**Rider to Continuing Covenant Agreement – TEL**

**Section 8 Housing Assistance Payments Contract**

(Revised 6-27-2023)

The following changes are made to the Continuing Covenant Agreement that precedes this Rider:

A. The following table is added to Section 1.05:

|  |  |
| --- | --- |
| **Section 8 Housing Assistance Payments Contract** | |
| Current HAP Contract Date: \_\_/\_\_/\_\_\_\_ | |
| Contract Administrator: *(choose one)* | |
|  | United States Department of Housing and Urban Development |
|  | [*list name of state or local housing agency*] |
| *(See Sections 2.07, 5.47, 6.27, and 9.01)* | |

B. Section 2.07 is deleted and replaced with the following:

**2.07 Section 8 Housing Assistance Payments Contract**.

(a) The Mortgaged Property is the subject of the Current HAP Contract. The Borrower conveys, pledges, transfers, and grants to Funding Lender a security interest pursuant to the Uniform Commercial Code of the Property Jurisdiction or any other applicable law in and to the HAP Contract Rights.

(b) If an Event of Default has occurred and is continuing, Funding Lender may direct the Contract Administrator to remit future Housing Assistance Payments to Funding Lender. Borrower consents to all such remittances. Funding Lender will apply to the Indebtedness any Housing Assistance Payments that it receives.

C. Reserved

D.Section 5.47 is deleted and replaced with the following:

**5.47 Representations Regarding HAP Contract**. Borrower represents and warrants that all the following are true:

(a) The copy of the HAP Contract it has provided to Funding Lender includes all amendments, schedules and exhibits and is complete and accurate in all respects.

(b) Neither the Borrower nor any of its principals or Affiliates (as defined in 24 C.F.R. Section 200.215) is subject to or has received any notice of any debarment, suspension or other administrative or investigative proceeding initiated by HUD or any other federal or state government agency.

(c) Borrower has not received any notice from HUD indicating that any of the following are true:

(i) HUD may not or will not renew the HAP Contract upon its expiration.

(ii) HUD may or will terminate the HAP Contract before its expiration.

(iii) HUD may or will reduce or has reduced the number of units subject to the HAP Contract.

E. Section 6.27 is deleted and replaced with the following:

**6.27 Compliance with HAP Contract**.

(a) Borrower will file with the Contract Administrator on a timely basis all documentation necessary to obtain timely monthly Housing Assistance Payments under the HAP Contract.

(b) Borrower will file with the Contract Administrator a request for each annual rent increase under the HAP Contract, at such time as will permit the implementation of the increase at the earliest possible date. Borrower will promptly implement each approved annual rent increase when it becomes permissible.

(c) Borrower will comply fully with all of its obligations under the HAP Contract. Borrower will promptly provide Funding Lender a copy of any notice Borrower receives alleging that Borrower is in breach of the HAP Contract or that the Mortgaged Property is not being maintained as required by the HAP Contract. Borrower also will promptly provide Funding Lender copies of any inspection or compliance reports received from the Contract Administrator. Borrower will notify Funding Lender within 5 Business Days of the earliest of the following: (i) receiving notice that the Contract Administrator will exercise any of its rights or remedies under the HAP Contract or (ii) Contract Administrator exercising any of its rights or remedies under the HAP Contract.

(d) Without limiting the generality of subsection (c), Borrower will comply fully with provisions of the HAP Contract that require the consent of the Contract Administrator for any Transfer of the Mortgaged Property, any interest in the Mortgaged Property or any interest in the Borrower entity, even if the consent of Funding Lender to such Transfer is not required under this Continuing Covenant Agreement. Any consent by Funding Lender to a Transfer under Article VII will be in addition to, and not in lieu of, any consent by the Contract Administrator that is required by the HAP Contract.

(e) Borrower will avail itself of all rights and opportunities to renew or extend the HAP Contract. Except for renewals or extensions of the term of the HAP Contract and amendments solely for the purpose of implementing rent increases, Borrower will not amend or terminate the HAP Contract without the prior written consent of Funding Lender. Borrower will provide Funding Lender a complete and accurate copy of each amendment, renewal or extension.

(f) Borrower will provide Funding Lender copies of all audited financial statements that it provides to the Contract Administrator under the HAP Contract.

F. Section 9.01(kk) is deleted and replaced with the following:

(kk) Any Transfer of: (i) the Mortgaged Property, (ii) any interest in the Mortgaged Property, or (iii) any interest in the Borrower without prior consent of the Contract Administrator if required by the HAP Contract.

G. The following definitions are added to Article XII:

“**Contract Administrator**” is as specified in Section 1.05.

“**Current HAP Contract**” means the Housing Assistance Payments Contract between Borrower and the Contract Administrator dated the Current HAP Contract Date specified in Section 1.05.

“**Current HAP Contract Date**” is as specified in Section 1.05.

“**HAP Contract**” means the Current HAP Contract and any subsequent Housing Assistance Payments Contracts entered into between Borrower and the Contract Administrator and affecting the Mortgaged Property.

“**HAP Contract Rights**”means the right to Housing Assistance Payments and all other interests and rights of the Borrower in and under the HAP Contract.

“**Housing Assistance Payments**” means payments received under the HAP Contract.

“**Housing Assistance Payments Contract**”is a contract with HUD or the Contract Administrator for the payment of Housing Assistance Payments.

“**HUD**” means the Department of Housing and Urban Development.

H. The following definitions in Article XII are modified as follows:

The “**Mortgaged Property**” granted, conveyed and assigned to Funding Lender will include the Borrower’s right to receive Housing Assistance Payments under the Current HAP Contract and any subsequent Housing Assistance Payments Contracts and any and all other HAP Contract Rights and all amendments, renewals and extensions of the HAP Contract.

The “**UCC Collateral**” will include the Borrower’s right to receive Housing Assistance Payments under the Current HAP Contract and any subsequent Housing Assistance Payments Contracts and any and all HAP Contract Rights and all amendments, renewals and extensions of the HAP Contract.