind contributions from other sources; and

WHEREAS, the United States Department of Housing and Urban Development ("HUD"), which provides the grant funds to the Authority, no longer requires Service Providers to submit proposals for renewal grants; and

WHEREAS, the Service Provider has submitted its letter of commitment, previously provided to the Authority as a Shelter Plus Care Program proposal, to continue to provide the Services; and

WHEREAS, the Service Provider has represented that it has the requisite personnel, experience and resources to provide the Services required by the Authority, and that the Service Provider desires to provide the Services;

NOW, THEREFORE, in consideration of the mutual covenants, benefits and promises herein stated, the parties hereto agree as follows:

1. DEFINITIONS.

A. Eligible Person: A homeless person with disabilities (primarily persons who are seriously mentally ill; have chronic problems with alcohol, drugs, or both; or have AIDS and related diseases) and, if also homeless, the family of such a person. To be eligible for assistance, persons shall be Very Low-Income.

B. Very Low-Income: An annual income not in excess of fifty percent (50%) of the median income for the area, as determined by the U.S. Department of Housing and Urban Development ("HUD"), with adjustments for smaller and larger families.

C. Homeless means:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

i. An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

2. An individual or family who will imminently lose their primary nighttime residence, provided that:

i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

ii. Has no other residence; and

iii. Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

5. Chronically homeless means:

i. A homeless individual with a disability, as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 USC 11360(9)), who:

(a) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

(b) Has been homeless and living as described in Sub-paragraph i(a) of this definition continuously for at least 12 months or on at least four (4) separate occasions in the last three (3) years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least seven (7) consecutive nights of not living as described in Sub-paragraph i(a). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

ii. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in Sub-paragraph i of this definition, before entering that facility; or

iii. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in Sub-paragraphs i or ii of this definition, including a family whose composition has fluctuated while the head of household has been

homeless.

D. Individuals Excluded: Individuals living in “Transitional Housing” are not considered chronically homeless. “Transitional Housing” means housing, where all transitional housing program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months or such longer periods as HUD determines necessary. The transitional housing program participant must have a lease or occupancy agreement for a term of at least one (1) month. The lease must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum term of 24 months.

E. Original Shelter Plus Care Proposal: The proposal submitted by the Service Provider in response to the Authority’s Request for Proposals for the Shelter Plus Care Program, which was the predecessor program for the Continuum of Care Program. Any reference to the Shelter Plus Care Program will automatically refer to the Continuum of Care Program.

F. Commitment Letters: Service Provider must provide commitment letter(s) certifying:

1. Source(s) of match (2 CFR 2400.101, 2 CFR 200.407) in an amount no less than 25% of grant funds (24 CFR 578.73):

i. When the source of match is cash, written documentation should be provided on the source agency's letterhead, signed and dated by an authorized representative, and, at a minimum, should include the following:

a. Amount of cash to be provided to the Service Provider for the project;

b. Specific date the cash will be made available;

c. The actual grant and fiscal year to which the cash match will be contributed;

d. Time period during which funding will be available; and

e. Allowable activities to be funded by the cash match (Exhibit A).

ii. When the source of match is in-kind real property, equipment, goods, or services, written documentation of the donation of in-kind

real property, equipment, and/or goods must be provided on the source agency's letterhead, signed and dated by an authorized representative of the source agency, and must, at a minimum, include the following:

- a. Value of donated goods to be provided to the Service Provider for the project;
- b. Specific date the goods will be made available;
- c. The actual grant and fiscal year to which the match will be contributed;
- d. Time period during which the donation will be available;
- e. Allowable activities to be provided by the donation; and
- f. Value of commitments of land, buildings, and equipment—the value of these items are one-time only and cannot be claimed by more than one project or by the same project in another year (Exhibit A).

iii. In-kind services to be provided by a third party must be documented by a memorandum of understanding (MOU) between the Service Provider and the third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the Service Provider's organization. If the Service Provider does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market (24 CFR 578.73).

- a. The MOU must establish the unconditional commitment, except for selection to receive a grant, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided (Exhibit A).

G. Participant: An Eligible Person who has been selected to participate in the program.

H. Continuum of Care Requirements: The Continuum of Care law (Title IV, Subtitle F of the McKinney-Vento Homeless Assistance Act, as amended), regulations (24 CFR Part 578) (Exhibit C), the HUD Notice of Funding Availability

under which the Authority was awarded the grant of funds for this project and the provisions of the Continuum of Care Program Grant Agreement (the "Grant Agreement") executed by the Authority and HUD, and related HUD notices and directives, as applicable.

I. Tenant-Based Rental Assistance: Rental assistance provided to Participants in the Continuum of Care program, to be used for permanent housing. The rental assistance permits Participants to choose housing of an appropriate size. Participants retain the rental assistance if they change residences.

2. EFFECTIVE DATE AND TERM OF THE AGREEMENT.

A. Effective Date of Agreement. The effective date of this Agreement is **May X, 2016**.

B. Term of Agreement. The term of this Agreement begins on the effective date of the Agreement, and ends on **April XX, 2017**.

3. SERVICE PROVIDER'S RESPONSIBILITIES.

A. SCOPE OF WORK. The Service Provider will carry out the activities listed in the Service Provider's original Shelter Plus Care Proposal, in accordance with the Program Requirements, whether or not specifically referenced in this Agreement. All elements of the Proposal, continued by submittal of the Service Provider's Commitment Letters, including, without limitation, the commitment of supportive services the Service Provider will provide and the means of fulfilling match requirements, are attached as Exhibit A and incorporated into this Agreement. Notwithstanding any provisions of the Shelter Plus Care Proposal/Commitment Letters to the contrary, the Service Provider will carry out the activities for which it is responsible in compliance with applicable provisions of the Program.

B. OUTREACH. The Service Provider shall use its best efforts to ensure that eligible hard-to reach persons are served by the Program. The Service Provider shall refer only Eligible Persons to the Authority, and assemble materials and application packages for eligibility interviews according to the Authority's instructions.

All Continuum of Care agencies (Service Provider) located in areas of the city that are served by a regional Coordinated Entry System ("CES") must participate in that CES and utilize the system for intake.

CES definition: A CES is a process that coordinates program participate intake, assessment, and provision of referrals across a defined geographic area.
(Adapted from Section 578.3 of Interim Continuum of Care rule).

C. PROGRAM REQUIREMENTS

i. Matching Requirements.

1. ***In general.*** The Service Provider must match all grant funds, except for leasing funds, with no less than 25 percent of funds and / or in-kind contributions from other sources. For Continuum of Care geographic areas in which there is more than one grant agreement, the 25 percent match must be provided on a grant-by-grant basis. Recipients that are United Funding Agencies (“UFAs”) as defined in 24 CFR 578.11, or are the sole recipient for their Continuum, may provide match on a Continuum-wide basis. Cash match must be used for the costs of activities that are eligible under Subpart D of 24 CFR Part 578 of this part, except that High-Performing Communities may use such match for the costs of activities that are eligible under 24 CFR 578.71.

2. ***Cash sources.*** The Service Provider may use funds from any source, including any other federal sources (excluding Continuum of Care program funds), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. The Service Provider must ensure that any funds used to satisfy the matching requirements of this section are eligible under the laws governing the funds in order to be used as matching funds for a grant awarded under this program.

3. ***In-kind contributions.***

a. The Service Provider may use the value of any real property, equipment, goods, or services contributed to the project as match, provided that if the Service Provider had to pay for them with grant funds, the costs would have been eligible under Subpart D of 24 CFR Part 578, or, in the case of High-Performing Communities, eligible under 24 CFR 578.71.

b. All services must correspond to their actual fee schedules.

c. Before grant execution, services to be provided by a third party must be documented by a memorandum of understanding (“MOU”) between the Service Provider and the

third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the Service Provider's organization. If the Service Provider does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market.

i. The MOU must establish the unconditional commitment, except for selection to receive a grant, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided.

ii. During the term of the grant, the Service Provider must keep and make available, for inspection, records documenting the service hours provided.

D. The Service Provider shall report to the Authority on compliance with this match requirement in a form and manner specified by the Authority.

E. The Authority will require payments from the Service Provider, should the Service Provider at any time not be in full compliance with 24 CFR 578.73, Matching Requirements.

F. Required Services. The Service Provider shall perform the Services and tasks outlined in the Original Shelter Plus Care Proposal, which include, but are not limited to, the following:

a. Provide integrated case management through which Participants shall receive mental health services, medical services, substance abuse treatment, vocational training, job training services, legal/welfare advocacy, drug and alcohol counseling, and other services through established providers in the immediate neighborhood.

b. Structured follow-up, including regular meetings with a case manager, to determine progress and identify any emergency issues.

c. Referral to appropriate services which may include, but not be limited to: Crisis intervention, referrals to legal services, referrals to health and mental health services, referrals to substance abuse counseling and support groups, referrals to education and vocational training programs, and referrals to employment services.

d. The Service Provider shall conduct on-going assessments of individual Participants' needs and supportive services, including supportive services designed to assist Participants with their Program compliance.

G. ANNUAL PERFORMANCE REPORTS, QUARTERLY REPORTS, AND OTHER PERTINENT INFORMATION

i. **Annual Performance Reports.** The Service Provider shall submit to the Authority an Annual Performance Report ("APR"), covering the Operating Year as designated by HUD and the Authority. The Service Provider shall submit one (1) APR for each Operating Year. The APRs shall be considered due to the Authority 30 days after the end date of each Operating Year. The format of the APRs shall conform to the most recent template issued by HUD.

ii. **Quarterly Reports.** The Service Provider shall submit Quarterly Reports, documenting the match requirement, as well as the source, amount, and type of supportive services provided, to cover the quarters prescribed by the Operating Year, within 30 days after the end date of each Quarter.

iii. **Other Pertinent Information.** The Service Provider shall furnish any information pertinent to this Agreement as may reasonably be required from time to time by the Authority or HUD.

H. GENERAL OPERATION. The Service Provider shall operate the Program in compliance with HUD requirements for general operation, 24 CFR 578.75, which provide for participation of homeless individuals, on-going assessment of housing and supportive services, adequate supportive services, and records and reports.

4. THE AUTHORITY'S RESPONSIBILITIES. As consideration for the Services to be provided by the Service Provider pursuant to this Agreement, the Authority will provide Tenant-Based Rental Assistance to the Service Provider's clients who are Participants in the Continuum of Care Program. The Authority will pay Tenant-Based Rental Assistance to owners of housing chosen by such Participants. Unless otherwise approved by the Authority, the Authority will provide rental assistance for a maximum number of units identified in **Exhibit D**.

5. MAXIMUM PAYMENT OBLIGATION. The maximum payment obligation for the entire Term of this Agreement shall not exceed **Amount of Rental Assistance authorized by HUD under the CoC Grant**.

6. TERMINATION FOR CONVENIENCE. The Authority may terminate this Agreement for the Authority's convenience at any time by giving the Service Provider ten (10) days' written notice thereof. Upon receipt of said notice, the Service Provider shall immediately take action not to incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities. The Authority shall pay the Service Provider its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by the Service Provider to effect such termination. Thereafter, the Service Provider shall have no further claims against the Authority under this Agreement. All finished or unfinished documents and materials proposed for or produced under this Agreement shall become Authority property upon date of such termination and the Service Provider shall immediately deliver to the Authority all documents and materials accumulated or generated in performing the Agreement, whether completed or in process.

7. DEFAULTS.

A. Any of the following is a default by the Service Provider under this Agreement:

- i.** The Service Provider has committed any fraud or made any false statements to the Authority or HUD in connection with the Agreement, or has committed fraud or made any false statement in connection with any Federal rental assistance program; or
- ii.** A Federal or State proceeding for the relief of debtors is undertaken by or against the Service Provider; or
- iii.** A receiver or trustee is appointed for the Service Provider; or
- iv.** The Service Provider makes an assignment for the benefit of its creditors; or
- v.** The Service Provider becomes insolvent, which shall be deemed to have occurred if the Service Provider has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether or not the Service Provider has committed an act of bankruptcy or is considered insolvent within the meaning of the federal bankruptcy law; or
- vi.** The Service Provider fails or refuses to submit its APR, certified by its authorized representative or its Executive Director designee, within 30 days after the end date of any given Operating Year; or
- vii.** The Service Provider fails or refuses to submit its Quarterly Reports within 30 days after the end date of any given Operating Quarter; or
- viii.** The Service Provider fails or refuses to furnish any information

pertinent to this Agreement as may reasonably be required from time to time by the Authority or HUD; or

ix. The Service Provider breaches any material terms or violates any material provision of this Agreement, or any other Agreement under the Program, and does not cure such breach or violation within ten (10) calendar days after delivery by the Authority of a written "Notice to Cure Deficiency."

B. If the Authority determines that a default has occurred, the Authority may exercise any of its rights or remedies under the Agreement. The Authority must notify the Service Provider in writing of such determination. The notice by the Authority to the Service Provider may require the Service Provider to take corrective action (as verified by the Authority) by a time prescribed in the notice. The Authority's rights and remedies under the Agreement include the recovery of overpayment, termination or reduction of Tenant-Based Rental Assistance, and termination of the Agreement. The rights and remedies of the Authority set forth in this Paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. The Authority's exercise or non-exercise of any remedy for the Service Provider's breach of this Agreement is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

8. AUTHORITY AND SERVICE PROVIDER RELATION TO THIRD PARTIES.

A. Injury Resulting from Service Provider Action or Failure to Act. The Authority has not assumed any responsibility for or liability to any person injured as a result of the Service Provider's action or failure to act in connection with the implementation of this Agreement, or as a result of any other action or failure to act by the Service Provider.

B. Legal Relationship. The Service Provider shall, during the performance of this Agreement, act as a wholly independent Service Provider. The Service Provider shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner employees of the Authority. Nothing contained in this Agreement shall be deemed, construed or represented by the Authority or the Service Provider or by any third person to create the relationship of principal or agent, or of a partnership, or of a joint venture, or of any other association of any kind or nature between the Authority and the Service Provider. The Service Provider is not the agent of the Authority, and this Agreement does not create or affect any relationship between the Authority and any lender to the Service Provider or any suppliers, employees, Service Providers, or contractors used by the Service Provider in connection with the implementation of this Agreement. The Authority shall not be called upon to assume any liability for the

direct payment of any salary, wage or other compensation to any person employed by the Service Provider.

C. Exclusion of Third Party Claims. Nothing in this Agreement shall be construed as creating any right of a Participant or other third party (other than HUD) to enforce any provision of the Agreement, or to assert any claim against the Authority, or the Service Provider under the Agreement.

9. INDEMNIFICATION.

A. The Service Provider shall hold harmless, indemnify and defend the Authority and its officers, employees, commissioners, servants, agents, successors, assigns, instrumentality entities, subsidiaries and related non-profit corporations, as well as the directors, officers, employees, commissioners, servants, agents, successors, and assigns of the Authority's instrumentality entities, subsidiaries, and related non-profit corporations (collectively, "Indemnified Parties") from and against all claims, actions, lawsuits, complaints, demands, damages, liabilities, losses, obligations, taxes, settlements, judgments, costs or expenses (including without limitation reasonable attorney's fees and costs), whether or not involving a third party claim, which arise out of, relate to, or result from (1) any breach of any representation or warranty of the Service Provider contained in this Agreement; (2) any breach of any covenant or other obligation or duty of the Service Provider under this Agreement or under applicable law; and (3) any acts or omissions by the Service Provider, in each case whether or not caused by the negligence of the Authority or any other Indemnified Party, and whether or not the relevant claim has merit. This indemnification provision shall not apply to any claims resulting solely from the gross negligence or willful act of the Authority, the Authority's officers, employees, commissioners, servants, agents, successors, assigns, instrumentality entities, subsidiaries, and related non-profit corporations, or the directors, officers, employees, commissioners, servants, agents, successors, and assigns of the Authority's instrumentality entities, subsidiaries, and related non-profit corporations. The Service Provider's obligations set forth above shall survive the expiration or termination of the Term of this Agreement, as well as any Option Term, if any.

B. The Authority does not, and shall not, waive any rights that it may have against the Service Provider by reason of the acceptance by the Authority, or the deposit with the Authority, of any insurance policies or endorsements required pursuant to this Agreement. This indemnification provision shall apply regardless of whether or not said insurance policies or endorsements are determined to be applicable to any claims, actions, lawsuits, complaints, demands, damages, liabilities, losses, obligations, taxes, settlements, judgments, costs or expenses described above.

10. INSURANCE.

A. During the term of this Agreement, the Service Provider shall, at its own cost and expense, procure and maintain the following types of insurance:

- i.** Statutory Workers' Compensation, as required by the California Labor Code, and Employer's Liability with limits not less than \$1,000,000; and
- ii.** General Liability, including coverage for property damage and independent Service Providers, with limits not less than \$1,000,000 per occurrence; and
- iii.** Motor Vehicle Liability, for owned and not-owned vehicles, with limits not less than \$500,000 per occurrence; and
- iv.** Professional liability insurance with limits not less than \$1,000,000.

A. Prior to the commencement of work, the Service Provider shall furnish the Authority with insurance endorsements, evidencing the above insurance coverage and further indicating that the Service Provider's policies have been endorsed to name the "Housing Authority of the City of Los Angeles" as an additional insured thereon, if applicable, with provision made for cross liability. The endorsements shall further provide that "Service Provider's policy is primary over any insurance carried by the Authority" and that "the policy will not be canceled or materially changed without thirty (30) days prior notice in writing" being given to the Authority.

B. All evidence of insurance coverage required to be submitted in accordance with this Paragraph 10 shall be delivered to the addressee for the Authority specified in Paragraph 28 of this Agreement. The Authority shall make the final determination as to whether the documentation submitted by the Service Provider conforms to the requirements of this Paragraph 10.

C. If any Sub-Service Provider(s) or independent Service Provider(s) is utilized by the Service Provider for the purpose of carrying out portions of this Agreement, said Sub-Service Provider(s) or independent Service Provider(s) shall also be required to comply with the insurance provisions set forth in this Paragraph 10 and the indemnification provisions set forth in Paragraph 9 of this Agreement.

11. AUTHORITY AND SERVICE PROVIDER RELATION TO THIRD PARTIES.

A. Injury Resulting from Service Provider Action or Failure to Act. The Authority has not assumed any responsibility for, or liability to, any person injured

as a result of the Service Provider's action or failure to act in connection with the implementation of this Agreement, or as a result of any other action or failure to act by the Service Provider.

B. Legal Relationship. The Service Provider shall, during the performance of this Agreement, act as a wholly independent Service Provider. The Service Provider shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner employees of the Authority. Nothing contained in this Agreement shall be deemed, construed or represented by the Authority or the Service Provider or by any third person to create the relationship of principal or agent, or of a partnership, or of a joint venture, or of any other association of any kind or nature between the Authority and the Service Provider. The Service Provider is not the agent of the Authority, and this Agreement does not create or affect any relationship between the Authority and any lender to the Service Provider or any suppliers, employees, Service Providers, or subcontractors used by the Service Provider in connection with the implementation of this Agreement. The Authority shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person employed by the Service Provider.

C. Exclusion of Third Party Claims. Nothing in this Agreement shall be construed as creating any right of a Participant or other third party (other than HUD) to enforce any provision of the Agreement, or to assert any claim against the Authority, or the Service Provider under the Agreement.

12. INTERPRETATION. No provision of this Agreement is to be interpreted for or against either party because that party or that party's legal representative drafted such provision, but this Agreement is to be construed as if drafted by both parties hereto.

13. CONFLICT OF INTEREST.

A. Pursuant to 24 CFR **578.95(d)(1, 2)**, the Service Provider covenants.

1. No covered person, meaning a person who is an employee, agent, consultant, officer, or elected or appointed official of the Service Provider and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one-year period

following his or her tenure.

a. *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of this section on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (d)(2)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (d)(2)(ii) of this section.

B. No members of the Board of Directors may be employed by the Service Provider if the Service Provider is a corporation.

C. The Service Provider warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.

D. Participation by homeless individuals who also are participants in policy or decision-making under the Continuum of Care Program Requirements does not constitute a conflict of interest.

E. As used in this section:

i. The term "Immediate Family" includes, but is not limited to, a domestic partner and/or those persons related by blood or marriage, such as a husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

ii. The term "Financial or Other Interest" includes, but is not limited to, any direct or indirect financial interest in the specific contract or agreement, including a commission or fee, a share of the proceeds, the prospect of a promotion or of future employment, a profit, or any other form of financial reward.

F. The Service Provider will incorporate the foregoing paragraphs of this section into every agreement that it enters into in connection with this project and will substitute the term "Subcontractors" for the term "Service Provider".

G. The Service Provider warrants that the Service Provider has disclosed to the Authority:

i. The identity of the Service Provider, any developer, builder, architect, management agent (and other participants), and the names of the officers and principal members, shareholders, investors, and other parties having a substantial interest in this Agreement or in any proceeds or benefits arising

from the Agreement.

ii. Any possible conflict of interest by any of these parties that would be a violation of the Agreement. The Service Provider shall fully and promptly update such disclosures.

H. In the event of a change in either private interest or services under this Agreement, any questions regarding possible conflicts of interests which may arise as a result of such change shall be brought to the immediate attention of the Los Angeles City Attorney. For the duration of this Agreement, the Service Provider shall refrain from undertaking any work for any individual, business, or legal entity in which direct conflict of interests regarding the services to be provided thereunder or herein may arise.

14. INTEREST OF MEMBER OF OR DELEGATE TO CONGRESS. No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Agreement or to any benefits arising from the Agreement.

15. LOBBYING CERTIFICATIONS. The Service Provider hereby assures and certifies that:

A. No Federally appropriated funds have been paid or will be paid, by or on behalf of the Service Provider, 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 the awarding of any Federal Agreement; 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 Agreement, grant, loan, or cooperative Agreement.

B. If any funds other than Federally 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 Agreement, grant, loan, or cooperative Agreement, the Service Provider must complete and submit standard form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The Service Provider shall require that the language of this certification be included in the award documents for all subawards of all tiers (including subcontracts, subgrants, under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352,

Title 31, U.S. Code. Any person who fails to file the required certification is subjected to a civil penalty of not less than \$10,000 and of not more than \$100,000 for each such failure.

16. ASSIGNMENT OR TRANSFER OF THE AGREEMENT.

A. The Service Provider shall not in any manner, directly or indirectly, by operation of law or otherwise, hypothecate, assign, transfer or encumber this Agreement or any portion hereof or any interest herein, in whole or in part, without the prior written consent of the Authority. In addition, the Service Provider shall not subcontract the Services to be performed pursuant to this Agreement without prior written approval of the Authority. The names and qualifications of subcontractors or others whom the Service Provider intends to employ, other than those identified, shall be submitted to the Authority for prior written approval. A change in ownership in the Service Provider, such as a stock transfer or transfer of the interest of a limited partner, is not subject to the provisions of this section. Transfer of the interest of a general partner is subject to the provisions of this section.

B. Where the Service Provider requests the consent of the Authority for a transfer in any form, including any sale or assignment, of this Agreement, the Authority will give its written consent to a transfer of the Agreement pursuant to paragraph A of this section if the transferee agrees in writing to comply with all the terms of the Agreement, and if the transferee is acceptable to the Authority. If the transfer constitutes a significant change, as defined by Section 578.105 of the Continuum of Care Program Regulations (24 CFR Part 578), HUD shall also approve the transfer, in writing. HUD's criteria for acceptance of the transferee must be no more restrictive than for initial acceptance of any application under the Program at the time of the Service Provider's request.

C. If the Service Provider is proposing to pledge the Agreement as security for financing, the Service Provider must submit the financing documents to the Authority for prior written approval. In determining the approvability of a pledge arrangement, the Authority shall review the documents submitted by the Service Provider to ensure that the financing documents do not modify the Agreement, and do not contain any requirements inconsistent with the Agreement. Any pledge of the Agreement shall be limited to amounts payable under the Agreement in accordance with the terms of the Agreement.

17. WAIVER. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

18. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AFFIRMATIVE ACTION.

A. In the performance of work under this Agreement, the Service Provider and its subcontractors, if any, must not in the selection of Participants, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, age, ancestry, color, creed, religion, sex, gender identity, sexual preference, national origin, familial status, or handicap.

B. The Service Provider must comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, as amended, and any related rules and regulations.

C. The Service Provider must comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (the Act); the HUD regulations issued thereunder, 24 CFR, Subtitle A, Part 1; the HUD requirements pursuant to these regulations; and Executive Order 11063, to the end that, in accordance with the Act, the HUD requirements, and Executive Order 11063, no person in the United States may, on the grounds of race, color, creed, religion, or national origin, be excluded from participation in, or denied the benefits of, the Continuum of Care Program, or be otherwise subject to discrimination. This provision is included pursuant to the regulations of HUD, 24 CFR, Subtitle A, Part 1, issued under Title VI of the Civil Rights Act of 1964, and the HUD requirements pursuant to the regulations. The obligation of the Service Provider to comply therewith inures to the benefit of the United States of America, HUD, and the Authority, any of which are entitled to invoke any remedies available by law to redress any breach or to compel compliance by the Service Provider.

D. In accordance with regulations issued by HUD pursuant to Section 504 of the Rehabilitation Act of 1973, as amended (24 CFR Part 8), the Service Provider must not discriminate against any otherwise qualified individual with handicaps.

E. In carrying out the obligations under this Agreement, the Service Provider shall not discriminate against any employee or applicant for employment because of race, age, ancestry, color, creed, religion, sex, gender identity, sexual preference, national origin, familial status, or handicap. The Service Provider will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to race, age, ancestry, color, creed, religion, sex, gender identity, sexual preference, national origin, familial status, or handicap. Such action includes, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

The Service Provider agrees to post on conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this nondiscrimination clause. The Service Provider will in

all solicitations or advertisements for employees placed by or on behalf of the Service Provider state that all qualified applicants will receive consideration for employment without regard to race, age, ancestry, color, creed, religion, sex, gender identity, sexual preference, national origin, familial status, or handicap. The Service Provider will incorporate the foregoing requirements of these Subparagraphs in all Agreements for project work, except Agreements for standard commercial supplies or raw materials, and will require all of its subcontractors for such work to incorporate such requirements in all subcontractors for project work.

19. COOPERATION IN EQUAL OPPORTUNITY COMPLIANCE REVIEWS. The Authority and the Service Provider must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

20. MINORITY/WOMEN'S BUSINESS ENTERPRISE; OTHER FEDERAL REQUIREMENTS.

A. The Service Provider shall make a good-faith effort to comply with the minority business enterprise ("MBE") and women's business enterprise ("WBE") levels of participation established by the Authority. It is the policy of the Authority that minority business enterprises as specified in 24 CFR 85.36 shall have maximum opportunity to participate in the performance of this Agreement. The Service Provider agrees to assist the Authority in meeting its anticipated levels of participation by conducting outreach to MBEs and WBEs to ensure that these businesses have the maximum opportunity to compete for, and perform in, the Agreement.

B. The Service Provider must comply with and is subject to the requirements of the following, where applicable:

- i.** Executive Orders 12432, Minority Business Enterprise Development, and 12138, Creating a National Women's Business Enterprise Policy.
- ii.** Executive Order 11625, Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprises.
- iii.** 24 CFR Part 24, Participation, Debarment, Suspension, and Limited Denial of Participation.

21. DOCUMENTS. At the time of either termination of this Agreement or conclusion of all work undertaken in connection with the Agreement, all original documents, designs, drawings, reports, logos, diskettes, computer files, notes and other related materials, whether prepared by the Service Provider or subcontractor(s) or obtained in the course

of providing the services to be performed pursuant to this Agreement, shall become the sole property of the Authority.

22. LICENSES AND PERMITS. The Service Provider warrants that it has all necessary licenses and permits for the work to be performed under this Agreement. The Service Provider represents that it will immediately obtain or has obtained and presently holds a valid Business Tax Registration Certificate(s) as required by the Los Angeles Municipal Code, Chapter 2, Article 1, Chapter 2, Sections 21.00, et seq. The Service Provider shall maintain, or obtain as necessary, any or all such certificate(s) and shall show proof of such certificate(s) to the Authority prior to the commencement of the Agreement.

23. WARRANTY OF SERVICE PROVIDER.

A. The Service Provider warrants that it is free to enter into this Agreement and is not subject to any obligation or disability which will or might prevent or interfere in fully keeping and performing all of the conditions to be kept and performed under this Agreement.

B. The Service Provider further warrants that it has not paid anyone for the purpose of entering into this Agreement, and that entering into this Agreement and performing the Services hereunder will not constitute a conflict of interest.

C. The Service Provider further warrants that neither it, nor its agents or representatives, has offered or given gratuities in the form of entertainment, gifts, favors or other items or services of value to any officer or employee of the Authority with a view toward securing: (i) award of this Agreement, (ii) amendment of the Agreement after award, (iii) favorable treatment of the Service Provider by the Authority in the administration of the Agreement or in the making of any determination with respect to the Service Provider's performance of its obligations under the Agreement.

24. NO ATTORNEY FEES. In the event any action, suit, or proceeding is brought for the enforcement of, or the declaration of, any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, each party shall bear its own costs and expenses, including attorneys' fees, and any judgment or decree rendered in such a proceeding shall not include an award thereof.

25. DISPUTES. This Agreement is made, entered into, and executed in Los Angeles County, California, and any action filed in any court for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Los Angeles County, California. This Agreement shall be construed, and all disputes hereunder shall be settled, in accordance with the laws of the State of California. Pending the final resolution of a dispute hereunder, the Service Provider shall

proceed diligently with the performance of its obligations under this Agreement and in accordance with the Authority's instructions.

26. AUDIT AND INSPECTION OF RECORDS.

A. The Service Provider shall keep records of all Program activities as required by 24 CFR 578.103.

B. The Service Provider shall furnish any information pertinent to this Agreement as may reasonably be required from time to time by the Authority or HUD.

C. After receipt of reasonable notice and during the regular business hours of the Service Provider, the Service Provider shall provide the Authority or HUD, or agents of either, such access to the Service Provider's records and facilities as the Authority or HUD deems necessary to examine, audit, inspect, excerpt, photocopy, or transcribe the Service Provider's records relative to work performed under this Agreement. Accounting and financial records shall be maintained in accordance with generally accepted accounting principles. All records shall be maintained and access shall be provided to the Authority during the entire term of this Agreement and for five (5) years after final payment by the Authority hereunder, unless the Authority gives written permission to the Service Provider to dispose of said records prior to this time.

D. Where Continuum of Care funds are used for the acquisition, new construction, or rehabilitation of a project site, records must be retained until 15 years after the date that the project site is first occupied, or used, by the Program Participant.

27. FORCE MAJEURE. In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault or negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the federal government or any unit of state or local government in either sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes, freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

28. NOTICES.

A. Any notices to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by

personal service or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, and addressed to the party for whom intended as follows:

**To: Attn: Ryan Mulligan, Assistant Director of Section 8
Housing Authority of the City of Los Angeles
2600 Wilshire Boulevard, 5th Floor
Los Angeles, CA 90057**

**To: Attn: Firs Name, Last Name, Title.
Sponsor Organization Name
Sponsor Organization Address**

B. Either party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or upon deposit in the United States mail.

29. FAITH-BASED ORGANIZATIONS: Faith-based organizations are eligible, on the same basis as any other organization, to use the Licensor's available community space to provide programs and activities to residents provided that there is a separation of explicitly religious activities from direct Federal financial assistance. The Licensee shall comply with the following provisions if it is deemed to be a faith-based organization, pursuant to 24 CFR section 5.109.

a. A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance that it receives to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) or in any manner prohibited by law.

b. A faith-based organization that receives direct Federal financial assistance may use space in its facilities to carry out activities under a HUD program without removing religious art, icons, scriptures, or other religious symbols.

In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

c. If the organization engages in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance and participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal financial assistance.

d. Faith-based organizations that carry out programs or activities with direct Federal financial assistance from HUD must give written notice to beneficiaries and prospective beneficiaries of the programs or activities describing certain protections available to them, as provided for in 24 CFR section 5.109(g).

In addition, if a beneficiary or prospective beneficiary objects to the religious character of the organization carrying out the programs or activities, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider which the beneficiary or prospective beneficiary has no such objection.

e. Any organization that receives Federal financial assistance under a HUD program or activity shall not, in providing services or carrying out activities with such assistance, discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

30. ORDER OF PRECEDENCE – CONTINUUM OF CARE REQUIREMENTS.

Except as specifically provided elsewhere in this Agreement, conflicting provisions of this Agreement shall prevail in the following order of precedence: (1) the provisions in the body of this Agreement; (2) the exhibits of the Agreement, if any; (3) all other documents cited in this Agreement or incorporated by reference. In the event of any conflict between this Agreement and the Continuum of Care Requirements, the Continuum of Care Requirements shall prevail.

31. APPROVAL BY FUNDING SOURCE. If funding for this Agreement is provided by the Federal Government, the State of California or other external source, approval of the Agreement by the funding source may be required. If approval of an external funding source is required, this Agreement shall not be effective until such approval has been secured. If approval by the external funding source is denied prior to or during the Agreement term, then the Agreement shall be terminated at no fault of either party. If the Agreement award is terminated prior to the commencement date of the Agreement then any costs incurred by the Service Provider shall be deemed pre-contractual as defined in the procurement solicitation to which the Agreement responded and thus remains the Service Provider's responsibility. If the funding ceases during the Agreement term, upon

receipt of said notice, the Service Provider shall immediately take action not to incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities. The Authority shall pay the Service Provider its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by the Service Provider to effect such termination. Thereafter, the Service Provider shall have no further claims against the Authority under this Agreement.

32. COMPLIANCE WITH LOCAL, STATE, AND FEDERAL STATUTES AND REGULATIONS.

A. The Service Provider, in performance of this Agreement, warrants and certifies that it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California, the County of Los Angeles and the City of Los Angeles. The Service Provider understands that failure to comply with any of the following assurances may result in suspension or termination of this Agreement or any of the remedies provided for herein. The Service Provider further warrants and certifies that it will comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

B. The Service Provider warrants that it will comply with all applicable requirements of State, Federal, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. The Service Provider will comply with new, amended, or revised laws, regulations, and procedures that apply to the performance of this Agreement.

33. EFFECT OF LEGAL JUDGMENT. Should any covenant, condition or provision of this Agreement be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of such covenant, condition or provision will not in any way affect any other covenant, condition or provision of this Agreement.

34. BINDING AUTHORITY TO SIGN AND AUTHORIZATION. Each of the Parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies, as applicable, have been taken to make this Agreement a binding obligation of each of the Parties hereto. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the Parties each purports to represent.

35. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

36. ENTIRE AGREEMENT. This Agreement, including all exhibits and other documents incorporated herein or made applicable by reference, constitutes the entire

agreement of the parties concerning the subject matter hereof and supersedes all prior agreements, understandings and commitments, whether oral or written. This Agreement shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed and acknowledged by both of the parties hereto.

IN WITNESS WHEREOF, the Authority and the Service Provider have executed this Agreement No. HA-2016-XX-CoC on the day and year first above written.

Approved as to form:
MICHAEL N. FEUER
City Attorney

**HOUSING AUTHORITY OF THE
CITY OF LOS ANGELES**

By _____
H.HELEN YUN
Deputy City Attorney

By _____
KEN SIMMONS
Chief Operating Officer

Date _____

Date _____

General Counsel for the Housing Authority
of the City of Los Angeles

SPONSOR ORGANIZATION NAME

By: _____

Printed Name: _____

Title: _____

Date: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

LIST OF EXHIBITS

EXHIBITS

- A Service Provider's Commitment Letters to the Authority**
- B Grant Agreement**
- C 24 CFR 578**
- D Number of Units Under The Contract**

