

**AFFORDABLE HOUSING AND GRANT AGREEMENT
(CDBG Funds)**

by and between

**CITY OF IRVINE,
a California municipal corporation,**

and

**FAMILIES FORWARD, INC.,
a California nonprofit public benefit corporation**

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AFFORDABLE HOUSING AND GRANT AGREEMENT
(CDBG Funds)

This AFFORDABLE HOUSING AND GRANT AGREEMENT ("Agreement") is entered into this 8th day of December, 2022, by and between the CITY OF IRVINE, a California municipal corporation ("City"), and FAMILIES FORWARD, INC. a California nonprofit public benefit corporation ("Participant").

R E C I T A L S

A. Participant desires to acquire an existing residential unit(s) in the City of Irvine for the purpose of providing affordable housing.

B. City has received Community Development Block Grant funds ("CDBG Funds") from the United States Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301, *et. seq.*), Catalog of Federal Domestic Assistance Number 14.218, Grant Number B-21-MC-06-0557, and the regulations promulgated thereunder (24 C.F.R. § 570, *et seq.*) to be used for the purposes of this Agreement.

C. City desires to provide financial assistance to Participant in the form of a grant of CDBG Funds in an amount not to exceed Five Hundred Forty-Six Thousand One Hundred-Six Dollars (\$546,106) ("City Grant") to be used by Participant for certain expenses related to Participant's acquisition of an existing residential unit, which expenses are more particularly described herein as the "Eligible Expenses."

D. Participant's CDBG application indicates that such residential unit (the "Affordable Unit") will be made affordable and available to homeless households or households at risk of homelessness.

E. City's provision of the City Grant to Participant pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the welfare of its residents.

A G R E E M E N T

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, City and Participant hereby agree as follows:

1. **DEFINITIONS.**

The following terms as used in this Agreement shall have the meanings given below unless expressly provided to the contrary:

"Affordable Rent" shall mean a monthly rent (including a reasonable utility allowance) that does not exceed the product of 1/12th of 30% multiplied by 50% of the Median Income adjusted for family size appropriate for the Affordable Unit. For purposes

of calculating the Affordable Rent, “adjusted for family size appropriate for the Affordable Unit” shall mean a household of two persons in the case of a 1-bedroom Affordable Unit, a household of three persons in the case of a 2-bedroom Affordable Unit, a household of four persons in the case of a 3-bedroom Affordable Unit, and a household of five persons in the case of a 4-bedroom Affordable Unit.

“Affordable Unit” shall mean a housing unit located within the City that is listed for sale and that City approves for Participant’s acquisition under this Agreement and to be made affordable and available to homeless households or households at risk of homelessness.

“Affordable Unit Completion Date” shall mean June 1, 2023.

“Affordable Unit Implementation Document” shall have the meaning set forth in Section 2.3 of this Agreement.

“Agreement” shall mean this Affordable Housing and Grant Agreement between City and Participant, including all exhibits and other documents attached hereto, and the Affordable Unit Implementation Document. This Agreement constitutes the written agreement required under 24 C.F.R. § 570.503 to be entered into by a recipient and subrecipient for subgrants of CDBG Funds.

“CDBG Requirements” shall mean the requirements of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 *e. seq.*) as amended from time to time, and the implementing regulations set forth in 24 C.F.R. § 570 *et seq.* as amended from time to time, including without limitation those summarized in Exhibit “A” attached hereto and incorporated herein by this reference.

“City” shall mean the City of Irvine, a California municipal corporation, organized under the laws of the State of California and having its offices at One Civic Center Plaza, Irvine, CA 92606.

“Contract Officer” shall mean City’s Housing Manager.

“Effective Date” shall mean the date this Agreement is approved by City; which date shall be inserted in the preamble to this Agreement.

“Eligible Expenses” shall mean only the expenses for the acquisition of the Affordable Unit for which the City Grant may be used. The line item categories of Eligible Expenses and the amount budgeted for each item shall be set forth in the Affordable Unit Implementation Document.

“HUD” shall mean the United States Department of Housing and Urban Development.

“Matching Program Funds” Shall be those funds that are equivalent to twenty-five percent (25%) of the City Grant, which is the sum of One Hundred Thirty-Six Thousand Five Hundred Twenty-Seven Dollars (\$136,527) to be contributed by Participant and

used for Eligible Expenses. If City disburses less than the full amount of the City Grant, the Matching Program Funds amount shall be at least twenty-five cents (\$0.25) for every dollar to be reimbursed from City Grant proceeds. Such matching expenditures shall be paid solely by Participant.

“Median Income” shall mean the Orange County Area Median Income, as established by HUD.

“Notice to Proceed” shall mean a written letter from City to the Participant Representative notifying Participant that Program Requirements have been met such that Participant may proceed to close escrow for the Affordable Unit.

“Participant” shall mean Families Forward, Inc., a California nonprofit public benefit corporation, having its offices at 8 Thomas, Irvine, CA 92618. The term “Participant” includes any legally permissible assignee or successor to the rights, powers, and responsibilities of Participant hereunder, in accordance with Section 9.8 of this Agreement.

“Participant Representative” shall mean Madelynn Hirneise, Chief Executive Officer, who is designated by Participant to represent Participant in the administration of this Agreement.

“Program Activities” shall mean the tasks, activities, and operations set forth in the Affordable Unit Implementation Document, all activities assisted with the City Grant, and all other obligations under this Agreement that Participant is required to perform.

“Program Funds” shall refer to the CDBG Funds.

“Program Requirements” shall refer to the CDBG Requirements.

“Purchase Agreement” shall have the meaning set forth in Section 2.2 of this Agreement.

“Quarter” shall mean any of the three (3) month periods during a fiscal year commencing July 1, October 1, January 1, or April 1.

“Qualified Household” shall mean a low-income person(s) or household whose gross household income does not exceed fifty percent (50%) of the Median Income, adjusted for household size, determined in accordance with the definition of annual income at 24 C.F.R. § 5.609.

2. ACQUISITION OF AFFORDABLE UNIT.

2.1 Identification of Affordable Unit. As of the date of this Agreement, the Affordable Unit has not been specifically identified but shall be located within the corporate limits of the City. The location of the Affordable Unit shall be as determined by Participant, but shall be subject to the approval of City in its sole discretion. Participant shall exercise diligent efforts to select the unit that it proposes to constitute an Affordable

Unit (the “Proposed Affordable Unit”) as soon as reasonably practicable, but no later than Sixty (60) days after the Effective Date. After locating a Proposed Affordable Unit, Participant shall notify City of the location and acquisition price of the Proposed Affordable Unit as soon as reasonably practicable. City shall have the right to approve or disapprove any Proposed Affordable Unit in its sole and absolute discretion. As a condition to City’s approval of a Proposed Affordable Unit as an Affordable Unit, said Proposed Affordable Unit shall meet all applicable Program Requirements. Upon City’s approval of a Proposed Affordable Unit as an Affordable Unit, Participant shall have the right to (a) commence Program Activities for the purchase of the Affordable Unit, and (b) open an escrow for the purchase and sale of the Affordable Unit, provided that Participant has obtained an executed Purchase Agreement for the Affordable Unit as set forth below.

2.2 Purchase Agreement.

(a) The form of the purchase agreement that Participant will enter into with the owners of the Affordable Unit for the acquisition of the Affordable Unit (a “Purchase Agreement”) shall be subject to the prior written approval of City. Following execution of the Purchase Agreement, Participant shall comply with each and every condition, responsibility, and obligation it may have pursuant to the Purchase Agreement in order to accomplish the close of escrow on or prior to the outside closing date set forth in the Purchase Agreement and shall exercise commercially diligent efforts to cause the conditions precedent to the close of escrow for which Participant is responsible to be satisfied. In addition to any other conditions precedent that Participant must satisfy therein, the Purchase Agreement shall require as a condition precedent to closing of escrow that City and Participant have executed and delivered a copy to the escrow holder an Affordable Unit Implementation Document for the Affordable Unit to be purchased by Participant. Participant shall not amend or modify the Purchase Agreement without the prior written consent of City. Participant shall keep City informed of the progress of the performance under the Purchase Agreement and shall notify City of any defaults of Participant or the seller of the Affordable Unit thereunder or any default notices issued by either party. Participant shall not assign the Purchase Agreement to any other party. Participant shall be responsible for making any good faith deposit required by the seller of the Affordable Unit, using Matching Funds.

(b) The Purchase Agreement shall provide for a reasonable contingency period during which Participant shall have the right to review title and inspect the environmental condition of the Affordable Unit, in addition to any other rights Participant may have during the contingency period. Participant shall promptly disclose to City if, upon the expiration of the contingency period, the condition of title, environmental condition, or any other reason caused Participant to terminate the Purchase Agreement.

(c) In the event that Participant accepts the condition of the Affordable Unit and does not terminate the Purchase Agreement prior to the expiration of the contingency period set forth therein, Participant shall notify City that it intends to

proceed with closing of escrow. Provided Participant is not in default of this Agreement, and provided that Participant and City have executed or will have executed by the close of escrow the Affordable Unit Implementation Document, then City shall issue a Notice to Proceed.

(d) In the event that Participant terminates the Purchase Agreement, any funds disbursed by City into escrow shall be returned to City.

2.3 Affordable Unit Implementation Document. For the Affordable Unit, City and Participant shall set forth in a written instrument substantially in the form of Exhibit "C" attached hereto, to be executed by both parties, the following for the Affordable Unit (an "Affordable Unit Implementation Document"): (a) the address and location of the Affordable Unit; (b) a description of the rehabilitation and/or repair work that Participant will be required to perform using Participant's funds (i.e., neither CDBG Funds nor Matching Funds shall be used for rehabilitation or repair work), if any; (c) the dates and/or time periods by which the obligations and tasks must be performed and completed with respect to the Affordable Unit; (d) the line item categories of Eligible Expenses for the Affordable Unit and the amount of City Grant proceeds allocated to each category; (e) the income level and other affordability requirements that will be imposed on the Affordable Unit, as set forth in this Agreement; and (f) any other information that is required under the Program Requirements. Upon execution of the Affordable Unit Implementation Document, all of the terms, conditions, provisions and covenants of the Affordable Unit Implementation Document shall be deemed incorporated in this Agreement by reference as though written out at length herein and this Agreement and the Affordable Unit Implementation Document shall be deemed to constitute a single instrument or document. Upon execution of the Affordable Unit Implementation Document and delivery to escrow thereof for the Affordable Unit, Participant shall have the right to a disbursement from the City Grant to cover a portion of the purchase price and closing costs, as based upon an estimated escrow statement or similar document provided by the escrow holder for the Affordable Unit. If requested by Participant, City shall wire the funds to the escrow account opened for the Affordable Unit within two (2) business days of Participant's request. City shall use every reasonable effort to ensure a disbursement of the City Grant for the Affordable Unit shall be received by escrow holder no later than two (2) days prior to the outside closing date set forth in the Purchase Agreement.

2.4 Program Activities. Participant shall perform and complete all Program Activities diligently and in a timely manner to the satisfaction of City and in accordance with this Agreement. If any of the Program Activities constitutes a specific task or activity that is required under this Agreement or the Affordable Unit Implementation Document Agreement to be commenced or completed by a certain date or time period, Participant shall commence, complete, and perform the task or activity within the specified time period. In addition to the quarterly reports referred to in Section 5.2, Participant shall, if requested by City, provide to City monthly written reports on the progress of Program Activities. Participant represents to City that the Program Activities will be performed by Participant under its direct supervision, and that all personnel engaged in the Program

Activities shall be fully qualified and authorized and permitted under applicable law to perform such Program Activities.

2.5 Monitoring. City shall monitor and evaluate Participant's performance under this Agreement to determine compliance with this Agreement and the Program Requirements. Participant shall cooperate with City and shall make available to City all information, documents, and records reasonably requested by City and shall provide City the reasonable right of access to the Affordable Unit (provided Participant has access) during normal business hours for the purpose of assuring compliance with this Agreement and evaluating Participant's performance hereunder.

2.6 Compliance with Laws and Regulations and Program Requirements. Participant shall observe and comply with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including the Program Requirements and the legal requirements set forth in Exhibit "A" attached to this Agreement and the statutes referenced therein. Because the source of the City Grant is funds received from HUD pursuant to the Community Development Block Grant program, Participant is required to comply with all applicable Program Requirements. In the case of any conflict between the Program Requirements and this Agreement, the Program Requirements shall control; it being understood, however, that in order to be in compliance with this Agreement and the Program Requirements, Participant shall, to the extent possible, comply with the most restrictive provisions in this Agreement and the Program Requirements.

2.7 Licenses, Approvals and Permits. Participant shall secure, at its sole cost and expense, any and all licenses, permits and approvals that may be required by law for the performance of the Program Activities.

2.8 Program Costs. Except to the extent City has specifically agreed to provide the City Grant pursuant to Section 3 of this Agreement, Participant shall be responsible for all costs related to the Program Activities.

2.9 Program Income. Participant shall submit to City quarterly reports as set forth in Section 5.2 of this Agreement on all program income as defined 24 C.F.R. 570.500(a) generated by activities carried out with CDBG Funds, if any. The program income shall be retained by Participant and utilized for Eligible Expenses, Program Activities, or such other activities approved in writing by City, in which case all provisions of this Agreement shall apply to the activities funded by the program income. In the event City determines that Participant may retain the program income for Eligible Expenses, the program income shall be expended by Participant for Eligible Expenses before City is obligated to advance any other City Grant proceeds to Participant. Upon the termination of this Agreement, all unused program income shall be returned to City.

2.10 Compliance with Permits and Laws. Participant shall carry out the Program Activities in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation all applicable federal and state fair labor standards, including the payment of prevailing wages, if required, and all applicable conditions and requirements of the Program Requirements.

2.11 Rights of Access. During the period and for so long as Participant owns the Affordable Unit, representatives of City shall have the reasonable right of access to the Affordable Unit, without charges or fees, for the purpose of assuring compliance with this Agreement, including but not limited to the inspection of the repair and/or rehabilitation work being performed by Participant.

2.12 Relocation. City shall not be responsible for relocating any occupants from the Affordable Unit to the extent any occupants are located in the Affordable Unit. If required, Participant shall have the sole and exclusive responsibility for providing relocation assistance and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations. Participant shall indemnify, defend, and hold City harmless from and against any claims, liabilities, damages, or losses made against it by tenants or occupants of the Affordable Unit, including without limitation claims for relocation assistance, inverse condemnation, and claims otherwise arising from any act or omission of Participant.

3. CITY GRANT.

3.1 City Grant - General. Subject to the terms and conditions set forth herein, City shall provide to Participant the City Grant.

3.2 Permissible Use of City Grant; Eligible Expenses. Pursuant to all of the terms and conditions of this Agreement, Participant shall be permitted to use the City Grant proceeds only for the Eligible Expenses that are actually and reasonably incurred by Participant and approved by City, and for no other purpose.

3.3 Disbursements of City Grant. Provided Participant is not in default of this Agreement, the City Grant shall be disbursed by City to Participant from time to time, as Eligible Expenses are incurred by Participant, as follows:

(a) *Submittal of Payment Request*. Participant shall submit to the Contract Officer a request for payment of City Grant proceeds to pay for Eligible Expenses incurred by Participant or that the parties expect to be incurred by Participant within thirty (30) days from the date the payment request is submitted. The payment request shall include the total amount requested, with such supporting information as City may reasonably require, documenting that the costs for which Participant seeks payment are solely for Eligible Expenses incurred by Participant or to be incurred by Participant. The supporting information required by City may include without limitation, letters of intent to purchase real property, receipts, canceled checks, time records, billing statements, bank statements, invoices, and contracts (including the Purchase Agreement). The payment request shall itemize the Eligible Expenses by listing each budget line item category from the project budget that is set forth in the Affordable Unit Implementation Document and including the following information for each category: (i) a description and the amount of each Eligible Expense included within that category for which payment is sought; (ii) the total amount budgeted in the Affordable Unit Implementation

Document to the budget line item category; and (iii) the total amount paid to Participant for the budget line item category to date.

(b) *City's Review of Payment Request and Disbursement of Funds.* The Contract Officer shall have the authority on behalf of City to calculate and approve the amount of Participant's Eligible Expenses. To the extent City has received sufficient Program Funds, payment of the City Grant amount determined by City to be owing to Participant shall be made by City to Participant no later than the time limit set forth in this Agreement, or if no time limit is otherwise set forth herein, then no later than fifteen (15) days after Participant's submission of its completed payment request. It is anticipated that the Eligible Expenses for the acquisition of the Affordable Unit may be deposited by City into the escrow established for the acquisition of the Affordable Unit. If City disapproves a payment request, City shall notify Participant in writing the reason(s) for disapproval.

(c) *Conditions to Disbursement.* City's obligation to disburse the City Grant proceeds to Participant in accordance with this Section 3.3 is subject to the satisfaction of all of the following conditions at the time the payment is to be made: (i) Participant shall have provided to City a complete payment request with all supporting information; (ii) Participant shall have submitted to City the reports referred to in Section 5.2 of this Agreement; (iii) if payment for the professional services of a consultant or contractor is an Eligible Expense, Participant shall have provided City a copy of the executed contract between Participant and the consultant or contractor, certified by Participant to be a true and correct copy thereof; (iv) Participant shall have executed and delivered to City, pursuant to the terms and conditions set forth in this Agreement, the Purchase Agreement and the Affordable Unit Implementation Document; (v) Participant shall not be in default of any of its obligations set forth in this Agreement; (vi) City has issued the Notice to Proceed; and (vii) City shall have received sufficient Program Funds from HUD, as applicable. In connection with clause (vii) of the preceding sentence, Participant acknowledges and agrees that City's obligation to provide the City Grant to Participant under this Agreement shall be subject to the availability of Program Funds and, if for any reason City does not receive sufficient Program Funds from HUD or the funds are withdrawn, City shall have no obligation to provide the City Grant to Participant or to fund the City Grant from any other source of funds. Notwithstanding any other provision of this Agreement, it is understood that City is not obligated to expend City Grant proceeds for Program Activities that were performed, or Eligible Expenses that were incurred, prior to City's issuance of the Notice to Proceed.

3.4 Return of City Grant Proceeds. Upon the Affordable Unit Completion Date or the earlier termination of this Agreement, Participant shall transfer to City any City Grant funds on hand for the Affordable Unit for which Eligible Expenses have not been incurred. In addition to the foregoing, in the event the Eligible Expenses for which any disbursement of City Grant funds are disbursed are not incurred by Participant within thirty (30) days after City's disbursement, or such longer time as City approves in its sole discretion, City shall have the right to require that Participant return the City Grant

proceeds to City. In addition, if it is determined, as a result of an audit or otherwise, that any of the disbursements of City Grant proceeds were improper or made for expenditures not eligible for payment, Participant shall immediately repay to City the amounts of such disbursements.

3.5 Excess City Grant Proceeds. If the amount of Eligible Expenses incurred by Participant as of the Affordable Unit Completion Date or the earlier termination of this Agreement is less than the City Grant, the excess City Grant proceeds shall revert to City. In addition, the City Grant funds for Eligible Expenses for which Participant has not submitted a complete payment request to City within thirty (30) days after the Affordable Unit Completion Date or the earlier termination of this Agreement shall revert to City and be allocated for other activities.

3.6 Matching Funds. Participant shall contribute at least 25 cents per dollar disbursed from City Grant proceeds. Such matching expenditures shall be paid solely by Participant and such matching expenditures shall be used for Eligible Expenses.

3.7 Participant's Acquisition of Additional Affordable Unit. Notwithstanding anything herein to the contrary, Participant shall have the right to use the City Grant to purchase two (2) residential units. If Participant so elects, (i) Participant shall notify City, in writing, of said election and Participant's requested allocation of the City Grant between the two residential units as soon as reasonably practicable, but in no event later than the date Participant enters into a Purchase Agreement for the first residential unit, (ii) all of the terms of this Agreement shall apply and shall be applied to Participant's acquisition, rehabilitation (if applicable), and operation of the second residential unit, (iii) a separate Affordable Unit Implementation Document shall be executed in connection with each such residential unit, with the Eligible Expense Line Item revised accordingly, and (iv) a separate Regulatory Agreement shall be executed in connection with each such residential unit, with the definition of "City Grant" revised accordingly. Participant acknowledges and agrees that nothing in this Section 3.7 entitles Participant to an increase in the amount of the City Grant to be provided hereunder, and that the purpose of this provision is solely to provide Participant with additional flexibility with respect to the use of the City Grant.

4. AFFORDABILITY COVENANTS.

Participant acknowledges that the Affordable Unit will be required to be maintained as an affordable rental housing unit, as determined by City at the time the Affordable Unit Implementation Document is executed for the Affordable Unit. Concurrently with the close of escrow for the Affordable Unit, City and Participant shall enter into and record against the Affordable Unit a regulatory agreement, substantially in the form attached hereto and incorporated herein as Exhibit "B", which shall set forth the affordability requirements for the Affordable Unit, including that the Affordable Unit must be rented continuously to a Qualified Household at an Affordable Rent ("Regulatory Agreement"). The term of the Regulatory Agreement shall be for a period of fifty-five (55) years following the date the Affordable Unit is first occupied by a Qualified Household.

5. RECORDS AND REPORTS.

5.1 Records.

5.1.1 Records to be maintained. Participant shall keep and maintain records providing a full description of the Program Activities undertaken, records demonstrating that the Program Activities meet the Program Requirements, records demonstrating the eligibility of the activities constituting the Eligible Expenses, and such other records as may be reasonably required by City to enable City to evaluate Participant's compliance with the Program Requirements, to identify and account for the use of the City Grant proceeds and expenditures of Eligible Expenses and all costs pertaining to this Agreement, and to enable City to comply with City's recordkeeping and reporting requirements under the CDBG Requirements, including without limitation the records specified in 24 C.F.R. 570.506 as they pertain to the activities under this Agreement. Books and records pertaining to the Eligible Expenses shall be kept and prepared in accordance with generally accepted accounting principles.

5.1.2 Retention. The books and records required to be maintained by Participant under this Agreement shall be retained for a period of five (5) years following the expiration of the Regulatory Agreement; provided, however, in the event any litigation, audit, negotiation, or other action involving the books and records is commenced prior to the expiration of the foregoing retention period, Participant shall retain the books and records until completion of the action and resolution of all issues which arise from it.

5.1.3 Location of Records. The books and records required to be maintained by Participant pursuant to this Agreement shall be kept at a location in the City of Irvine.

5.1.4 Access to Records. City and HUD and/or their representatives shall have full and free access to, and the right to examine, inspect, and audit, all books and records of Participant pertaining to this Agreement at all times during normal business hours.

5.1.5 Audits. Participant shall perform all audits of its books and records required by the Program Requirements or City or HUD and a copy of such audits shall be forwarded to the City within thirty (30) days after completion. Participant shall be subject to all audit and review requirements imposed on City in connection with this Agreement and shall, at its sole cost and expense, cause such audits and reviews to be timely performed.

5.2 Reports.

5.2.1 Quarterly Reports. No later than fifteen (15) days after the end of each Quarter, Participant shall submit to City the following quarterly reports on forms approved by the Contract Officer:

Performance Reports. A report on the summary of the Program Activities and activities undertaken by Participant under this Agreement for the

previous Quarter ("Performance Report"). The Performance Report shall, at a minimum, describe the status of each of the Program Activities required to be performed and met during that Quarter, progress towards completing the other Program Activities, costs incurred, funds remaining, a narrative explanation of problems, delays, or adverse conditions which impaired the ability of Participant to meet any obligations if any were not met, favorable developments which enabled Participant to satisfy obligations and meet objectives sooner or at less cost than anticipated or producing more beneficial results than planned, and any additional pertinent information related to contract performance.

Program Income. A report on the program income generated for the Quarter, if any, as more fully explained in Section 2.9 of this Agreement, which shall include a description of the expenditures of program income and a progress report for the activities funded by the program income if Participant is permitted to retain program income.

5.2.2 Other Reports. In addition to the reports referenced in Section 5.2.1, Participant shall, at such times and in such forms as required by City, prepare and submit to the Contract Officer such other reports concerning the performance of the Program Activities, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement and compliance with Program Requirements, as City may reasonably require from time to time.

6. INSURANCE AND INDEMNITY.

6.1 Insurance. Prior to issuance of any Notice to Proceed, Participant shall furnish or cause to be furnished to City evidence reasonably satisfactory to City's Contract Officer of Commercial General Liability coverage in the amount of at least One Million Dollars (\$1,000,000) combined single limits, naming City and its officers, officials, employees, volunteers, agents, and representatives as additional insureds, and a policy of all-risk property insurance in an amount equal to the full replacement value of the Affordable Unit. Participant shall continue to maintain such insurance in full force and effect during the term of this Agreement. All such insurance:

shall be primary insurance and not contributory with any other insurance which City or its officers, officials, employees, volunteers, agents, or representatives may have;

shall contain no special limitations on the scope of protection afforded to City or its officers, officials, employees, volunteers, agents, and representatives;

shall be "per occurrence" rather than "claims made" insurance;

shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

shall provide that the policy will not be cancelled or limited in scope by the insurer or Participant unless there is a minimum of thirty (30) days prior written notice by certified mail, return receipt requested to City;

shall be written by a California licensed insurer with a Best rating of not less than A:VII;

shall be endorsed to state that any failure to comply with the reporting provisions of the policies shall not affect coverage provided to City and its officers, officials, employees, volunteers, agents, and representatives; and

shall contain a waiver by the insurer of any right to subrogation against City, and its officers, officials, employees, volunteer, agents, and representatives which arises or might arise by reason of any payment under such policy or policies or by reason of any act or omission of City or its officers, employees, volunteers, agents, and representatives.

Any deductible or self-insured retention must be declared to City. None of the above described policies shall include a deductible or self-insured retention amount of more than Ten Thousand Dollars (\$10,000) unless approved in writing by the Contract Officer.

Participant shall also furnish or cause to be furnished to City's Contract Officer evidence reasonably satisfactory to the Contract Officer that Participant and any contractor with whom Participant has contracted for the performance of the Program Activities have current Workers' Compensation insurance as required by the State of California Labor Code as well as Employer's Liability Coverage of not less than One Million Dollars (\$1,000,000) per accident. Such insurance shall be endorsed to include a waiver of subrogation rights against City and its officers, officials, employees, volunteers, agents, and representatives, and notice of cancellation as described in subsection (e) above. Such policies shall be written by California licensed insurers with Best ratings of not less than A:VII in the most recent edition of Best Rating Guide.

Nothing in this Section 6.1 shall in any way limit Participant's indemnity obligations set forth in Section 6.2 herein.

6.2 Indemnification. Participant shall indemnify, defend, and hold harmless City and its officers, officials, employees, representatives and agents (collectively, the "Indemnatee"), with legal counsel satisfactory to City, from and against any and all claims, causes of action, liabilities, and damages arising out of any acts or omissions of Participant or Participant's officers, employees, contractors, and agents, in the performance under this Agreement and/or with respect to the Affordable Unit, except to the extent of such loss as may be caused by the active negligence or willful misconduct of any Indemnatee. Upon receiving knowledge of any suit, claim or demand asserted by a third party that City believes is covered by this indemnity, City shall give Participant written notice of the matter.

7. TERM; TERMINATION.

7.1 Term. The term of this Agreement shall commence on the date set forth in the preamble to this Agreement and, unless terminated earlier pursuant to the provisions herein, shall continue thereafter until the Regulatory Agreement terminates or is terminated. Participant shall use the Property for the operation of the "Program" (as that term is defined in the Regulatory Agreement) and no other purpose, and shall operate the Program on a continuous basis.

7.2 Termination for Cause. This Agreement may be terminated by City for cause as follows:

(a) *Lack of Funding.* If, for any reason, the Program Funds required by City to fund the Eligible Expenses are not received by City or are withdrawn from City, City may unilaterally terminate or modify the terms of this Agreement to reflect the loss of funding, without liability to City.

(b) *Failure to Comply with Agreement.* If Participant fails to comply with the terms and conditions of this Agreement and fails to cure the default after notice from City as set forth in Section 8.1 of this Agreement, City may terminate this Agreement in whole or in part.

7.3 Termination for Convenience. This Agreement may be terminated for convenience as provided in 2 C.F.R. Part 200.

7.4 Obligations Survive Termination. Notwithstanding the expiration or earlier termination of this Agreement, Participant's obligations to City shall not terminate until all closeout requirements are completed. In addition, the following obligations of Participant shall survive the termination of this Agreement: (a) Participant's indemnity obligations; (b) the obligation to cause audits to be performed relating to Participant's activities and costs under this Agreement; (c) the obligation to repay to City any City Grant proceeds improperly disbursed to Participant or disbursed or used for ineligible expenditures; and (d) any other obligations which cannot by their nature be performed until after the expiration of the Agreement. No termination under this Agreement shall release either party then in default from liability for such default. All terms of this Agreement shall survive as necessary for the purpose of enabling either party to enforce its provisions or pursue an action with respect to a default of this Agreement, including the provisions of Section 8.6.

8. DEFAULTS AND REMEDIES.

8.1 Defaults-General. The failure or delay by either party to perform any term or provision of this Agreement shall constitute a default. Except where a shorter period of time is specified in this Agreement, the defaulting party shall have thirty (30) days after receipt of written notice from the other party specifying the nature of the default to cure, correct or remedy the default, or for defaults that cannot reasonably be cured, corrected, or remedied within such thirty (30) day time period, the defaulting party shall have thirty (30) days after receipt of the notice to commence to cure such failure or delay and shall

diligently prosecute such cure, correction or remedy to completion within an additional sixty (60) days following the conclusion of such thirty (30) day period (for a total of ninety (90) days). The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not institute proceedings against the party in default until the time for cure, correction, or remedy of a default has expired. Except as otherwise expressly provided in this Agreement, any failure or delay by a party in giving a notice of default or in asserting any of its rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

8.2 Institution of Legal Actions. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. Such legal actions must be instituted and maintained in the Superior Court of the County of Orange, State of California, or in any other appropriate court in that county.

8.3 Additional City Remedies. In addition to any other rights or remedies available at law or in equity, upon a default of Participant, City may do any of the following: (a) temporarily withhold disbursement of City Grant proceeds pending correction of the default by Participant; (b) refuse to advance all or any part of the City Grant and reallocate said funds to another activity; (c) wholly or partially suspend or terminate the award of the City Grant; (d) wholly or partially suspend or terminate this Agreement; (e) withhold further awards for the Program Activities; and (f) require Participant to repay any City Grant funds which City determines were not expended in compliance with the requirements of this Agreement or the Program Requirements.

8.4 Applicable Law. The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement.

8.5 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.6 Attorney's Fees. If either party to this Agreement is required to initiate or defend litigation in any way connected with this Agreement, the prevailing party in such litigation, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees from the losing party. If any party to this Agreement is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Agreement by the other party, then the party so litigating shall be entitled to reasonable attorneys' fees from the other party to this Agreement. Attorneys' fees shall include attorney's fees on any appeal, and in addition a party entitled to attorneys' fees shall be entitled to all other reasonable costs for

investigating such action, retaining expert witnesses, taking depositions and discovery, and all other necessary costs incurred with respect to such litigation.

9. GENERAL PROVISIONS.

9.1 Notices, Demands, and Communications between the Parties. Formal notices, demands, and communications between City and Participant shall be given either by (a) personal service, (b) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (c) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to:

To City: City of Irvine
One Civic Center Plaza
Irvine, CA 92606
Attn: Housing Manager

With a copy to: Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine, CA 92612
Attn: Jeffrey T. Melching, Esq.

To Participant: Families Forward, Inc.
8 Thomas
Irvine, CA 92618
Attn: Chief Executive Officer

With a copy to: Manatt, Phelps & Phillips
695 Town Center Drive, 14th Floor
Costa Mesa, CA 92626
Attn: Roger A. Grable, Esq.

Notices personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices mailed shall be deemed effective on the second business day following deposit in the United States mail. Such written notices, demands, and communications shall be sent in the same manner to such other addresses as any party may from time to time designate in writing.

9.2 Nonliability of City Officials and Employees. No member, official, employee, or contractor of City shall be personally liable to Participant in the event of any default or breach by City or for any amount which may become due to Participant or on any obligations under the terms of this Agreement.

9.3 Contract Administration. The Contract Officer shall be the person designated by City to administer this Agreement on behalf of City, and the Participant Representative shall be the person designated by Participant to administer this Agreement on behalf of Participant. City's Housing Manager (or his or her authorized representative) shall have the authority to issue interpretations, waive provisions, grant

extensions of time, and enter into amendments of this Agreement on behalf of City so long as such actions do not substantially add to the costs of City as specified herein. The Participant Representative (or his authorized representative) shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of Participant so long as such actions do not substantially add to the costs of Participant as specified herein

9.4 Enforced Delay; Extension of Times of Performance. Except as expressly set forth in this Section 9.4, performance by either party hereunder shall not be deemed to be in default and such party shall be entitled to an extension of time to perform its obligations hereunder where delays in performance are due to causes beyond the control and without the fault of such party, including as applicable: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of the public enemy; epidemics; pandemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplies; acts of the other party; acts or the failure to act of City or any other public or governmental agency or entity (except that any act or failure to act of or by City shall not excuse performance by City). Notwithstanding the foregoing, Participant's inability to secure satisfactory financing, interest rates, and market and economic conditions shall not entitle Participant to an extension of time to perform. An extension of time for any cause permitted under this Section 9.4 shall be limited to the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause. If no written notice is sent within thirty (30) days, for purposes of measuring the extension period for performance of the obligation in question, the period of the enforced delay shall commence to run from the date written notice is sent to the other party. Times of performance under this Agreement may be extended by mutual written agreement of City and Participant.

9.5 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against any party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only, and shall not be construed to limit or extend the meaning of this Agreement.

9.6 Entire Agreement, Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of City and Participant.

9.7 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the

remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

9.8 Prohibition against Assignment and Transfer. The qualifications and identity of Participant are of particular concern to City. It is because of those qualifications and identity that City has provided financial assistance to Participant and entered into this Agreement with Participant. Accordingly, Participant shall not, whether voluntarily, involuntarily, or by operation of law, undergo any significant change in ownership or assign all or any part of this Agreement or any rights hereunder, or in the programs and projects associated with the Program Activities, or in the Affordable Unit without City's prior written approval which City may grant or withhold in its sole and absolute discretion.

9.9 Third Party Beneficiaries. Nothing in this Agreement is intended to create any third party beneficiaries, and no person or entity other than City and Participant, and the permitted successors and assigns of each of them, shall be authorized to enforce the provisions of this Agreement.

9.10 Authority to Execute. The person(s) executing this Agreement on behalf of the parties hereto warrant that (a) such party is duly organized and existing, (b) they are duly authorized to execute and deliver this Agreement on behalf of said party, and (c) by so executing this Agreement, such party is formally bound to the provisions of this Agreement.

9.11 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.12 Exhibits. This Agreement incorporates by reference the following three (3) Exhibits attached hereto:

Exhibit "A"	Community Development Block Grant Requirements
Exhibit "B"	Regulatory Agreement
Exhibit "C"	Affordable Unit Implementation Document

[Signatures on next page]


IN WITNESS WHEREOF, City and Participant have entered into this Agreement as of the date set forth above.

Address:

City of Irvine
Community Development Department
One Civic Center Plaza
Irvine, CA 92606
Attn: Housing Manager

"CITY"

CITY OF IRVINE, a California municipal corporation

By: 
Lisa Varon (Dec 8, 2022 08:02 PST)
Lisa Varon, Housing Manager

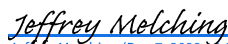
Date: Dec 8, 2022

ATTEST:



Carl Petersen, City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP


Jeffrey Melching (Dec 7, 2022 18:05 PST)


Jeffrey T. Melching, City Attorney

Address:


Families Forward, Inc.
8 Thomas
Irvine, CA 92618
Attn: Madelynn Hirneise, CEO
E-mail: mhirneise@families-forward.org

"PARTICIPANT"

FAMILIES FORWARD, INC., a California nonprofit public benefit corporation

By: 
Karin L Pearson (Dec 7, 2022 17:35 PST)
Name: Karin Pearson
Title: Chairperson

Date: Dec 7, 2022

By: 
Madelynn Hirneise (Dec 7, 2022 16:35 PST)
Name: Madelynn Hirneise
Title: Chief Executive Officer

Date: Dec 7, 2022

EXHIBIT "A"

COMMUNITY DEVELOPMENT BLOCK GRANT REQUIREMENTS

In addition to the requirements set forth in other provisions of the Agreement, Participant shall comply, and shall cause all Participant Personnel to comply, with the following regulations and requirements insofar as they are applicable to the performance of the Agreement.¹ All references to "City" in this Exhibit "A" shall refer to the City of Irvine, or to the City of Irvine, Community Development Department, whichever is applicable.

1. Equal Opportunity and Nondiscrimination.

1.1 Title VI of the Civil Rights Act of 1964, as amended, including Public Law 88-352 implemented in 24 C.F.R. Part 1. This law provides in part that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. In regard to the sale or lease of the Property, Participant shall cause or require a covenant running with the land to be inserted in the deed and leases prohibiting discrimination under this Title, and providing that City and the United States are beneficiaries of and entitled to enforce such covenants. Participant shall enforce such covenant and shall not itself so discriminate.

1.2 Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, including Public Law 90-234. The Fair Housing Act provides in part that there shall be no discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act was amended in 1988 to provide protections from discrimination in any aspect of the sale or rental of housing for families with children and persons with disabilities. The Fair Housing Act also establishes requirements for the design and construction of new rental or for-sale multi-family housing to ensure a minimum level of accessibility for persons with disabilities.

1.3 Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, including 42 U.S.C. 5301 et. seq., 42 U.S.C. 6101 et. seq., and 29 U.S.C. 794. This law provides in part that no person on the grounds of race, color, national origin, sex, or religion shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any activity funded in whole or part with funds under this Title.

¹ This exhibit is a list and summary of some of the applicable legal requirements and is not a complete list of all Subrecipient requirements. The description set forth next to a statute or regulation is a summary of certain provisions in the statute or regulation and is in no way intended to be a complete description or summary of the statute or regulation. In the event of any conflict between this summary and the requirements imposed by applicable laws, regulations, and requirements, the applicable laws, regulations, and requirements shall apply.

1.4 Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including 42 U.S.C. 5301 et. seq. This law provides in part that any grant under Section 106 shall be made only if the grantee certifies to the satisfaction of the Secretary of HUD that the grantee will, among other things, affirmatively further fair housing.

1.5 Executive Order 11246, as amended. This order includes a requirement that grantees and subrecipients and their contractors and subcontractors not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

1.6 Executive Order 11063, as amended, including 24 C.F.R. Part 107. This order and its implementing regulations include requirements that all actions necessary be taken to prevent discrimination because of race, color, religion, sex, or national origin in the use, occupancy, sale, leasing, rental, or other disposition of property assisted with Federal loans, advances, grants, or contributions.

1.7 Section 504 of the Rehabilitation Act of 1973, as amended. This Act specifies in part that no otherwise qualified individual shall solely by reason of his or her disability or handicap be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal assistance. Participant must ensure that its programs are accessible to and usable by persons with disabilities.

1.8 The Americans with Disabilities Act (ADA) of 1990, as amended. This Act prohibits discrimination on the basis of disability in employment by state and local governments and in places of public accommodation and commercial facilities. The ADA also requires that facilities that are newly constructed or altered, by, on behalf of, or for use of a public entity, be designed and constructed in a manner that makes the facility readily accessible to and usable by persons with disabilities. The Act defines the range of conditions that qualify as disabilities and the reasonable accommodations that must be made to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities.

1.9 The Age Discrimination Act of 1975, as amended. This law provides in part that no person shall be excluded from participation in, be denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal assistance.

1.10 EEO/AA Statement. Participant shall, in all solicitations or advertisements for employees placed by or on behalf of Participant, state that it is an Equal Opportunity or Affirmative Action employer.

1.11 Minority/Women Business Enterprise. Participant will use its best efforts to afford small businesses and minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of the Agreement. As used in the Agreement, the term "small business" means a business that meets the

criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women-owned business enterprise” means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Participant may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Environmental.

2.1 Air and Water. Participant shall comply with the following regulations insofar as they apply to the performance of the Agreement: Clean Air Act, 42 U.S.C. 7401, et seq.; Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; and the U.S. Environmental Protection City regulations pursuant to 40 C.F.R. Part 50, as amended.

2.2 Flood Disaster Protection Act of 1973. Participant shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained.

2.3 Lead-Based Paint. Participant shall comply with the Lead-Based Paint Regulations referenced in 24 C.F.R. § 570.608, including 24 C.F.R. Part 35, et. al.

2.4 Historic Preservation. Participant shall comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 C.F.R. Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties and related laws and Executive Orders, insofar as they apply to the performance of the Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

2.5 Limitation on Activities Pending Clearance. In accordance with 24 C.F.R. § 58.22 entitled “Limitations on activities pending clearance, “neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 C.F.R. § 58.1(b) on an activity or project until HUD or the state has approved the recipient’s Request for Release of Funds (RROF) and the related certifications have been approved. Neither a recipient nor any participant in the development process may commit non-HUD funds or undertake an activity or project that would have an adverse environmental impact or limit the choice of reasonable alternatives. Upon completion of environmental review or receipt of environmental clearance, City shall notify Participant. HUD funds shall not be utilized before this requirement is satisfied. The environmental review or violation of the provisions may

result in approval, modification or cancellation of the City Grant. If a project or activity is exempt under 24 C.F.R. § 58.34, or is categorically excluded (except in extraordinary circumstances) under 24 C.F.R. § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the City has documented its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section by issuing a Notice to Proceed.

3. Uniform Administrative Requirements. The uniform administrative requirements described in 24 C.F.R. § 570.502.

4. Other Program Requirements. Participant shall carry out each activity under the Agreement in accordance with all applicable federal laws and regulations described in Subpart K of 24 C.F.R. § 570 except for City's environmental responsibilities under 24 C.F.R. § 570.604 and City's responsibility for initiating the review process under the provisions of 24 C.F.R. Part 52.

5. Reversion of Assets. Upon the Affordable Unit Completion Date or sooner termination of the Agreement, Participant shall transfer to City (a) any and all CDBG Funds, (b) any accounts receivable attributable to the use of CDBG Funds. In all cases in which equipment acquired, in whole or in part, with funds under the Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under the Agreement were used to acquire the equipment). Equipment not needed by Participant for activities under the Agreement shall at the election of City either be (a) transferred to City for the CDBG program, or (b) retained by Participant after compensating City an amount equal to the current fair market value of the equipment less the percentage of non-CDBG Funds used to acquire the equipment.

6. Relocation. City shall not be responsible for relocating any occupants from the Property in connection with the Program. If required, Participant shall have the sole and exclusive responsibility for providing relocation assistance and paying all relocation costs required to comply with all applicable federal and state laws, rules, and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 et seq., as amended, and implementing regulations, and HUD Handbook 1378. Participant shall indemnify, defend, and hold City harmless from and against any claims, liabilities, damages, or losses made against it by tenants or occupants of the Property, including without limitation claims for relocation assistance, inverse condemnation, and claims otherwise arising from any act or omission of Participant.

7. Allowable Costs and Audits. Participant shall comply with and administer the Program in accordance with OMB Circular No. A-122 "Cost Principles for Non Profit Organizations" or OMB Circular No. A-21 "Cost Principles for Educational Institutions", as applicable. If Participant is a governmental or quasi-governmental agency, the applicable sections of OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" shall apply. Participant shall have an annual audit conducted in accordance with OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

8. Records and Reports. Participant shall provide to City and shall cause each of its contractors, subcontractors and subrecipients to provide to City all records and reports relating to the Program that may be reasonably requested by City in order to enable it to perform its record keeping and reporting obligations pursuant to the CDBG Requirements, including but not limited to those described in the Agreement and 24 C.F.R. § 570.506.

9. Religious Organizations. If Participant is a religious organization as defined by the CDBG Requirements, Participant shall comply with all conditions prescribed by HUD for the use of CDBG Funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. § 570.200(j).

10. Conflict of Interest. Participant will comply with 24 C.F.R. 570.611 regarding the avoidance of conflict of interest, which provisions include (but are not limited to) the following:

(a) Participant shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

(b) No employee, officer or agent of the Participant shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

(c) No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Participant, or any designated public agency.

11. Political Activity (24 C.F.R. § 570.207(a)(3)). Participant is prohibited from using CDBG Funds to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as sponsoring candidate forums, distributing brochures, voter transportation, or voter registration.

12. Anti-Lobbying Certification. By its execution of the Agreement, Participant hereby certifies that:

(a) 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) It will require that the language of this certification 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.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. At the request of City, Participant shall execute a separate document that contains the certifications set forth above.

13. Drug-Free Workplace Requirements. Participant shall comply with and be subject to the requirements of the federal drug-free workplace requirements, which include the following actions be taken:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

(b) Establishing an ongoing drug-free awareness program to inform employees about: (a) the dangers of drug abuse in the work place; (b) the grantee's policy of maintaining a drug-free workplace; (c) any available drug counseling, rehabilitation, and employee assistance programs; and (d) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (i).

(d) Notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will: (a) abide by the terms of the statement; and (b) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

(e) Notifying the agency in writing, within ten (10) calendar days after receiving notice under sub-paragraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph (iv)(b), with respect to any employee who is so convicted: (a) taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (b) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v), and (vi).

14. Procurement. Participant will comply with the procurement standards under 2 C.F.R. §§ 200.317-200.326. Participant shall comply with all existing and future City policies concerning the purchase of equipment.

15. Labor Provisions.

15.1 Section 3 of the Housing and Community Development Act of 1968. If the Agreement provides more than \$200,000 of CDBG funds for housing rehabilitation, housing construction, or other public construction, Participant shall comply with and cause its contractors and subcontractors to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u), the HUD regulations issued pursuant thereto at 24 C.F.R, Part 75, and any applicable rules and orders of HUD issued thereunder. 24 C.F.R, Part 75 specifies that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. The following benchmarks for the proportion of work hours by Section 3 workers and Targeted Section 3 workers, as defined at 24 C.F.R. Part 75.21:

(a) Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and

(b) Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

It is the responsibility of contractors and subcontractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks shall demonstrate in writing why meeting the benchmarks were not feasible.

15.2 Labor Standards. Participant shall comply with the provisions of 24 C.F.R. 570.603 and related requirements. Participant shall include in all applicable construction contracts the provisions of federal law imposing labor standards on federally assisted contracts. Participant shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 3141 through 3148), the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq. and implementing regulations), the Copeland Anti-Kick Back Act (40 U.S.C. 276c and 18 U.S.C. 874 et seq.), the implementing regulations of the U.S. Department of Labor including 29 C.F.R. Parts 1, 3, 5, 6 and 7, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of the Agreement. Participant shall maintain documentation that demonstrates compliance with these provisions and such documentation shall be made available to City and HUD for review upon request. Participant shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

15.3 HUD Form 4010. Participant shall comply and cause Participant Personnel to comply with the provisions of HUD Form 4010 attached hereto. HUD Form 4010 must be included in the bid packet and construction contract and subcontracts for the Project.

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

Previous editions are obsolete

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form HUD-4010 (06/2009)
ref. Handbook 1344.1

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

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

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

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of ... influencing in any way the action of such Administration.... makes, utters or publishes any statement knowing the same to be false.... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT “B”

REGULATORY AGREEMENT

[See following document]

FREE RECORDING REQUESTED
BY AND WHEN RECORDED MAIL
TO:

City of Irvine
One Civic Center Plaza
Irvine, CA 92606
Attn: Housing Manager

(Space Above For Recorder's Use)

This Regulatory Agreement is recorded at the request and for the benefit of the City of Irvine and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

REGULATORY AGREEMENT
AND DECLARATION OF COVENANTS AND RESTRICTIONS

This REGULATORY AGREEMENT AND DECLARATION OF COVENANTS AND RESTRICTIONS ("Regulatory Agreement") is dated to be effective as of _____, 2022, and entered into by and between the CITY OF IRVINE, a California municipal corporation ("City"), and FAMILIES FORWARD, INC., a California nonprofit public benefit corporation ("Participant").

R E C I T A L S

A. Participant is the owner of that certain real property located at _____, in the City of Irvine, County of Orange, State of California, more particularly described in the legal description attached hereto as Exhibit "1" and incorporated by reference herein (the "Affordable Unit").

B. City and Participant are parties to that certain Affordable Housing and Grant Agreement dated December __, 2022 (the "Agreement"), pursuant to which City has provided a grant of funds to Participant from City's Community Development Block Grant program (the "City Grant") to assist Participant with the acquisition of the Affordable Unit.

C. All of the terms, conditions, provisions and covenants set forth in the Agreement are incorporated in this Regulatory Agreement by reference as though written out at length herein and, with respect to the Affordable Unit, the Agreement and this Regulatory Agreement shall be deemed to constitute a single instrument or document. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

D. City and Participant desire to place restrictions upon the use and operation of the Affordable Unit in order to ensure that the Affordable Unit is continuously made available as affordable rental housing for low-income families in accordance with the

terms set forth herein. It is the intent of the parties that title to the Affordable Unit shall be subject to this Regulatory Agreement and that the terms hereof shall be binding on Participant and its successors in interest in the Affordable Unit for so long as this Regulatory Agreement remains in effect.

NOW THEREFORE, in consideration of the benefits received by Participant, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Participant and City agree as follows:

1. Definitions. The following terms shall have the meanings set forth below unless expressly provided to the contrary:

“Affordable Rent” shall mean a monthly rent (including a reasonable utility allowance) that does not exceed the product of 1/12th of 30% multiplied by 50% of the Median Income adjusted for family size appropriate for the Affordable Unit. For purposes of calculating the Affordable Rent, “adjusted for family size appropriate for the Affordable Unit” shall mean a household of two persons in the case of a 1-bedroom Affordable Unit, a household of three persons in the case of a 2-bedroom Affordable Unit, a household of four persons in the case of a 3-bedroom Affordable Unit, and a household of five persons in the case of a 4-bedroom Affordable Unit.

“CDBG Requirements” shall collectively refer to the requirements of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 et seq.) as amended from time to time, and the implementing regulations set forth in 24 C.F.R. § 570 et seq. as amended from time to time, and the requirements set forth and referred to in Exhibit “A” attached to the Agreement.

“City Grant” shall mean the grant provided by City to Participant pursuant to the Agreement in the amount not to exceed the sum of Five Hundred Forty-Six Thousand One Hundred-Six Dollars (\$546,106) for the acquisition of the Affordable Unit.

“HUD” shall mean the United States Department of Housing and Urban Development.

“Marketing Plan” means a marketing plan for the rental of the Affordable Unit which provides, to the extent authorized by applicable federal, state and local laws and regulations, that a preference be given to prospective tenants who are currently residents of the City or currently work in the City. The Marketing Plan shall include a tenant selection system in conformance with fair housing laws. City shall have approved the Marketing Plan, in its reasonable discretion.

“Median Income” shall mean the Orange County Area Median Income, as established by the HUD.

“Participant” shall mean Families Forward, Inc., a California nonprofit public benefit corporation, and its permitted successors and assigns to the Affordable Unit.

“Participant Personnel” shall mean any employee, volunteer, contractor, subcontractor, or agent of Participant or any other person under Participant’s supervision, control or direction, including the contractors and subcontractors performing construction and/or rehabilitation work. Participant is responsible for the full compliance of all Participant Personnel with this Regulatory Agreement.

“Program” shall mean the affordable rental housing program to be operated on the Affordable Unit and all obligations and activities that constitute the Program Services.

“Program Services” shall mean the tasks, activities, and operations set forth in this Regulatory Agreement and the Agreement, and all other obligations under this Regulatory Agreement that Participant is required to perform.

“Program Default” shall have the meaning ascribed in Section 4.9 of this Regulatory Agreement.

“Qualified Household” shall mean a low-income person or household whose gross household income does not exceed fifty percent (50%) of the Median Income, adjusted for household size, and is determined in accordance with the definition of annual income at 24 C.F.R. § 5.609.

2. Term. The term of this Regulatory Agreement shall commence upon its execution and recordation in the Official Records and shall terminate on the fifty-fifth (55th) anniversary of the date on which a Qualified Household first occupies the Affordable Unit. The termination of this Regulatory Agreement shall not release either party from a default hereunder.

3. Use of Affordable Unit.

3.1 Restrictions. During the term of this Regulatory Agreement, subject to Section 3.3 below, the Affordable Unit shall be continuously operated as affordable rental housing occupied only by a Qualified Household at a rent that does not exceed an Affordable Rent. Participant shall cooperate with City in providing to City such evidence as required by City to confirm compliance with the foregoing and all obligations under this Regulatory Agreement.

3.2 Occupancy Limits. The number of persons permitted to occupy the Affordable Unit shall not exceed two (2) persons per bedroom, plus one (1) person (e.g., for a two (2) bedroom Affordable Unit the maximum number of persons residing in the Affordable Unit can be five (5) persons). The minimum number of persons permitted to occupy the Affordable Unit shall be not less than one (1) person per bedroom (e.g., for a two (2) bedroom Affordable Unit the minimum number of persons residing in the Affordable Unit can be two (2) persons). Participant shall enforce such occupancy restrictions.

3.3 Change of Use. In accordance with 24 C.F.R. 570.505, if Participant desires to change the use of the Affordable Unit during the period set forth in Section 2 above, Participant shall provide affected citizens with reasonable notice of, and

opportunity to comment on, any proposed change, and either (a) the new use of the Affordable Unit shall qualify as meeting one of the national objectives of 24 C.F.R. 570.208, or (b) if Participant determines after consultation with affected citizens that it is appropriate to change the use of the Affordable Unit to a use which does not qualify under clause (a), Participant may retain or dispose of the Affordable Unit for the changed use if City's CDBG program is reimbursed in the amount of the then current fair market value of the Affordable Unit, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of and improvements to the Affordable Unit and, following such reimbursement, the Affordable Unit shall not be subject to any use restrictions under this Regulatory Agreement.

4. Operation of Program.

4.1 General Operating Requirements.

(a) Obligation to Operate Program; Program Description. Participant shall operate the Program and perform the Program Services on a continuous basis and shall use the Affordable Unit for no other purpose than the operation of the Program and Program Services. If any Program Services constitute a specific task or activity that is required under this Regulatory Agreement to be commenced or completed by a certain date or time period, Participant shall commence, complete, and perform the task or activity within the specified time period.

(b) Standard of Performance. Participant shall operate the Program and perform all Program Services in a competent, professional, and first class manner and to the satisfaction of City in its sole discretion and in accordance with this Regulatory Agreement. In addition, Participant shall operate the Program and perform the Program Services in compliance with the CDBG Requirements and in a manner that meets one or more of the CDBG national objective(s). In addition to the quarterly reports referred to in the Agreement, Participant shall, if requested by City, provide to City monthly written reports on the progress of any Program Services. Participant shall cause the Program Services to be performed by Participant or Participant Personnel under Participant's direct supervision, and shall ensure that all Participant Personnel engaged in the Program Services are fully qualified and authorized and permitted under applicable law to operate the Program. Participant shall secure, at its sole cost and expense, any and all licenses, permits and approvals that may be required by law for the performance of the Program Services. Participant shall be responsible for all costs related to the Program.

(c) Management. If any manager or supervisor of the Program engages in any of the conduct described in Section 4.9 or knowingly allows such conduct to occur at the Affordable Unit or by Participant Personnel, or knowingly allows illegal activity to occur at the Affordable Unit, City shall have the right to require that Participant immediately replace such manager or supervisor.

(d) Drug Free Covenant. Participant shall maintain a drug free environment on the Affordable Unit. Participant covenants to City that Participant, Participant Personnel and all persons working or residing on the Affordable Unit shall not unlawfully manufacture, distribute, dispense, possess or use controlled substances, as said term is defined in 21 United States Code Section 812 and California Health and Safety Code Section 11007 (or successor statutes) on the Affordable Unit. If Participant or any Participant Personnel or any person working or residing on the Affordable Unit is convicted or pleads guilty or nolo contendere to a charge of unlawfully manufacturing, distributing, dispensing, possessing or using controlled substances on the Affordable Unit, then such event shall constitute a default of this Regulatory Agreement.

4.2 Selection of Tenants. Participant shall be responsible for the selection of tenants for the Affordable Unit in compliance with all lawful and reasonable criteria, as set forth in the Marketing Plan. Prior to selecting any tenant for the Affordable Unit, Participant shall provide all information and documentation received by Participant with respect to such prospective tenants to City for review and approval. Participant shall not refuse to lease to (i) a holder of a certificate of family participation under 24 CFR part 882 (Rental Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a Section 8 program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria, or (ii) an applicant who would be qualified to be a tenant in accordance with the approved tenant selection criteria but for a poor credit rating resulting from a foreclosure of a mortgage on a single family home previously owned by the applicant.

4.3 Occupancy By Qualified Household. The Affordable Unit occupied by tenant(s) who qualified as a Qualified Household at the commencement of the occupancy shall be treated as occupied by a Qualified Household until a recertification of such Qualified Household's income in accordance with Section 4.5 below demonstrates that such occupant no longer qualifies as a Qualified Household at the applicable income level. The Affordable Unit previously occupied by a Qualified Household and then vacated shall be considered occupied by a Qualified Household until the Affordable Unit is reoccupied, provided Participant uses its best efforts to re-lease the vacant Affordable Unit to a Qualified Household. Any vacated Affordable Unit shall be held vacant until re-leased to a Qualified Household. Participant shall submit notification to the City of the vacant Affordable Unit within three (3) days and should advertise the available Affordable Unit in a newspaper of general circulation in the City of Irvine.

4.4 Income Computation and Certification. Immediately prior to a Qualified Household's occupancy of the Affordable Unit, Participant shall obtain an Income Computation and Certification Form in the form attached hereto and incorporated herein as Exhibit "2" (or on a similar form required by any additional regulatory agreement if such form requires inclusion of the same information as required in Exhibit "2") from such Qualified Household dated no more than ninety (90) days prior to the date of initial occupancy in the Affordable Unit by such Qualified Household. In addition, Participant shall provide such further information as may be reasonably required in the future by City

for purposes of verifying a tenant's status as a Qualified Household. Participant shall use good faith efforts to verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (i) obtain three (3) pay stubs for the most recent pay periods; (ii) obtain a written verification of income and employment from the applicant's current employer; (iii) obtain an income verification form from the Social Security Administration, California Department of Social Services, and/or California Employment Development Department if the applicant receives assistance from any of said agencies; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other evidence and/or verification of such applicant's total income received during the calendar year from any source, taxable or nontaxable, or such other information as is satisfactory to City. Participant shall maintain in its records each Income Computation and Certification Form obtained pursuant to this section for a minimum of five (5) years subsequent to the termination of this Regulatory Agreement as defined in Section 2.

4.5 Recertification. Within sixty (60) days prior to the first anniversary date of the occupancy of the Affordable Unit by a Qualified Household, and on each anniversary date thereafter, Participant shall recertify the income of such Qualified Household by obtaining a completed Income Recertification Form, in the form attached hereto and incorporated herein as Exhibit "3", based upon the current income of each known occupant of the Affordable Unit; provided, however, that if any additional regulatory agreement requires Participant to obtain a recertification form which requires inclusion of the same information as required in Exhibit "3", then Participant shall not be deemed to be in default hereunder if during the term of such additional regulatory agreement Participant obtains from each Qualified Household the recertification form required pursuant to said additional regulatory agreement.

4.6 Leases; Rental Agreements for Affordable Unit. Participant shall submit a standard lease form, which shall comply with the CDBG Requirements and the requirements of this Regulatory Agreement, to City for its approval. City shall reasonably approve such lease form upon finding that such lease form is consistent with the CDBG Requirements and this Regulatory Agreement. Participant shall enter into a written lease, in the form approved by City, with each tenant/tenant household of the Affordable Unit. Participant shall not make any material changes to such form of lease without obtaining City's prior written consent. Any proposed increase in the monthly rent to be charged to a Qualified Household shall not exceed the then current Affordable Rent.

4.7 Reliance on Tenant Representations. Each tenant lease shall contain a provision to the effect that Participant has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the Affordable Unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease.

4.8 Occupants of Housing Facilities. To the extent permitted by applicable law, Participant shall include in its occupancy or lease agreements with the Qualified Households a requirement that the occurrence of any illegal activity by the Qualified Household, or by the Qualified Household's guests at the Affordable Unit, shall

be grounds for immediate termination of the Qualified Household's right to reside within the Affordable Unit and City shall have the right to require that Participant enforce such provision.

4.9 Program Defaults. The occurrence of any of the following (each, a "Program Default") shall constitute a default of this Regulatory Agreement and shall entitle City to exercise any of the remedies set forth in this Regulatory Agreement:

(a) the failure of Participant or Participant Personnel to treat any employee or client of the Program or other persons receiving services under the Program, including any tenants or occupants of any housing facility, in a professional, respectful and courteous manner as determined by City in its sole discretion, or the engaging in any act by Participant or Participant Personnel injuring, abusing, mistreating, or endangering such persons as determined by City in its sole discretion;

(b) Participant or any Participant Personnel is convicted or pleads guilty or nolo contendere to any charge of criminal activity, including without limitation, the possession, use, or distribution of illegal or controlled substances, or otherwise engages in any acts of public disrepute, and such illegal activity or acts either occurs at the Affordable Unit or relates to or impacts the Program as determined by City in its sole discretion; or

(c) the occurrence of any act or transgression by Participant or Participant Personnel that, in the sole judgment of City, may cause embarrassment to City, reflect adversely upon City or its funding programs or upon Participant, tend to bring the Program into public disrepute, contempt, scandal, or ridicule, or tend to shock, insult or offend the community or public morals or decency.

5. Monitoring and Records.

5.1 Monitoring. City shall monitor and evaluate Participant's performance under this Regulatory Agreement to determine compliance with this Regulatory Agreement and the CDBG Requirements. Participant shall cooperate with City and shall make available to City all information, documents, and records reasonably requested by City and shall provide City the reasonable right of access to the Affordable Unit during normal business hours for the purpose of assuring compliance with this Regulatory Agreement and evaluating Participant's performance hereunder. City shall have the right to contact and interview Participant Personnel and any Qualified Household residing, or proposed by Participant to reside, in the Affordable Unit concerning this Regulatory Agreement.

5.2 Right to Inspect. City shall have the right to inspect the Affordable Unit for purposes of assuring compliance with this Regulatory Agreement and evaluating Participant's performance hereunder.

5.3 Records to be Maintained. Participant shall keep and maintain records providing a full description of the activities undertaken pursuant to this Regulatory

Agreement demonstrating that the activities meet the CDBG Requirements, and such other records as may be reasonably required by City to enable City to evaluate Participant's compliance with the CDBG Requirements and to enable City to comply with City's recordkeeping and reporting requirements under the CDBG Requirements. The books and records required to be maintained by Participant shall be kept at a location in Irvine, California. City and HUD and/or their representatives shall have full and free access to, and the right to examine, inspect, and audit, all books and records of Participant pertaining to this Regulatory Agreement at all times during normal business hours upon forty-eight (48) hours prior written notice to Participant.

5.4 Audits. Participant shall perform all audits of its books and records required by HUD or the CDBG Requirements or reasonably required by City and a copy of each of such audits shall be forwarded to the City within fifteen (15) days after completion. Participant shall be subject to all audit and review requirements imposed on City in connection with this Regulatory Agreement and shall, at its sole cost and expense, cause such audits and reviews to be timely performed.

6. Maintenance. Participant shall maintain or cause to be maintained the Affordable Unit in first class condition and repair (and, as to landscaping, in a healthy condition) and in accordance with any approved plans for the rehabilitation work (if any) performed by Participant, and all other applicable laws, rules, ordinances, orders, and regulations, including without limitation the City of Irvine Municipal Code, and all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials. In addition, Participant shall make all repairs and replacements necessary to keep the improvements in first class condition and repair and shall promptly eliminate all graffiti and debris and replace dead and diseased plants and landscaping with comparable materials. Participant shall be deemed to be in default under this Regulatory Agreement if Participant breaches any of the covenants contained in this Section 6 and such default continues for a period of five (5) days after written or verbal notice from City (with respect to landscaping, graffiti, debris, waste material, or general maintenance) or thirty (30) days after written notice from City (with respect to building improvements).

7. Obligation to Repair. If the Affordable Unit shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Participant, Participant shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the improvements so that the Program can continue to be operated, and Participant shall complete the same as soon as possible thereafter.

8. Relocation. Participant, at its sole cost and expense, shall be responsible for providing any relocation assistance and paying all relocation costs to any tenants or occupants who may be displaced from the Affordable Unit if such benefits or assistance are required to be provided by law. Participant shall indemnify, defend, and hold harmless City from and against any and all claims, liabilities, damages or losses made against it by tenants or occupants of the Affordable Unit, including without limitation claims for

relocation assistance, inverse condemnation, and claims otherwise arising from any act or omission of Participant pursuant to this Section 8.

9. Liens. Participant shall pay and promptly discharge, at Participant's cost and expense, all Impositions, liens, encumbrances and charges upon the Affordable Unit, or any part thereof or interest therein. As used herein, the term "Impositions" shall mean all (a) real estate and personal property taxes and other taxes and assessments, water and sewer rates and charges and all other governmental charges and any interest or costs or penalties with respect thereto and charges for any agreement maintained for the benefit of the Affordable Unit, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time may be assessed, levied or imposed upon the Affordable Unit, or the rent or income received therefrom, or any use or occupancy thereof, and (b) other taxes, assessments, fees and governmental charges levied, imposed or assessed upon or against Participant or the Affordable Unit. In addition, Participant shall timely make all payments on all loans secured by the Affordable Unit or other debts which could give rise to a security interest in the Affordable Unit.

10. Indemnity. Participant shall defend, indemnify and hold harmless City and its officers, officials, agents, employees, representatives, and volunteers ("Indemnified Parties") from and against any loss, damage, costs, expenses, liability, claim, or judgment relating in any manner to the Affordable Unit or Participant's performance under this Regulatory Agreement, except to the extent caused by the sole negligence or willful misconduct of any of the Indemnified Parties.

11. Insurance; Repair of Damage. In addition to the insurance required under the Agreement which shall be maintained in force for the term of this Regulatory Agreement, Participant hereby certifies that it has or will obtain a policy of all-risk property insurance in an amount equal to the full replacement value of the structures comprising the Affordable Unit, and Participant shall continue to maintain such insurance in full force and effect during the term of this Regulatory Agreement. In no event shall the limits of any policy be considered as limiting the liability of Participant hereunder or limiting the indemnity obligation set forth in Section 10 of this Regulatory Agreement. If the improvements comprising the Affordable Unit shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty, Participant shall promptly and diligently commence the repair or replacement of the improvements comprising the Affordable Unit to substantially the same condition as existed prior to the destruction, and Participant shall complete the same as soon as possible thereafter so that the Affordable Unit can continue to be operated and occupied as affordable housing for Qualified Households in accordance with this Regulatory Agreement. In no event shall the repair, replacement, or restoration period exceed six (6) months from the date of the destruction unless City, in its sole and absolute discretion, approves a longer period of time.

12. Compliance with Laws. Participant shall comply and cause the Participant Personnel and each Qualified Household that occupies the Affordable Unit to comply with all applicable laws, regulations, and rules of any governmental agencies having jurisdiction with regard to any activities conducted on the Affordable Unit, including

without limitation the CDBG Requirements. Each and every provision required by law to be included in this Regulatory Agreement shall be deemed to be included, and this Regulatory Agreement shall be read and enforced as though all such provisions were included. Participant acknowledges and agrees that it shall be and remain, and shall cause the Participant Personnel to be and remain, fully knowledgeable and apprised of all local, state and federal laws, rules and regulations in any manner affecting the performance under this Regulatory Agreement, including the CDBG Requirements. Participant shall indemnify, protect, defend and hold harmless City and its officials, officers, employees, and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, and/or expense (including reasonable attorneys' fees, court and litigation costs, and fees of expert witnesses) that results or arises in any way from any of the following the noncompliance by Participant or Participant Personnel of any applicable local, state and/or federal law.

13. Non-Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account or race, color, creed, religion, sex, marital status, national origin or ancestry or any other protected class in the sale, lease sublease, transfer, use, occupancy, tenure or enjoyment of the site, or any part thereof, nor shall Participant, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Affordable Unit, or any part thereof.

14. Defaults.

14.1 Defaults-General. The occurrence of any of the following shall be deemed a default under this Regulatory Agreement:

(a) The failure or delay by either party to perform any term or provision of this Regulatory Agreement if such failure is not cured, corrected or remedied within any specific time period set forth in this Regulatory Agreement.

(b) If no other specific time period is set forth herein, the failure to cure a monetary default under this Regulatory Agreement (other than any monetary defaults specifically listed in any of the other subparagraphs of this Section 14.1) within ten (10) days after the nonperforming party's receipt of written notice from the other party specifying the nature of the default.

(c) If no other specific time period is set forth herein, the failure to cure a non-monetary default under this Regulatory Agreement (other than any non-monetary defaults specifically listed in any of the other subparagraphs of this Section 14.1) within thirty (30) days after the nonperforming party's receipt of written notice from the other party specifying the nature of the default; provided, however, that if the failure cannot be corrected within such period, it shall not constitute a default if the failure is correctable without material adverse effect on the Affordable Unit, and if corrective action is instituted by Participant within such

period and diligently pursued until the failure is corrected, and provided further that any such failure is cured within sixty (60) days of receipt of notice of such failure.

(d) The occurrence of any default under the Agreement that is not cured within any applicable cure period thereunder.

(e) The occurrence of a Program Default.

The party in default shall provide to the other party immediate written notice of the occurrence of any event that would constitute a default hereunder.

14.2 Remedies Upon Default. In addition to any other rights or remedies available at law or in equity, upon a default of this Regulatory Agreement (other than a default of City) City may take any of the actions described in the Agreement for defaults, including without limitation (i) the enforcement of any of the City's rights contained in Section 11.2 of the Agreement including demanding that Participant repay the City Grant, or (ii) the institution of legal action to cure, correct, or remedy any default or obtain any other remedy consistent with the purposes of this Regulatory Agreement. All legal actions must be instituted and maintained in the Superior Court of Orange County California, or in any other appropriate court in that county.

14.3 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Regulatory Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

15. Miscellaneous.

15.1 Attorneys' Fees and Costs. If either party to this Regulatory Agreement commences an action against the other party to this Regulatory Agreement arising out of or in connection with this Regulatory Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the losing party.

15.2 Entire Agreement, Waivers, and Amendments. This Regulatory Agreement, the Agreement, and the agreements referred to herein contain the entire agreement between the parties relating to the subject matter hereof, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof. All waivers of the provisions of this Regulatory Agreement must be in writing and signed by the appropriate authorities of the party to be charged. A waiver of the breach of the covenants, conditions or obligations under this Regulatory Agreement by either party shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or obligations of this Regulatory Agreement. Any amendment or modification to this Regulatory Agreement must be in writing and executed by the appropriate authorities of City and Participant.

15.3 Interpretation; Governing Law. This Regulatory Agreement shall be construed according to its fair meaning and as if prepared by both of the parties hereto. This Regulatory Agreement shall be construed in accordance with the laws of the State of California without regard to conflict of law principles.

15.4 Severability. If any one or more of the provisions contained in this Regulatory Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Regulatory Agreement, and this Regulatory Agreement shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.

15.5 Assignment and Transfer. Participant shall not transfer the Affordable Unit or any of Participant's rights hereunder, or any interest in the Affordable Unit, directly or indirectly, voluntarily or by operation of law, without the prior written approval of City, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant approval of any transfer by Participant of its interest in the Affordable Unit, City shall consider factors such as (i) whether the completion of the rehabilitation of the Affordable Unit is jeopardized; (ii) the financial credit, strength, and capability of the proposed transferee to perform Participant's obligations hereunder; and (iii) the proposed transferee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects. In the absence of specific written agreement by City, no transfer by Participant of all or any portion of its interest in the Affordable Unit shall be deemed to relieve it or any successor party from the obligation to complete the rehabilitation of the Affordable Unit or any other obligations under this Regulatory Agreement. No assignment shall be approved if Participant is in default (or an event has occurred that would constitute a default with the giving of notice or the passage of time) of this Regulatory Agreement or the Agreement. Participant shall be responsible for all costs incurred by City in connection with any request for approval of a transfer and assignment.

15.6 Notices. Formal notices required to be delivered under this Regulatory Agreement to the other party must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; or (iii) one (1) business day after deposit before the daily deadline time with a reputable overnight courier or service; in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other party hereto:

If to City:

City of Irvine
One Civic Center Plaza
Irvine, CA 92606
Attn: Housing Manager

If to Participant:

Families Forward
8 Thomas
Irvine, CA 92618
Attn: Chief Executive Officer

15.7 Covenants Run with the Land. All conditions, covenants, and restrictions contained in this Regulatory Agreement shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, City and its successors and assigns, against Participant, its successors and assigns, to or of the Affordable Unit or any portion thereof or any interest therein, and any party in possession or occupancy of said Affordable Unit or portion thereof. Upon a transfer of the Affordable Unit by Participant, the transferee shall be subject to and shall comply with this Regulatory Agreement. In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that City shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of City and such covenants shall run in favor of City for the entire period during which such covenants shall be in force and effect, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate.

15.8 Counterparts. This Regulatory Agreement may be executed in two or more counterparts, each of which when so executed and delivered shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

15.9 Exhibits. This Regulatory Agreement incorporates by reference the following Exhibits attached hereto:

Exhibit 1	Legal Description of Affordable Unit
Exhibit 2	Income Computation and Certification Form
Exhibit 3	Income Recertification Form

[signatures on next page]

IN WITNESS WHEREOF, City and Participant have entered into this Regulatory Agreement as of the date first set forth above.

“CITY”

CITY OF IRVINE, a California municipal corporation

By: _____
Lisa Varon, Housing Manager

ATTEST:

Carl Petersen, City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

Jeffrey T. Melching, City Attorney

“PARTICIPANT”

FAMILIES FORWARD, a California nonprofit corporation

By: _____
Name: Robert Davis
Title: Chairman

By: _____
Name: Madelynn Hirneise
Title: Chief Executive Officer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose
name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT “1”

LEGAL DESCRIPTION OF AFFORDABLE UNIT

That certain real property located in the City of Irvine, County of Orange, State of California legally described as follows:

[Insert Legal Description]

EXHIBIT "2"

INCOME COMPUTATION AND CERTIFICATION FORM

INCOME COMPUTATION AND CERTIFICATION FORM (Affordable Housing Eligibility for Renter Occupied Unit)

PART I. PROPERTY FINANCED WITH GOVERNMENT ASSISTANCE

Property Address: _____

PART II. TENANT HOUSEHOLD INFORMATION

	Date of Birth	Soc. Sec. #	Relationship

TOTAL NUMBER OF PERSONS IN HOUSEHOLD: _____ (Please list information on other household members below)

Mailing Address: _____ Telephone Numbers: Work(____)

Home (____) _____

PART III. GROSS HOUSEHOLD INCOME Complete the following, attach copies of required verification as specified below. Attach a note explaining any significant changes in household income between the previous year and the current year. INFORMATION IS REQUIRED FOR ALL MEMBERS OF THE HOUSEHOLD AGE 18 OR OLDER REGARDLESS OF WHETHER THEY CONTRIBUTE TO THE COSTS OF THE HOUSEHOLD. If you are not required to file a tax return, please indicate this in Part V by your signature.

	ANN INCOME for tenant	ANN INCOME others in hshld	VERIFICATIONS (needed for file)
INCOME SOURCES			
A. Employment earnings			Copy of the most recent filed and signed Federal Income Tax Return with all schedules, attachments, W-2s, etc. Three (3) months consecutive paystubs.

	ANN INCOME	ANN INCOME	
INCOME SOURCES	for tenant	others in hshld	VERIFICATIONS (needed for file)
B. Self-employment earnings			Copies of the last two (2) most recent filed and signed Federal Income Tax Returns with all schedules, attachments, W-2s, etc. Three (3) months consecutive paystubs.
C. Social Security (OASDI)			A copy of the annual letter received from Social Security listing the gross monthly payment.
D. Supplemental Security Income (SSI)			A copy of the annual letter received from Social Security listing the gross monthly payment.
E. Public assistance (AFDC, general assistance, unemployment, etc.)			A letter from the household's case worker indicating the amount of assistance provided and the nature of the assistance, including specific amounts designated for shelter or utilities. A copy of the most recent three (3) months consecutive payment checks or statements indicating the gross amount of the payment.
F. Pension (s)			Annual award letter, year end stmt, W-2
G. Interest income			Three (3) months consecutive statements for all asset accounts.
H. Investment income (stocks, bonds, real estate, etc.)			Three (3) months consecutive statements for all asset accounts.
I. Room rental			Rental agreement, copies of checks, etc.
J. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.			A copy of the divorce decree / judgment listing the amount, period, and duration of alimony payments. A copy of the court order for child support payments, including the amount, period and duration of child support payments. A letter from the individual or organization outside of the household that provides a periodic payment. The letter should include the reason, amount, period and duration that the payments are expected to continue.
K. Other income (list type/source)			

	ANN INCOME	ANN INCOME	
INCOME SOURCES	for tenant	others in hshld	VERIFICATIONS (needed for file)
L. TOTAL INCOME (sum of A thru K)			/ 12 months = _____ mo. income

PART IV. PROPERTY STATUS

Will this property be your primary residence? _____

Will someone other than the individuals listed above be occupying this property? _____

If yes - Name of occupants: _____

Telephone Number: _____ Mailing Address: _____

My/our housing expenses are as follows:

1.Monthly tenant rent _____

2.Average monthly utilities _____

PART V. TENANT CERTIFICATION

I/We understand that after the initial eligibility determination, completion of monitoring forms is required on an annual basis. I/We certify that I/we have disclosed all information pertaining to my/our application and that the information presented in the foregoing Sections I through IV is true and accurate to the best of my (our) knowledge.

Tenant Date

Tenant Date

For more information regarding this application, please contact management staff at (949) _____.

FOR OFFICE USE ONLY

_____ Information verified

_____ Income category

_____ Maximum allowable annual income (_____% of median)

_____ Applicant's annual income _____ gross monthly _____ max housing costs

Comments: _____

Management Staff Date

EXHIBIT "3"

INCOME RECERTIFICATION FORM (Renter Occupied Unit)

PART I. GENERAL INFORMATION

1. Property Owner Name _____
2. Renter Name _____
3. Property Address _____
(Please include P.O. Box No. if applicable)
4. Has there been a change in ownership of this property during the preceding 12 month period?
Yes() No()

(If yes, please explain) _____

PART II. UNIT INFORMATION

5. Number of Bedrooms _____
6. Number of Occupants _____
Names: _____

PART III. AFFIDAVIT OF RENTER

I, _____, and I, _____, as renters of units assisted pursuant to the Affordable Housing Program (the "Program"), do hereby represent and warrant that the following computation includes all income (I/we) **anticipate receiving for the 12-month period commencing on January 1, 20__** (including the renter(s) and all family members of the renters):

- (a) amount of wages, salaries, overtime pay, commissions, fees, tips and bonuses, and payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (before payroll deduction) _____
- (b) net income from business or profession or rental of property (without deduction for repayment of debts or expansion of business) _____
- (c) interest and dividends _____
- (d) periodic receipts such as social security, annuities, pensions, retirement funds, insurance policies, disability or death benefits, alimony, child support, regular contributions or gifts from persons not occupying unit _____
- (e) public assistance allowance or grant plus excess of maximum allowable for shelter or utilities over the actual allowance for such purposes _____

- (f) regular and special pay and allowances of a member of armed services (whether or not living in the dwelling) who is head of the family or spouse _____

Subtotal (a) through (f) _____

LESS: Portion of above items which are income of a family member who is less than 18 years old or a full-time student (_____)

TOTAL ELIGIBLE INCOME _____

NOTE: The following items are not considered income: casual or sporadic gifts; amounts specifically for or in reimbursement of medical expenses; lump sum payment such as inheritances, insurance payments, capital gains and settlement for personal or property losses; educational scholarships paid directly to the student or educational institution; government benefits to a veteran for education; special pay to a serviceman head of family away from home and under hostile fire; foster child care payments; value of coupon allotments for purpose of food under Food Stamp Act of 1964 which is in excess of amount actually charged the eligible household; relocation payments under Title II of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; payments received pursuant to participation in the following programs: VISTA, Service Learning Programs, and Special Volunteer Programs, SCORE, ACE, Retired Senior Volunteer Program, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience.

2. This affidavit is made with the knowledge that it will be relied upon by the Landlord to determine maximum income for eligibility and (I/we) warrant that all information set forth in this Part III is true, correct and complete and based upon information (I/we) deem reliable and that the estimate contained in paragraph 1 is reasonable and based upon such investigation as the undersigned deemed necessary.
3. (I/We) will assist the Landlord in obtaining any information or documents required to verify the statements made in this Part III and have **attached hereto a copy of our federal income tax return for the last year (20__)**.
4. (I/We) acknowledge that (I/we) have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of (my/our) agreement with the Landlord to rent the unit and will additionally enable Landlord to initiate and pursue all applicable legal and equitable remedies with respect to the unit and to me/us.

B. (My/Our) monthly housing expenses are limited to the following:

1. Base rent _____
2. Average Monthly Utilities _____
3. Other (explain) _____

(I/We) understand that completion of monitoring forms is required on an annual basis and agree to notify the Landlord in writing of any change in ownership or rental of the unit. (I/We) do hereby swear under penalty of perjury that the foregoing statements are true and correct.

Date _____

Renter(s)

EXHIBIT “C”

AFFORDABLE UNIT IMPLEMENTATION DOCUMENT

[See following document]

AFFORDABLE UNIT IMPLEMENTATION DOCUMENT

Pursuant to the AFFORDABLE HOUSING AND GRANT AGREEMENT ("Agreement") is entered into on the _____ day of December __, 2022, by and between the CITY OF IRVINE, a California municipal corporation ("City"), and FAMILIES FORWARD, INC. a California nonprofit public benefit corporation ("Participant"), this AFFORDABLE UNIT IMPLEMENTATION DOCUMENT is entered into this _____ day of _____, 20___. This Affordable Unit Implementation Document sets forth specific details concerning the Program Activities to be undertaken for the acquisition of an Affordable Unit by Participant, as required pursuant to the Agreement.

Address:

Description of any Rehabilitation and/or Repair Work Required to be performed with Participant's non-CDBG, non-Matching funds:

Implementation Schedule:

Identify Proposed Affordable Unit:	December 31, 2022
Execute Affordable Unit Implementation Document	January 24, 2023
Submit offer Contingent Upon City Approval	February 21, 2023
City Issuance of Letter Approving or Denying Offer	March 7, 2023
Expiration of Contingency Period	March 10, 2023
Disbursement of City Grant	April 4, 2023
Close of Escrow & Recordation of Regulatory Agreement	April 15, 2023
Marketing of Affordable Unit	April 20, 2023
Lease of Affordable Unit to Qualified Household	May 9, 2023
Affordable Unit Completion Date	June 1, 2023

Eligible Expenses:

Eligible Expense Line Item	City Grant	Participant's Matching Funds
Acquisition, including the purchase price of the property (but not any good faith deposit required to be made prior to the closing) and reasonable closing costs.	\$546,106	\$136,527

Income Level and Affordability Requirements:

The Affordable Unit shall be leased to a Qualified Household for an initial period of one (1) year at a rental rate that does not exceed an Affordable Rent.

An "Affordable Rent" shall mean a monthly rent (including a reasonable utility allowance) that does not exceed the product of 1/12th of 30% multiplied by 50% of the Median Income adjusted for family size appropriate for the Affordable Unit. For purposes of calculating the Affordable Rent, "adjusted for family size appropriate for the Affordable Unit" shall mean a household of two persons in the case of a 1-bedroom Affordable Unit, a household of three persons in the case of a 2-bedroom Affordable Unit, a household of four persons in the case of a 3-bedroom Affordable Unit, and a household of five persons in the case of a 4-bedroom Affordable Unit. Income shall be calculated in accordance with the Annual Income methodology prescribed at 24 CFR §5.609.

A "Qualified Household" shall mean those low-income person(s) or families whose gross household income does not exceed fifty percent (50%) of the Median Income, adjusted for family size and determined in accordance with the definition of annual income at 24 C.F.R. § 5.609.

Upon execution of this Affordable Unit Implementation Document, all of the terms, conditions, provisions and covenants of the Affordable Unit Implementation Document shall be deemed incorporated into the Agreement by reference as though written out at length in the Agreement. The Affordable Unit Implementation Document and the Agreement shall be deemed to constitute a single instrument or document.

Upon execution of this Affordable Unit Implementation Document and delivery to escrow thereof for the Affordable Unit, Participant shall have the right to a disbursement from the City Grant to cover a portion of the purchase price and closing costs, as based upon an estimated escrow statement or similar document provided by the escrow holder for the Affordable Unit. If requested by Participant, City shall wire the funds to the escrow account opened for the Affordable Unit within two (2) business days of Participant's request. City shall use every reasonable effort to ensure a disbursement of the City Grant for the Affordable Unit shall be received by escrow holder no later than two (2) days prior to the outside closing date set forth in the Purchase Agreement.

[Signatures on next page]

IN WITNESS WHEREOF, City and Participant have entered into this Affordable Unit Implementation Document as of the date set forth above.

Address:

City of Irvine
Community Development Department
One Civic Center Plaza
Irvine, CA 92606
Attn: Housing Manager

“CITY”

CITY OF IRVINE, a California municipal corporation

By: _____
Lisa Varon, Housing Manager

Date: _____

Address:

Families Forward, Inc.
8 Thomas
Irvine, CA 92618
Attn: Madelynn Hirneise, CEO
E-mail: mhirneise@families-forward.org

“PARTICIPANT”

FAMILIES FORWARD, INC., a California nonprofit corporation

By: _____
Name: Robert Davis
Title: Chairman

By: _____
Name: Madelynn Hirneise
Title: Chief Executive Officer