



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

REQUEST FOR PROPOSALS

No. 19-002-FIN

**TECHNICAL ASSISTANCE AND TRAINING FOR
THE HOME INVESTMENT PARTNERSHIPS PROGRAM AND
NATIONAL HOUSING TRUST FUND PROGRAM**

REGISTRATION:

ALL PERSONS INTERESTED IN THE RFP MUST **REGISTER** WITH THE RFP CONTACT TO RECEIVE NOTICE OF ANY CHANGES OR UPDATES TO THE SOLICITATION. TO REGISTER, EMAIL OR FAX YOUR CONTACT INFORMATION TO THE RFP CONTACT LISTED BELOW.

Direct all questions, in writing, no later than August 2, 2018 to:

RFP Contact:

Glori Inafuku, Finance Specialist
Hawaii Housing Finance and Development Corporation
Email: glori.t.inafuku@hawaii.gov
Phone: (808) 587-0538

PROPOSALS DUE AUGUST 15, 2018
No later than 4:00 PM

Submit proposals to:

Procurement Officer
RFP No. 19-002-FIN
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

**The envelope or enclosure containing proposals should be
clearly marked with the RFP number and title.**

Electronic responses shall not be accepted.

RFP No. 19-002-FIN

NOTICE TO INTERESTED PARTIES

Request for Proposals (RFP) No. RFP 19-002-FIN

TECHNICAL ASSISTANCE AND TRAINING FOR THE HOME INVESTMENT PARTNERSHIPS AND NATIONAL HOUSING TRUST FUND PROGRAMS

The HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION (HHFDC) is requesting proposals from qualified persons or firms able to provide technical assistance and training for the HOME Investment Partnerships (HOME) Program and the National Housing Trust Fund (HTF) Program.

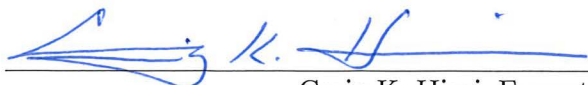
Copies of the RFP shall be made available as follows, beginning July 13, 2018:

1. **Electronic copy on the State Procurement Office (SPO) website.** A copy of the RFP documents can be reviewed and downloaded online at no cost from the State Procurement Office (SPO) Hawaii Awards & Notices Data System (HANDS) website: <https://hands.ehawaii.gov/hands/opportunities>.
2. **Hard copy picked up at the HHFDC Office.** Notify the RFP Contact below to schedule a pick up. A fee of \$100 per copy will be assessed for administrative and printing costs. The HHFDC Office is located at 677 Queen Street, Suite 300, Honolulu, Hawaii. Fee shall be paid via cashier's check payable to "Hawaii Housing Finance and Development Corporation."
3. **Hard copy by U.S. Postal Service first class mail, Fedex, or equivalent.** Notify the RFP Contact below to arrange mailing of the solicitation documents. Must have carrier account number or documents will be mailed via USPS First Class Mail. A fee of \$100 per copy will be assessed for administrative and printing costs and must be prepaid via cashier's check payable to "Hawaii Housing Finance and Development Corporation."

Statements made by HHFDC representatives during the solicitation process shall not be binding on HHFDC unless confirmed by written addendum. Direct all questions regarding the RFP, in writing, to the RFP Contact, Glori Inafuku, Finance Specialist, HHFDC, Email: glori.t.inafuku@hawaii.gov, Fax: (808) 587-0538. The deadline for questions is August 2, 2018.

The HHFDC encourages participation by minority and women's business enterprises to submit proposals.

Proposals must be received no later than 4:00 PM on August 15, 2018 by the Procurement Officer at Hawaii Housing Finance and Development Corporation, 677 Queen Street, Suite 300, Honolulu, Hawaii 96813.



Craig K. Hirai, Executive Director
Hawaii Housing Finance and Development Corporation

Legal Ad Date: July 13, 2018

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ATTACHMENTS & EXHIBITS

Attachment 1:	OFFER FORM, OF-1
Attachment 2:	OFFER FORM, OF-2
	OFFER FORM, OF-2-1 Cost Proposal (See separate Excel file)
Exhibit A:	Contract Form and AG General Conditions (Sample)
Exhibit B:	HOME State Recipient Agreement
Exhibit C:	HTF Subgrantee Agreement
Exhibit D:	HHFDC HTF Allocation Plan

SECTION ONE
INTRODUCTION AND KEY INFORMATION

1.1 TERMS AND ACRONYMS USED THROUGHOUT THE SOLICITATION

BAFO	= Best and Final Offer.
Contract	= Refers to the Contract for Goods or Services Based on Competitive Sealed Proposals, including the General Conditions and all attachments, exhibits, and supplemental documents.
Contractor	= The Successful Offeror who executes a contract with HHFDC to provide the goods and/or services specified in this solicitation.
CPO	= Chief Procurement Officer
DAGS	= Department of Accounting and General Services
Executive Director	= Head of the Hawaii Housing Finance and Development Corporation.
GC	= General Conditions, issued by the Department of the Attorney General.
GET	= General Excise Tax.
HAR	= Hawaii Administrative Rules.
HHFDC	= Hawaii Housing Finance & Development Corporation.
HRS	= Hawaii Revised Statutes.
Offeror	= Anyone who submits an offer in response to this solicitation.
Procurement Officer	= Executive Director, Hawaii Housing Finance & Development Corporation
Proposal	= the official written response submitted by an Offeror in response to this Request for Proposals.
Proposer	= Offeror.
RFP	= Request for Proposals.

- State = State of Hawaii, including all departments, attached agencies, and political subdivisions.
- Successful Offeror = Anyone awarded a contract as a result of this solicitation.

1.2 INTRODUCTION

The Hawaii Housing Finance and Development Corporation seeks proposals from qualified and experienced offerors able to provide technical assistance and training for the HOME Investment Partnerships (HOME) Program and the National Housing Trust Fund (HTF) Program.

1.3 RFP SCHEDULE AND REGISTRATION

a. RFP Schedule

The RFP Schedule below is based on approximate dates. If a component of the schedule is changed, such as the Proposal Due date, the timeline will be adjusted accordingly. All times indicated herein are in Hawaii Standard Time (HST).

Advertise Request for Proposals	July 13, 2018
Deadline for Questions and Clarifications	August 2, 2018
State Response to Questions and Clarifications	August 8, 2018
Proposal Due	August 15, 2018 No later than 4:00 PM
Proposal Evaluations Completed	August 24, 2018
Notice of Award	September 7, 2018
Contract Start Date	October 1, 2018

NOTE: HHFDC reserves the right to deviate from this schedule.

b. Registration

Interested parties are advised to register by e-mail to the RFP Contact. To register, parties must email the RFP Contact requesting registration for this specific RFP and providing the party's contact information, including Name, Company, Email and Phone Number. If interested parties do not register with RFP Contact, they will not receive courtesy notices of any changes or addenda to the RFP. Regardless of registration, however, it remains the responsibility of any interested parties to regularly check the SPO HANDS website for any updates to the solicitation.

1.4 PRE-PROPOSAL CONFERENCE

There will be no Pre-Proposal Conference. Questions and/or requests for clarification may be directed to the RFP Contact in accordance with the following Section 1.5.

1.5 QUESTIONS, CLARIFICATIONS, OR CHANGES

Any Offeror that has questions or requires clarification of the information provided in this RFP must submit specific questions or requests **in writing** to the RFP Contact listed on the cover of the RFP. The deadline for questions is specified in the RFP Schedule above. **Email is the preferred method of communication.** Questions or requests for

clarifications are due on the date indicated in the RFP Schedule, unless otherwise amended.

a. Addenda

If HHFDC determines that additional information or interpretation is necessary or that a change is needed regarding this RFP, such information will be supplied in addenda and distributed to all persons or firms who registered for this solicitation. Addenda shall have the same binding effect as though contained in this RFP. The Procurement Officer will issue all addenda no later than the date indicated in the RFP Schedule, unless otherwise amended.

Up to the date and time that proposals are due, it is the responsibility of all parties interested in this RFP to refer frequently back to the SPO HANDS website to check for any addenda that have been issued for this RFP. Interested parties who have registered with HHFDC for this proposal will receive courtesy notices of any addendum that has been issued for this RFP; however, interested parties are ultimately responsible for being aware of any addenda issued by HHFDC and modifying their proposal accordingly.

b. Statements by HHFDC Representatives

Statements made by HHFDC representatives during the solicitation process shall not be binding on HHFDC unless confirmed by written addendum.

For an official response, offerors shall submit all questions **in writing** to the RFP Contact.

c. Required Review

Offeror shall carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter **must be made in writing and should be received by the HHFDC prior to the Deadline for Questions and Clarifications as stated in the RFP Schedule.** This will allow issuance of any necessary corrections and/or amendments to the RFP.

If Offeror takes exception to any terms, conditions, specifications, or other requirements described herein, Offeror initially should seek an informal resolution with the Procurement Officer. See HRS 103D-701 and HAR 3-126-3 prior to receipt of offers. If unresolved at the time offers are received, any exceptions taken to the terms, conditions, specifications, or other requirements described herein may be listed in the Exceptions section of the Offeror's proposal.

1.6 UNAUTHORIZED COMMUNICATIONS

The sole point of contact for this solicitation is the RFP Contact named on the front cover of this RFP. All questions and communications regarding this RFP must be directed to

the RFP Contact. Offerors must not communicate about this RFP with members of the Evaluation Committee, the HHFDC Board of Directors, or any HHFDC employee not specifically named in this RFP, except upon invitation by HHFDC as part of discussions or best and final offers. Doing so may be cause for proposal rejection.

1.7 RESERVED

1.8 GOVERNING LAWS AND RULES; COST OF LITIGATION

This RFP is being conducted pursuant to and in accordance with Hawaii Revised Statutes (HRS), Chapter 103D, and all applicable Hawaii Administrative Rules (HAR), including, but not limited to HAR 3-122. All proposals submitted in response to this RFP are subject to the HRS, HAR, and all terms, conditions, and requirements specified in the RFP.

The validity of the RFP and any of its terms or provisions, as well as the rights and duties of the State, HHFDC, and any party submitting a response to the RFP, shall be governed by the laws of the State of Hawaii. All matters not specifically addressed in the RFP, or a subsequent contract entered into, will be governed by the HRS as well as applicable HAR and any other local, state, and federal rules, laws, and regulations pertaining to procurement and contracting with HHFDC and the State of Hawaii.

Any action at law or equity to enforce or interpret the provisions of the RFP shall be brought in a state court or competent jurisdiction in Honolulu, Hawaii.

a. Cost of Litigation

In case the State or HHFDC shall, without any fault on its part, be made a part to any litigation commenced by or against the protesting Offeror in connection with the RFP, the protesting Offeror shall pay all costs and expenses incurred by or imposed on the State or HHFDC, including attorneys' fees.

1.9 RESERVATION OF RIGHTS

HHFDC, in its sole discretion, reserves the right to:

- a. change or cancel this RFP;
- b. reject any or all proposals received in response to this RFP;
- c. determine whether a proposal submitted in response to this RFP fails to meet the requirements of the RFP in some material respect;
- d. obtain modification or clarification necessary to properly evaluate a proposal;
- e. obtain references regarding any Offeror's past performance from any source; and
- f. execute a contract with the Successful Offeror.

Neither issuance of this RFP nor evaluation of any proposal(s) obligates HHFDC to award a contract from this RFP.

1.10 DOWNLOADED SOLICITATION

Any Offeror who downloads the solicitation documents online is advised to register its entity by fax or e-mail to the RFP Contact. If Offeror does not register its company, Offeror will not receive notification of any changes or addenda to the RFP.

1.11 RESERVED

1.12 OFFEROR QUALIFICATIONS

Offeror must meet all of the qualification requirements in the RFP. Failure to meet the qualifications as specified in the RFP will likely have an adverse affect on Offeror's proposal evaluation, and may be grounds for non-selection of a proposal.

1.13 SUBMISSION OF PROPOSAL

By submission of a proposal, Offerors warrant and represent that they have read and are familiar with the contractual requirements set forth in the RFP and its attachments and exhibits, the provisions of which are expressly incorporated into this RFP by reference as though fully set forth in its entirety herein.

Furthermore, the submission of a proposal shall constitute an incontrovertible representation by the Offeror of compliance with every requirement of the RFP, and that the RFP documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work.

Before submitting a proposal, each Offeror must:

- a. Examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments, exhibits, plans referred to herein, and any other relevant documents; and
- b. Be familiar with State, local, and federal laws, statutes, ordinances, rules, and regulations that may, in any manner, affect cost, progress, or performance of the work, the project, and/or the relevant property.

All submitted proposals shall become the property of the HHFDC and be subject to public disclosure in accordance with HRS, Chapter 92F.

1.14 CONFIDENTIAL INFORMATION

If a person believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer named on the cover of this RFP should be so advised in writing and provided with legal justification to support the confidentiality claim. Price is not considered confidential and will not be withheld.

An Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data considered confidential by law. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

Offerors may not mark an entire proposal confidential. Should a proposal be submitted in this manner, the HHFDC reserves the right to hold no portion of the proposal as confidential, unless such a portion is determined by the Attorney General to be subject to disclosure pursuant to HRS, Chapter 92F.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Department of the Attorney General for confidentiality in accordance with HRS Chapter 92F. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror appeals pursuant to HRS §92F-42(1). If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with HRS §92F-15.5.

1.15 OFFER ACCEPTANCE PERIOD

The State's acceptance of an offer, if any, will be made within ninety (90) calendar days after the opening of proposals. Any price submitted by the Offeror shall be a firm price for this 90-day period.

1.16 PROPOSAL AS PART OF THE CONTRACT

This RFP and the Successful Offeror's proposal, as accepted by HHFDC, will be incorporated into the resulting Contract. In the event of conflicts between the RFP and the Successful Offeror's proposal, the RFP will always take precedence. The Successful Offeror is required to identify conflicting or omitted sections of the RFP requirements in its proposal.

1.17 ADDITIONAL TERMS AND CONDITIONS

Approvals. Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

Nondiscrimination. No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

Records Retention. The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for six (6) years from the date of final payment under the Agreement.

Correctional Industries. Goods and services available through Hawaii Correctional Industries (HCI) programs may be the same or similar to those awarded by competitive sealed bids or proposals. Agencies participating in HHFDC requirements (price list) contracts may also procure directly from CI and shall not be considered in violation of the terms and conditions of any HHFDC contract.

Competency of Offeror. The Procurement Officer shall determine whether the Successful Offeror has the financial ability, resources, skills, capability, and business integrity necessary to fulfill the Contract. For this purpose, either before or after the deadline for an offer, the HHFDC may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to satisfactorily fulfill the Contract. Whenever it appears from answers to the questionnaire or otherwise, that the Successful Offeror is not fully qualified and able to fulfill the Contract, a written determination of non-responsibility of an offeror shall be made. The unreasonable failure of an offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such offeror. The decision of non-responsibility shall be final unless the offeror applies for administrative review pursuant to section 103D-709, HRS.

Preparation of Offer. An Offeror may submit only one offer in response to a solicitation. If an Offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an Offeror may submit only one offer for each line item (if any) of a solicitation. If an Offeror submits more than one offer per line item, then all offers for that line item shall be rejected.

The State and HHFDC reserves the right to add terms and conditions to the RFP and Contract. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluation.

1.18 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

If awarded a contract in response to this solicitation, Offeror agrees to comply with HRS §11-355, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by the legislative body between the execution of the contract through the completion of the contract.

1.19 CANCELLATION

Pursuant to HAR 3-122-96, HHFDC reserves the right to cancel this RFP without liability when it is determined by HHFDC, at its sole discretion, to be in the best interests of the State. In no event shall HHFDC have any liability for a cancellation. The Offeror

assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

1.20 REJECTION OF PROPOSALS

Pursuant to HAR 3-122-97, HHFDC reserves the right to reject any or all proposals, in whole or in part, without liability, when it is determined by HHFDC, at its sole discretion, to be in the best interest of the State. The Offeror assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

1.21 COSTS OF PROPOSAL PREPARATION

Costs for developing the proposal are solely the responsibility of the Offeror, whether or not any award results from this solicitation. State of Hawaii will not reimburse such costs.

SECTION TWO

BACKGROUND AND SCOPE OF WORK

2.1 ABOUT HHFDC

The Hawaii Housing Finance and Development Corporation (“HHFDC”) is the primary agency responsible for overseeing affordable housing finance and development in Hawaii. HHFDC is tasked with facilitating the development and finance of low- and moderate-income housing projects and administering state rental assistance and home ownership programs.

2.2 BACKGROUND

The HHFDC is the agency designated to administer the HOME Program for the State of Hawaii (the “State”), as the Participating Jurisdiction. Each year the State receives approximately \$3,000,000 of HOME funds and distributes the funds in accordance with the State Consolidated Plan. The State has designated the counties of Hawaii, Kauai and Maui (Neighbor Island Counties) as HOME State Recipients to administer the State’s HOME funds to address their respective housing needs. In accordance with HHFDC’s allocation policy, after retaining 5% of the annual allocation for administrative costs, HHFDC will distribute all of the remaining HOME funds to one of the Neighbor Island Counties on a rotating basis. The County of Hawaii is designated to receive the state’s entire HOME allocation in PY 2018, less five percent for HHFDC’s costs to administer the program.

The HHFDC is also the agency designated to administer the HTF Program for the State of Hawaii, as the HTF Grantee. Since HUD launched this program in PY2016, HHFDC has received the minimum annual allocation of \$3,000,000. HHFDC has established an allocation plan approved by HUD that sets forth HHFDC’s distribution of its HTF funds in accordance with the State’s Consolidated Plan. HHFDC will utilize its HTF funds solely for rental housing activities serving households with incomes at or below 30% of the area median income in all four counties. After retaining 5% of the annual allocation for administrative costs, HHFDC will distribute 50% of the HTF funds to the City and County of Honolulu, and annually rotate the remaining 50% to one of the Neighbor Island Counties, in accordance with the rotation of HOME funds. For PY2018, the County of Hawaii will receive the HOME allocation, so it will receive 50% of the PY2018 HTF allocation as well.

If a designated county is unable to identify an eligible HTF activity or use for HTF funds within a specified timeframe, HHFDC, in its sole discretion, will seek alternate activities from the remaining three counties. If no eligible activity is found, HHFDC may award HTF funds to an eligible HHFDC activity.

The HHFDC is seeking a consultant to support compliance with federal grant program regulations and guidelines for the HOME and HTF Programs. In recent years, each county has experienced significant turnover in staff administering the HOME Program. The HOME program staff are also tasked with implementing the HTF program which

presents challenges as a new program that has some very distinct differences from the HOME program requirements.

2.3 SCOPE OF WORK

The Contractor shall provide technical assistance and training to assist HHFDC in implementation of the HOME and HTF programs for the State of Hawaii, utilizing county partners as State Recipients and Subgrantees.

Contractor shall:

1. Provide customized training at the HHFDC's office located in Honolulu, Hawaii to develop capacity and review HOME and HTF program requirements with HHFDC and county staff. Training shall include, but is not necessarily limited to:
 - a. One trainer, experienced in HOME/HTF, to conduct a 3.5-day HOME/HTF program training to be scheduled at a mutually agreed upon date. Meeting/review time with HHFDC staff to be included within the 3.5-day training.
 - b. Content directed to HHFDC and county staff and review the roles and responsibilities of the HOME Participating Jurisdiction, State Recipients, Grantee and HTF Subgrantees. An estimated 12-16 participants to attend.
 - c. Topics to include: Rental Housing Development, HOME CHDO activities, and Implementing HTF.
 - d. Training shall include exercises and case studies for review and discussion.
 - e. Contractor shall provide their own laptop, software, training materials, and supplies.
 - f. Training to be conducted at HHFDC's office. HHFDC can provide internet access and the video screen projection, if requested.
 - g. All costs of travel, lodging and per diem to be borne by the Contractor.
2. Conduct (4) four (1) one-hour conference call work sessions with HHFDC and its State Recipients/Subgrantees during the contract term on various topics, as requested;
3. Provide technical assistance via phone and email related to program implementation, best practices, etc. Contractor to provide updates on new requirements during the contract term;
4. Provide sample HOME program guidelines, forms, reports and agreements to be used by HHFDC/County State Recipients to improve the administration and compliance with the program requirements; and
5. Provide sample HTF program guidelines, forms, reports and agreements to be used by HHFDC/County Subgrantees to improve the administration and compliance with the program requirements.

2.4 PRICING

Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237 and, if applicable, HRS Chapter 238. Vendors are advised that they are liable for the Hawaii General Excise Tax (GET) and the applicable use tax at the current rates. To obtain a Hawaii Taxpayer ID number online, visit: <https://hbe.hawaii.gov/> . Otherwise, visit the State of Hawaii Department of Taxation FAQs website at <http://tax.hawaii.gov/faq/> to find out more about obtaining a Hawaii Taxpayer ID number for GET and applicable Use tax purposes. If an Offeror is exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

The pricing shall be the all-inclusive cost to the State, including labor, materials, supplies, all applicable taxes, such as the State General Excise Tax (GET) and Use Tax, and any other costs incurred to provide the services specified in the RFP. No other costs will be honored.

2.5 CONTRACT TERM

The Contract shall be for a period of one (1) year beginning approximately on October 1, 2018 and ending September 30, 2019. Unless terminated, the Contractor and the State may renew the Contract and extend the term for up to: one (1) one-year period, or a portion(s) thereof, without the necessity of re-soliciting, upon mutual agreement in writing prior to the expiration of the contract. The contract price or commission paid to the Contractor for the extended period shall remain as specified in the Contractor's proposal, unless price adjustments are provided herein.

The Contract term and any extensions or renewals shall be as specified above. The option to extend the Contract will be at the sole discretion of the HHFDC. Submission of a proposal constitutes acknowledgement of the interested Offeror that the interested Offeror is able and willing to contract for services up to the maximum allowable length of the Contract. If the Successful Offeror is unwilling or unable to fulfill the maximum allowable Contract, the HHFDC reserves the right to assign the costs of re-procurement to any payments owed under the Contract. These costs may include but are not limited to reproduction costs, staff time, and postage.

When interests of the State or the Contractor so require, the State or the Contractor may terminate the contract for convenience by providing prior written notice to the contracted parties.

a. Multi-Term Contract Subject to Availability of Funds

Funds are available for only the initial term of the contract. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the availability of funds. The State shall notify the contractor on a timely basis that funds are, or are not, available for the continuation of the contract for each succeeding fiscal period.

The contract will be cancelled if the funds are not available or otherwise made available to support continuation of performance in any fiscal period succeeding the initial term of the contract. This does not affect either the State's rights or the Contractor's rights under any termination clause of the contract.

In the event of cancellation, as provided in the paragraph above, Contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

A unit price shall be given for each good or service, and the unit prices shall be the same throughout the contract, except to the extent price adjustment is allowed.

2.6 RESERVED

SECTION THREE

PROPOSAL CONTENT AND EVALUATION CRITERIA

Offeror's proposal shall describe in detail the Offeror's ability and availability of services to meet the goals and objectives of this RFP and specifically the **SCOPE OF WORK** in **Section Two**. When an interested offeror submits a proposal, it shall be considered a complete plan for accomplishing all the work specified in the RFP. The interested offeror's proposal must demonstrate an understanding of and the ability to meet and perform all contractual requirements listed in the RFP. Offeror shall submit a proposal that includes an overall strategy, timeline and plan for accomplishing the work proposed as well as any expected results and potential shortfalls.

Proposals submitted in response to this RFP will be evaluated in accordance with the following Proposal Content and Evaluation Criteria. **INCLUDE A "TABLE OF CONTENTS" AND ORGANIZE YOUR PROPOSAL IN THE FOLLOWING ORDER, AS ADDRESSED IN THIS SECTION:**

- 3.1 Transmittal Letter
- 3.2 Offer Form
- 3.3 Organization and Staffing
- 3.4 Experience and Capabilities
- 3.5 Approach and Methodology
- 3.6 Pricing
- 3.7 Confidential Information
- 3.8 Exceptions
- 3.9 Additional Information

HHFDC will review all eligible proposals to determine if they meet the minimum qualifications specified in this RFP. Proposals that meet the minimum RFP requirements will be submitted to the HHFDC evaluation committee to evaluate the proposals.

Proposals are considered acceptable for the review process when they are submitted timely, in accordance with the Proposal Due date stated in Section One, as amended by any addenda to this RFP, and when they conform to the proposal requirements specified in this Section Three of the RFP. Proposals which are incomplete and not responsive to required portions of the RFP shall be deemed unacceptable and shall be disqualified from the review process.

Evaluation criteria and the associated points are listed below. The award will be made to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria listed in this section. The HHFDC reserves the right to reject any or all proposals, waive any informality or technical defect in the proposal, or award the Contract in whole or in part, if deemed to be in the best interest of the HHFDC. HHFDC shall determine at its sole discretion what is in its best interests.

SUMMARY OF PROPOSAL CONTENT AND EVALUATION CRITERIA	
EVALUATION CRITERIA	MAX POINTS PER CRITERION
<input type="checkbox"/> Organization and Staffing <input type="checkbox"/> Experience and Capabilities <input type="checkbox"/> Approach and Methodology <input type="checkbox"/> Pricing	5 Points 40 Points 45 Points 10 Points
Total Available Points	100 Points
PROPOSAL REQUIREMENTS	
<input type="checkbox"/> Transmittal Letter <input type="checkbox"/> Offer Form OF-1 <input type="checkbox"/> Responses to Evaluation Criteria <input type="checkbox"/> Confidential Information, if applicable <input type="checkbox"/> Exceptions, if applicable <input type="checkbox"/> Additional Information, as required or requested	Not Scored Not Scored Scored Not Scored Not Scored Not Scored

3.1 TRANSMITTAL LETTER

Provide a one- to two-page transmittal letter that summarizes Offeror's proposal and confirms that the Offeror shall comply with the requirements, provisions, terms, and conditions specified in this RFP. The transmittal letter should be in the form of a standard cover letter on official business letterhead and signed by an authorized representative of Offeror.

If subcontractors will be used, append a statement to the transmittal letter from each subcontractor signed by an individual authorized to legally bind the subcontractor and stating, in addition to the paragraph above:

1. The general scope of work to be performed by the subcontractor; and
2. The subcontractor's willingness to perform the indicated work for HHFDC in accordance with the RFP.

3.2 OFFER FORM

Provide a signed Attachment 1, Offer Form OF-1, with the complete name and address of Offeror's firm and the name, mailing address, telephone number, and fax number of the person the State should contact regarding the Offeror's proposal.

3.3 ORGANIZATION AND STAFFING (Mandatory Requirement – 5 points)

Provide a description of your organization, including the year organized, the location(s), size and the total number of staff that will be assigned to this contract.

3.4 EXPERIENCE AND CAPABILITIES

(Mandatory Requirement – 40 points)

Provide a description of the Offeror's experience in the following areas, detailing the types of clients Offeror has served and what specific services were performed in each of these areas:

- a. Technical Assistance provided to State Participating Jurisdictions ("PJs")/State Recipients for the HOME program
- b. Development of HOME program manuals, forms, and agreements
- c. Technical Assistance provided to Grantees/Subgrantees for the HTF program
- d. Development of HTF program manuals, forms and agreements
- e. Program training in HOME/HTF

Include resumes of key personnel Offeror proposes to assign to work with HHFDC.

Describe all relevant experience the key personnel have in providing HOME and HTF program consulting services to a public entity, as described in the Scope of Work in Section Two.

Provide a list of three (3) references and their contact information where similar services were provided to state HOME PJs and HTF Grantees in the last three (3) years, including name, company affiliation, title, complete mailing address, email address and telephone number.

3.5 APPROACH AND METHODOLOGY

(Mandatory Requirement – 45 points)

Outline in detail how the Offeror would accomplish the Scope of Work described in Section Two.

If the Offeror is located outside of the Hawaii Standard Time Zone, please address how the Offeror will address the time difference in the delivery of services.

Describe how the Offeror will assist HHFDC in its administration of the HOME/HTF programs and develop staff capacity through the technical assistance and training provided.

Include a proposed timeline of tasks required to complete the Scope of Work.

3.6 PRICING

(Mandatory Requirement – 10 points)

Complete Offer Form OF-2-1, Cost Proposal, and enter the Total Contract Cost from the OF-2-1 onto the Offer Form OF-2. Submit both completed forms with the proposal. The price listed on the Offeror Form OF-2 shall represent the Total Contract Cost for

accomplishing the development and delivery of all goods and services specified in this RFP.

The lowest cost proposal will automatically receive the maximum number of points for this category and every other proposal will be scored in relation to the lowest cost proposal, as follows:

$$\text{Offeror Points} = \frac{(\text{Lowest Cost Proposal} \times \text{Maximum Points})}{\text{Offeror Cost Proposal}}$$

3.7 CONFIDENTIAL INFORMATION

Confidential information shall be submitted in accordance with Section 1.14.

3.8 EXCEPTIONS

Offeror shall list any exceptions taken to the terms, conditions, specifications, or other requirements listed herein. Offeror shall reference the RFP section where exception is taken, describe the exception taken, and provide a proposed alternative, if any.

Offeror initially should seek an informal resolution of any exceptions taken by notifying the RFP Contact in writing prior to the Deadline for Questions and Clarifications. Offeror's notice shall reference the RFP section where exception is taken, describe the exception taken, and provide a proposed alternative, if any. If Offeror's exception has not been resolved by the date on which proposals are due, Offeror shall include said exception in its proposal in accordance with the aforementioned provision.

3.9 ADDITIONAL INFORMATION

Any additional forms or information required or requested in the RFP and not specifically addressed in Section Three shall be marked appropriately and included at the end of the proposal.

3.10 STATE'S RIGHT TO INVESTIGATE AND REJECT

The State may make such investigations as deemed necessary to determine the Offeror's ability to provide the supplies and/or perform the services specified. The State reserves the right to reject a proposal if the information submitted by, or investigation of, the Offeror fails to satisfy the State's determination that the Offeror is properly qualified to perform the obligations of the contract. This includes the State's ability to reject the proposal based on negative references.

SECTION FOUR

PROPOSAL FORMAT AND SUBMISSION

4.1 PROPOSAL FORMAT

Guidelines for formatting proposals:

- a. Proposal includes a one-page transmittal letter as the first page of the proposal.
- b. Proposal includes the Offer Form in Attachment 1 as the second page of the proposal.
- c. Proposal includes all content specified in Section Three in the order presented therein.
- d. Proposal is double-sided when possible. A double-sided sheet is considered equal to two pages.
- e. Proposal is prepared simply and economically, and is comprised of recyclable and recycled materials. Proposal is stapled rather than bound.
- f. There is no page limit restriction on proposals.

Please do not include sales or promotional materials as part of the proposal unless requested.

Economy of Presentation. Proposals shall be prepared in a straightforward and concise manner, in a format that is reasonably consistent and appropriate for the purpose. Emphasis will be on completeness and clarity and content. If any additional information is required by the State regarding any aspects of the Offeror's proposal, it shall be provided within five (5) working days.

4.2 PROPOSAL SUBMISSION

All proposals submitted in response to this RFP are subject to the terms and requirements of this RFP. All matters not specifically addressed in this RFP, or a subsequent contract entered into as a result of this RFP, will be governed by the Hawaii Administrative Rules as well as applicable Hawaii Revised Statutes and other rules pertaining to procurement and contracting.

Provide one (1) original hardcopy proposal marked "ORIGINAL" and five (5) copies of the original marked "COPY" in a sealed envelope or box to:

Glori Inafuku, Finance Specialist
Request for Proposals No. 19-002-FIN
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

It is imperative to note that the Offeror must submit only one original and the required number of copies. **DO NOT SUBMIT MORE THAN ONE ORIGINAL.**

The sealed envelope or box containing proposals will have the following information provided on the outside of the package:

- a. RFP title
- b. RFP number
- c. Offeror name
- d. Offeror address

It is the Offeror's sole responsibility to ensure that its proposal is delivered and time-stamped at the location above prior to the Proposal Due date in Section One, as amended. Proposals not time-stamped at the location above by the Proposal Due date will be considered late and shall not be considered for award.

Proposal forms referenced in the RFP are included in Section Seven. Thoroughly complete and sign all forms that must be submitted with the proposal. Proposals must conform to the Proposal Requirements and Evaluation Criteria described in Section Three, as amended.

Proposals which are incomplete and not responsive to required portions of the RFP may be deemed unacceptable. Unacceptable proposals shall not be considered for award.

Proposals shall be submitted using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and indicate exact legal name in the appropriate spaces on Offer Form page OF-1. Failure to do so may delay proper execution of the contract. See Attachment 1.

The authorized signature on the first page of the Offer Form shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

A proposal security is NOT required for this RFP.

Offeror is encouraged to submit typewritten offers. If handwritten, it should be clearly printed. Offeror is cautioned that illegible offers of any item(s) may be automatically rejected to avoid any errors in interpretation by the reviewers during the evaluation process.

SECTION FIVE

SELECTION AND AWARD

5.1 SELECTION

- a. The RFP is issued pursuant to Subchapter 6 of HAR Chapter 3-122, implementing HRS Section 103D-303.
- b. The procurement process begins with the issuance of the RFP and the formal response to any written questions or inquiries regarding the RFP. Changes to the RFP will be made only by Addendum.
- c. **Modification Prior to Submittal Deadline or Withdrawal of Offers.**
 - 1. The Offeror may modify or withdraw a proposal before the proposal due date and time.
 - 2. Any change, addition, deletion of attachment(s) or data entry of an Offer may be made prior to the deadline for submittal of offers.
- d. Proposals shall not be opened publicly, but shall be opened in the presence of at least two (2) government officials. The register of proposals and Offerors' proposals shall be open to public inspection after posting of the award.

All proposals and other material submitted by Offerors become the property of the State and may be returned only at the State's option.

- e. The Procurement Officer, or an evaluation committee selected by the Procurement Officer, shall evaluate the proposals in accordance with the evaluation criteria in Section Three. The proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable.
- f. Proposals may be accepted on evaluation without discussion. However, if discussions are deemed necessary by HHFDC, then prior to entering into discussions, a "priority list" of responsible Offerors submitting acceptable and potentially acceptable proposals shall be generated. The priority list may be limited to a minimum of three (3) responsible Offerors who submitted the highest-ranked proposals. The objective of these discussions is to clarify issues regarding the Offeror's proposal.
- g. If, during discussions, there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority listed Offerors who submit acceptable or potentially acceptable proposals.
- h. Following any discussions, priority-listed offerors may be invited to submit a best and final offer (BAFO), if necessary. The Procurement Officer or the appointed

evaluation committee reserves the right to have additional rounds of discussions with the top three (3) priority-listed offerors prior to the submission of the BAFO.

- i. The date and time for Offerors to submit their BAFO, if necessary, is indicated in the RFP Schedule in Section One. This date is an estimate only. If Offeror does not submit a notice of withdrawal or a BAFO by the date indicated in the request for BAFO, the Offeror's immediate previous offer shall be construed as its BAFO.

j. **Mistakes in Proposals.**

- 6. Mistakes shall not be corrected after award of contract.
- 7. When the Procurement Officer knows or has reason to conclude before award that a mistake has been made, the Procurement Officer may request the offeror to confirm the proposal. If the Offeror alleges mistake, the proposal may be corrected or withdrawn pursuant to this section.
- 8. If discussions are not held, or if the best and final offers upon which award will be made have been received, mistakes shall be corrected to the intended correct offer whenever the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn.
- 9. If discussions are not held, or if the best and final offers upon which award will be made have been received, an Offeror alleging a material mistake of fact which makes a proposal non-responsive may be permitted to withdraw the proposal if: the mistake is clearly evident on the face of the proposal but the intended correct offer is not; or the Offeror submits evidence which clearly and convincingly demonstrates that a mistake was made.

Technical irregularities are matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other Offerors; that is, when there is no effect on price, quality, or quantity. If discussions are not held or if best and final offers upon which award will be made have been received, the Procurement Officer may waive such irregularities or allow an Offeror to correct them if either is in the best interest of the State. Examples include the failure of an Offeror to: return the number of signed proposals required by the request for proposals; sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the Offeror's intent to be bound; or to acknowledge receipt of an amendment to the request for proposal, but only if it is clear from the proposal that the Offeror received the amendment and intended to be bound by its terms; or the amendment involved had no effect on price, quality or quantity.

5.2 AWARD

- a. After receipt and evaluation of the BAFOs in accordance with the evaluation criteria in Section Three, the Procurement Officer or an evaluation committee will make its recommendation. The Procurement Officer will award the contract to the Offeror

whose proposal is determined to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in Section Three.

- b. The contents of any proposal shall not be disclosed during the review, evaluation, discussion, or negotiation process. Once the award notice is posted, all proposals, successful and unsuccessful, become available for public inspection. Those sections that the Offeror and the State agree are confidential and/or proprietary in accordance with all applicable laws should be identified by the Offerors and shall be excluded from access.
- c. The Procurement Officer or an evaluation committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFP. The Procurement Officer or an evaluation committee will conduct a comprehensive, fair and impartial evaluation of proposals received in response to the RFP.
- d. **Method of Award.** The award will be made to the responsive, responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria. Award(s), if any, resulting from this solicitation shall be posted to the SPO HANDS website at <https://hands.ehawaii.gov/hands/opportunities>.

A protest of an award or proposed award pursuant to §103D-302 or §103D-303, HRS, shall be submitted in writing to the Executive Director, within five (5) working days after the posting of the award of the Contract or, if requested, within five (5) working days after the debriefing is completed.

- e. **Responsibility of Highest-Scoring Responsive Offeror.** Pursuant to HRS Chapter 103D-310(c), all offerors, upon award of contract, shall comply with all laws governing entities doing business in the State, including, but not limited to:
 - 1) Chapter 237, tax clearance;
 - 2) Chapter 383, unemployment insurance;
 - 3) Chapter 386, workers' compensation;
 - 4) Chapter 392, temporary disability insurance; and
 - 5) Chapter 393, prepaid health care.

Offerors shall produce documents to the procuring officer to demonstrate compliance with this subsection. Any Offeror making a false affirmation or certification under this subsection shall be suspended from further offerings or awards pursuant to section 103D-702. The procuring officer shall verify compliance with this subsection for all contracts awarded pursuant to sections 103D-302, 103D-303, 103D-304, and 103D-306, and for contracts and procurements of \$2,500 or more awarded pursuant to section 103D-305.

Hawaii Compliance Express. Hawaii Compliance Express (HCE) is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates

from the Department of Taxation, Federal Internal Revenue Service; Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

Offerors are strongly encouraged to register with HCE at <https://vendors.ehawaii.gov> prior to submitting an offer. The annual registration fee is \$12.00 and the 'Certificate of Vendor Compliance' issued by HCE is accepted as proof of compliance for award, execution of the contract, and final payment.

Timely Registration on HCE. Offerors are advised to register on HCE soon as possible to ensure proof of compliance is available at the time of award.

SECTION SIX

SPECIAL PROVISIONS

6.1 CONTRACT DOCUMENTS

The Successful Offeror shall be required to enter into a formal written agreement with the HHFDC, in the form of a Contract for Goods and Services Based on Competitive Sealed Proposals, prior to commencement of the services, in accordance with the laws, rules and regulations of the State of Hawaii. See Exhibit A. The RFP, any addenda issued, and the Contractor's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawaii. HHFDC reserves the right to add or modify any Contract term or condition prior to execution of the Contract.

Following award of the Contract, and within ten (10) days after the prescribed forms are presented to the Successful Offeror for signature, unless otherwise specified by HHFDC, the Offeror shall execute and deliver to the HHFDC a Contract in the form required by HHFDC and in such number of counterparts as may be required by HHFDC.

6.2 ORDER OF PRECEDENCE

All services provided by Contractor under the Contract resulting from this RFP shall be in accordance with the documents listed below in descending order of precedence. A conflict in these documents shall be resolved in the priority listed below with the General Conditions to the Contract taking precedence over all other documents.

- a. The Contract for Goods or Services Based Upon Request for Competitive Sealed Proposals, including the General Conditions to the Contract and all attachments, exhibits, and supplemental documents included in the Contract. See the sample contract in Exhibit A;
- b. RFP No. 19-002-FIN, including all attachments, exhibits, and supplemental documents included herein; and
- c. Contractor's accepted proposal.

6.3 INSURANCE REQUIREMENTS

Within fifteen days after award of this Contract and prior to the execution of the Contract, unless otherwise specified by HHFDC, the Successful Offeror shall furnish the Procurement Officer certificate(s) of insurance as evidence of the existence of the insurance coverage specified below, in amounts not less than the amounts specified therein. Contractor shall acquire and maintain the insurance coverage specified below, in amounts not less than the amounts specified, for the entire performance period of the Contract, at the Contractor's own expense.

Contractor shall defend, indemnify, and hold harmless the HHFDC, the State of Hawaii and its departments, boards, and agencies, and all their officers, employees, and agents

from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Contractor or the Contractor's officers, employees, agents or subcontractors.

a. Workers' Compensation

Contractor shall carry Workers' Compensation insurance in such form and amount to satisfy the applicable state Workers' Compensation Law. Workers' Compensation must be issued by an admitted carrier authorized to do business in the State of Hawaii. Workers' Compensation insurance premium expense for the Project personnel may be reimbursed by the HHFDC upon review and approval.

b. Liability Insurance

The Contractor shall maintain the following minimum insurance limits and coverage, at no cost or expense to the State:

Coverage	Limits
Commercial General Liability	\$1 million per occurrence and \$2 million in aggregate for bodily injury and personal property damage
Professional Liability (Errors & Omissions)	\$1,000,000.00 per occurrence \$2,000,000.00 annual aggregate
Automobile Insurance	\$1,000,000.00 per accident or \$1,000,000.00 combined single limit

A certificate of insurance evidencing the required insurance coverage and amounts shall be submitted to HHFDC prior to commencement of services. **The State of Hawaii and HHFDC shall each be named as additional insured on the certificate.**

The Contractor shall provide immediate written notice to the contract administrator should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration. Furthermore, each insurance policy required by the Contract shall contain the following clauses:

1. "The State of Hawaii and HHFDC is added as an additional insured with respect to operations performed for the State of Hawaii."
2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the Contract, including all Supplemental Contracts.

During the entire term of this Contract, the Contractor agrees to deposit with the HHFDC certificate(s) of insurance necessary to satisfy the HHFDC that the insurance provisions of this Contract are being complied with and to keep such insurance in effect and the current certificate(s) therefore on deposit with the HHFDC. Upon request of the HHFDC, the Contractor shall be responsible for furnishing a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this Contract, entitling the HHFDC to exercise any or all of the remedies provided in this Contract for default of the Contractor.

The procuring of such required insurance shall not be construed to limit the Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, the Contractor shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

6.4 COST OR PRICING DATA

Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

6.5 CONTRACT ADMINISTRATOR

For the purposes of this contract, an authorized representative of HHFDC shall be designated the Contract Administrator. HHFDC reserves the right to change the designated Contract Administrator. Any changes to the Contract Administrator shall be provided in writing to the Contractor. Once the Contractor has assumed management responsibilities for the property, all communications regarding approvals, reports, requests, and any other contractual item will be directed to the Contract Administrator.

6.6 CONTRACT MODIFICATIONS - UNANTICIPATED AMENDMENTS

During the course of this contract, the Contractor may be required to perform additional work that will be within the general scope of the initial contract. When additional work is required, the Contract Administrator will provide the Contractor a written description of the additional work and request the Contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work.

Changes to the contract may be modified only by written agreement signed by the HHFDC and Contractor representative authorized to sign contracts on behalf of the Contractor.

The Contractor will not commence additional work until a supplemental agreement has been fully executed.

6.7 ADDITION OR MODIFICATION OF TERMS AND CONDITIONS

The State and HHFDC reserves the right to add or modify terms and conditions of the Contract. These additional or modified terms and conditions will be within the scope of the RFP.

6.8 CONTRACT PERFORMANCE

No work is to be undertaken by the Contractor prior to the commencement date. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.

If an option to extend is mutually agreed upon, the Contractor shall be required to execute a supplement to the contract for the additional extension period. The Contractor or the State may terminate the extended contract at any time without cause upon six (6) weeks prior written notice.

No performance or payment bond is required for this contract.

6.9 PAYMENT

HRS Section 103-10 provides that the State, upon receipt of invoice, shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the State will reject any offer submitted with a condition requiring payment within a shorter period. Further, the State will reject any offer submitted with a condition requiring interest payments greater than that allowed by HRS §103-10, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

6.10 SUBCONTRACTING

No work or services shall be subcontracted or assigned without the prior written approval of the State. No subcontract shall under any circumstances relieve the Contractor of his/her obligations and liability under this contract with the State.

6.11 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

6.12 NON-DISCRIMINATION

The Contractor shall comply with all applicable federal and State laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, age, sexual orientation, marital status, handicap, or arrest and court records in employment and any condition of employment with the Contractor or in participation in the benefits of any program or activity funded in whole or in part by the State.

6.13 CONFLICTS OF INTEREST

The Contractor represents that neither the Contractor, nor any employee or agent of the Contractor, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the Contractor's performance of this contract.

6.14 WAIVER

The failure of the State to insist upon the strict compliance with any term, provision or condition of this contract shall not constitute or be deemed to constitute a waiver or relinquishment of the State's right to enforce the same in accordance with this contract.

6.15 SEVERABILITY

In the event that any provision of this contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this contract.

6.16 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

It has been determined that funds for this contract have been appropriated by a legislative body.

Therefore, Offeror, if awarded a contract in response to this solicitation, agrees to comply with HRS 11-355, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

6.17 COMPLIANCE WITH APPLICABLE LAWS

Contractor must comply with all applicable local, state, and federal laws, rules, and regulations.

SECTION SEVEN

ATTACHMENTS AND EXHIBITS

Attachment 1: OFFER FORM, OF-1
Attachment 2: OFFER FORM, OF-2
OFFER FORM, OF-2-1 Cost Proposal (See separate Excel file)

Exhibit A: Contract Form and AG General Conditions (Sample)
Exhibit B: HOME State Recipient Agreement
Exhibit C: HTF Subgrantee Agreement
Exhibit D: HHFDC HTF Allocation Plan

**OFFER FORM
OF-1**

**TECHNICAL ASSISTANCE AND TRAINING FOR
THE HOME INVESTMENT PARTNERSHIPS PROGRAM AND
NATIONAL HOUSING TRUST FUND PROGRAM**

**STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
RFP No. 19-002-FIN**

Procurement Officer
Hawaii Housing Finance and
Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Dear Sir or Madam:

The undersigned has carefully read and understands the terms and conditions specified in this Request for Proposals, including all attachments, exhibits, and addenda, and in the General Conditions, attached in Exhibit A and made a part of the Contract; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, the undersigned:

- 1) is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts;
- 2) is certifying that the price(s) submitted was (were) independently arrived at without collusion;
- 3) is certifying that Offeror shall comply with all applicable federal and State laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, age, sexual orientation, gender identity and expression, marital status, handicap, human immunodeficiency virus infection (HIV), or arrest and court records in employment and any condition of employment with the Contractor or in participation in the benefits of any program or activity funded in whole or in part by the State;
- 4) acknowledges and agrees that Offeror shall comply with HRS Section 11-355, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body; and
- 5) acknowledges and agrees that Offeror shall comply with all the requirements, provisions, terms, and conditions specified in this RFP.

Offeror is:

☐ Sole Proprietor ☐ Partnership ☐ *Corporation ☐ Joint Venture
☐ Other: _____

*State of incorporation: _____

Hawaii General Excise Tax License I.D. No. _____ Federal Tax I.D. No. _____

Payment address (if other than street address below): _____
City, State, Zip Code: _____

Business address (street address): _____
City, State, Zip Code: _____

Respectfully submitted:

Date: _____ (x) _____

Authorized (Original) Signature

Telephone No.: _____

Fax No.: _____ Name and Title (Please Type or Print)

E-mail Address: _____

**** Exact Legal Name of Company (Offeror)**

****If Offeror is a “dba” or a “division” of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:** _____

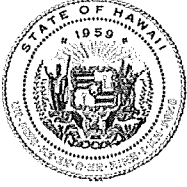
**OFFER FORM
OF-2**

Total contract cost for accomplishing the development and delivery of the services.

\$ _____

Note: Pricing shall include labor, materials, supplies, all applicable taxes, and any other costs incurred to provide the specified services.

Offeror Name



STATE OF HAWAII
CONTRACT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED PROPOSALS

This Contract, executed on the respective dates indicated below, is effective as of _____, _____, between _____,
(Insert name of state department, agency, board or commission)
 State of Hawaii ("STATE"), by its _____,
(Insert title of person signing for State)
 (hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")), whose address is _____
 _____ and _____
 ("CONTRACTOR"), a _____
(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the Contractor)
 under the laws of the State of _____, whose business address and federal and state taxpayer identification numbers are as follows: _____

RECITALS

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services or both.

B. The STATE has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 6, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the STATE, taking into consideration price and the evaluation factors set forth in the request.

E. Pursuant to _____,
(Legal authority to enter into this Contract)
 the STATE is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:

(1) _____
(Identify state sources)

or (2) _____
(Identify federal sources)

or both, in the following amounts: State \$ _____
 Federal \$ _____

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. **Scope of Services.** The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the request for competitive sealed proposals number _____ ("RFP") and the CONTRACTOR'S accepted proposal ("Proposal"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. **Compensation.** The CONTRACTOR shall be compensated for goods supplied

or services performed, or both, under this Contract in a total amount not to exceed _____ DOLLARS

(\$ _____), including approved costs incurred and taxes, at the time and in the manner set forth in the RFP and CONTRACTOR'S Proposal.

3. Time of Performance. The services or goods required of the CONTRACTOR under this Contract shall be performed and completed in accordance with the Time of Performance set forth in Attachment-S3, which is made a part of this Contract.

4. Bonds. The CONTRACTOR ☐ is required to provide or ☐ is not required to provide: ☐ a performance bond, ☐ a payment bond, ☐ a performance and payment bond in the amount of _____ DOLLARS (\$ _____).

5. Standards of Conduct Declaration. The Standards of Conduct Declaration of the CONTRACTOR is attached to and made a part of this Contract.

6. Other Terms and Conditions. The General Conditions and any Special Conditions are attached to and made a part of this Contract. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) this Contract, including all attachments and addenda; (2) the RFP, including all attachments and addenda; and (3) the Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed in the amount of _____ DOLLARS (\$ _____) per day, in accordance with the terms of paragraph 9 of the General Conditions.

8. Notices. Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice to the STATE shall be sent to the HOPA'S address indicated in the Contract. Notice to the CONTRACTOR shall be sent to the CONTRACTOR'S address indicated in the Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the STATE in writing of any change of address.

IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

STATE

(Signature)

(Print Name)

(Print Title)

(Date)

CONTRACTOR

(Name of Contractor)

(Signature)

(Print Name)

(Print Title)

(Date)

CORPORATE SEAL
(If available)

APPROVED AS TO FORM:

Deputy Attorney General

* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

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- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- (1) The Assignee assumes all of the CONTRACTOR'S obligations;
- (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
- (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

- b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

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Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

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period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
 - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
 - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

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necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

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- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

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total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:
- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.
- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.
- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

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- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

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- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

EXHIBIT A

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

EXHIBIT A

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
- b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

EXHIBIT A

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

EXHIBIT A

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or

EXHIBIT A

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

EXHIBIT A

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF _____)
) SS.
 _____ COUNTY OF _____)

On this _____ day of _____, _____ before me appeared
 _____ and _____, to me
 known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are
 _____ and _____ of
 _____, the
 CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said
 instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said
 instrument as the free act and deed of the CONTRACTOR.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of _____

My commission expires: _____

Doc. Date: _____ # Pages: _____

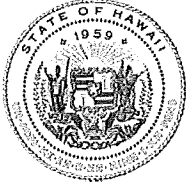
Notary Name: _____ Circuit _____

Doc. Description: _____

(Notary Stamp or Seal)

Notary Signature _____ Date _____

NOTARY CERTIFICATION



STATE OF HAWAII
**CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION**

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of _____, CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR ☐ is* ☐ is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

* Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By _____
(Signature)

Print Name _____

Print Title _____

Name of Contractor _____

Date _____



STATE OF HAWAII
SCOPE OF SERVICES

CONTRACTOR shall provide technical assistance and training to the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION ("HHFDC") for HHFDC's HOME Investment Partnerships ("HOME") Program and National Housing Trust Fund ("HTF") Program, in accordance with Request for Proposal ("RFP") No. 19-002-FIN, issued July 13, 2018, as amended, and Contractor's response to RFP No. 19-002-FIN submitted on _____ (date proposal received), as amended.

Both the RFP No. 19-002-FIN and CONTRACTOR's proposal submitted in response to the RFP are incorporated herein by reference and made a part of the Contract.

SAMPLE



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

The CONTRACTOR shall be compensated for services performed under this Agreement in a total amount not to exceed _____ DOLLARS (\$ _____), including the 4.712% State General Excise Tax, as set forth in RFP No. 19-002-FIN and CONTRACTOR's response to RFP No. 19-002-FIN. Any additional State General Excise Taxes shall be at the sole expense of the CONTRACTOR.

- A. **PAYMENT.** Payment for work performed by the CONTRACTOR shall be made in accordance with paragraph 17 of the 103D General Conditions (Form AG-008).

An original invoice referencing the contract number and describing the specific deliverable for which payment is being requested shall be directed to the HHFDC Finance Branch within 30 days from delivery of goods and/or services:

Glori Inafuku
Hawaii Housing Finance and Development Corporation
Finance Branch
677 Queen Street, Suite 300
Honolulu, HI 96813

Contractor shall be paid upon acceptance of the deliverable, and receipt and approval of the invoice, by HHFDC. Payment shall be made to:

Accounts Receivable
Contractor Name
Contractor Payment Address



STATE OF HAWAII

TIME OF PERFORMANCE

The Contract shall be for a period of one (1) year, effective October 1, 2018 and ending September 30, 2019. Unless terminated, the Contractor and the State may renew the Contract and extend the term for up to one (1) additional one-year period, or portion(s) thereof, without the necessity of re-bidding, upon mutual agreement in writing prior to the expiration of the contract. The contract price or commission paid to the Contractor for the extended period shall remain as specified in Contractor's response to RFP No. 19-002-FIN, unless price adjustments are provided herein.

- A. **NOTICE TO PROCEED.** The CONTRACTOR shall not commence any work under this Contract prior to receipt from the STATE of a written Notice to Proceed.
- B. **COMMENCEMENT OF THE WORK.** The CONTRACTOR shall commence work under this Contract on the date indicated above or on the date specified in the STATE's Notice to Proceed, whichever is later.
- C. **DURATION.** The time of completion for all the work described in the Contract shall be within one (1) year after the date of commencement indicated above or in the Notice to Proceed, whichever is later. Any extension of time or implementation of the option period will require written approval of the STATE as stated in Paragraph 19 of the 103D General Conditions (Form AG-008).
- D. **TERMINATION FOR CONVENIENCE.** The Contract may be terminated at any time pursuant to the Termination for Convenience clause set forth in paragraph 14 of the 103D General Conditions (Form AG-008). The STATE shall give written notice of the termination to the CONTRACTOR at least thirty (30) days prior to the effective date of such termination.



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development ("DHRD").*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)

(Date)

Luis P. Salaveria

(Print Name)

DBEDT Director

(Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
- (2) There is no employee-employer relationship; and
- (3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§ 76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, HRS.

(Signature)

(Date)

(Print Name)

(Print Title, if designee of the Director of DHRD)



STATE OF HAWAII

SPECIAL CONDITIONS

A. Insurance Requirements

Contractor shall furnish certificate(s) of insurance to HHFDC as evidence of the existence of the insurance coverage required by State policy, in amounts not less than the amounts specified herein. Contractor shall maintain this insurance for the entire performance period of the Contract at the Contractor's own expense.

Contractor shall defend, indemnify, and hold harmless the HHFDC, the State of Hawaii and its departments, boards, and agencies, and all their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Contractor or the Contractor's officers, employees, agents or subcontractors.

a. Workers' Compensation

Contractor shall carry Workers' Compensation insurance in such form and amount to satisfy the applicable state Workers' Compensation Law. Workers' Compensation must be issued by an admitted carrier authorized to do business in the State of Hawaii. Workers' Compensation insurance premium expense for the Project personnel may be reimbursed by the HHFDC upon review and approval.

b. Liability Insurance

Contractor shall maintain the following minimum insurance limits and coverage, at no cost or expense to the State:

Commercial General Liability

\$2,000,000 single limits per occurrence for bodily injury and personal property damage

Automobile Insurance Bodily injury liability limits of

\$1,000,000.00 each person

\$1,000,000.00 per accident and property damage liability limits of \$1,000,000.00 per accident or \$1,000,000.00 combined single limit

A certificate of insurance evidencing the required insurance coverage and amounts shall be submitted to HHFDC prior to commencement of services. The State of Hawaii and HHFDC shall each be named as additional insured on the certificate.

The Contractor shall provide immediate written notice to the contract administrator should any of the insurance policies evidenced on its Certificate of Insurance form be canceled, limited in scope, or not renewed upon expiration. Furthermore, each insurance policy required by the Contract shall contain the following clauses:



STATE OF HAWAII
SPECIAL CONDITIONS

1. "The State of Hawaii and HHFDC is added as an additional insured with respect to operations performed for the State of Hawaii."
2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the Contract, including all Supplemental Contracts.

During the entire term of this Contract, the Contractor agrees to deposit with the HHFDC certificate(s) of insurance necessary to satisfy the HHFDC that the insurance provisions of this Contract are being complied with and to keep such insurance in effect and the current certificate(s) therefore on deposit with the HHFDC. Upon request of the HHFDC, the Contractor shall be responsible for furnishing a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this Contract, entitling the HHFDC to exercise any or all of the remedies provided in this Contract for default of the Contractor.

The procuring of such required insurance shall not be construed to limit the Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, the Contractor shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

B. Order of Precedence

The Contract Documents include:

- a. The Contract for Goods or Services Based Upon Competitive Sealed Proposals (the Contract), including the General Conditions (AG-008), Attachments S1 through S5, and any exhibits referenced in the Contract;
- b. Modifications, including change orders, field orders, and written amendments (supplemental contracts) to the Contract;
- c. RFP No. 19-002-FIN, as amended; and
- d. Contractor's response to RFP No. 19-002-FIN, as amended by Contractor's Best and Final Offer (BAFO).

In the event of conflicts or discrepancies among the Contract Documents, the documents shall govern in the following order:

- a. Modifications, with those dated the most current taking precedence;



STATE OF HAWAII

SPECIAL CONDITIONS

- b. The Contract, with Attachment S5 Special Conditions taking precedence over the General Conditions;
- c. RFP No. 19-002-FIN, as amended; and
- d. Contractor's response to RFP No. 19-002-FIN, as amended by Contractor's BAFO.

The foregoing notwithstanding, the provision, section, and/or document most advantageous to the State shall control. Said controlling provision, section, and/or document shall be determined by HHFDC in its sole discretion.

SAMPLE

FY _____
HOME INVESTMENT PARTNERSHIPS PROGRAM
STATE RECIPIENT AGREEMENT

Federal Grant Details:

- i. Federal Award Identification (Federal Grant Name):

HOME INVESTMENT PARTNERSHIPS PROGRAM
- ii. State Recipient Name: COUNTY OF _____
- iii. State Recipient Unique Entity Identifier: (DUNS Number): _____
- iv. Federal Award Identification Number (FAIN) – _____
- v. Date of Federal Award to Hawaii Housing Finance and Development Corporation (HHFDC) by the U.S. Department of Housing and Urban Development (HUD):

- vi. Subaward Period of Performance:
 - a. Start Date: _____
 - b. End Date: _____
- vii. Amount of Current Federal Funds Obligated and committed by this action by the HHFDC to the State Recipient: \$ _____
- viii. Total Amount of Federal Funds Obligated to the State Recipient by the HHFDC including the current obligation: \$ _____
- ix. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): HOME Program funds to be utilized for the following activities:

Project	FY _____ HOME FUNDS	PROGRAM INCOME	TOTAL

- x. Name of:
 - a. Federal awarding agency: U.S. Department of Housing and Urban Development
 - b. Pass-through Entity: Hawaii Housing Finance and Development Corporation

EXHIBIT B

- c. Contact Information for Awarding Official of the Pass-through Entity:
Craig K. Hirai, Executive Director
677 Queen Street, Suite 300
Honolulu, HI 96813
- xi. CFDA Number and Name (pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement:
14.239 Home Investment Partnerships Program
- xii. Identification of whether the award is R&D: N/A
- xiii. Indirect Cost Rate for the Federal Award (including if the de minimis rate is charged Indirect (F&A) costs): N/A

A. DATE OF THIS AGREEMENT: _____

B. PARTIES

Name: HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
("HHFDC")

Address: 677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Name: COUNTY OF _____
("COUNTY")

Address: _____

C. WORDS USED IN THIS AGREEMENT

1. "Agreement" means this State Recipient Agreement and any amendments or supplements hereto.
2. "CFR" means the Code of Federal Regulations.
3. "24 CFR, Part 92" means part 92 of title 24 of the CFR containing the regulations for the HOME Program.
4. "2013 HOME Final Rule" means the HOME program regulations that were revised by the final rule effective August 23, 2013.

EXHIBIT B

5. “CHDO” means a Community Housing Development Organization which is a specific type of non-profit organization created under the HOME Program pursuant to 24 CFR, Part 92.
6. “Commitment” means the PJ has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with a State recipient, a subrecipient, or a contractor to use a specific amount of HOME funds to produce affordable housing, provide downpayment assistance, or provide tenant-based rental assistance; or has met the requirements to “Commit to a Specific Local Project.”
7. “Commit to a Specific Local Project” means if the project consists of rehabilitation or new construction (with or without acquisition) the State Recipient or subrecipient and project owner have executed a written legally binding agreement under which HOME assistance will be provided to the owner for an identifiable project for which all necessary financing has been secured, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date. If the project is owned by the State Recipient, the project has been set up in the Integrated Disbursement and Information System established by HUD, and construction can reasonably be expected to start within twelve months of the project set-up date.
8. “HOME Program” means the HOME Investment Partnerships Program authorized under 24 CFR, Part 92.
9. “HUD” means the U.S. Department of Housing and Urban Development.
10. “HHFDC” means the Hawaii Housing Finance and Development Corporation, successor to the Housing and Community Development Corporation of Hawaii (“HCDCH”) pursuant to Act 196, 2005 Session Laws of Hawaii and Act 180, 2006 Session Laws of Hawaii; HCDCH was successor to the Housing Finance and Development Corporation (“HFDC”) pursuant to Act 350, 1997 Session Laws of Hawaii.
11. “IDIS” means the Integrated Disbursement and Information System which manages, disburses, collects, and reports information on the use of HOME Program funds in the United States Treasury Account.
12. “LHITA” means the Local HOME Investment Trust Account which serves as the repository of all HOME Program funds. Such funds include drawdowns from the United States Treasury, Program Income, repayments or recaptured HOME funds and other deposits set forth in 24 CFR, Part 92. This account shall be interest bearing.

13. “Participating Jurisdiction” means a jurisdiction designated by HUD which is eligible to receive HOME Program funds. For purposes of this Agreement, the HHFDC is the Participating Jurisdiction for the State of Hawaii.
14. “Period of Affordability” means the period of time, beginning after project completion, during which HOME-assisted ownership and rental housing units must remain affordable to specified income groups.
15. “Program Income” means gross income received by the Participating Jurisdiction, State Recipient, or a Sub-Recipient directly generated from the use of HOME funds or matching contributions.
16. “Project Applicant” means the entity (i.e. public agency, non-profit agency, for-profit entity) which makes an application to a Participating Jurisdiction, State Recipient, or Sub-Recipient for HOME Program funds.
17. “Project completion” means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under 24 CFR 92.251); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the Integrated Disbursement and Information System established by HUD, except that with respect to rental housing project completion, for the purposes of 24 CFR 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.
18. “State” means the State of Hawaii which is the Participating Jurisdiction under the HOME Program.
19. “State Recipient” means a unit of local government designated by the State to receive a conditional commitment of HOME Program funds from the State.
20. “State Recipient Program Description” means the description of the State Recipient HOME Program which details how the State Recipient will comply with 24 CFR, Part 92. The State Recipient Program Description shall include, but not be limited to, the types of eligible activities permitted; eligible applicants; the project selection and award process; the type of assistance to be provided; per unit funding limits; standards for rehabilitation (if appropriate); rent requirements; beneficiary income requirements; and procedures for complying with affirmative marketing, and minority- and women-owned business outreach requirements.
21. “Sub-Recipient” means a public agency or nonprofit organization selected by the Participating Jurisdiction or State Recipient to administer all or a portion of the Participating Jurisdiction’s HOME Program.

22. “Contractor” means entities such as architects, engineers, appraisers, construction firms, lenders, loan servicers, or consultants with whom the Participating Jurisdiction, State Recipient, Project Applicant, project developer, or project owner enters into a contract for a specific scope of work.

D. RECITALS

1. The HOME Program is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625.
2. The purposes of the HOME Program are to expand the supply of decent, affordable housing for low and very-low income families with emphasis on rental housing, to strengthen the abilities of State and local governments and non-profit organizations in designing and implementing affordable housing programs, to create and strengthen partnerships among all levels of government and the private sector, including non-profit and for-profit organizations in the production and management of affordable housing.
3. The HHFDC is responsible for administering the HOME Program for the State.
4. The HHFDC desires to engage the County to carry out the program functions, which are described in the State Recipient Program Description (Exhibit A). The Program Description shall include at minimum: the tasks to be performed, schedule for completion and a budget for each program.
5. The purpose of this Agreement is to ensure that HOME Program funds are used in accordance with all applicable HOME Program requirements set forth in the 2013 HOME Final Rule, 24 CFR, Part 92, which are the regulations governing the implementation of the HOME Program.

E. SCOPE OF SERVICES

The County shall perform and carry out in an expedient, satisfactory and proper manner, as determined by the HHFDC, the activities and administrative services described in the State Recipient Program Description (Exhibit A). The County further agrees to administer the HOME program as the State Recipient and that all activities and services performed under this Agreement shall comply with the requirements of the 24 CFR, Part 92.

F. ALLOCATION OF HOME PROGRAM FUNDS**1. Amount of HOME Program Funds to be Allocated to the County**

The total amount of HOME Program funds to be allocated to the County under this Agreement shall be _____ Dollars (\$_____).

The County must utilize no less than _____ Dollars (\$_____) for CHDO activities under the HOME Program.

The County may utilize no more than _____ Dollars (\$_____) for the administration of the HOME Program.

Program Income Funds - The County shall utilize _____ Dollars (\$_____) as Program Income funds for a HOME eligible project.

2. Designation as a State Recipient

The County has submitted a State Recipient Program Description as evidence of the County's interest and intent to administer HOME Program funds as a State Recipient, which is incorporated in the Agreement as "Exhibit A".

3. Local HOME Investment Trust Account ("LHITA")

The County shall establish a LHITA pursuant to 24 CFR §92.500 and the account shall be interest bearing. The County must remit interest earned after 15 days to the United States as provided for in 2 CFR 200.305(b)(9), except interest amounts up to \$500 per year may be retained for administrative expenses.

4. HHFDC Responsibilities

Upon the execution of this Agreement, the HHFDC shall sub-grant within the IDIS the amount of HOME Program funds allocated to the County. The allocated HOME Program funds shall be designated as project funds, CHDO funds, and/or administrative funds. Any change to the designated use of the funds can only be made with the approval of the HHFDC.

5. County's Disbursement from the IDIS

The County shall be responsible for setting up the activities in the IDIS as required in 24 CFR §92.502. Disbursement from the IDIS shall not be requested until needed for payment of eligible costs, and once received, shall be paid out within 15 days. The amount of each request must be limited to the amount needed. Program

Income funds must be disbursed before requests are made for HOME funds in the United States Treasury account if both funds are committed to a project.

In order to obtain funds through the IDIS, the County shall create a drawdown voucher from the funded activity assigned to the project. One activity shall be permitted for each project set up in IDIS. The County shall subsequently submit to the HHFDC a written request for payment approval, together with copies of all supporting documentation (i.e. incurred bills, invoices and/or purchase orders) which substantiates the draw amount. All bills, invoices and/or purchase orders must:

- a. Be under the letterhead of the respective Contractor or other legal entity requesting payment;
- b. Bear the signature of the billing party, an authorized official of the County; and
- c. Identify the project, the nature of work or materials provided, and the specific phase of the project for which the work or materials were provided.

All bills, invoices and purchase orders shall be reviewed by the HHFDC. The HHFDC shall notify the County of discrepancies, if any, and recommend the appropriate action to correct any discrepancies found in the bills, invoices and purchase orders.

The County shall maintain in its files, at all times, documentation certifying that the work described in all bills, invoices, and purchase orders sent to the HHFDC are complete, correct, and in accordance with the terms of this Agreement.

6. Federal Funds

This Contract is payable in whole from federal funds. The County agrees that the County shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the HHFDC to receive anticipated federal funds shall not be considered a breach by the HHFDC.

G. TERMS AND CONDITIONS

The Agreement further renders the County responsible for compliance with applicable federal and State laws, executive orders, and regulations in administering funds provided under this Agreement. Such laws, executive orders, and regulations include, but are not limited to, the following:

1. The County shall conduct an underwriting review, assess developer capacity and fiscal soundness, and examine neighborhood market conditions prior to committing

funds to any applicable HOME activity. Pursuant to 24 CFR §92.250 (b), the County must:

- Evaluate the project in accordance with underwriting guidelines it has adopted to ensure funding of quality affordable housing that is financially viable for a minimum period of affordability cited in 24 CFR §92.252 or 24 CFR §92.254.
- Examine the sources and uses for each project and determine whether the costs are reasonable.
- Assess the market conditions of the neighborhood in which the project will be located.
- Assess the experience and financial capacity of the developer.
- Determine whether there are firm financial commitments for the project.

The County shall maintain the documentation of the analysis conducted in the project file.

2. The County shall enter into a written agreement with any Sub-Recipient or Project Applicant as set forth in 24 CFR §92.504 of the HOME Program regulations, before it disburses funds.
3. The County and its Sub-Recipients or Project Applicants are prohibited from charging servicing, origination, processing, inspection or other fees for the costs of administering a HOME program, except as permitted by 24 CFR §92.214(b)(1).
4. The County shall require all housing assisted with HOME Program funds to meet the affordability requirements of 24 CFR §92.252 or §92.254 of the HOME Program regulations, and must repay HOME Program funds to the HHFDC if the housing does not meet the affordability requirements for the specified time period. The County shall require the maintenance of all affordability requirements by executing deed restrictions and lien recordation or through the filing of restrictive covenants running with the land.
5. The County shall retain all Program Income, repayments and recaptured HOME Program funds (i.e. interest or other returns on investment) in the County's LHITA for redistribution to other HOME Program eligible activities pursuant to 24 CFR §92.503. The County may utilize a sum of 10% of the Program Income deposited in the County's LHITA and receipted in the HUD Integrated Disbursement and Information System (IDIS) for payment of reasonable administrative and planning costs pursuant to 24 CFR §92.207.
6. The County shall comply with the uniform administrative requirements contained within 24 CFR §92.505, including, but not limited to, the requirements in 2 CFR Part 200 except for the following provisions: §§ 200.306, 200.307, 200.308, 200.311 (except as provided in §92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by §92.502(c). The County further agrees that should the administrative requirements contained in §92.505 or 2 CFR Part 200 be amended and/or changed from time to time by HUD, the County

will comply with the terms and conditions of such changed or amended administrative requirements.

7. The County shall comply with 24 CFR, Part 92 Subpart F relating to project requirements, as applicable.
8. The County shall comply with the Site and Neighborhood Standards set forth in 24 CFR, §92.202.
9. The County shall adopt and follow an Affirmative Marketing Plan and requirements in accordance with 24 CFR §92.351 and shall maintain records to verify compliance with the applicable affirmative marketing procedures. The County shall require their subrecipients and owners to adhere to the County's adopted Affirmative Marketing Plan and assess the results.
- 10 a) The County shall ensure that no Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement;
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the County will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c) The County will require that the language of paragraphs G10 (a) and (b) above be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
11. The County shall comply with 24 CFR, Part 92 Subpart H relating to other federal requirements, except that the County does not assume the HHFDC's responsibilities for release of funds under 24 CFR §92.352 and the intergovernmental review process in 24 CFR §92.357 does not apply to the State recipient.
12. The Subgrantee shall ensure that each project assisted with HOME funds meets the Violence Against Womens Act (VAWA) requirements under 24 CFR §93.359, including notice obligations and obligations under the emergency transfer plan.

13. The County shall comply with State and local codes and ordinances and other applicable laws.
14. The County agrees that not less than annually, the HHFDC shall have the right to review the performance of the County.
15. The County agrees to retain all records at least five years after the end of the period of affordability.
16. The County agrees to comply with all applicable HOME Program requirements described by HHFDC, and the HOME Program regulations 24 CFR, Part 92 as applicable, and any amendments hereafter to the HOME regulations and/or HHFDC program guidelines.
17. The County agrees it must repay any HOME funds invested in projects that terminated before completion in accordance with 24 CFR §92.503 (b).
18. The County agrees to convert homebuyer units that have not been sold to an eligible homebuyer within nine months of completion to a HOME rental unit that complies with all HOME requirements for the period of affordability applicable to such rental units. A homebuyer unit will be considered “sold” if a sales contract for the unit has been ratified within nine months of completing project construction.
19. The County agrees to establish its own requirements to comply with the HOME Program rules and requirements for income determinations, underwriting guidelines, rehabilitation standards, refinancing guidelines, homebuyer program policies and affordability, as applicable.
20. Should the County cause a substantial amendment to the annual action plan, the County shall be responsible to pay all costs associated with processing by HHFDC of such amendment. These costs may include, but are not limited to: advertising, allocable staff compensation, travel, etc. Generally, substantial amendments are required whenever a decision is made to:
 1. make a change in allocation priorities or a change in the method of distribution of funds;
 2. carry out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the annual action plan; or
 3. change the purpose, scope, location, or beneficiaries of an activity.

H. NONCOMPLIANCE, SUSPENSION AND TERMINATION

In the performance of this Agreement, the County shall comply with all applicable County, State of Hawaii and Federal laws, rules and regulations, including without limitation, those mandated by HUD regarding the HOME Program. In cases where County, State of Hawaii

and/or Federal laws, rules or regulations address similar issues, the County shall comply with the most stringent law, rule or regulation.

The County's failure to perform any part of this Agreement shall constitute noncompliance, and the HHFDC, at its sole discretion, may take any one or more of the following actions:

1. Withhold cash payments pending correction of any deficiency by the County;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Wholly or partially suspend or terminate the current award of this Agreement with the County.
4. Withhold future award(s) to the County; and
5. Terminate this Agreement without service or notice or legal process and without prejudice to any other remedy or right or action for breach of contract. Upon expiration or termination of this Agreement, the County shall transfer to the HHFDC any HOME Program funds on hand at the time of expiration or termination and any accounts receivable attributable to the HOME Program funds. Failure to terminate the Agreement upon one or more breaches shall not constitute a waiver of the HHFDC's right to thereafter terminate the Agreement upon a subsequent breach or breaches.

Use of any one remedy should not be construed as a waiver of other remedies available under this section or of any legal, equitable, or statutory remedies available under applicable Hawaii or federal law.

Upon termination of this Agreement, all finished or unfinished documents, data, studies, and reports purchased or prepared by the County for the project shall be transferred and assigned to the HHFDC and become the property of the HHFDC.

I. TERMINATION FOR CONVENIENCE

Except as provided in Section H, Noncompliance, Suspension and Termination, this Agreement may also be terminated in whole or in part under the following conditions:

1. By the HHFDC with the consent of the County in which case the parties shall agree upon termination conditions, including the effective date and in the case of partial termination, the portion to be terminated; or
2. By the County upon written notification to the HHFDC, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.

J. TIME OF PERFORMANCE

The County shall not enter into any agreements for use of HOME Program funds with Sub-Recipients or Project Applicants prior to the execution of this Agreement.

This Agreement shall begin upon execution. However, if the HOME Program funds allocated to the County are not committed to a specific local project(s) by _____, the HHFDC reserves the right to terminate this Agreement and recapture all uncommitted HOME Program funds.

All HOME projects must be completed no later than 4 years from initial activity funding and all funds disbursed by _____ or the project funds may be recaptured by the HHFDC.

By execution of this Agreement, the County certifies that the proposed activities will be substantially in compliance with the time schedule contained in the Time of Performance Deadlines (Exhibit B). Failure to do so, may affect the County's continuing capacity in future funding decisions by the HHFDC.

The HHFDC retains the right to rescind all or any part of funds conditionally committed by this Agreement. Such right may be exercised if action, or the lack of action, by the County indicates that the proposed activities are not being implemented in accordance with the terms or schedule provided in the State Recipient Program Description or the provisions of this Agreement.

K. THIRD PARTY AGREEMENTS

Any agreements between the County and a Sub-Recipient, Project Applicant, or contractor must be in writing and must include appropriate provisions requiring compliance with all applicable federal requirements of the HOME Program. The County shall enter into a written agreement that complies with the provisions of 24 CFR §92.504 (c) with any other entity or individual to which it disburses HOME funds. The agreement must be in place before the HOME funds are provided and must prohibit charging servicing, origination, processing, inspection, or other fees for the costs of administering a HOME program, except as permitted by 24 CFR §92.214. In addition, the agreement must prohibit project owners from charging fees that are not customarily charged in rental housing pursuant to 24 CFR §92.214 (b)(3).

Pursuant to 24 CFR §92.206(d)(1), the County may allow for the use of HOME funds to pay architectural and engineering and other professional services costs that are incurred before the commitment of HOME funds. The costs may be paid if they were incurred not more than 24 months before the date that HOME funds are committed to the project and the County expressly permits HOME funds to be used to pay the costs in the written agreement committing the funds. In addition, these costs are subject to compliance with 24 CFR Part 58. The County shall limit the reimbursement for these costs to no more than 20% of the HOME funds committed for each activity.

The County shall be fully responsible to the HHFDC for the acts and omissions of the parties to such written agreements. The County shall maintain copies of executed third party agreements and contracts before the project will be set up in the IDIS.

L. ENVIRONMENTAL REVIEW

Pursuant to 24 CFR, Parts 50 and 58, no funds may be committed and no costs may be incurred for HOME Program projects funded by the County until the County has obtained the appropriate level of environmental clearance from the HHFDC through written notification. The County shall be responsible for conducting an assessment of all projects to be funded with HOME Program funds to determine the environmental impacts; the review of the assessment; the publication of appropriate notices; and the submittal of the required documentation to HHFDC.

Notwithstanding any provision of this Agreement, the County and the HHFDC agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of an environmental review under 24 CFR, Part 58. The parties further agree that the provision of any funds to the project is conditioned on the HHFDC's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

The County, a subrecipient, project applicant or contractor may not undertake or commit any funds for physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance. Any violation of this provision may result in the denial of any funds under this Agreement. The County shall, therefore, provide the HHFDC with the assessment of environmental impacts; the review of the assessment; the publication of appropriate notices; the environmental review records of exempt or categorically excluded activities and submit the required documentation to HHFDC for acknowledgement or approval, before the project will be set up in the IDIS.

M. INTEREST OF CURRENT OR FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the County, no member of the governing body of the locality in which the work is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to this Agreement, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof. Any violation of this section may, at the option of the HHFDC, result in unilateral and immediate termination of this Agreement by the HHFDC. Further, the County agrees to comply with all of the Conflict of Interest provisions contained in 24 CFR §92.356.

N. ASSIGNABILITY

The County shall not assign any interest in this Agreement, and shall not transfer any interest in this Agreement whether by assignment or novation.

O. INDEMNIFICATION

The County shall indemnify, defend and hold harmless the HHFDC, and the State of Hawaii and their respective officers, agents and employees from any liability, actions, claims, suits, damages, or costs arising out of or resulting from the acts or omissions of the County, and the County's officers, employees and agents in connection with the activities that may be funded, in whole or in part, from HOME Program funds provided to the County under this Agreement, including actions by HUD against the HHFDC resulting from the County's breach of any agreement, laws, or rules and regulations relating to the HOME Program.

The County shall require its contractors, if any, to indemnify, defend and hold harmless the HHFDC, the State of Hawaii, the County and their respective officers, employees and agents from any liability, actions, claims, suits, damages or costs arising out of or resulting from the acts or omissions of the contractor, and its officers, employees and agents in connection with the activities that may be funded, in whole or in part, from HOME Program funds provided to the County under this Agreement.

It is the purpose of the HHFDC under this Agreement to provide to the County federal assistance in the form of a conditional commitment of HOME Program funds to enable the County to provide certain assistance and services as described in this Agreement and in the State Recipient Program Description (Exhibit A).

It shall be the responsibility of the County to perform all of the services described in this Agreement in a satisfactory manner and in accordance with all federal, State, and local laws.

The HHFDC and the State of Hawaii shall not be liable for the failure on the part of the County or any contractor or subcontractor on the project to perform all work in accordance with all applicable laws and regulations.

P. AUDIT REQUIREMENTS

The County shall provide for an annual audit at the conclusion of each County fiscal year. The audit report must meet the criteria established in 2 CFR Part 200, Subpart F, Audit Requirements. The County shall submit a copy of the audit report to the HHFDC within the earlier of thirty (30) calendar days after the receipt of the auditor's report(s), or nine months after the end of the audit period.

Q. REPORTING REQUIREMENTS

Required reports are to be submitted to HHFDC or its designee by the applicable deadline. (Exhibit C)

1. Program Reporting Requirements

a. Reporting Requirements During Project Implementation

The County will be required to provide quarterly program reports on the progress of the County's HOME Program to the HHFDC by the following due dates each fiscal year: July 15th, October 15th, January 15th and April 15th.

The program reports shall include a brief narrative description of the status of such project to which HOME Program funds have been awarded including the major tasks completed for the project (i.e. signing of loan/grant agreement, advertisement for bid, construction start, construction completion, etc.) during the reporting period. Each report shall also include the following information:

- (1) Date of loan or grant agreement between the County and the Project Applicant;
- (2) Total development cost and description of layering review. The County will also be required to provide a subsidy-layering analysis before being set up in the IDIS;
- (3) Funds expended to date; the anticipated date of expenditure of HOME Program funds; or the schedule of anticipated drawdowns of HOME Program funds, to ensure that the HOME requirement to perform a initial drawdown of funds within twelve (12) months from the commitment of funds;
- (4) Anticipated completion date; and
- (5) Anticipated date of lease-up, transfer to homeowners, or provision of tenant assistance activities.

If funds are not yet committed to a project at the time program reports are required, the program report shall describe the status of the project selection process and anticipated dates for bids and Contractor selection and the funding commitment.

b. Reporting Requirements During the Period of Affordability

HOME Program assisted units are required to remain affordable for different periods depending upon the level of HOME Program investment pursuant to 24 CFR, Subpart F and type of activity performed. During the appropriate period of affordability, the HHFDC shall require the County to provide reports which includes the following information for each HOME Program assisted project:

- (1) Number of HOME Program assisted units;
- (2) Income of the current occupants of HOME Program assisted units;
- (3) Current rents for HOME Program assisted rental units;
- (4) Results of project completion inspections of HOME Program assisted units;
- (5) Information on resale, if any, of HOME Program assisted units for first-time homebuyers;
- (6) Loan repayments or other forms of HOME Program Income;
- (7) Summary of the annual project monitoring visits conducted by the County;
- (8) Description of any cases of noncompliance with HOME Program requirements and what measures have been taken or will be taken to achieve compliance; and
- (9) Homebuyer activities that have been converted to rental units after nine months from the completion of work due to the inability to sell the unit.

2. IDIS Reporting Requirements

The County shall have access to the IDIS and shall print, at the minimum, monthly HOME Program reports. The County shall reconcile bank records for the LHITA with the applicable monthly IDIS report.

The County will provide to the HHFDC any and all agreements; a subsidy-layering analysis; and the necessary level of environmental review, with the request for release of funds from the HHFDC before a project will be set up in the IDIS.

3. Certification of Project Cost

The HHFDC shall rely on 24 CFR Part 200, Subpart D, as applicable, in its use on project close-outs. However, the HHFDC shall retain the right to require the

County to provide for a separate certification and review of the total project cost by an independent third party as may be deemed necessary by the HHFDC. The audit reports shall be prepared in accordance with generally accepted government accounting standards.

R. RECORD KEEPING

1. HOME Program Record Keeping Responsibilities

The County shall establish and maintain HOME Program records pursuant to 24 CFR §92.508. At a minimum, the County is required to keep records pursuant to §92.508 (a)(2) Program records, (a)(3) Project records, (a)(6) Program administration records and (a)(7) Records concerning other Federal requirements. These records shall be retained for at least five years after all oversight responsibilities of any HOME Program funds and projects have been fulfilled.

Records shall be maintained regarding the receipt of all HOME Program Income, the deposit of said income into the LHITA, and the use of said income. Once the Program Income is invested into additional eligible activities, the records required for the new activity shall be maintained in accordance with the time periods in the previous paragraphs of this section.

2. Other Federal Requirements Record Keeping Responsibilities

All additional records as required under the Terms and Conditions of this Agreement shall be maintained by the County.

S. MONITORING

1. HHFDC Monitoring Responsibilities

Pursuant to 24 CFR, Subpart E, §92.201, HHFDC shall conduct monitoring reviews and audits of the State Recipients under the State's HOME Program as may be necessary or appropriate, to determine whether the State Recipients have complied with HOME regulations, as well as the requirements contained in the State Recipient Agreement.

The HHFDC shall be conducting "HOME Program-Wide" and "Project Specific" reviews as follows:

- a. "HOME Program-Wide" reviews shall be conducted by the HHFDC upon completion of the County's first HOME-assisted project/program. This review may include, but not be limited to, an evaluation of the County's HOME Program policies and procedures, layering review criteria and affirmative marketing plan. From the initial monitoring review, the

HHFDC may conduct periodic “HOME Program-Wide” reviews if deemed appropriate and necessary by the HHFDC.

- b. “Project Specific” reviews shall be conducted by the HHFDC upon completion of each HOME-assisted project and throughout the period of affordability. “Program Specific” reviews may be conducted by the HHFDC subsequent to HOME funds being made available to the ultimate program beneficiaries and throughout the time period in which funds continue to be invested. The “Project Specific” monitoring reviews may include, but not be limited to, an evaluation of the written agreements between the County and other entities, cash management records, match obligations and credits, and affordability requirements.

The HHFDC shall conduct site visits of the County’s HOME Program assisted projects in accordance with 24 CFR, §92.504. The visits may include, but not be limited to, a physical inspection of each HOME-assisted project, interviews with property managers to determine compliance with HOME Program property standards, tenant income requirements, and affirmative marketing requirements.

2. County Monitoring Responsibilities

The County shall be responsible for monitoring the County HOME-assisted projects during project development and implementation, as well as during the appropriate period of affordability. The visits may include, but not be limited to, required physical inspections of HOME-assisted projects, interviews with property managers to determine compliance with HOME Program property standards, tenant income requirements, and affirmative marketing requirements. The County shall conduct property inspections for their activities in accordance with 24 CFR §92.251. In addition, the County must examine the financial condition of HOME assisted rental projects with 10 or more HOME-assisted units to determine the continued financial viability of the project. The County shall maintain documentation of its annual project monitoring for review by the HHFDC.

T. DURATION OF AGREEMENT

1. Term of Agreement

Unless this Agreement is terminated, this Agreement shall begin on the date of execution, and shall remain in force for the period(s) of affordability applicable to the project(s) for which HOME Program funds are invested, unless the HHFDC determines that a breach of contract has occurred, at which time the HHFDC may exercise any and all of its rights and remedies under the HOME Program Regulations, 24 CFR, Part 92 and 2 CFR Part 200.338, including the right to terminate this Agreement and recapture any HOME Program funds allocated to the County.

2. Extension of Term

The parties hereto may extend the term of this Agreement through written consensus by the HHFDC and the County.

3. Compliance with Federal Regulations for HOME Agreements

Notwithstanding the provisions of T.1. above, it is the intent of the County and the HHFDC that this Agreement shall comply with the term requirements of 24 CFR, Part 92, as amended from time to time. The parties, therefore, agree to execute all documents as shall be necessary to conform this Agreement to the term requirements whenever necessary.

U. EQUAL EMPLOYMENT OPPORTUNITY

The County agrees to comply with Executive Order 11246, as amended, to ensure nondiscrimination in employment by contractors and subcontractors for federally assisted construction contracts.

1. The County will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, or on any other basis prohibited by State law. The County will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin, and without regard to any other basis prohibited by State law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The County agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The County will, in all solicitations or advertisements for employees placed by or on behalf of the County, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin, and without regard to any other basis prohibited by State law.
3. The County will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice regarding the Contractor's commitments under Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The County will comply with all provisions of Executive Order 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor (hereafter, collectively "Executive Order 11246").

5. The County will furnish all information and reports required by Executive Order 11246, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.
6. In the event the County is found to be in noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the County may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, or as otherwise provided by law.
7. The County will include the provisions of paragraphs (1) through (6) of this Paragraph in every subcontract or purchase order unless exempted pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The County will take such action with respect to any subcontract or purchase order as the HHFDC may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the County becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the HHFDC the County may request the United States to enter into such litigation to protect the interest of the United States.

V. LABOR STANDARDS

1. Contracts for construction funded in whole or in part with Federal funds are generally subject to the requirements of the Davis-Bacon and Related Acts (DBRA). The Davis-Bacon Act provides that contracts in excess of \$2,000, involving construction, rehabilitation, alteration and/or repairs including painting and decorating of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions. The County shall provide certification of compliance with labor provisions before the HHFDC makes any payment under this Contract. Projects involving construction of fewer than 12 HOME assisted units are not subject to the foregoing requirements.
2. The County acknowledges that this Contract and any subcontract awarded under this Contract is also subject to the Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333, the Copeland (Anti-Kickback) Act (40 USC 276c), and the Fair Labor Standards Act of 1938. The County agrees to comply with the provisions thereof.

W. LABOR, TRAINING & BUSINESS OPPORTUNITY

The County agrees to comply with the federal and State regulations governing training, employment and business opportunities. All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitment under the Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeships and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

X. FAIR HOUSING

Any housing or housing services offered by the County must be made available without discrimination based on race, color, national origin, age, sex, religion, familial status, or disability, or on any basis prohibited by State law, in accordance with fair housing laws. In providing rental housing the County shall not discriminate against a rental applicant based on the fact that he or she receives a direct rental subsidy, such as a Section 8 voucher or HOME tenant-based rental assistance (TBRA), in accordance with 24 CFR § 92.252(d). In addition, County acknowledges that the following fair housing and nondiscrimination laws apply to its provision of housing or housing services: Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended and implementing regulations at 24 CFR, Part 100; Title VI of the Civil Rights Act of 1964; The Age Discrimination Act of 1975, as amended and implementing regulations at 24 CFR, Part 146; Executive Orders 11063 and 12259- Equal Opportunity in Housing, and implementing regulations at 24 CFR, Part 107; Section 504 of the Rehabilitation Act of 1973 (Section 504) and implementing regulations at 24 CFR, Part 8; and Title II of the Americans with Disabilities Act (ADA). County agrees to comply with all applicable provisions of these statutes and rules.

Y. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

The County agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 – 7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 – 1387). The County further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of \$150,000. The County also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

Z. DEBARMENT AND SUSPENSION

The County shall not use HOME funds directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any Contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of Executive Orders 12549 and 12689

AA. NO WAIVER

A waiver of any breach of this Agreement by any Party shall not be deemed to be a waiver by any Party of any other breach of this Agreement.

BB. CAPTIONS & HEADINGS

The captions and headings or paragraphs in this Agreement are inserted for convenience, reference, and identification purposes only, and shall neither control, define, limit, nor affect any provisions of this Agreement.

CC. INTERPRETATION

The terms of this Agreement have been negotiated at arms length among knowledgeable Parties represented by experienced counsel. As a result, the rule of "interpretation against the drafter" shall not apply in any dispute over interpretation of the terms of this Agreement.

DD. AMENDMENTS

This Agreement, which constitutes the entire agreement between the Parties, may be changed, amended, or modified only by a written instrument signed by the Parties.

EE. COUNTERPARTS

This Agreement may be signed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Facsimile and Portable Document Format (PDF) signatures shall be deemed valid, original signatures.

FF. ENTIRE AGREEMENT

This Agreement contains all of the terms and agreements between the Parties and supersedes and cancels each and every other prior conflicting agreement, promise, and negotiation between them.

GG. AUTHORITY

The Parties represent and warrant to each other that they have full power and authority to enter into this Agreement, and to perform in accordance with its provisions, and that any representative executing this Agreement on behalf of any Party is duly authorized by his, her, or its principal to execute and deliver this Agreement.

HH. SEVERABILITY

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

EXHIBIT B

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

APPROVED AS TO FORM:

HAWAII HOUSING FINANCE AND
DEVELOPMENT CORPORATION

Deputy Attorney General
State of Hawaii

By: _____

Craig K. Hirai
Executive Director

Date: _____

Date: _____

APPROVED AS TO FORM AND
LEGALITY:

COUNTY OF _____

County of _____

By: _____

Name
Title

Date: _____

Date: _____

EXHIBIT B

STATE OF HAWAII)
) SS
CITY AND COUNTY OF HONOLULU)

On this ____ day of _____, 2018, before me appeared Craig K. Hirai, personally known to me, who being by me duly sworn, did say that he is the Executive Director of the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and body corporate and politic of the State of Hawaii, that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and the said officer acknowledged the instrument to be the free act and deed of the corporation.

(Notary Stamp or Seal)

(Signature)

Jocelyn K. Iwamasa

(Print Name)

Notary Public, State of Hawaii

My commission expires: September 3, 2018

Doc. Date: _____ # Pages: _____

Notary Name: Jocelyn K. Iwamasa 1st Circuit

Doc. Description: _____

(Notary Stamp or Seal)

Notary Signature

Date:

NOTARY CERTIFICATION

EXHIBIT B

STATE OF HAWAII)
)
COUNTY OF _____) SS

On this ____ day of _____, 2018, before me appeared _____, personally known to me, who being by me duly sworn, did say that he is the MAYOR of the COUNTY OF _____. a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said COUNTY OF _____, and that the said instrument was signed and sealed on behalf of said COUNTY OF _____ pursuant to Section _____ of the Charter of the COUNTY OF _____ and the said _____ acknowledged the said instrument to be the free act and deed of said COUNTY OF _____.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of _____ Hawaii

My commission expires: _____

Doc. Date: _____ # Pages: _____

Notary Name: _____

Doc. Description: _____

(Notary Stamp or Seal)

Notary Signature

Date:

NOTARY CERTIFICATION

FY _____
HOUSING TRUST FUND PROGRAM
SUBGRANTEE AGREEMENT

Federal Grant Details:

- i. Federal Award Identification (Federal Grant Name):
HOUSING TRUST FUND PROGRAM
- ii. Subgrantee Name:
- iii. Subgrantee Unique Entity Identifier: (DUNS Number)
- iv. Federal Award Identification Number (FAIN) –
- v. Date of Federal Award to HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION by HUD:
- vi. Subaward Period of Performance: HTF Grant Fund Expenditures
 - a. Start Date:
 - b. End Date:
- vii. Amount of Current Federal Funds Obligated and committed by this action by the HHFDC to the Subgrantee: \$
- viii. Total Amount of Federal Funds Obligated to the Subgrantee by the HHFDC including the current obligation: \$
- ix. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA):

HTF ACTIVITY	FY _____ HTF FUNDS
Project	\$1,350,000.00
Program Administration	\$75,000.00
Total HTF Funds	\$1,425,000.00

- x. Name of:
 - a. Federal awarding agency: U.S. Department of Housing and Urban Development
 - b. Pass-through Entity: Hawaii Housing Finance and Development Corporation
 - c. Contact Information for Awarding Official of the Pass-through
Entity: Craig K. Hirai, Executive Director
677 Queen Street, Suite 300
Honolulu, HI 96813

- xi. CFDA Number and Name (pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement): 14.275 - Housing Trust Fund
- xii. Identification of whether the award is R&D: N/A
- xiii. Indirect Cost Rate for the Federal Award (including if the de minimis rate is charged Indirect (F&A) costs): N/A

A. DATE OF THIS AGREEMENT: _____

B. PARTIES

GRANTEE:

Name: HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION (“HHFDC”)

Address: 677 Queen Street, Suite 300
Honolulu, Hawaii 96813

SUBGRANTEE:

Name:

Address:

C. WORDS USED IN THIS AGREEMENT

- 1. “Agreement” means this Subgrantee Agreement and any amendments or supplements hereto.
- 2. “CFR” means the Code of Federal Regulations.
- 3. “24 CFR, Part 93” means part 93 of title 24 of the CFR containing the regulations for the Housing Trust Fund Program.
- 4. “Commitment” means the Grantee or Subgrantee has executed a legally binding written agreement (that includes the date of the signature of each person signing the agreement) with an eligible Recipient for a project that meets the definition of “Commit to a Specific Local Project”.

5. “Commit to a Specific Local Project” means
- (i) If the project consists of rehabilitation or new construction (with or without acquisition) the Grantee or Subgrantee and eligible Recipient have executed a written legally binding agreement under which HTF assistance will be provided to the Recipient for an identifiable project for which construction can reasonably be expected to start within 12 months of the agreement date. The written agreement for rehabilitation or new construction of rental housing may also provide operating cost assistance and /or operating cost assistance reserves.
 - (ii) If the project consists of acquisition of standard housing and the Grantee or Subgrantee is providing HTF funds to a Recipient to acquire rental housing, the Grantee or Subgrantee have executed an agreement under which HTF assistance will be provided for the purchase of the rental housing and the property title will be transferred to the Recipient within 6 months of the agreement date. The written agreement for acquisition of rental housing may also provide operating cost assistance and/or operating cost assistance reserves.
 - (iii) If the project is for renewal of operating cost assistance or operating cost assistance reserves, the Grantee or Subgrantee and the Recipient must have executed a legally binding written agreement under which HTF funds will be provided to the Recipient for operating cost assistance or operating cost assistance reserves for the identified HTF project.
6. “Grantee” means the State or the State-designated entity that receives the HTF funds from HUD. For purposes of this Agreement, the HHFDC is the Grantee for the State of Hawaii.
7. “HTF” or “HTF Program” means the Housing Trust Fund program authorized under section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (112 U.S.C. §4568) and implemented by the HTF Interim Rule.
8. “HTF Allocation Plan” means the annual submission to HUD required by the Act that describes how the Grantee or Subgrantee will distribute its HTF funds, including how it will use the funds to address its priority housing needs, what activities may be undertaken with those funds, and how Recipients and projects will be selected to receive those funds.
9. “HTF Interim Rule” means the regulations that govern the HTF at 24 CFR Parts 91 and 93, published in the Federal Register, Vol. 80, No. 20 at 5200 (Jan. 30, 2015), effective March 31, 2015.
10. “HTF Local Account” includes the deposits of HTF funds disbursed from the HTF Treasury account, any program income, and any repayments as required by 24 CFR §93.403. The account must be interest bearing.

11. “HUD” means the U.S. Department of Housing and Urban Development.
12. “HHFDC” means the Hawaii Housing Finance and Development Corporation, successor to the Housing and Community Development Corporation of Hawaii (“HCDCH”) pursuant to Act 196, 2005 Session Laws of Hawaii and Act 180, 2006 Session Laws of Hawaii; HCDCH was successor to the Housing Finance and Development Corporation (“HFDC”) pursuant to Act 350, 1997 Session Laws of Hawaii.
13. “IDIS” means the Integrated Disbursement and Information System which manages, disburses, collects, and reports information on the use of HTF Program funds in the United States Treasury Account.
14. “Period of Affordability” means the period of time, beginning after project completion, during which HTF-assisted rental housing units must remain affordable to specified income groups. HTF-assisted units must meet the affordability requirements for a minimum period of 30 years. The Subgrantee may impose a longer period.
15. “Program Income” means gross income received by the Grantee, or Subgrantee directly generated from the use of HTF funds, as further defined in 24 CFR §93.2.
16. “Project Applicant” means the entity (i.e. public agency, non-profit agency, for-profit entity) that submits an application to Subgrantee for HTF funds.
17. “Project completion” means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of 24 CFR Part 93 (including the property standards under 24 CFR §93.301); the final drawdown of HTF funds has been disbursed for the project; and the project completion information has been entered into IDIS, except that with respect to rental housing project completion, for the purposes of 24 CFR §93.402(d), project completion occurs upon completion of construction and before occupancy.
18. “Recipient” means an organization, agency, or other entity (including a public housing agency, or a for-profit entity or a nonprofit entity) that receives HTF assistance from the Subgrantee to carry out an HTF-assisted project, as further defined in 24 CFR §93.2.
19. “State” means the State of Hawaii.
20. “Subgrantee” means a unit of general local government or State agency selected by the Grantee to administer all or a portion of its HTF Program. A local government subgrantee must have an approved consolidated plan submitted in accordance with 24 CFR part 91.

21. "Subgrantee HTF Allocation Plan" is the _____ Housing Trust Fund Allocation Plan, attached as Exhibit A hereto.

D. RECITALS

1. The National Housing Trust Fund Program (HTF) was created by Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289), codified at 12 U.S.C. §4568.
2. Among the purposes of the HTF is to provide grants to state governments to increase and preserve the supply of decent, safe, and sanitary affordable rental housing for extremely low-income households (not exceeding 30% of the area median income), including homeless families.
3. The HHFDC is responsible for administering the HTF Program for the State of Hawaii.
4. The HHFDC desires to engage Subgrantee to carry out the program functions, which are described in the Subgrantee HTF Allocation Plan. (Exhibit A).
5. The purpose of this Agreement is to ensure that HTF funds are used in accordance with 24 CFR Part 93.

E. SCOPE OF SERVICES

The Subgrantee agrees to administer the HTF program as the Subgrantee and that all activities and services performed under this Agreement shall comply with the requirements of 24 CFR Part 93.

The Subgrantee shall perform and carry out in an expedient, satisfactory and proper manner, as determined by the HHFDC, the activities and administrative services in accordance with the Subgrantee Program Description and Performance Schedule. (Exhibit B)

F. ALLOCATION OF HTF PROGRAM FUNDS

1. Amount of HTF Program Funds to be Allocated to the Subgrantee

The total amount of HTF Program funds to be allocated to the Subgrantee under this Agreement shall be _____.

The Subgrantee may utilize no more than _____ Dollars
\$ _____ for the administration of the HTF Program.

The Subgrantee may award no more than _____ Dollars \$ _____ for operating cost assistance to eligible HTF projects.

2. Designation as a Subgrantee

The Subgrantee has submitted the Subgrantee HTF Allocation Plan as evidence of its interest and intent to administer HTF funds as a Subgrantee, which is incorporated in the Agreement as “Exhibit A”.

3. HTF Local Account

The Subgrantee shall establish a HTF Local Account pursuant to 24 CFR §93.400 and the account shall be interest bearing. The HTF Local Account includes deposits of HTF funds disbursed from the HTF Treasury account as well as any program income and any repayments required by 24 CFR §93.403, to be retained by the Subgrantee pursuant to Paragraph G.6 below. The Subgrantee must remit interest earned on federal advance payments to the United States as provided for in 2 CFR §200.305(b)(9), except interest amounts up to \$500 per year may be retained for administrative expenses.

4. HHFDC Responsibilities

Upon the execution of this document and HUD approval of the Subgrantee HTF Allocation Plan, the HHFDC shall subgrant within IDIS the amount of HTF funds allocated to the Subgrantee. The HTF funds shall be allocated and designated as project funds and/or administrative funds. Any change to the designated use of the funds can only be made with the approval of the HHFDC.

5. Subgrantee’s Disbursement from IDIS

The Subgrantee shall be responsible for setting up the projects in the IDIS as required in 24 CFR §93.402.

Subgrantee shall not request disbursement from the IDIS until needed for payment of eligible costs, and once received, shall be paid out within 15 days. The amount of each request must be limited to the amount needed. Program Income must be disbursed before requests are made for HTF funds in the United States Treasury account.

In order to obtain funds through the IDIS, the Subgrantee shall create a drawdown voucher from the funded activity assigned to the project. One activity shall be permitted for each project set up in IDIS. The Subgrantee shall subsequently submit to the HHFDC a written request for payment approval, together with copies of all supporting documentation (i.e. incurred bills, invoices and/or purchase orders) which substantiates the draw amount. All bills, invoices and/or purchase orders must:

- a. Be under the letterhead of the eligible Recipient or other legal entity requesting payment;
- b. Bear the signature of the billing party, an authorized official of the Subgrantee;

and

- c. Identify the project, the nature of work or materials provided, and the specific phase of the project for which the work or materials were provided.

All bills, invoices and purchase orders shall be reviewed by the HHFDC. The HHFDC shall notify the Subgrantee of discrepancies, if any, and recommend the appropriate action to correct any discrepancies found in the bills, invoices and purchase orders.

The Subgrantee shall maintain in its files, at all times, documentation certifying that the work described in all bills, invoices, and purchase orders sent to the HHFDC are complete, correct, and in accordance with the terms of this Agreement.

6. Federal Funds

This Contract is payable in whole from federal funds. The Subgrantee agrees that the Subgrantee shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the HHFDC to receive anticipated federal funds shall not be considered a breach by the HHFDC.

G. TERMS AND CONDITIONS

In administering funds provided under this Agreement, the Subgrantee shall comply with applicable federal and State laws, executive orders, rules, and regulations, including without limitation, those mandated by HUD regarding the HTF. In cases where local, state, and/or federal laws, rules or regulations address similar issues, the Subgrantee shall comply with the most stringent law, rule or regulation. Without limiting the foregoing, Subgrantee shall comply with the following:

1. The Subgrantee must include its Subgrantee HTF Allocation Plan in its Annual Action Plan pursuant to 24 CFR 91.220(1)(5), consistent with the HHFDC HTF Allocation Plan.
2. The Subgrantee shall select HTF projects by eligible Recipients in accordance with its Subgrantee HTF Allocation Plan. Pursuant to 24 CFR §93.300 (b) and consistent with the Grantee's HTF Allocation Plan, the Subgrantee must conduct the following analysis prior to committing funds:
 - Evaluate the project in accordance with underwriting guidelines it has adopted to ensure funding of quality affordable housing that is financially viable for a minimum 30 year period of affordability as cited in 24 CFR §93.302.
 - Examine the sources and uses for each project and determine whether the costs are reasonable.
 - Assess the market conditions of the neighborhood in which the project will be located.
 - Assess the experience and financial capacity of the developer.

- Determine whether there are firm financial commitments for the project.

The Subgrantee shall maintain the documentation of the analysis conducted in the project file.

3. The Subgrantee shall enter into written agreements with eligible Recipients as set forth in 24 CFR §93.404(c)(2) of the HTF Program regulations, before it disburses funds.
4. The Subgrantee and its eligible Recipients are prohibited from charging servicing, origination, processing, inspection or other fees for the costs of administering a HTF program, except as permitted by 24 CFR §93.204(b), §93.404(c)(1)(xiv) and §93.404(c)(2)(xii).
5. The Subgrantee shall require all housing assisted with HTF funds to meet the affordability requirements of 24 CFR §93.302, and must repay HTF funds to the HHFDC if the housing does not meet the affordability requirements for the specified time period. The Subgrantee shall require the maintenance of all affordability requirements by executing deed restrictions and lien recordation or through the filing of restrictive covenants running with the land.
6. The Subgrantee shall retain all Program Income, repayments and recaptured HTF Program funds (i.e. interest or other returns on investment) in the Subgrantee's HTF Local Account for redistribution to other HTF eligible activities pursuant to 24 CFR §93.403. The Subgrantee may utilize a sum of 10% of the Program Income deposited in the Subgrantee's HTF Local Account and receipted in IDIS for payment of reasonable administrative and planning costs pursuant to 24 CFR §93.202.
7. The Subgrantee shall comply with the uniform administrative requirements contained within 24 CFR §93.405, including, but not limited to, the requirements in 2 CFR Part 200 except for the following provisions: §§ 200.307, 200.311 200.328(b), 200.329 and 200.333. The provisions of 2 CFR §200.305 apply as modified by §92.502(c). The Subgrantee further agrees that should the administrative requirements contained in §93.405 or 2 CFR Part 200 be amended and/or changed from time to time by HUD, the Subgrantee will comply with the terms and conditions of such changed or amended administrative requirements.
8. Housing assisted with HTF funds shall be subject to the lead-based paint regulations at 24 CFR part 35, subparts A, B, J, K, and R.
9. Projects undertaken with HTF funds shall utilize all reasonable steps to minimize the displacement of persons and shall comply with the relocation policies and requirements set forth in 24 CFR §93.352.
10. The Subgrantee acknowledges that assistance provided under this agreement shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006.

11. The Subgrantee shall comply with 24 CFR, Part 93 Subpart G relating to project requirements, as applicable.
12. The Subgrantee shall adopt and follow an Affirmative Marketing Plan and requirements in accordance with 24 CFR §93.350 and shall maintain records to verify compliance with the applicable affirmative marketing procedures. The Subgrantee shall require their eligible Recipients to adhere to the Subgrantee's adopted Affirmative Marketing Plan and assess the results.
13. a) The Subgrantee shall ensure that no Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement;

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

c) The Subgrantee will require that the language of subparagraphs (a) and (b) above be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all eligible Recipients shall certify and disclose accordingly.
14. The Subgrantee shall comply with State and local codes and ordinances and other applicable laws.
15. The Subgrantee shall ensure that each project assisted with HTF funds meets the Violence Against Womens Act (VAWA) requirements under 24 CFR §93.356, including notice obligations and obligations under the emergency transfer plan.
16. The Subgrantee agrees that the HHFDC shall have the right to review the performance of the Subgrantee not less than annually.
17. The Subgrantee agrees it must repay any HTF funds invested in projects that terminated before completion in accordance with 24 CFR §93.403 (b).
18. The Subgrantee agrees to establish its own requirements to comply with the HTF Program rules and requirements for income determinations, underwriting guidelines, rehabilitation standards and affordability, as applicable.

19. Should the Subgrantee cause modifications to the HHFDC annual action plan, that result in a need for a substantial amendment as determined by the HHFDC, the Subgrantee shall be responsible to pay all costs associated with processing by HHFDC of such amendment. These costs may include, but are not limited to: advertising, allocable staff compensation, travel, etc. Generally, substantial amendments are required whenever a decision is made to:
 - a. Make a change in allocation priorities or a change in the method of distribution of funds;
 - b. Carry out an activity, using funds from any program covered by the Consolidated Plan (including program income), not previously described in the annual action plan; or
 - c. Change the purpose, scope, location, or beneficiaries of an activity.

H. NONCOMPLIANCE, SUSPENSION AND TERMINATION

The Subgrantee's failure to perform any part of this Agreement shall constitute noncompliance, and the HHFDC, at its sole discretion, may take any one or more of the following actions:

1. Withhold cash payments pending correction of any deficiency by the Subgrantee;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Wholly or partially suspend or terminate the current award of this Agreement with the Subgrantee;
4. Withhold future award(s) to the Subgrantee; and
5. Terminate this Agreement without service of notice or legal process and without prejudice to any other remedy or right or action for breach of contract. Upon termination of this Agreement, the Subgrantee shall transfer to the HHFDC any HTF Program funds on hand at the time of termination and any accounts receivable attributable to the use of HTF funds. Failure to terminate the Agreement upon one or more breaches shall not constitute a waiver of the HHFDC's right to thereafter terminate the Agreement upon a subsequent breach or breaches.

Use of any one remedy should not be construed as a waiver of other remedies available under this section or of any legal, equitable, or statutory remedies available under applicable Hawaii or federal law.

I. TERMINATION FOR CONVENIENCE

Except as provided in Section H, Noncompliance, Suspension and Termination, this Agreement may also be terminated in whole or in part under the following conditions:

1. By the HHFDC with the consent of the Subgrantee in which case the parties shall agree upon termination conditions, including the effective date and in the case of partial termination, the portion to be terminated; or
2. By the Subgrantee upon written notification to the HHFDC, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if the HHFDC determines in the case of partial termination that the reduced or modified portion of the Agreement will not accomplish the purposes for which the award of HTF funds were made, the HHFDC may terminate the federal award in its entirety.

J. TIME OF PERFORMANCE

The Subgrantee shall not enter into any agreements for use of HTF funds with eligible Recipients prior to the execution of this Agreement.

This Agreement shall begin upon execution. However, if the HTF funds allocated to the Subgrantee are not committed to a specific local project(s) by _____, the HHFDC reserves the right to terminate this Agreement and recapture all uncommitted HTF Program funds.

Once funds have been committed in IDIS to a project, an initial draw must occur within twelve (12) months of the funding date, or the project may be cancelled in IDIS.

Any funds committed to HTF projects must be expended in whole and completed prior to _____ or the remaining project funds may be recaptured by the HHFDC.

By execution of this Agreement, the Subgrantee certifies that the HTF activities will be substantially in compliance with the timeline contained in the Subgrantee Program Description and Performance Schedule (Exhibit B). Failure to do so, may affect the Subgrantee's continuing capacity in future funding decisions by the HHFDC.

The HHFDC retains the right to rescind all or any part of funds conditionally committed by this Agreement. Such right may be exercised if action, or the lack of action, by the Subgrantee indicates that the proposed activities are not being implemented in accordance with the terms or schedule provided in the Subgrantee HTF Performance Schedule or the provisions of this Agreement.

K. THIRD PARTY AGREEMENTS

Any agreements between the Subgrantee and an eligible Recipient must be in writing and must include appropriate provisions requiring compliance with all applicable federal requirements of the HTF Program. The Subgrantee shall enter into a written agreement that complies with the provisions of 24 CFR §93.404 (c) with any other entity or

individual to which it disburses HTF funds. The agreement must be in place before the HTF funds are provided and must prohibit charging servicing, origination, processing, inspection, or other fees for the costs of administering a HTF program, except as permitted by 24 CFR §93.204. In addition, the agreement must prohibit project owners from charging fees that are not customarily charged in rental housing pursuant to 24 CFR §93.204 (b)(4) and §93.404(c)(2)(xii).

Pursuant to 24 CFR §93.201(d)(1), the Subgrantee may allow for the use of HTF funds to pay architectural and engineering and other professional services costs that are incurred before the commitment of HTF funds. The costs may be paid if they were incurred not more than 24 months before the date that HTF funds are committed to the project and the Subgrantee expressly permits HTF funds to be used to pay the costs in the written agreement committing the funds. The Subgrantee shall limit the reimbursement for these costs to no more than 20% of the HTF funds committed for each activity.

The Subgrantee will maintain copies of executed third party agreements and contracts in the project files before the project will be funded in the IDIS.

L. ENVIRONMENTAL PROVISIONS

The Subgrantee shall ensure that all new construction, acquisition or acquisition rehabilitation activities (including manufactured housing) meet the applicable environmental requirements specified in 24 CFR 93.301(f) for historic preservation, archaeological resources, farmland, airport zones, Coastal Barrier Resource System, coastal zone management, floodplains, wetlands, explosives and hazards, contamination, noise, endangered species, wild and scenic rivers, safe drinking water, and sole source aquifers.

The Subgrantee shall be responsible for conducting an assessment of all projects to be funded with HTF funds in accordance with HUD Notice CPD-16-14. The responsibilities include but are not limited to: the determination of the environmental impacts; the review of the assessment; the publication of appropriate notices, if applicable; and the submittal of the required documentation to HHFDC/HUD.

M. INTEREST OF CURRENT OR FORMER MEMBERS, OFFICERS OR EMPLOYEES

No member, officer, or employee of the Subgrantee, no member of the governing body of the locality in which the work is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to this Agreement, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this Agreement or the proceeds thereof. Any violation of this section may, at the option of the HHFDC, result in unilateral and immediate termination of this Agreement by the HHFDC. Further, the Subgrantee agrees to comply with the Conflict of Interest provisions contained in 24 CFR §93.353.

N. ASSIGNABILITY

The Subgrantee shall not assign any interest in this Agreement, and shall not transfer any interest in this Agreement whether by assignment or novation.

O. INDEMNIFICATION

The Subgrantee shall indemnify and hold harmless the HHFDC, and the State of Hawaii and their respective officers, agents and employees from any liability, actions, claims, suits, damages, or costs arising out of or resulting from the acts or omissions of the Subgrantee, and the Subgrantee's officers, employees and agents in connection with the activities that may be funded, in whole or in part, from HTF funds provided to the Subgrantee under this Agreement, including actions by HUD against the HHFDC resulting from the Subgrantee's breach of any agreement, laws, or rules and regulations relating to the HTF Program.

The Subgrantee shall require its contractors, if any, to indemnify and hold harmless the HHFDC, the State of Hawaii, the Subgrantee and their respective officers, employees and agents from any liability, actions, claims, suits, damages or costs arising out of or resulting from the acts or omissions of the contractor, and its officers, employees and agents in connection with the activities that may be funded, in whole or in part, from HTF funds provided to the Subgrantee under this Agreement.

The HHFDC and the State of Hawaii shall not be liable for the failure on the part of the Subgrantee or any contractor or subcontractor on the project to perform all work in accordance with all applicable laws and regulations.

P. AUDIT REQUIREMENTS

1. The Subgrantee shall provide for an annual audit at the conclusion of each Subgrantee fiscal year. The audit report must meet the criteria established in 2 CFR Part 200, Subpart F, Audit Requirements. The Subgrantee shall submit a copy of the audit report to the HHFDC within the earlier of thirty (30) calendar days after the receipt of the auditor's report(s), or nine months after the end of the audit period.
2. The Subgrantee must specify in its written agreements with eligible Recipients that a cost certification be performed by a certified public accountant for each project assisted with HTF funds. In addition, an annual audit must be performed for the HTF assisted project and submitted annually for the period of affordability.

Q. REPORTING REQUIREMENTS

Required reports are to be submitted to HHFDC or its designee by the applicable deadline. (Exhibit C)

1. Program Reporting Requirements
 - a. Reporting Requirements During Project Implementation

The Subgrantee will be required to provide quarterly program reports on the progress of the Subgrantee's HTF Program to the HHFDC by the following due dates each fiscal year: July 15th, October 15th, January 15th and April 15th.

The program reports shall include a brief narrative description of the status of each project to which HTF funds have been awarded including the major tasks completed for the project (i.e. signing of loan/grant agreement, advertisement for bid, construction start, construction completion, etc.) during the reporting period. Each report shall also include the following information:

- (1) Date of loan or grant agreement between the Subgrantee and the eligible Recipient;
- (2) IDIS activity number; funding amount and initial funding date;
- (3) Total development cost with all sources and uses;
- (4) Schedule of projected and actual drawdown of funds;
- (5) Anticipated completion date; and
- (6) Anticipated date of lease-up.
- (7) If funds are not yet committed to a project at the time program reports are required, the program report shall describe the status of the project selection process and anticipated dates for bids and Contractor selection and the funding commitment.

b. Reporting Requirements During the Period of Affordability

HTF assisted units are required to remain affordable for a minimum of 30 years, which begins at project completion. During the period of affordability, the Subgrantee shall be required to provide reports which shall include the following information:

- (1) Certification by project owners that the project is being maintained in compliance with §93.301;
- (2) Information on rents and occupancy for HTF assisted units to ensure compliance with §93.302;
- (3) Project financial audit;
- (4) Results of project completion inspections of HTF assisted units;

- (5) Loan repayments or other forms of HTF Program Income;
- (6) Summary of the project monitoring visits conducted by the Subgrantee; and
- (7) Description of any cases of noncompliance with HTF program requirements and what measures have been taken or will be taken to achieve compliance.

2. IDIS Reporting Requirements

The Subgrantee shall have access to the IDIS and will be responsible to enter HTF required information as follows:

- (1) Complete Project set-up information as required and ensure that the initial disbursement will be made within 12 months;
- (2) Project completion information within 120 calendar days of the date of the final drawdown or HUD/HHFDC may take corrective action;
- (3) HTF Program reports as required; and
- (4) Reconcile bank records for the HTF Local Account with applicable IDIS reports.

3. Cost Certification

The Subgrantee shall review and ensure a cost certification performed by a certified public accountant is provided for each project assisted with HTF funds.

R. RECORD KEEPING

1. HTF Program Record Keeping Responsibilities

The Subgrantee shall establish and maintain HTF program records pursuant to 24 CFR §93.407. At a minimum, the Subgrantee is required to keep records pursuant to §93.407 (a)(1) Program records, (a)(2) Project records, (a)(4) Program administration records and (a)(5) Records concerning other Federal requirements. These records shall be retained for the period prescribed in 24 CFR §93.407(b).

Records shall be maintained regarding the receipt of all HTF Program Income, the deposit of said income into the HTF Local Account, and the use of said income. Once the Program Income is invested into additional eligible activities, the records required for the new activity shall be maintained in accordance with the time periods in the previous paragraphs of this section.

2. Other Federal Requirements Record Keeping Responsibilities

All additional records as required under the Terms and Conditions of this Agreement shall be maintained by the Subgrantee.

S. MONITORING

1. HHFDC Monitoring Responsibilities

Pursuant to 24 CFR §93.101 and §93.404, HHFDC shall annually review the performance of the Subgrantee as a Subgrantee under the State's HTF Program, to ensure compliance with the HTF regulations, as well as the requirements contained in the Subgrantee Agreement. The annual review may include, but not be limited to, an evaluation of the Subgrantee's program policies and procedures and an assessment of the fiscal and administrative management of the HTF funds.

Project monitoring reviews may also include, but not be limited to, an evaluation of the written agreements between the Subgrantee and other entities, physical inspections of HTF-assisted project, assessment of compliance reports and interviews with property managers to determine compliance with HTF property standards, tenant income requirements, and affirmative marketing requirements.

2. Subgrantee Monitoring Responsibilities

The Subgrantee shall be responsible for monitoring the HTF-assisted projects during project development and implementation, as well as during the period of affordability. The monitoring shall include, but not be limited to, required physical inspections of HTF-assisted projects and interviews with property managers to determine compliance with HTF property standards, tenant income requirements, and affirmative marketing requirements. The Subgrantee may charge owners of rental projects reasonable annual fees for monitoring compliance during the period of affordability. The fees must be calculated and documented in accordance with 24 CFR §93.204.

- a. The Subgrantee shall conduct property inspections for each HTF-assisted project at project completion to determine that the housing meets the property standards of 24 CFR §93.301.
- b. During the period of affordability, the Subgrantee must perform onsite inspections of HTF-assisted projects to determine compliance with the ongoing property standards of 24 CFR §93.301 and to verify the information submitted by owners in accordance with the requirements of 24 CFR §93.302.
- c. The Subgrantee must examine the financial condition of HTF assisted rental projects with 10 or more HTF-assisted units at least annually to determine the continued financial viability of the project.

The Subgrantee shall maintain documentation of its annual project monitoring for review by the HHFDC.

T. DURATION OF AGREEMENT

1. Term of Agreement

This Agreement shall be effective on the date set forth in Section A, above, and shall remain in force for the period(s) of affordability applicable to the project(s) for which HTF funds are invested, unless the HHFDC determines that a breach of contract has occurred, at which time the HHFDC may exercise any and all of its rights and remedies under the HTF Program Regulations, 24 CFR, Part 93 and 2 CFR Part 200.338, including the right to terminate this Agreement and recapture any HTF funds allocated to the Subgrantee.

2. Extension of Term

The parties hereto may extend the term of this Agreement through written consensus by the HHFDC and the Subgrantee.

3. Closeout or Termination

Upon closeout or termination of this Agreement, the Subgrantee shall transfer to the HHFDC any HTF funds on hand at the time of closeout or termination and any accounts receivable attributable to the use of HTF funds.

In addition, at the written request of the HHFDC, upon closeout or termination of this Agreement, all finished or unfinished documents, data, studies, and reports purchased or prepared by the Subgrantee for the project, shall be transferred and assigned to the HHFDC and become the property of the HHFDC.

U. EQUAL EMPLOYMENT OPPORTUNITY

The Subgrantee agrees to comply with Executive Order 11246, as amended, to ensure nondiscrimination in employment by contractors and subcontractors for federally assisted construction contracts.

1. The Subgrantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, or on any other basis prohibited by State law. The Subgrantee will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin, and without regard to any other basis prohibited by State law. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subgrantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the

contracting officer setting forth the provisions of this nondiscrimination clause.

2. The Subgrantee will, in all solicitations or advertisements for employees placed by or on behalf of the Subgrantee, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin, and without regard to any other basis prohibited by State law.
3. The Subgrantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice regarding the Contractor's commitments under Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Subgrantee will comply with all provisions of Executive Order 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor (hereafter, collectively "Executive Order 11246").
5. The Subgrantee will furnish all information and reports required by Executive Order 11246, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.
6. In the event the Subgrantee is found to be in noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Subgrantee may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, or as otherwise provided by law.
7. The Subgrantee will include the provisions of paragraphs (1) through (6) of this Paragraph in every subcontract or purchase order unless exempted pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The Subgrantee will take such action with respect to any subcontract or purchase order as the HHFDC may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the HHFDC the Subgrantee may request the United States to enter into such litigation to protect the interest of the United States.

V. LABOR STANDARDS

Contracts and any subcontracts that are financed by funds provided under this Agreement may be subject to the Contract Work Hours and Safety Standards Act, as amended (40 USC §§3701-3708, the Copeland (Anti-Kickback) Act (40 USC §3145), and the Fair Labor Standards Act of 1938. The Subgrantee agrees to comply with the

provisions thereof to the extent applicable.

W. LABOR, TRAINING & BUSINESS OPPORTUNITY

The Subgrantee agrees to comply with the federal and State regulations governing training, employment and business opportunities. All contracts covered by section 3 of the Housing and Urban Development Act of 1968 shall include the following clause (referred to as the Section 3 clause):

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitment under the Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeships and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not

subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

X. FAIR HOUSING

Any housing or housing services offered by the Subgrantee must be made available without discrimination based on race, color, national origin, age, sex, religion, familial status, or disability, or on any basis prohibited by State law, in accordance with fair housing laws. In providing rental housing the Subgrantee shall not discriminate against a rental applicant based on the fact that he or she receives a direct rental subsidy, such as a Section 8 voucher or HOME tenant-based rental assistance (TBRA), in accordance with 24 CFR §93.303(d)(4). In addition, Subgrantee acknowledges that the following fair housing and nondiscrimination laws apply to its provision of housing or housing services: Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended and implementing regulations at 24 CFR, Part 100; Title VI of the Civil Rights Act of 1964; The Age Discrimination Act of 1975, as amended and implementing regulations at 24 CFR, Part 146; Executive Orders 11063 and 12259- Equal Opportunity in Housing, and implementing regulations at 24 CFR, Part 107; Section 504 of the Rehabilitation Act of 1973 (Section 504) and implementing regulations at 24 CFR, Part 8; and Title II of the Americans with Disabilities Act (ADA). Subgrantee agrees to comply with all applicable provisions of these statutes and rules.

Y. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

The Subgrantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 – 7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 – 1387). The Subgrantee further warrants and agrees to include or cause to be included the criteria and requirements of this section in every nonexempt subcontract in excess of \$150,000. The Subgrantee also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

Z. DEBARMENT AND SUSPENSION

The Subgrantee shall not use HTF funds directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any Contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status under the provisions of Executive Orders 12549 and 12689.

AA. NO WAIVER

A waiver of any breach of this Agreement by any Party shall not be deemed to be a waiver by any Party of any other breach of this Agreement.

BB. CAPTIONS & HEADINGS

The captions and headings or paragraphs in this Agreement are inserted for convenience, reference, and identification purposes only, and shall neither control, define, limit, nor affect any provisions of this Agreement.

CC. INTERPRETATION

The terms of this Agreement have been negotiated at arms length among knowledgeable Parties represented by experienced counsel. As a result, the rule of "interpretation against the drafter" shall not apply in any dispute over interpretation of the terms of this Agreement.

DD. AMENDMENTS

This Agreement, which constitutes the entire agreement between the Parties, may be changed, amended, or modified only by a written instrument signed by the Parties.

It is the intent of the Subgrantee and the HHFDC that this Agreement shall comply with the term requirements of 24 CFR, Part 93, as amended from time to time. The parties, therefore, agree to execute all documents as shall be necessary to conform this Agreement to the term requirements whenever necessary.

EE. COUNTERPARTS

This Agreement may be signed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Facsimile and Portable Document Format (PDF) signatures shall be deemed valid, original signatures.

FF. ENTIRE AGREEMENT

This Agreement contains all of the terms and agreements between the Parties and

supersedes and cancels each and every other prior conflicting agreement, promise, and negotiation between them.

GG. AUTHORITY

The Parties represent and warrant to each other that they have full power and authority to enter into this Agreement, and to perform in accordance with its provisions, and that any representative executing this Agreement on behalf of any Party is duly authorized by his, her, or its principal to execute and deliver this Agreement.

H. SEVERABILITY

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the fullest extent possible.

Exhibits:

Exhibit A – Subgrantee HTF Allocation Plan

Exhibit B – Subgrantee Program Description and Performance Schedule

Exhibit C – HTF reports

Exhibit D – HHFDC HTF Allocation Plan

Exhibit E – 24 CFR Part 93

EXHIBIT C

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

APPROVED AS TO FORM:

HAWAII HOUSING FINANCE AND
DEVELOPMENT CORPORATION

Deputy Attorney General
State of Hawaii

By:

Craig K. Hirai
Executive Director

Date: _____

Date: _____

APPROVED AS TO FORM AND
LEGALITY:

COUNTY OF _____

Deputy Corporation Counsel
County of _____

By:

Date: _____

Date: _____

EXHIBIT C

STATE OF HAWAII)
)
) SS
CITY AND COUNTY OF HONOLULU)

On this ____ day of _____, 2018, before me appeared Craig K. Hirai, personally known to me, who being by me duly sworn, did say that he is the Executive Director of the HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and body corporate and politic of the State of Hawaii, that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and the said officer acknowledged the instrument to be the free act and deed of the corporation.

(Notary Stamp or Seal)

(Signature)

Jocelyn K. Iwamasa

(Print Name)

Notary Public, State of Hawaii

My commission expires: September 3, 2018

Doc. Date: _____ # Pages: _____

Notary Name: Jocelyn K. Iwamasa 1st Circuit

Doc. Description:

(Notary Stamp or Seal)

Notary Signature

Date:

NOTARY CERTIFICATION

EXHIBIT C

STATE OF HAWAII)
) SS
COUNTY OF _____)

On this ____ day of _____, 2018, before me appeared _____, personally known to me, who being by me duly sworn, did say that he is the MAYOR of the COUNTY OF _____. a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said COUNTY OF _____, and that the said instrument was signed and sealed on behalf of said COUNTY OF _____ pursuant to Section _____ of the Charter of the COUNTY OF _____ and the said _____ acknowledged the said instrument to be the free act and deed of said COUNTY OF _____.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of Hawaii

My commission expires:

Doc. Date: _____ # Pages: _____

Notary Name: _____

Doc. Description:

(Notary Stamp or Seal)

Notary Signature

Date:

NOTARY CERTIFICATION

STATE OF HAWAII
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
HOUSING TRUST FUND PROGRAM
ALLOCATION PLAN

I. INTRODUCTION

The Housing Trust Fund (HTF) program was created by Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289) and is administered by the U.S. Department of Housing and Urban Development. The regulations which govern the HTF are contained in 24 CFR Part 93, Housing Trust Fund. The purpose of the HTF is to provide grants to State governments to increase and preserve the supply of decent, safe, and sanitary affordable housing for primarily extremely low-income (30% AMI) households, including homeless families. The Hawaii Housing Finance and Development Corporation (HHFDC) is designated as the HTF Grantee for the State of Hawaii.

II. DISTRIBUTION OF FUNDS

The Consolidated Plan identifies a substantial need for affordable housing throughout the State of Hawaii. Consequently, the HHFDC will make its allocation of HTF funds available on a statewide basis. HHFDC will fund projects through subgrantees (a unit of general local government that is selected to administer all or a portion of the state HTF program). The annual distribution is described below:

- a. HHFDC will retain 5% of the HTF annual allocation for allowable administrative and planning expenses.
- b. The balance of the HTF annual allocation will be split (50/50) between the City and County of Honolulu and the designated neighbor island county that receives HHFDC's rotated HOME allocation, (Subgrantees); for PY2018, the City and County of Honolulu and the County of Hawaii are anticipated to receive the HTF allocation; the next neighbor island allocation would be received by the County of Kauai in PY2019.
- c. The HTF program requires HHFDC to commit funds within 24 months of HUD's execution of the HTF grant agreement. Should a Subgrantee be unable to identify an eligible HTF project(s) within a specified timeframe, HHFDC, in its sole discretion, shall seek alternate activities from the remaining Subgrantees.
- d. Should the remaining Subgrantees be unable to identify an eligible HTF project(s) with a specified timeframe, HHFDC, in its sole discretion, shall seek alternate activities from eligible recipients.

- e. The HHFDC anticipates receiving \$3,000,000 in HTF funds for the Program Year 2018 – 2019, to be distributed as follows:

Program Year 2018 – 2019				
Fund Type	City and County of Honolulu	County of Hawaii	HHFDC	Total
HTF Project Funds	\$1,350,000	\$1,350,000	\$0	\$2,700,000
Administration	\$75,000	\$75,000	\$150,000	\$300,000
Total HTF Funds	\$1,425,000	\$1,425,000	\$150,000	\$3,000,000

III. ELIGIBLE ACTIVITIES AND EXPENSES

Rental Housing - HHFDC will focus its HTF funds on providing affordable rental housing to 30% AMI households. HTF funds may be used for the production, preservation, and rehabilitation of affordable rental housing through the acquisition, new construction, reconstruction, or rehabilitation of nonluxury housing with suitable amenities.

Eligible activities and expenses include: real property acquisition, site improvements and development hard costs, related soft costs, conversion, demolition, financing costs, relocation assistance, operating cost assistance and reasonable administrative and planning costs for HTF program administration.

HHFDC does not intend to use HTF funds for refinancing of existing debt.

IV. ELIGIBLE RECIPIENTS

An organization, agency or other entity (including a public housing agency, or a for-profit entity or a nonprofit entity) is eligible to apply for HTF assistance as an owner or developer to carry out an HTF-assisted project. A recipient must:

- a. Make acceptable assurances to the Subgrantee/HHFDC that it will comply with the requirements of the HTF program during the entire period that begins upon selection of the recipient to receive HTF funds, and ending upon the conclusion of all HTF-funded activities;
- b. Demonstrate the ability and financial capacity to undertake, comply, and manage the eligible activity;

- c. Demonstrate its familiarity with the requirements of other Federal, State, or local housing programs that may be used in conjunction with HTF funds to ensure compliance with all applicable requirements and regulations of such programs; and
- d. Have demonstrated experience and capacity to conduct an eligible HTF activity as evidenced by its ability to own, construct, or rehabilitate, and manage and operate an affordable multifamily rental housing development.

V. APPLICATION AND AWARD PROCESS

Applications for the HTF are issued, accepted and selected by the applicable county housing agencies (Subgrantees) annually for funding consideration, subject to availability of funds. Should Subgrantees be unable to identify an eligible HTF project(s) within a specified timeframe, HHFDC shall seek alternate activities from eligible recipients. Applications are reviewed for eligibility and rated using the selection criteria. Each application must describe the eligible activity, in accordance with 24 CFR 93.200, to be conducted with HTF funds and contain a certification by each eligible recipient that housing units assisted with HTF will comply with the HTF requirements.

In addition, applications will include performance goals and bench marks that the Subgrantees/HHFDC will use to monitor efforts to accomplish the rental housing objectives.

STATE OF HAWAII SUBGRANTEES

City and County of Honolulu	County of Kauai
Department of Community Services	Kauai County Housing Agency
Kapalama Hale, Suite 200	Pi`ikoi Building
925 Dillingham Boulevard	4444 Rice Street, Suite 330
Honolulu, Hawaii 96817	Lihue, Hawaii 96766
County of Hawai`i	County of Maui
Office of Housing and Community Development	Department of Housing and Human Concerns
50 Wailuku Drive	35 Lunalilo Street, Suite 102
Hilo, Hawaii 96720	Wailuku, Hawaii 96793

For PY 2018, the applicable Subgrantees to issue the HTF applications are the City and County of Honolulu and the County of Hawaii.

Minimum Thresholds:

Applicants must meet all of the following Minimum Threshold requirements to receive consideration for an allocation or award of HTF.

Failure to meet any Minimum Threshold shall result in the immediate rejection of the application.

1. **Market Assessment**
A market assessment of the housing needs of extremely low income individuals to be served by the project must be submitted as a part of the application. The assessment should review the neighborhood and other relevant market data to determine that there is current demand for the type and number of housing units being developed.
2. **Site Control**
Evidence of site control shall be submitted with the application for HTF funds. Site control shall be substantiated by providing evidence in the form of an executed lease or sales option agreement, fee simple deed, executed land lease, or any other documentation acceptable to the County. Evidence of site control must be provided for all proposed sites.
3. **Capital Needs Assessment (For projects acquiring an existing property.)**
To ensure that the proposed rehabilitation of the project is adequate and that the property will have a useful life that exceeds the affordability period, a capital needs assessment of the property by a competent third party shall be submitted with the application. A capital needs assessment is a qualified professional's opinion of a property's current physical condition. It identifies deferred maintenance, physical needs and deficiencies, and material building code violations that affect the property's use, structural and mechanical integrity, and future physical and financial needs. The Capital Needs Assessment shall identify any work that must be completed immediately to address health and safety issues, violation of Federal or State law, violation of local code, or any work necessary to ensure that the building can continue to operate as affordable housing.
4. **Debt Service Ratio**
 - a. **Projects with hard debt service requirements:**
 - i. The Project is required to evidence a Debt Service Ratio of no less than 1.15x on all hard debt service requirements for the first 15 years.
 - b. **Projects with no hard debt service requirements:**
 - i. The Project is required to evidence positive Net Operating Income throughout the 30-year proforma period.
 - c. **Hard Debt Service:**
 - i. Defined as scheduled regular and periodic principal and/or interest payments of project loan obligations made for its direct benefit, as evidenced by a note and loan agreement.
 - ii. The Applicant is required to support all hard debt service loans and

terms with executed lenders' commitment letters, letters of interest, or term sheets.

- d. Underwriting Criteria and Requirements:
 - i. Applicants are required to use the following parameters and assumptions in the preparation of the project proforma:
 - 1. Annual Income Inflation Rate of 2.0% and Annual Expense Inflation Rate of 3.0% for the first 15 years or term of the first mortgage, whichever is greater.
 - 2. Annual Income Inflation Rate of 2.0% and Annual Expenses Inflation Rate of 2.0% for the remaining term of affordability.
 - 3. Vacancy Rate of no less than 5.0%
 - 4. Annual Replacement Reserve Allocation of no less than \$300 per unit per year.

- 5. Phase I Environmental Site Assessment
All proposed multifamily (more than four housing units) HTF projects require a Phase I Environmental Site Assessment.

For acquisition/rehabilitation projects, the Phase I Environmental Assessment should address lead based paint and asbestos.

- 6. Developer Fee
 - i. New Construction – maximum developer fee of 15% of the total development costs or \$3,750,000 (whichever is less)
 - ii. Acquisition/Rehabilitation – maximum developer fee of 10% of the acquisition costs and 15% of the rehabilitation costs or \$3,750,000 (whichever is less).

VI. SELECTION CRITERIA

- a. Timeliness and Readiness to Proceed (Max. 30 pts.) – The proposed project is feasible and will meet the required timelines to commit and expend HTF funds. Applicants need to demonstrate project “readiness.” Factors to be considered are site control, financial commitments, environmental factors, zoning, utilities and site and neighborhood standards;
- b. Consolidated Plan Priorities (Max. 10 pts.) - The extent to which the project proposes accomplishments that will meet the rental housing objectives for both the HHFDC and the County. The HTF is primarily a production program meant to add units to the supply of affordable housing for extremely low-income households. Merits of the application in meeting the priority housing needs of the County where the project is located such as accessible to transit or employment centers, housing that includes green building and sustainable development features or housing that serves special needs populations;

- c. Developer Experience and Financial Capacity (Max. 25 pts.) - Applicant's ability to obligate HTF dollars and undertake funded activities in a timely manner. Need to review evidence of experience in developing and managing projects of similar type and scope, staff qualifications, and fiscal soundness. In addition, applicants who have received federal funds in the past will be evaluated on the basis of their past performance. Qualifications of the proposed project team, personnel and /or contractors to carry out the proposed project including proven record of experience with comparable projects;
- d. Financially Feasible Project (Max. 25 pts.) – Project pro forma to cover a minimum 30 year HTF affordability period and include rents that are affordable to extremely low-income households. Priority to be given for projects with extended affordability periods and project based rental assistance; and
- e. Use of Non-Federal Funding Sources (Max. 10 pts.) – Given the 30% AMI income targeting requirements, viable projects will require other funding sources compatible with HTF. Priority consideration to the extent project will use non-federal funding sources.

A minimum score of 50 points (out of the 100 total points) must be scored in order to be recommended for the award of HTF funds.

Successful Recipient(s) will receive a Notice of Award, which will state that the Subgrantee's intent to award HTF funds is subject to approval of the applicable HTF Allocation Plan/Action Plan by the County Council/Approving Authority, HHFDC and HUD.

VII. MAXIMUM PER-UNIT DEVELOPMENT SUBSIDY LIMITS

Each year, HHFDC must establish maximum limitations on the total amount of HTF funds that may be invested per-unit for development of non-luxury rental housing projects. The HOME Program Maximum Per-Unit Subsidy Limits have been adopted for the HTF program. The development costs of affordable rental housing across the state are generally higher in comparison with the HOME subsidy limits. However, due to the limited funding, the HTF projects will require leveraging with other significant sources of funds. The HOME subsidy limit provides a reasonable maximum to develop a greater number of HTF assisted units throughout the state.

The following table reflects the maximum per unit subsidy limits by bedroom size for housing assisted with HTF within the State of Hawaii, for PY 2018.

Bedrooms	PY2018 HTF Maximum Per-Unit Subsidy Limit
0	\$144,050
1	\$165,134
2	\$200,800
3	\$259,773
4+	\$285,148

VIII. REHABILITATION STANDARDS

Rehabilitation of multi-family projects that utilize HTF funds must comply with all applicable federal, state and local codes, ordinances, requirements, County HTF rehabilitation standards and the requirements of 24 CFR 93.301(b). At a minimum, the following property standards and requirements shall apply:

- 1) Health and Safety – If the housing is occupied at the time of initial inspection, all Life-Threatening Deficiencies must be identified and addressed immediately. See Appendix A which identifies all life-threatening deficiencies (Highlighted in yellow and bold) for the property site, building exterior, building systems, common areas and unit components.
- 2) Major Systems – All projects with 26 or more units are required to have the useful remaining life of the major systems determined with a capital needs assessment. Major systems include: structural support, roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; heating, ventilation, and air conditioning. If the useful life of one or more major system is less than the affordability period, it must be replaced or rehabilitated or a replacement reserve must be established and monthly deposits made to the reserve account to adequately repair or replace the systems as needed.
- 3) Lead Safe Housing Rule – All HTF-funded rehabilitation must meet the requirements of the Lead Safe Housing Rule at 24 CFR Part 35.
- 4) Accessibility – Assisted housing must meet the accessibility requirements at 24 CFR part 8 (implementing section 504 of the Rehabilitation Act of 1973) and Titles II and III of the Americans with Disabilities Act implemented at 28 CFR parts 35 and 36. For “covered multifamily dwellings,” as defined at 24 CFR 100.205, standards must require that the housing meets the design and construction requirements at 24 CFR 100.205. (Note that grantees may use HTF funds for other improvements that permit use by a person with disabilities, even if they are not required by statute or regulation.)
- 5) Disaster Mitigation – Housing must meet state and local requirements for disaster mitigation, or requirements established by HUD, where they are needed to mitigate the risk of potential natural disasters.
- 6) Local/state or national codes - All rehabilitation projects must meet all applicable federal, state and local codes, standards, ordinances, rules, regulations and requirements by project completion. In cases where standards differ, the most restrictive standard will apply. The

State of Hawaii has adopted the 2006 International Building Code (2006 IBC) and the 2006 International Energy Conservation Code (2006 IECC). Should the adopted codes be modified or updated, the newly adopted code standard will apply. See local government agencies for additionally adopted codes. In the absence of local building codes, the housing must meet the International Existing Building Code of the International Code Council.

7) Uniform Physical Condition Standards (UPCS) – Upon completion, the project and units must be decent, safe, sanitary, and in good repair as described in 24 CFR 5.703. Appendix A: Uniform Physical Condition Standards for Multifamily Housing Rehabilitation (“Appendix A”) identifies the type and degree of deficiencies that shall be addressed.

Uniform Physical Condition Standards (UPCS) for Multifamily Housing Rehabilitation

All projects funded with HTF will be required to meet HUD's UPCS to ensure housing will be decent, safe, sanitary, and in good repair as described in 24 CFR 5.703. Standards include the UPCS inspectable items and observable deficiencies for the site, building exterior, building systems, common areas, and units.

Inspectable Item	Observable Deficiency	Type and Degree of Deficiency That Must Be Addressed
NOTE: Deficiencies highlighted in yellow are life-threatening and must be addressed immediately if the housing is occupied.		
Requirements for Site:		
Fencing and Gates	Damaged/Falling/Leaning	An exterior fence, security fence, or gate is damaged and does not function as it should or could threaten safety or security.
	Holes	Hole in fence or gate is larger than 6 inches by 6 inches
	Missing Sections	An exterior fence, security fence or gate is missing a section which could threaten safety or security
Grounds	Erosion/Rutting Areas	Runoff has extensively displaced soils which has caused visible damage or potential failure to adjoining structures or threatens the safety of pedestrians or makes the grounds unusable or there is a rut larger than 8 inches wide by 5 inches deep.
	Overgrown/Penetrating Vegetation	Plants have visibly damaged a component, area or system of the property or has made them unusable or unpassable
	Ponding/Site Drainage	There is an accumulation of more than 5 inches deep and/or a large section of the grounds-more than 20%-is unusable for its intended purpose due to poor drainage or ponding
Health & Safety	Air Quality - Sewer Odor Detected	Sewer odors that could pose a health risk if inhaled for prolonged periods
	Air Quality - Propane/Natural Gas/Methane Gas Detected	Strong propane, natural gas or methane odors that could pose a risk of explosion/ fire and/or pose a health risk if inhaled
	Electrical Hazards - Exposed Wires/Open Panels	Any exposed bare wires or openings in electrical panels (capped wires do not pose a risk)

EXHIBIT D

	Electrical Hazards - Water Leaks on/near Electrical Equipment	Water leaking, puddling, or ponding on or immediately near any electrical apparatus that could pose a risk of fire, electrocution or explosion
	Flammable Materials - Improperly Stored	Flammable materials are improperly stored, causing the potential risk of fire or explosion
	Garbage and Debris - Outdoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Hazards - Other	Any general defects or hazards that pose risk of bodily injury
	Hazards - Sharp Edges	Any physical defect that could cause cutting or breaking of human skin or other bodily harm
	Hazards - Tripping	Any physical defect in walkways or other travelled area that poses a tripping risk
	Infestation - Insects	Evidence of infestation of insects-including roaches and ants-throughout a unit or room, food preparation or storage area or other area of building substantial enough to present a health and safety risk
	Infestation - Rats/Mice/Vermin	Evidence of rats or mice--sightings, rat or mouse holes, or droppings substantial enough to present a health and safety risk
Mailboxes/Project Signs	Mailbox Missing/Damaged	Mailbox cannot be locked or is missing
	Signs Damaged	The project sign is not legible or readable because of deterioration or damage
Parking Lots/ Driveways/Roads	Cracks	Cracks that are large enough to affect traffic ability over more than 5% of the property's parking lots/driveways/roads or pose a safety hazard

	Ponding	3 inches or more of water has accumulated making 5% or more of a parking lot/driveway unusable or unsafe
	Potholes/Loose Material	Potholes or loose material that have made a parking lot/driveway unusable/unpassable for vehicles and/or pedestrians or could cause tripping or falling
	Settlement/Heaving	Settlement/heaving has made a parking lot/driveway unusable/unpassable or creates unsafe conditions for pedestrians and vehicles
Play Areas and Equipment	Damaged/Broken Equipment	Equipment poses a threat to safety and could cause injury

EXHIBIT D

	Deteriorated Play Area Surface	More than 50% of the play surface area shows deterioration or the play surface area could cause tripping or falling and thus poses a safety risk
Refuse Disposal	Broken/Damaged Enclosure-Inadequate Outside Storage Space	A single wall or gate of the enclosure has collapsed or is leaning and in danger of falling or trash cannot be stored in the designated area because it is too small to store refuse until disposal
Retaining Walls	Damaged/Falling/Leaning	A retaining wall is damaged and does not function as it should or is a safety risk
Storm Drainage	Damaged/Obstructed	The system is partially or fully blocked by a large quantity of debris, causing backup into adjacent areas or runoffs into areas where runoff is not intended
Walkways/Steps	Broken/Missing Hand Railing	The hand rail for four or more stairs is missing, damaged, loose or otherwise unusable
	Cracks/Settlement/Heaving	Cracks greater than $\frac{3}{4}$ ", hinging/tilting, or missing section(s) that affect traffic ability over more than 5% of the property's walkways/steps
	Spalling/Exposed rebar	More than 5% of walkways have large areas of spalling-larger than 4 inches by 4 inches--that affects traffic ability
Requirements for Building Exterior:		
Doors	Damaged Frames/Threshold/Lintels/Trim	Any door that is not functioning or cannot be locked because of damage to the frame, threshold, lintel or trim
	Damaged Hardware/Locks	Any door that does not function as it should or cannot be locked because of damage to the door's hardware
	Damaged Surface (Holes/Paint/Rusting/Glass)	Any door that has a hole or holes greater than 1 inch in diameter, significant peeling/cracking/no paint or rust that affects the integrity of the door surface, or broken/missing glass
	Damaged/Missing Screen/Storm/Security Door	A security door that is not functioning or is "missing" (Security door should be there but isn't there)
	Deteriorated/Missing Caulking/Seals	The seals/caulking is missing on any entry door, or they are so damaged that they do not function as they should
	Missing Door	Any exterior door that is missing
Fire Escapes	Blocked Egress/Ladders	Stored items or other barriers restrict or block people from exiting

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	Visibly Missing Components	Any of the functional components that affect the function of the fire escape--one section of a ladder or railing, for example--are missing
Foundations	Cracks/Gaps	Large cracks in foundation more than 3/8 inches wide by 3/8 inches deep by 6 inches long that present a possible sign of a serious structural problem, or opportunity for water penetration or sections of wall or floor that are broken apart
	Spalling/Exposed Rebar	Significant spalled areas affecting more than 10% of any foundation wall or any exposed reinforcing material—rebar or other

Health and Safety	Electrical Hazards - Exposed Wires/Open Panels	Any exposed bare wires or openings in electrical panels (capped wires do not pose a risk)
	Electrical Hazards - Water Leaks on/near Electrical Equipment	Water leaking, puddling or ponding on or immediately near any electrical apparatus that could pose a risk of fire, electrocution or explosion
	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage, or other conditions block exit
	Emergency Fire Exits - Missing Exit Signs	Exit signs that clearly identify all emergency exits are missing or there is no illumination in the area of the sign
	Flammable/Combustible Materials - Improperly Stored	Flammable materials are improperly stored, causing the potential risk of fire or explosion
	Garbage and Debris - Outdoors	Too much garbage has gathered--more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Hazards - Other	Any general defects or hazards that pose risk of bodily injury
	Hazards - Sharp Edges	Any physical defect that could cause cutting or breaking of human skin or other bodily harm
	Hazards - Tripping	Any physical defect in walkways or other travelled area that poses a tripping risk
	Infestation - Insects	Evidence of infestation of insects--including roaches and ants--throughout a unit or room, food preparation or storage area or other area of building substantial enough to present a health and safety risk
	Infestation - Rats/Mice/Vermin	Evidence of rats or mice--sightings, rat or mouse holes, or droppings substantial enough to present a health and safety risk

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Lighting	Broken Fixtures/Bulbs	20% or more of the lighting fixtures and bulbs surveyed are broken or missing
Roofs	Damaged Soffits/Fascia	Soffits or fascia that should be there are missing or so damaged that water penetration is visibly possible
	Damaged Vents	Vents are missing or so visibly damaged that further roof damage is possible
	Damaged/Clogged Drains	The drain is so damaged or clogged with debris that the drain no longer functions—as shown by ponding
	Damaged/Torn Membrane/Missing Ballast	Ballast has shifted and no longer functions as it should or there is damage to the roof membrane that may result in water penetration
	Missing/Damaged Components from Downspout/Gutter	Drainage system components are missing or damaged causing visible damage to the roof, structure, exterior wall surface, or interior
	Missing/Damaged Shingles	Roofing shingles are missing or damaged enough to create a risk of water penetration
	Ponding	Evidence of standing water on roof, causing potential or visible damage to roof surface or underlying materials
Walls	Cracks/Gaps	Any large crack or gap that is more than 3/8 inches wide or deep and 6 inches long that presents a possible sign of serious structural problem or opportunity for water penetration
	Damaged Chimneys	Part or all of the chimney has visibly separated from the adjacent wall or there are cracked or missing pieces large enough to present a sign of chimney failure or there is a risk of falling pieces that could create a safety hazard
	Missing/Damaged Caulking/Mortar	Any exterior wall caulking or mortar deterioration that presents a risk of water penetration or risk of structural damage

	Missing Pieces/Holes/Spalling	Any exterior wall deterioration or holes of any size that present a risk of water penetration or risk of structural damage
	Stained/Peeling/Needs Paint	More than 50% of the exterior paint is cracking, flaking, or otherwise deteriorated. Water damage or related problems have stained the paint.
Windows	Broken/Missing/Cracked Panes	Any missing panes of glass or cracked panes of glass where the crack is either greater than 4" and/or substantial enough to impact the structural integrity of the window pane

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	Damaged Sills/Frames/Lintels/Trim	Sills, frames, lintels, or trim are missing or damaged, exposing the inside of the surrounding walls and compromising its weather tightness
	Damaged/Missing Screens	Missing screens or screens with holes greater than 1 inch by 1 inch or tears greater than 2 inches in length
	Missing/Deteriorated Caulking/Seals/Glazing Compound	There are missing or deteriorated caulk or seals--with evidence of leaks or damage to the window or surrounding structure
	Peeling/Needs Paint	More than 20% of the exterior window paint is peeling or paint is missing and window frame surface is exposed thereby exposing window frame to water penetration and deterioration
	Security Bars Prevent Egress	The ability to exit through egress window is limited by security bars that do not function properly and, therefore, pose safety risks
Requirements for Building Systems		
Domestic Water	Leaking Central Water Supply	Leaking water from water supply line is observed
	Missing Pressure Relief Valve	There is no pressure relief valve or pressure relief valve does not drain down to the floor
	Rust/Corrosion on Heater Chimney	The water heater chimney shows evidence of flaking, discoloration, pitting, or crevices that may create holes that could allow toxic gases to leak from the chimney
	Water Supply Inoperable	There is no running water in any area of the building where there should be
Electrical System	Blocked Access/Improper Storage	One or more fixed items or items of sufficient size and weight impede access to the building system's electrical panel during an emergency
	Burnt Breakers	Carbon residue, melted breakers or arcing scars are evident
	Evidence of Leaks/Corrosion	Any corrosion that affects the condition of the components that carry current or any stains or rust on the interior of electrical enclosures, or any evidence of water leaks in the enclosure or hardware
	Frayed Wiring	Any nicks, abrasion, or fraying of the insulation that exposes any conducting wire
	Missing Breakers/Fuses	Any open and/or exposed breaker port
	Missing Outlet Covers	A cover is missing, which results in exposed visible electrical connections

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Elevators	Not Operable	The elevator does not function at all or the elevator doors open when the cab is not there
Emergency Power	Auxiliary Lighting Inoperable (if applicable)	Auxiliary lighting does not function
Fire Protection	Missing Sprinkler Head	Any sprinkler head is missing, visibly disabled, painted over, blocked, or capped
	Missing/Damaged/Expired Extinguishers	There is missing, damaged or expired fire extinguisher in any area of the building where a fire extinguisher is required

Health & Safety	Air Quality - Mold and/or Mildew Observed	Evidence of mold or mildew is observed that is substantial enough to pose a health risk
	Air Quality - Propane/Natural Gas/Methane Gas Detected	Strong propane, natural gas or methane odors that could pose a risk of explosion/ fire and/or pose a health risk if inhaled
	Air Quality - Sewer Odor Detected	Sewer odors that could pose a health risk if inhaled for prolonged periods
	Electrical Hazards - Exposed Wires/Open Panels	Any exposed bare wires or openings in electrical panels (capped wires do not pose a risk)
	Electrical Hazards - Water Leaks on/near Electrical Equipment	Water leaking, puddling, or ponding on or immediately near any electrical apparatus that could pose a risk of fire, electrocution or explosion
	Elevator - Tripping	An elevator is misaligned with the floor by more than 3/4 of an inch. The elevator does not level as it should, which causes a tripping hazard
	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage, or other conditions block exit
	Emergency Fire Exits - Missing Exit Signs	Exit signs that clearly identify all emergency exits are missing or there is no illumination in the area of the sign
	Flammable Materials - Improperly Stored	Flammable materials are improperly stored, causing the potential risk of fire or explosion
	Garbage and Debris - Indoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Hazards - Other	Any general defects or hazards that pose risk of bodily injury

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	Hazards - Sharp Edges	Any physical defect that could cause cutting or breaking of human skin or other bodily harm
	Hazards – Tripping Hazards	Any physical defect in walkways or other travelled area that poses a tripping risk
	Infestation - Insects	Evidence of infestation of insects-including roaches and ants-throughout a unit or room, food preparation or storage area or other area of building substantial enough to present a health and safety risk
	Infestation - Rats/Mice/Vermin	Evidence of rats or mice--sightings, rat or mouse holes, or droppings substantial enough to present a health and safety risk
HVAC	Boiler/Pump Leaks	Evidence of water or steam leaking in piping or pump packing to the point that the system or pumps should be shut down.
	Fuel Supply Leaks	Evidence of any amount of fuel leaking from the supply tank or piping
	General Rust/Corrosion	Significant formations of metal oxides, significant flaking, discoloration, or the development of a noticeable pit or crevice
	Misaligned Chimney/Ventilation System	A misalignment of an exhaust system on a combustion fuel-fired unit (oil, natural gas, propane, wood pellets etc.) that causes improper or dangerous venting of gases
Roof Exhaust System	Roof Exhaust Fan(s) Inoperable	The roof exhaust fan unit does not function
Sanitary System	Broken/Leaking/Clogged Pipes or Drains	Evidence of active leaks in or around the system components or evidence of standing water, puddles or ponding--a sign of leaks or clogged drains
	Missing Drain/Cleanout/Manhole Covers	A protective cover is missing
Requirements for Common Areas		
Basement/Garage/Carport	Baluster/Side Railings - Damaged	Any damaged or missing balusters or side rails that limit the safe use of an area

Closet/Utility/Mechanical	Cabinets - Missing/Damaged	More than 10% of cabinet, doors, or shelves are missing or the laminate is separating
Community Room	Call for Aid - Inoperable	The system does not function as it should
Halls/Corridors/Stairs	Ceiling - Holes/Missing Tiles/Panels/Cracks	Any holes in ceiling, missing tiles or large cracks wider than 1/4 of an inch and greater than 11 inches long

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Kitchen	Ceiling - Peeling/Needs Paint	More than 10% of ceiling has peeling paint or is missing paint
Laundry Room	Ceiling - Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew--such as a darkened area--over a ceiling area greater than 1 square foot
Lobby	Countertops - Missing/Damaged	10% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate-not a sanitary surface to prepare food
Office	Dishwasher/Garbage Disposal - Inoperable	The dishwasher or garbage disposal does not operate as it should
Other Community Spaces	Doors - Damaged Frames/Threshold/Lintels/Trim	Any door that is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.
Patio/Porch/Balcony	Doors - Damaged Hardware/Locks	A restroom door, entry door, or fire door that does not function as it should or cannot be locked because of damage to the door's hardware
Restrooms	Doors - Damaged Surface (Holes/Paint/Rust/Glass)	Any door that has a hole or holes greater than 1 inch in diameter, significant peeling/cracking/no paint or rust that affects the integrity of the door surface, or broken/missing glass
Storage	Doors - Damaged/Missing Screen/Storm/Security Door	Any security door that is not functioning or is missing
	Doors - Deteriorated/Missing Seals (Entry Only)	The seals/caulking is missing on any entry door, or they are so damaged that they do not function as they should
	Doors - Missing Door	Any door that is missing that is required for the functional use of the space
	Dryer Vent - Missing/Damaged/Inoperable	The dryer vent is missing or it is not functioning because it is blocked. Dryer exhaust is not effectively vented to the outside
	Electrical - Blocked Access to Electrical Panel	One or more fixed items or items of sufficient size and weight impede access to the building system's electrical panel during an emergency
	Electrical - Burnt Breakers	Carbon residue, melted breakers or arcing scars are evident
	Electrical - Evidence of Leaks/Corrosion	Any corrosion that affects the condition of the components that carry current or any stains or rust on the interior of electrical enclosures or any evidence of water leaks in the enclosure or hardware
	Electrical - Frayed Wiring	Any nicks, abrasion, or fraying of the insulation that exposes any conducting wire

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	Electrical - Missing Breakers	Any open and/or exposed breaker port
	Electrical - Missing Covers	A cover is missing, which results in exposed visible electrical connections
	Floors - Bulging/Buckling	Any flooring that is bulging, buckling or sagging or a problem with alignment between flooring types
	Floors - Floor Covering Damaged	More than 50% of floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas or exposed seams.
	Floors - Missing Floor/Tiles	More than 50% of the flooring or tile flooring is missing
	Floors - Peeling/Needs Paint	Any painted flooring that has peeling, cracking, flaking, or missing paint if the affected area is more than 4 square feet
	Floors - Rot/Deteriorated Subfloor	Large areas of rot--more than 4 square feet--and applying weight causes noticeable deflection.
	Floors - Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew--such as a darkened area--covering a flooring area greater than 1 square foot

	GFI - Inoperable	The GFI does not function
	Graffiti	Graffiti in 6 or more places
	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	Cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans
	HVAC - General Rust/Corrosion	Significant formations of metal oxides, flaking, or discoloration--or a pit or crevice
	HVAC - Inoperable	HVAC does not function. It does not provide the heating and cooling it should. The system does not respond when the controls are engaged
	HVAC - Misaligned Chimney/Ventilation System	Any misalignment that may cause improper or dangerous venting of gases
	HVAC - Noisy/Vibrating/Leaking	HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged
	Lavatory Sink - Damaged/Missing	The sink or associated hardware have failed or are missing. The sink cannot be used
	Lighting - Missing/Damaged/Inoperable Fixture	In more than two rooms, permanent lighting fixtures are missing or not functioning and no other switched light source is functioning in the room

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	Mailbox - Missing/Damaged	The U.S Postal Service mailbox cannot be locked or is missing
	Outlets/Switches/Cover Plates - Missing/Broken	Outlet or switch is missing or a cover plate is missing or broken, resulting in exposed wiring
	Pedestrian/Wheelchair Ramp	A walkway or ramp is damaged and cannot be used by people on foot, in wheelchairs, or using walkers
	Plumbing - Clogged Drains	Drain is substantially or completely clogged or has suffered extensive deterioration
	Plumbing - Leaking Faucet/Pipes	A steady leak that is adversely affecting the surrounding area
	Range Hood /Exhaust Fans - Excessive Grease/Inoperable	The exhaust fan does not function
	Range/Stove - Missing/Damaged/Inoperable	Two or more burners are not functioning or oven is not functioning
	Refrigerator - Damaged/Inoperable	The refrigerator does not cool adequately for the safe storage of food
	Restroom Cabinet - Damaged/Missing	Damaged or missing shelves, vanity top, drawers, or doors that are not functioning as they should for storage or their intended purpose
	Shower/Tub - Damaged/Missing	The shower or tub cannot be used for any reason. The shower, tub, faucets, drains, or associated hardware is missing or has failed.
	Sink - Missing/Damaged	The sink or hardware is either missing or not functioning
	Smoke Detector - Missing/Inoperable	Smoke detector is missing or does not function as it should
	Stairs - Broken/Damaged/Missing Steps	A step is missing or broken
	Stairs - Broken/Missing Hand Railing	The hand rail for 4 or more stairs is missing, damaged, loose or otherwise unusable
	Ventilation/Exhaust System - Inoperable	Exhaust fan is not functioning or window designed for ventilation does not open
	Walls - Bulging/Buckling	Bulging, buckling or sagging walls or a lack of horizontal alignment
	Walls - Damaged	Any hole in the wall greater than 2 inches by 2 inches
	Walls - Damaged/Deteriorated Trim	More than 50% of the wall trim has significant areas of deterioration

EXHIBIT D

	Walls - Peeling/Needs Paint	Peeling, cracking, flaking, or otherwise deteriorated paint over more than 4 square feet on any wall
	Walls - Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew--such as a common area--covering a wall area greater than 1 square foot
	Water Closet/Toilet - Damaged/Clogged/Missing	The bowl is fractured or broken and cannot take in waterwater closet/toilet cannot be flushed, because of obstruction or another defect or there is a hazardous condition
	Windows - Cracked/Broken/Missing Panes	Missing or cracked panes of glass
	Windows - Damaged Window Sill	The sill is damaged enough to expose the inside of the surrounding walls and compromise its weather tightness
	Windows - Inoperable/Not Lockable	Any window that is not functioning or cannot be secured because lock is broken
	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	There are missing or deteriorated caulk or seals--with evidence of leaks or damage to the window or surrounding structure
	Windows - Peeling/Needs Paint	More than 10% of interior window paint is cracking, flaking or otherwise failing
	Windows - Security Bars Prevent Egress	The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks
Health & Safety	Air Quality - Mold and/or Mildew Observed	Evidence of mold or mildew is observed that is substantial enough to pose a health risk
	Air Quality - Propane/Natural Gas/Methane Gas Detected	Strong propane, natural gas or methane odors that could pose a risk of explosion/ fire and/or pose a health risk if inhaled
	Air Quality - Sewer Odor Detected	Sewer odors that could pose a health risk if inhaled for prolonged periods
	Electrical Hazards - Exposed Wires/Open Panels	Any exposed bare wires or openings in electrical panels (capped wires do not pose a risk)
	Electrical Hazards - Water Leaks on/near Electrical Equipment	Water leaking, puddling or ponding on or immediately near any electrical apparatus that could pose a risk of fire, electrocution or explosion
	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage, or other conditions block exit

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	Emergency Fire Exits - Missing Exit Signs	Exit signs that clearly identify all emergency exits are missing or there is no illumination in the area of the sign
	Flammable/Combustible Materials - Improperly Stored	Flammable or combustible materials are improperly stored, causing the potential risk of fire or explosion
	Garbage and Debris - Indoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Garbage and Debris - Outdoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Hazards - Other	Any general defects or hazards that pose risk of bodily injury
	Hazards - Sharp Edges	Any physical defect that could cause cutting or breaking of human skin or other bodily harm
	Hazards - Tripping	Any physical defect in walkways or other travelled area that poses a tripping risk
	Infestation - Insects	Evidence of infestation of insects-including roaches and ants-throughout a unit or room, food preparation or storage area or other area of building substantial enough to present a health and safety risk
	Infestation - Rats/Mice/Vermin	Evidence of rats or mice--sightings, rat or mouse holes, or droppings substantial enough to present a health and safety risk
Pools and Related Structures	Fencing - Damaged/Not Intact	Any damage that could compromise the integrity of the fence
Trash Collection Areas	Chutes - Damaged/Missing Components	Garbage has backed up into chutes, because the collection structure is missing or broken or compactors or components--chute, chute door, and other components--have failed
Requirements for Units:		
Bathroom	Bathroom Cabinets - Damaged/Missing	Damaged or missing shelves, vanity tops, drawers, or doors that are not functioning as they should for storage or their intended purpose
	Lavatory Sink - Damaged/Missing	The sink cannot be used, because the sink or associated hardware is missing or has failed.
	Plumbing - Clogged Drains, Faucets	Drain or faucet is substantially or completely clogged or has suffered extensive deterioration

EXHIBIT D

	Plumbing - Leaking Faucet/Pipes	A steady leak that is adversely affecting the surrounding area
	Shower/Tub - Damaged/Missing	The shower, tub, faucets, drains, or associated hardware is missing or has failed.
	Ventilation/Exhaust System – Absent/Inoperable	Exhaust fan is not functioning or window designed for ventilation does not open
	Water Closet/Toilet - Damaged/Clogged/Missing	The bowl is fractured or broken or the water closet/toilet is missing, hazardous or cannot be flushed
Call-for-Aid (if applicable)	Inoperable	The system does not function as it should
Ceiling	Bulging/Buckling/Leaking	Bulging, buckling or sagging ceiling or problem with alignment
	Holes/Missing Tiles/Panels/Cracks	Any holes in ceiling, missing tiles or large cracks wider than 1/4 of an inch and greater than 6 inches long
	Peeling/Needs Paint	More than 10% of ceiling has peeling paint or is missing paint
	Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew--such as a darkened area--over a ceiling area greater than 1 square foot
Doors	Damaged Frames/Threshold/Lintels/Trim	Any door that is not functioning or cannot be locked because of damage to the frame, threshold, lintel or trim
	Damaged Hardware/Locks	Any door that does not function as it should or cannot be locked because of damage to the door's hardware
	Damaged/Missing Screen/Storm/Security Door	Any screen door or storm door that is damaged or is missing screens or glass--shown by an empty frame or frames or any security door that is not functioning or is missing
	Damaged Surface - Holes/Paint/Rusting/Glass/Rotting	Any door that has a hole or holes greater than 1 inch in diameter, significant peeling/cracking/no paint or rust that affects the integrity of the door surface, or broken/missing glass
	Deteriorated/Missing Seals (Entry Only)	The seals/caulking is missing on any entry door, or they are so damaged that they do not function as they should
	Missing Door	Any door that is required for security (entry) or privacy (Bathroom) that is missing or any other unit door that is missing and is required for proper unit functionality
Electrical System	Blocked Access to Electrical Panel	One or more fixed items or items of sufficient size and weight impede access to the building system's electrical panel during an emergency

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	Burnt Breakers	Carbon residue, melted breakers or arcing scars are evident
	Evidence of Leaks/Corrosion	Any corrosion that affects the condition of the components

		that carry current or any stains or rust on the interior of electrical enclosures or any evidence of water leaks in the enclosure or hardware
	Frayed Wiring	Any nicks, abrasion, or fraying of the insulation that exposes any conducting wire
	GFI - Inoperable	The GFI does not function
	Missing Breakers/Fuses	Any open and/or exposed breaker port
	Missing Covers	A cover is missing, which results in exposed visible electrical connections
Floors	Bulging/Buckling	Any flooring that is bulging, buckling or sagging or a problem with alignment between flooring types
	Floor Covering Damage	More than 10% of floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas or exposed seams.
	Missing Flooring Tiles	Missing or broken flooring causes a single safety problem
	Peeling/Needs Paint	Any painted flooring that has peeling, cracking, flaking, or missing paint if the affected area is more than 4 square feet
	Rot/Deteriorated Subfloor	Any rotted or deteriorated subflooring greater than 6 inches by 6 inches
	Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew--such as a darkened area--covering a flooring area greater than 1 square foot
Health & Safety	Air Quality - Mold and/or Mildew Observed	Evidence of mold or mildew is observed that is substantial enough to pose a health risk
	Air Quality - Sewer Odor Detected	Sewer odors that could pose a health risk if inhaled for prolonged periods
	Air Quality - Propane/Natural Gas/Methane Gas Detected	Strong propane, natural gas or methane odors that could pose a risk of explosion/ fire and/or pose a health risk if inhaled
	Electrical Hazards - Exposed Wires/Open Panels	Any exposed bare wires or openings in electrical panels (capped wires do not pose a risk)

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	Electrical Hazards - Water Leaks on/near Electrical Equipment	Water leaking, puddling or ponding on or immediately near any electrical apparatus that could pose a risk of fire, electrocution or explosion
	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage, or other conditions block exit
	Emergency Fire Exits - Missing Exit Signs	Exit signs that clearly identify all emergency exits are missing or there is no illumination in the area of the sign
	Flammable Materials - Improperly Stored	Flammable materials are improperly stored, causing the potential risk of fire or explosion
	Garbage and Debris - Indoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Garbage and Debris - Outdoors	Too much garbage has gathered-more than the planned storage capacity or garbage has gathered in an area not sanctioned for staging or storing garbage or debris
	Hazards - Other	Any general defects or hazards that pose risk of bodily injury
	Hazards - Sharp Edges	Any physical defect that could cause cutting or breaking of human skin or other bodily harm
	Hazards - Tripping	Any physical defect in walkways or other travelled area that poses a tripping risk
	Infestation - Insects	Evidence of infestation of insects-including roaches and ants-throughout a unit or room, food preparation or storage area or other area of building substantial enough to present a health and safety risk
	Infestation - Rats/Mice/Vermin	Evidence of rats or mice--sightings, rat or mouse holes, or droppings substantial enough to present a health and safety risk

Hot Water Heater	Misaligned Chimney/Ventilation System	Any misalignment that may cause improper or dangerous venting of gases
	Inoperable Unit/Components	Hot water from hot water taps is no warmer than room temperature indicating hot water heater is not functioning properly
	Leaking Valves/Tanks/Pipes	There is evidence of active water leaks from hot water heater or related components
	Pressure Relief Valve Missing	There is no pressure relief valve or pressure relief valve does not drain down to the floor

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	Rust/Corrosion	Significant formations of metal oxides, flaking, or discoloration--or a pit or crevice
HVAC System	Convection/Radiant Heat System Covers Missing/Damaged	Cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans
	Inoperable	HVAC does not function. It does not provide the heating and cooling it should. The system does not respond when the controls are engaged
	Misaligned Chimney/Ventilation System	Any misalignment that may cause improper or dangerous venting of gases
	Noisy/Vibrating/Leaking	The HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged
	Rust/Corrosion	Deterioration from rust or corrosion on the HVAC system in the dwelling unit
Kitchen	Cabinets - Missing/Damaged	10% or more of cabinet, doors, or shelves are missing or the laminate is separating
	Countertops - Missing/Damaged	10% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate -- not a sanitary surface to prepare food
	Dishwasher/Garbage Disposal - Inoperable	The dishwasher or garbage disposal does not operate as it should
	Plumbing - Clogged Drains	Drain is substantially or completely clogged or has suffered extensive deterioration
	Plumbing - Leaking Faucet/Pipes	A steady leak that is adversely affecting the surrounding area
	Range Hood/Exhaust Fans - Excessive Grease/Inoperable	The exhaust fan does not function or you estimate that the flue may be completely blocked
	Range/Stove - Missing/Damaged/Inoperable	The unit is missing or 2 or more burners or the oven is not functioning
	Refrigerator- Missing/Damaged/Inoperable	The refrigerator is missing or it does not cool adequately for the safe storage of food
	Sink - Damaged/Missing	The sink or hardware is either missing or not functioning.
Laundry Area (Room)	Dryer Vent - Missing/Damaged/Inoperable	The dryer vent is missing or it is not functioning because it is blocked. Dryer exhaust is not effectively vented to the outside
Lighting	Missing/Inoperable Fixture	A permanent light fixture is missing or not functioning, and no other switched light source is functioning in the room

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Outlets/Switches	Missing	An outlet or switch is missing
	Missing/Broken Cover Plates	A cover plate is missing, which causes wires to be exposed
Patio/Porch/Balcony	Baluster/Side Railings Damaged	Any damaged or missing balusters or side rails that limit the safe use of an area
Smoke Detector	Missing/Inoperable	Smoke detector is missing or does not function as it should
Stairs	Broken/Damaged/Missing Steps	A step is missing or broken
	Broken/Missing Hand Railing	The hand rail for four or more stairs is missing, damaged, loose or otherwise unusable
Walls	Bulging/Buckling	Bulging, buckling or sagging walls or a lack of vertical alignment
	Damaged	Any hole in wall greater than 2 inches by 2 inches
	Damaged/Deteriorated Trim	10% or more of the wall trim is damaged
	Peeling/Needs Paint	10% or more of interior wall paint is peeling or missing
	Water Stains/Water Damage/Mold/Mildew	Evidence of a leak, mold or mildew covering a wall area greater than 1 square foot
Windows	Cracked/Broken/Missing Panes	Missing or cracked panes of glass
	Damaged Window Sill	The sill is damaged enough to expose the inside of the surrounding walls and compromise its weather tightness
	Missing/Deteriorated Caulking/Seals/Glazing Compound	There are missing or deteriorated caulk or seals--with evidence of leaks or damage to the window or surrounding structure
	Inoperable/Not Lockable	Any window that is not functioning or cannot be secured because lock is broken
	Peeling/Needs Paint	More than 10% of interior window paint is peeling or missing
	Security Bars Prevent Egress	The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks