|  |  |
| --- | --- |
| **Green and Resilient Retrofit Program** **Surplus Cash Loan Agreement** **(Comprehensive Cohort)** | **U.S. Department of Housingand Urban DevelopmentOffice of Multifamily Housing** |
| **Public reporting burden** for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.This collection of information is required to receive an award under the Green and Resilient Retrofit Program (GRRP) as authorized by Section 30002 of the Inflation Reduction Act of 2022, Public Law No. 117-169 (“IRA”), titled “Improving Energy Efficiency or Climate Resilience of Affordable Housing.” Requirements for GRRP were established in Notice H 2023-05, and subsequent notices, including Notice H 2024-01. The information will be used to close on a GRRP Loan Award and dictates the terms under which the Loan will be awarded. There are no assurances of confidentiality. |
|  |
| Owner (complete each box, even if information is duplicative) |
| Owner Entity Name:TIN:UEI: | Notice Address: |
| Project Name: | Unit Count Assisted:Unassisted: Total:  | Project Address: |
| Assistance Contract Number (PRAC or HAP): | IREMS ID Number: | FHA Number (if applicable): |
| Surplus Cash Loan Award Information |
| GRRP Application ID. No.: GRRP Surplus Cash Award No.:Award Letter Date: | HUD Administering Office:U.S. Depart. Of Housing & Urban DevelopmentOffice of Recapitalization, Multifamily Investments Division451 7th Street SW, Room 6230Washington, DC 20410 |
| GRRP Loan Amount: $ |
| GRRP Use Agreement |
| GRRP Use Agreement Effective Date: |  |
| GRRP Use Agreement End Date: |  |
| Affordability Period: | [INSERT NUMBER OF YEARS] |
| Scope of Work |
| Estimated timeframe for completion of Scope of Work (the “Completion Date”): | [INSERT ACTUAL DATE] |
| GRRP Completion Certification Due No Later Than: | [INSERT ACTUAL DUE DATE] |

This Green and Resilient Retrofit Program Surplus Cash Loan Agreement (“Agreement”) is entered into by and among [*insert Owner*], a [*insert* *entity type*], organized and existing under the laws of [*the State / Commonwealth of X*] (“Owner” or “Borrower”) and the United States Department of Housing and Urban Development, acting by and through the Secretary, his or her successors, assigns or designees (“HUD”), as of [*Month and Day*], 202[X] (“Effective Date”).

**RECITALS**

**WHEREAS**, Owner holds a [*fee simple* / *leasehold* ]interest in that certain real property located in the [City / Town / Village], in the County of [*county, in the State of / Commonwealth of*] (the “Real Property”), on which is constructed a multifamily housing project known as [*name of property*] (the “Project” and, together with the Real Property, the “Property”) as further described in Exhibit A;

**WHEREAS,** Owner applied for a Comprehensive GRRP Surplus Cash Loan pursuant to the Notice of Funding Opportunity – Green and Resilient Retrofit Program (GRRPC) Comprehensive, FR-6700-N-91A (posted May 11, 2023), and HUD awarded and Owner accepted such award pursuant to the Award letter, dated \_\_\_\_\_\_\_\_\_\_ between the Owner and HUD, as such may have been subsequently amended or assigned (the “Award Letter”), which the Parties intend to close simultaneously with the execution of this Agreement (the “GRRP Loan”);

**WHEREAS,** Owner, as a condition of acceptance of the GRRP Loan, agrees to use the total amount of the GRRP Loan for the Comprehensive Eligible Costs described in Exhibit B of this Agreement, in conformance with the requirements of Section 30002 of the Inflation Reduction Act of 2022, Public Law No. 117-169, titled “Improving Energy Efficiency or Climate Resilience of Affordable Housing and HUD Notice H 2023-05,as amended and revised from time to time, including by Notice H 2024-01, (the “GRRP Notice”);

**NOW, THEREFORE,** in consideration of the mutual promises hereinafter set forth and of the valuable consideration, the Parties hereto do covenant and agree as follows:

**AGREEMENT**

1. **Loan.** HUD shall make and Borrower shall obtain a Surplus Cash Loan in the principal sum of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars ($ \_\_\_\_\_\_\_\_), to be advanced as hereinafter provided, and to bear simple interest beginning on the date HUD approves the Completion Certification or [*insert the date that is 30 months from the Effective Date*], whichever occurs first, at the rate of one percent (1%) per annum. The Loan shall be evidenced by a credit instrument (**“Note”**) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_. The Note shall be payable in annual installments on the date that is ten (10) days after the date that the Annual Financial Statement (AFS) of the Owner is due to HUD, beginning with the first AFS filing following HUD’s approval of the Completion Certification or 30 months from the Effective Date, whichever occurs first, and shall have a maturity date of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_. The Note shall be executed by Borrower and payable to HUD and shall be secured by a Security Instrument, of even date (“Security Instrument”), on the Land described in the Security Instrument. The Security Instrument shall constitute a valid lien on said Land and the Improvements to be erected thereon, in a priority approved by HUD.
2. **GRRP Requirements.**
3. The Borrower agrees to conduct all activities to be assisted with funds provided under this Agreement in accordance with the following requirements (collectively, the “GRRP Requirements”):
	1. Section 30002 of the Inflation Reduction Act of 2022, Public Law No. 117-169 (“IRA”), titled “Improving Energy Efficiency or Climate Resilience of Affordable Housing”;
	2. HUD Notice H 2023-05, as amended and revised from time to time, including by Notice H 2024-01, (the “GRRP Notice”);
	3. Notice of Funding Opportunity (NOFO) – Green and Resilient Retrofit Program (GRRP) Comprehensive, FR-6700-N-91A published via Grants.gov on May 11, 2023, or any revision thereto, under which this Loan was awarded (“GRRP Comprehensive NOFO”)
	4. All terms and requirements of this Agreement, and any amendments or addenda thereto;
	5. All terms and requirements of the Legal Documents executed in connection with the GRRP closing, including the Surplus Cash Note and Security Instrument and any amendments or addenda thereto; and
	6. All regulations, handbooks, notices and policies appliable to the activities being conducted with funds provided under this Agreement.
4. **Conflicts**. Any conflicts between this Agreement and any other HUD requirements shall be conclusively resolved by HUD.
5. **Definitions**. Any capitalized term not defined herein shall have the meaning given in the GRRP Notice.
6. **Disbursements.** The Owner must submit Draw Requests to HUD for approval through Greenlight, or in a form as otherwise directed by HUD. The anticipated draw schedule is attached as Exhibit C.
	1. Each Draw Request submitted to HUD will constitute, and be deemed to be, a representation that the Owner is not in breach of this Agreement (except as the Owner previously may have disclosed to HUD in writing) and that the certifications, representations and warranties in Section 5 of this Agreement are true, unless otherwise disclosed in writing to HUD.
	2. HUD will approve no more than 90% of the GRRP Loan for disbursement prior to approving the Completion Certification. Disbursements will be conditioned on HUD’s review and approval of the progress of construction, which may include on-site inspections and/or reviews of progress reports from the Architect and General Contractor.
	3. HUD may deny or delay approval of any Draw Request during any period in which the Owner is in breach or Default under this Agreement or has failed to file any HUD-required report.
	4. HUD, subject to the terms of this Agreement, will disburse to the Owner the GRRP Loan up to the amount as listed above, provided, however, that in no event will the amount of the GRRP Loan exceed the actual total expenditures on Comprehensive Eligible Costs completed at the Project.
	5. All Draw Requests must be submitted prior to September 30, 2027, unless such date is extended by HUD in writing.
7. **Borrower Covenants.**
8. **Comprehensive Eligible Costs.** The actual, reasonable cost of eligible Cost-Share Items, High Impact GRRP-Paid Items, and Transaction Costs in the approved Scope of Work attached as Exhibit B shall comprise the Comprehensive Eligible Costs. The Scope of Work includes any construction to be undertaken at the Property (other than routine maintenance) following the Comprehensive Construction Commitment including GRRP-funded, Owner-funded, and jointly funded measures**.** Without regard to the adequacy of funds provided in the GRRP Grant, Owner shall ensure that the Scope of Work is incorporated into the Property and completed in the time frame set forth in this Agreement and in accordance with applicable GRRP Requirements. With prior HUD approval, the Owner may amend Exhibit B to modify the Scope of Work. If at any time the Owner determines that the remaining GRRP Grant Funds may be insufficient to complete the Scope of Work, the Owner hereby agrees to fund additional amounts. Without limiting HUD’s rights and remedies that may arise in the event the Owner fails to complete the Scope of Work, until the Owner provides to HUD a plan for completing the remaining Scope of Work, HUD may withhold action for the further release of funds.
	1. **Owner-Paid Items.** Exhibit B identifies the Owner-Paid items as defined in Section 5.5(A) of the GRRP Notice. Owner is fully responsible for costs associated with completing the Owner-Paid items and cannot use GRRP award funding for these costs.
	2. **Cost-Share Items.** Exhibit B identifies Cost-Share items as defined in Section 5.5(B) of the GRRP Notice. Owners are required to cover the cost of the standard version of the identified building component or system and HUD will cover the incremental cost associated with upgrading the building component or system to a greener or more resilient alternative. The portion of the GRRP award associated with Cost-Share Items is capped at 50% of the maximum award amount.
	3. **High Impact GRRP-Paid Items.** Exhibit B identifies High Impact GRRP-Paid Items as defined in Section 5.5(C) of the GRRP Notice. The GRRP Award will fully cover the reasonable cost of the High Impact GRRP-Paid Items. Twenty-five percent (25%) of the maximum award amount is reserved for High Impact GRRP-Paid Items and the maximum award amount available to the Property will be reduced if the Owner does not complete the High Impact GRRP-Paid Items.
	4. **Transaction Costs.**  Eligible Comprehensive Award Transaction Costs are defined in Section 5.5(D) of the GRRP Notice. The Comprehensive Award will fund Transaction Costs approved in Exhibit B, not to exceed 30% of GRRP funding provided for Cost-Share Items and High Impact GRRP-Paid Items. Transaction Costs for the Owner’s project management costs as defined in Section 5.5(D), subparagraph (6) may not exceed 15% of the total funding provided for Cost-Share Items and High Impact GRRP-Paid Items.
	5. **Financial Thresholds and Sources and Uses.** HUD has approved the Sources and Uses for the overall transaction attached hereto as Exhibit D (the “Sources and Uses”) and confirms that the Source and Uses comply with the Financial Thresholds set forth in the GRRP Notice, or as otherwise approved by HUD. Owner shall submit updated Sources and Uses with the Completion Certification and HUD shall review to confirm that the Sources and Uses comply with the Financial Thresholds in the GRRP Notice.
	6. **Closing.** Electronic copies of the fully executed Legal Documents including, if applicable, evidence of recording in the local real estate records, and an electronic copy of the final closing docket, including copies of all transaction financing and construction contracts reviewed in the Comprehensive Closing Package, shall be submitted to HUD within 30 Days of the Closing through HUD’s online GRRP case management system known as Greenlight (“Greenlight”) or as otherwise directed by HUD.
	7. **Signage.** Subject to applicable zoning laws,Owner shall post signage at the Property during construction that identifies that the Property received assistance from the U.S. Department of Housing and Urban Development under the Inflation Reduction Act of 2022. Such signage shall be prominently displayed and visible to the public while the Scope of Work is being conducted.
	8. **Work Standards.** The Scope of Work must be completed in accordance with:
		1. The more stringent of: (1) any applicable national building code, such as the Uniform Building Code, the Council of American Building Officials Code, or the Building Officials Conference of America Code, or (2) applicable state and local laws, codes, ordinances, and regulations;
		2. All relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR Part 35, as applicable;
		3. Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Part 8, including but not limited to accessibility standards, as applicable in the event of any “substantial alterations” or other “alterations,” each as defined in such regulations;
		4. If applicable, the Owner must comply with the Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021. The GRRP Loan is governed by HUD’s implementation of BABA. BABA compliance is subject to the Phased Implementation Waiver published by HUD on February 15, 2023, as such may be modified or amended from time to time. Owners that received a GRRP Award Letter dated prior to February 22, 2024, are not subject to BABA.
		5. All other applicable Federal requirements including other applicable Federal requirements including any Federal fire-safety requirements and HUD minimum property standards (*e.g*., 24 CFR Part 200, subpart S for FHA-insured properties**).**
	9. **General Contractor.** Unless waived by HUD in writing, the Owner shall engage a qualified general contractor who shall obtain either (i) a payment bond and performance bond from a properly licensed surety, which bond and surety shall be acceptable to HUD, or (ii) a letter of credit, acceptable to HUD.

# **Tenant Relocation.** TheOwner must ensure that the completion of the Scope of Work does not result in the involuntary, permanent displacement of any resident. In addition to compliance with the URA as described in Section 6(a) below, the Owner is responsible for ensuring that all relocation requirements, as set forth in Section 8 of the GRRP Notice, are met and shall provide HUD with a certification regarding the residency and relocation history of residents upon completion of the Scope of Work.

# **GRRP Use Agreement**. Concurrent with, or prior to, execution of this Agreement, HUD and the Owner will enter into a GRRP Use Agreement, which will be recorded as a restrictive covenant on the Project in accordance with the GRRP Notice. The GRRP Use Agreement shall have a term of the longer of fifteen (15) years from the date of execution of the GRRP Use Agreement or five (5) years beyond any existing use restriction regarding affordability running in favor of HUD. Such term is identified as the GRRP Use Agreement Term on page 1 of this Agreement.

* 1. **Completion of the Comprehensive Scope of Work.** The Comprehensive Scope of Work described in Exhibit B is estimated to be completed no later than the Completion Date. All non-GRRP-funded rehabilitation or improvement activity must be scheduled so as to not interfere or impede completion of the Scope of Work within the prescribed time for such completion.
	2. **Addressing Physical Needs and Replacement Reserve Requirements.** The Owner must address all physical needs at the Project as identified by the Assessment Suite and submitted as part of the Transaction Plan through completion of the Scope of Work or through the adequacy of a funded replacement reserve as demonstrated by a Replacement Reserve Analysis submitted through the Completion Certification. Any identified Critical Needs or Life and Safety hazards must be completed prior to Completion Certification.
	3. **Reevaluation of Tenant Paid Utility Allowances.** Prior to the Completion Date, for any utilities paid by tenants, Owner shall submit utility allowance projections performed by a professional engineer based on the Scope of Work that, at a minimum, considers specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. If approved by HUD, these projections will be used upon completion of the Scope of Work to calculate utility allowances following Notice H 2015-04, particularly Section VII. If utility allowances would decrease, Owner must follow the requirements described in Notice H 2015-04. If the Scope of Work does not impact tenant-paid utilities Owner is not required to submit utility allowances pursuant to this Agreement, however, this Agreement does not alter Owner’s obligations to reevaluate utility allowances pursuant to the requirements of Notice H 2015-04 or successor guidance.
	4. **Completion Certification.** Within 45 days of the Completion Date but no later than the date listed on the first page of this Agreement, unless otherwise extended by HUD, the Owner shall submit a Completion Certification package, in the form prescribed by HUD, containing: (i) a certification by a third party accountant of the final Comprehensive Eligible Costs, (ii) a certification from the Owner that the Property, Award, and the Owner are in compliance with the GRRP Requirements, (iii) confirmation that pre-construction benchmarking has been completed and entered into EPA’s Portfolio Manager and shared with HUD and (iv) other items as my be required by HUD (v) if residents were located offsite, a record of all residents that did not return to the Property after completion of the Scope of Work, (vi) Section 3 reporting, (vii) a certification from the Owner that the Property has adopted a Disaster Preparedness Plan, (viii) the post-construction resiliency survey, (ix) updated Sources and Uses, ix) an updated Replacement Reserve Analysis and (xi) other items as may be required by HUD. Upon approval of the Completion Certification, HUD shall disburse the remaining Comprehensive Award funds, provided that in no event shall HUD disburse an amount that would be greater than the total of Comprehensive Eligible Costs.
	5. **Benchmarking.** Owner must generate, submit, and share a Portfolio Manager score with a full year of post-completion data within eighteen (18) months of submitting a Completion Certification and again each year thereafter for a total of least five post-construction years, unless the benchmarking requirement has been waived by HUD due to exceptional barriers to data collection.
	6. **Rental Assistance**. The Project is currently subject to an existing HUD assistance contract. Project Owner shall renew the assistance contract throughout the full term of the GRRP Affordability Period, as specified on page 1 of this Agreement.
	7. **Disaster Preparedness Plan.** All Owners must develop, maintain and update a Property-wide Disaster Preparedness Plan for the Affordability Period. The Disaster Preparedness Plan should be informed by the climate hazard risks identified in the NRI and in climate projection tools, and any Hazard Mitigation Plan developed by the local jurisdiction. The Disaster Preparedness Plan should include an evacuation plan that includes safe egress route(s), plans for evacuating residents with disabilities, medical needs, or other special needs, and clear communication of the evacuation plan and safety resources for residents. The plan must include effective communication for individuals with disabilities and meaningful access for individuals with Limited English Proficiency. For residents with special needs, the plan must include a strategy for emergency evacuation and relocation, including discussion of facilities of like capacity that are equipped to provide critical needs-related care and services at a level similar to the originating facility. The Owner must make the Disaster Preparedness Plan available to residents upon request.
	8. **Annual Financial Statement Reporting Requirements.** Owner acknowledges that, after the Effective Date, the Owner is required to prepare and submit annual financial statements to HUD in accordance with the Uniform Financial Reporting Standards of 24 CFR Part 5, Subpart H, including any changes in the regulation and related directives. This obligation shall apply during the current term of the HUD assistance contract and for each successive renewal term. The Owner agrees to amend the existing HUD assistance contract(s) on the form provided by HUD to add and/or confirm such requirements contemporarily with the execution of this Agreement.
	9. **Physical Inspection Requirements.** Owner acknowledges that, after the Effective Date, the Owner is required to comply with the Physical Condition Standards and Inspection Requirements of 24 CFR Part 5, Subpart G and with HUD’s Physical Condition Standards of Multifamily Properties of 24 CFR Part 200, Subpart P, including any changes in the regulation and related directives. This obligation shall apply both during the current term of the HUD assistance contract and during each successive renewal term. The Owner agrees to amend the existing HUD assistance contract(s) on the form provided by HUD to add and/or confirm such requirements contemporarily with the execution of this Agreement.
	10. **Additional Information Requests.** The Owner will comply with all other reporting requirements from time to time established by HUD, in its sole discretion, in connection with GRRP. The Owner will fully cooperate with all reasonable information gathering requests made by HUD or contractors of HUD in the course of authorized evaluations of GRRP and submit details with respect to the metrics described in the GRRP Notice or any other metrics that may HUD prescribe.
	11. **Right to Inspect.** HUD and its agents shall, at all times prior to the approval of the Completion Certification, have the right of entry and free access to the Project and the right to inspect all work done, and materials, equip­ment, building components and fixtures furnished, installed or stored either on or off the Land related to the Comprehensive Scope of Work, and to inspect all books, subcontracts and records of Borrower. HUD has no obligation to make any such inspections. Any and all inspections by HUD or its agents shall solely be for the benefit of HUD. Neither Borrower nor any third party shall have any claims against the HUD or their respective agents as a result of such inspections. HUD assumes no obligation of the Borrower or any other person or entity with respect to the quality of construction of the Project, compliance of said construction with this Agreement or any defects in said construction.
	12. **Additional Provisions.** Owner shall comply with all additional provisions or special conditions listed in Exhibit E of this Agreement.

#  **Certifications, Representations and Warranties by the Owner**. Any statement, certification, representation, or warranty made by the Owner to induce HUD to execute this Agreement was true and correct when given and remains true and correct as of the date hereof. In the event any such statement, certification, representation, or warranty is no longer complete or correct, the Owner shall notify HUD in writing immediately upon becoming aware of such information. This notification requirement does not, in any way, limit HUD’s rights and remedies. Without limiting the foregoing, the Owner hereby represents and certifies to HUD and warrants to maintain the veracity of the statements set forth below. Upon the request of HUD, the Owner shall provide HUD with evidence satisfactory to HUD relating to each of the foregoing certifications.

## The Owner is duly organized, validly existing and in good standing under the laws of the applicable jurisdiction(s).

## There have been no material changes in the nature of the Project, Comprehensive Transaction Plan, or other materials as submitted to HUD for review prior to execution of this Agreement.

## All notices required by GRRP Requirements relating to the Project have been timely provided to such persons and in a manner complying with applicable GRRP Requirements.

## As of the Effective Date, the Project continues to meet all program eligibility requirements as stipulated in the GRRP Comprehensive NOFO.

## The Owner has the requisite power and authority, and has secured all consents required, to consummate the Project and the Scope of Work.

## Each of the documents executed by or on behalf of the Owner in connection with the Project is a legally binding obligation of the Owner, duly executed and delivered on behalf of the Owner and enforceable in accordance with its terms.

## There is no material litigation or other claim pending or threatened against the Owner other than as disclosed to and consented to by HUD.

## This Agreement, including, without limitation, the first two pages hereof and the Exhibits attached hereto, accurately reflects the terms of the Comprehensive Transaction Plan and GRRP Loan. The Owner’s execution of this Agreement constitutes acceptance of the final business terms reflected herein.

## To the best of the Owner’s knowledge based on commercially reasonable due diligence, the Sources and Uses of funds are sufficient to pay for the Scope of Work.

## Except as specifically disclosed to and accepted by HUD in writing, the Owner (including, but not limited to Board Members, principals and executives of the Owner) does not have any knowledge that it (or any Board Members, principals and executives of the Project Owner in their official capacity as members, principals or executives of the Project Owner, as applicable) is the current subject of, nor has received any pending notice of, any debarment, suspension or other administrative proceeding, audit or investigation by HUD, including without limitation by the Inspector General, the Departmental Enforcement Center, or the Office of Fair Housing and Equal Opportunity, or any other Federal or state government agency, whether or not sanctions have been imposed against such party.

## No disclosed debarment, suspension or other administrative proceeding, audit or investigation would impact the Owner’s ability to carry out its obligations as contemplated under this Agreement.

1. **Cross-Cutting Federal Requirements.**
	1. **Uniform Relocation Act Requirements.** Owner must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 U.S.C. 4601 et seq.) and its implementing regulations (49 CFR Part 24) (collectively the “URA”). Owners must ensure compliance with the URA in addition to all requirements set forth in Section 8 of the GRRP Notice. Any resident relocation as a direct result of acquisition, demolition, or rehabilitation is subject to requirements of the URA. URA is a Federal law that establishes minimum standards for federally-funded programs or projects that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a direct result of acquisition, rehabilitation, or demolition. Residents who are relocated from their units as a result of activities undertaken with the GRRP Loan may be entitled to relocation assistance and payments as set forth in the URA. URA compliance documentation may be requested at the time of the Completion Certification.
	2. **Davis-Bacon Wage Rates.** Davis-Bacon prevailing wage requirements are applicable to the GRRP Loan for properties with 12 or more units. As indicated in the Comprehensive Construction Commitment, the Owner shall either apply Davis-Bacon prevailing wage requirements to the Scope of Work or submit a project labor agreement executed by the local building trade unions and the General Contractor. If the Owner is utilizing another fund source of funding that would require compliance with the Davis-Bacon prevailing wage requirements then no Davis-Bacon compliance reporting is required under this Agreement, however the Owner must comply with all Davis-Bacon reporting requirements as may be required under any other funding source that requires Davis-Bacon prevailing wages.
	3. **Section 3 Economic Opportunities.** The GRRP Loan constitutes housing and community development assistance pursuant to Section 3 of the Housing and Urban Development of 1968 (12 U.S.C. § 1701u) (“Section 3”). Accordingly, all GRRP Loans meeting the applicable recipient thresholds shall be subject to the Section 3 requirements applicable to the housing and community development activities as set forth in Section 3, subsections(c)(2) and (d)(2) and the regulations derived from such provisions at 24 CFR Part 75 or successor part. The Owner is required to maintain documentation to demonstrate compliance with the regulations and shall report Section 3 compliance at the time of the Completion Certifications.
	4. **Civil Rights, Fair Housing and Accessibility.** Expenditure of GRRP Loan funds must be done in a manner that is consistent with all applicable civil rights laws, including the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Further, Owner must comply with all appliable Civil Rights, Fair Housing and Accessibility requirements as set forth in Section 10.7 and Section 10.8 of the GRRP Notice, as those requirements may be amended from time to time.
	5. **Record Keeping and Reporting.** Owners must maintain detailed supporting documentation, such as receipts and paid invoices, of all expenses funded by the GRRP Loan. Documentation must be made available upon request to HUD, its duly authorized representative, the Comptroller General of the United States, or a U.S. Attorney, for purposes of audit or other compliance monitoring. Owner must retain documents related to all financial management and activities supported with the GRRP Loan for a period of three (3) years from the date of the approval of the Completion Certification. HUD reserves the right to extend the record-retention period beyond three (3) years and will notify Owners in writing if such extensions are warranted. The GRRP Loan shall be treated as restricted Property funds. GRRP Loan funds should be deposited into a segregated account and recorded separately from Property operating funds. The Property’s Certified Public Accountant must also include a footnote in the notes to the Annual Financial Statements that states how much GRRP Loan funds were received and how they were used.
	6. **Whistleblower Rights and Protections.** Owner must comply with 41 U.S.C. § 4712, which includes informing employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a contractor, subcontractor, grantee, subgrantee, and personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.
2. **Default.**
	1. **Events of Default.** As determined by HUD in its sole discretion, each of the following events or occurrences, to the extent it constitutes a material or repeated breach or occurrence, may constitute an Event of Default by the Borrower under this Agreement if not cured as set forth below:
		1. use of funds provided under this Agreement for any purpose, in any manner or at any time, other than as authorized by this Agreement;
		2. failure by Borrower to pay or deposit when due any amount required by the Note or Section 7 of the Security Instrument
		3. failure to comply with the GRRP Requirements or any other Federal, State, or local laws, regulations or requirements applicable to the Project;
		4. any material misrepresentation in any of the required submissions under this Agreement; or
		5. failure to comply with, or any material breach of, any other requirements, conditions or terms of this Agreement, the GRRP Award Letter or other Legal Documents.
	2. **Notice and Opportunity to Cure.** HUD will give the Owner written notice of any breach as set forth in paragraph (a) above. The notice will give the Owner the opportunity to cure such breach within 30 days of the date of the notice, or to demonstrate within this time period, by submitting substantial evidence satisfactory to HUD, that it is not in breach. If the breach is not able to be cured within the 30-day period, the Owner will demonstrate, to HUD's satisfaction, that the Owner has taken actions necessary to cure the breach and that the breach is curable within 90 days from the date of the breach notice. Additionally, the Owner must agree to carry out such cure diligently and to complete the cure within the 90-day period. HUD will also provide notice to Owner’s Principal(s) as provided in Section 28 of the Security Instrument. Owner’s Principal(s) shall have the right, but not the obligation to cure a default on behalf of the Owner.
	3. **Remedies upon Default.**  If the Owner fails to cure all breaches specified in the notice of breach within the time periods set forth in paragraph (b) of this Section, or fails to diligently pursue or complete any cure as provided in paragraph (b), HUD may declare an Event of Default of this Agreement and may (but shall not be required to) (i) withhold any disbursement hereunder; (ii) declare the indebtedness evidenced by the Note to be immediately due and payable and pursue HUD’s other remedies under the Note or the Security Instrument; (iii) require additional project monitoring or reporting; (iv) require the Owner to obtain technical or management assistance; (v) terminate this Agreement or (vi) institute any action, suit or other proceeding of law or equity, including but not limited to pursuing specific performance of the GRRP funded activities, which HUD shall deem necessary or proper for the protection of its interests.
	4. No waiver by HUD of any Event of Default under this Agreement will be effective unless such waiver is in writing and signed by HUD. No waiver by HUD of any default under this Agreement will operate as a waiver of any other default or of the same default on a future occasion. HUD may delay in exercising or omit to exercise any right or remedy available under this Agreement or any other Legal Document or by law or equity provided without waiving that or any past, present or future remedy. All rights and remedies of HUD in this Agreement and the other Legal Documents are cumulative, and none of these rights or remedies are exclusive of any other right or remedy allowed at law or in equity or in any other loan document, and all of these rights and remedies may be exercised and enforced concurrently.
3. **Notices.**
	1. All notices, demands and other communications (“Notice”) under or concerning this this Agreement shall be in writing. Each Notice shall be addressed to the intended recipients at their respective addresses set forth in this Agreement, and shall be deemed given on the earliest to occur of (1) the date when the Notice is received by the addressee; (2) the first Business Day after the Notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (3) the third Business Day after the Notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section 8, the term (“Business Day”) means any day other than a Saturday or a Sunday, a federal holiday or holiday in the state where the Project is located or other day on which the federal government or the government of the state where the Project is located is not open for business. When not specifically designated as a Business Day, the term “day” shall refer to a calendar day. Failure of HUD to send Notice to Borrower or its Principal(s) shall not prevent the exercise of HUD’s rights or remedies under this Agreement or under the Loan Documents.
	2. Any party to this Agreement may change the address to which Notices intended for it are to be directed by means of Notice given to the other party in accordance with this Section 8. Each party agrees that it shall not refuse or reject delivery of any Notice given in accordance with this Section 8, that it shall acknowledge, in writing, the receipt of any Notice upon request by the other party and that any Notice rejected or refused by it shall be deemed for purposes of this Section 8 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.
	3. Any Notice under the Note which does not specify how Notice is to be given shall be given in accordance with this Section 8.
4. **Consistency with Federal Law**. Nothing contained in this Agreement shall impose on HUD any duty, obligation, or requirement, the performance of which would be inconsistent with federal statutes, rules, or regulations in effect at the time of such performance.
5. **No Third-Party Rights.** The Owner and HUD are the sole parties to this Agreement and do not intend to create any third-party beneficiaries to this Agreement. Nothing in this Agreement may be construed as conferring the status of third-party beneficiary upon the residents; and in no event shall any entity other than the Owner have direct rights to the GRRP funds provided for under this Agreement.

1. **Conflict of Interest**
	1. **Prohibition.** No person who is an employee, agent, officer, or elected or appointed official of the Owner or their Immediate Family Member and who exercises any functions or responsibilities with respect to activities assisted under this GRRP Loan may have a direct interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder.Immediate Family Member means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister or brother (including a stepsister or stepbrother) of any covered individual.
	2. **HUD-Approved Exception.**
		1. Standard. HUD may grant an exception to the prohibition in paragraph (a) of this Section on a case-by-case basis when it determines that such an exception will serve to further the purposes of GRRP and its effective and efficient administration.
		2. Consideration of Relevant Factors.In determining whether to grant a requested exception under paragraph (b), HUD will consider the cumulative effect of the following factors, where applicable:
2. whether the exception would provide a significant cost benefit or an essential degree of expertise to the GRRP activities that would otherwise not be available;
3. whether an opportunity was provided for open competitive bidding or negotiation;
4. whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process, with respect to the specific activity in question;
5. whether the interest or benefit was present before the affected person was in a position as described in paragraph (a) of this paragraph;
6. whether undue hardship will result either to the Owner or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
7. any other relevant considerations.
	* 1. Identity of Interest relationships between the Owner and the developer or general contractor of the GRRP funded activities and development fees or contractor profit approved by HUD shall not constitute a conflict of interest under this Section.
8. **Entire Agreement.** The information listed on the chart on the first two pages of this Agreement, the Recitals and Exhibits are all part of this Agreement. This Agreement and all exhibits attached constitute the entire agreement between the Owner and HUD with respect to the Transaction. HUD has not provided, nor shall it provide, any opinions, representations, warranties, or covenants to any party regarding any federal, state and/or local tax consequences, financial consequences, or legal consequences relative to the Transaction. All prior and contemporaneous oral and written communications regarding the GRRP Loan are merged herein and superseded hereby.
9. **Amendments.**  This Agreement may only be amended by written instrument properly executed by the Parties.
10. **Successors and Assigns.** This Agreement and its attachments are binding upon the Owner and its successors and assigns. This Agreement may only be assigned in whole or in part with the prior written consent of HUD.
11. **Governing Law; Consent to Jurisdiction and Venue.** This Agreement shall be governed, construed and interpreted in accordance with the laws of the state, or commonwealth, in which the Property is located, and the Parties shall submit to the jurisdiction and venue of the courts in the county where the Property is located.
12. **Severability**. Should any provision of this Agreement be held by a court of law to be unenforceable, such determination shall in no way compromise the enforceability of the other provisions, which shall remain in full force and effect.
13. **Counterparts**. This Agreement may be executed in counterparts. Electronic copies of signatures (such as those in portable document format (.pdf)) shall be evidence of and treated as original signatures.
14. **Exhibits**. The following exhibits are a part of this Agreement and incorporated herein by this reference:

Exhibit A –Legal Description

Exhibit B – Scope of Work

Exhibit C - Draw Schedule

Exhibit D – Sources and Uses

Exhibit E – Additional Provisions

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

*The below parties hereby certify that the information provided on this form and in any supporting documentation submitted herewith is true and accurate. The undersigned understand that any misrepresentations may be subject to civil and/or criminal penalties including, but not limited to, fine or imprisonment, or both under the provisions of Title 18, United States Code, Sections 1001 and 1010.  This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD, and may be relied upon by HUD as a true statement of facts contained therein.*

OWNER:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Insert signatory’s typed name and title, and Project Owner signature block]*

Date:

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Agent

[*Insert typed signatory’s name and title*]

Date:

**Exhibit A – Legal Description**

**Exhibit B – Scope of Work**

**Exhibit C – Draw Schedule**

**Exhibit D – Sources and Uses**

**Exhibit E – Additional Provisions**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Title III of the Inflation Reduction Act of 2022, H.R. 5376 (IRA), section 30002 titled “Improving Energy Efficiency or Water Efficiency or Climate Resilience of Affordable Housing,” authorizes the Green and Resilient Retrofit Program (GRRP). The program provides grants or loans for building retrofits to HUD-assisted multifamily projects with utility efficiency or climate resilience needs. The Elements cohort of the program targets properties currently undergoing a recapitalization or other transaction with HUD and offers owners a menu of green and resilient building design features for reimbursement. This information collection is used to determine eligibility of HUD-assisted multifamily properties for participation in the GRRP Elements program and the terms on which participation should occur. The purpose of the program is to fund projects that improve energy or water efficiency, enhance indoor air quality or sustainability, implement the use of zero-emission electricity generation, low-emission building materials or processes, energy storage, or building electrification strategies, or address climate resilience, of an eligible property. While no assurances of confidentiality are pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.