

City Agreement No.: _____
 City Budget Code: _____

ARPA HOMELESS SERVICES PERMANENT SUPPORTIVE HOUSING AGREEMENT

THIS GRANT AGREEMENT (this "Agreement") by and between the CITY OF NAPA, a California charter City ("City") and Heritage House Partners, L.P., a California limited partnership ("Grantee") is effective as of the date last signed by the City, which is identified on the signature page as the "Effective Date." City and Grantee are hereinafter collectively referred to as the "Parties."

RECITALS

A. In response to the world-wide spread of the respiratory illness coronavirus disease 2019 (COVID-19), the Federal Health and Human Services Secretary declared a national public health emergency in the United States on January 31, 2020; the County of Napa proclaimed a public health emergency on March 12, 2020; Governor Gavin Newsom proclaimed a state of emergency in the State of California on March 4, 2020; the President of the United States declared a national emergency on March 13, 2020; and the City Council declared it a local emergency on March 15, 2020.

B. On March 19, 2020, Governor Newsom issued Executive Order N-33-20, which ordered all California residents to stay home or at their place of residence except as needed to maintain operations of certain federal critical infrastructure sectors. On March 19, 2020, the Public Health Officer of the County of Napa issued a similar stay-at-home order which made exceptions only to do essential activities, conduct essential government functions, and operate essential businesses. On June 15, 2021, the State moved forward with re-opening the economy and began the process of winding down many of the Executive Orders put in place since the beginning of the pandemic. Since that time, COVID-19 cases have increased substantially.

C. Prior to the reopening of the State, the federal American Rescue Plan Act of 2021 ("ARPA") was signed into law on March 11, 2021. The ARPA builds upon previously enacted aid measures such as the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). Under the ARPA, City received fifteen million one hundred twenty thousand dollars (\$15,120,000) from the "Coronavirus Local Fiscal Recovery Fund" directly from the federal Department of the Treasury. The Assistance Listing Number assigned to ARPA funds is 21.027.

D. The ARPA provides that payments from the Coronavirus Local Fiscal Recovery Fund may only be used: "(a) To respond to the public health emergency [with respect to the Coronavirus Disease 2019 (COVID-19)] or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; (b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; (c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and (d) To make necessary investments in water, sewer, or broadband infrastructure."

E. The City of Napa City Council directed a total of one million five hundred thousand dollars (\$1,500,000) of ARPA funding to be made available to support permanent supportive housing and ongoing tenancy care programs for clients that have exited

homelessness or have entered shelter, to assist with community recovery from the COVID-19 pandemic.

F. Grantee has submitted a request to City staff that meets the criteria of support related to permanent supportive housing programs.

G. This Agreement sets forth the terms and conditions upon which City will provide ARPA funding to Grantee to further the purposes of the ARPA.

NOW, THEREFORE, for the mutual consideration described herein, City and Grantee agree as follows:

1. Term. This Agreement is effective as of the Effective Date and terminates on December 31, 2024, unless earlier terminated in accordance with section 6 below.
2. Grant Amount; Return of Grant Funds. The City agrees to provide the Grantee a grant in the amount of \$745,466 ("ARPA Funds") to reimburse Grantee for Eligible Costs (defined below) in accordance with the terms and conditions set forth herein. Grantee shall use the ARPA Funds only to cover Eligible Costs incurred by Grantee.
3. Authorized Uses. The following terms apply to Grantee's use of the ARPA Funds:
 - a. Grantee shall use the ARPA Funds solely to pay for costs it incurs (collectively "Eligible Costs") that are necessary to carry out the activities listed in Exhibit A attached hereto and incorporated herein by reference ("Authorized Activities") in accordance with the terms of this Agreement, ARPA and the ARPA regulations set forth in 31 CFR Part 35 ("ARPA Regulations").
 - b. If the City determines by subsequent audit or other means that Grantee has used ARPA Funds for activities or costs that are not authorized by this Agreement or in violation of this Agreement or the ARPA Regulations, the Grantee shall repay the ARPA Funds to the City within sixty (60) calendar days of receipt of written notice from City unless City approves in writing an alternative repayment plan.
 - c. Grantee shall not use the ARPA Funds to supplant funding provided by City to Grantee under any other Agreement. Grantee shall include a term in every grant subaward Agreement and contract that prohibits the subrecipient or contractor from using ARPA Funds to supplant funding provided by City directly or indirectly to the subrecipient or contractor.
 - d. If Grantee has received other ARPA funds from City, ARPA funds from any other entity, or has received other federal funds (e.g., Coronavirus Relief Act funds, payroll protection act loan, etc.), Grantee shall not use the ARPA Funds awarded pursuant to this Agreement to pay for direct or indirect costs already covered by the other federal funds or ARPA payments.
4. Books and Records. During the term of this Agreement and for five (5) years after the termination or expiration of this Agreement, Grantee shall keep appropriate books, records, and accounts related to Grantee's use of the ARPA Funds and Grantee's activities hereunder in accordance with the following:

- a. Grantee shall maintain all records related to this Agreement in accordance with generally accepted accounting practices, including the following records: (i) general ledger and subsidiary ledgers used to account for the receipt of ARPA Funds and the disbursements of ARPA Funds to meet eligible expenses; (ii) budget records for all fiscal years covered by this Agreement; (iii) payroll, time records, human resource records to support costs incurred for payroll expenses related to this Agreement; (iv) receipts of purchases made with ARPA Funds; (v) contracts and subcontracts entered into using ARPA Funds and all documents related to such contracts; (vi) grant subaward Agreements entered into using ARPA Funds and all documents related to such awards; (vii) all documentation of reports, audits, and other monitoring of contractors, subcontractors, Grantee, and subrecipients; (viii) all documentation supporting the performance outcomes of contracts, subcontracts, grant subaward Agreements, and this Agreement; (ix) all internal and external email/electronic communications related to use of ARPA Funds; and (x) all investigative files and inquiry reports involving payment or use of ARPA Funds.
 - b. Grantee shall make its books, records, and accounts (both those that relate to this Agreement and those that do not), employees, performance-related records, property, and equipment related to this Agreement available to City's Accounting Manager (the "Accounting Manager") and any independent auditor at all reasonable times so that the Accounting Manager or an independent auditor may determine whether Grantee has complied with this Agreement. Within thirty (30) days of a written request from City, Grantee shall obtain and provide to City, at Grantee's sole cost, an independent financial audit of Grantee's use of the ARPA Funds.
 - c. Upon written demand by City, given in accordance with section 9 below, Grantee shall reimburse City for all ARPA Funds that the Accounting Manager or an independent auditor determines were expended for activities other than Authorized Activities in accordance with this Agreement, with reimbursement to be by check payable to City and delivered to City at the address shown in section 9 below by the date set forth in the City's written demand.
5. Supervision or Discipline of Minors. Grantee shall not employ a person, whether as an employee, contractor, or volunteer, in a position with supervisory or disciplinary authority over a minor in connection with this Agreement if the person has been convicted of an offense identified in California Public Resources Code section 5164, subdivision (a)(2). To give effect to this section, Grantee shall conduct a criminal background check on each person it employs in a position with supervisory or disciplinary authority over a minor.
6. Termination. Prior to the City's disbursement of ARPA Funds to the Grantee, either the City or Grantee may terminate this Agreement for convenience (with or without cause) by providing a 30 day written notice of termination to the City or Grantee. City may terminate this Agreement and exercise any and all remedies authorized pursuant to state, federal or local law, including requiring repayment of the ARPA Funds to the City, if City's City Manager determines in his or her absolute discretion that:
- a. Grantee has failed to perform, or has performed unsatisfactorily, any term of this Agreement, including failing to use the ARPA Funds solely for Authorized Activities;

- b. Grantee has made (with or without knowledge) any material misrepresentation of any nature with respect to any information or statements furnished to City in connection with this Agreement, including in Grantee's Application; or
 - c. There is pending litigation with respect to the performance by Grantee of any of its duties or obligations under this Agreement that may materially jeopardize or adversely affect the undertaking of or the carrying out of the Authorized Activities.
7. Procurement and Subrecipient Requirements. In connection with its activities and expenditures related to this Agreement, Grantee shall do the following:
- a. Grantee shall comply with the provisions of Title 24, Code of Federal Regulations, Part 24, relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status;
 - b. Grantee shall enter into a written grant subaward Agreement for each subaward of ARPA Funds that Grantee makes to a subrecipient;
 - c. Grantee shall enter into a written contract when it purchases goods or services using ARPA Funds;
 - d. Grantee shall ensure that each written grant subaward Agreement for a subaward of ARPA Funds imposes on the subrecipient all the obligations that this Agreement imposes on Grantee;
 - e. Within 30 days following the end of each quarter (i.e. March 31, June 30, September 30 and December 31), Grantee shall provide City with a written report substantially in the form attached hereto as Exhibit B and incorporated herein by reference ("Quarterly Report") on the progress Grantee has made on completing the Authorized Activities. The Quarterly Report must include all the following: (i) a narrative explanation of Grantee's progress toward all goals set forth in the Authorized Activities; (ii) an itemized list of all expenditures of ARPA Funds to date, including the amount of any subaward and the name of each subaward recipient and the names of any contractors paid with ARPA Funds and the amount paid; and (iii) any other information City may request to demonstrate that the Grantee is using the ARPA Funds solely for Authorized Activities and in accordance with this Agreement and all applicable laws;
 - f. No later than December 31, 2024, Grantee shall provide City with a closeout report that includes all the following: (i) an itemized list of all expenditures of ARPA Funds; (ii) the name of each subrecipient of ARPA Funds; (iii) the name of each contractor who is paid with ARPA Funds; (iv) the amount of each subaward of ARPA Funds; (v) the amount of each contract for the purchase of goods or services that is paid for in whole or in part with ARPA Funds; (vi) a copy of each grant subaward Agreement between Grantee and a subrecipient for a subaward of ARPA Funds; (vii) a copy of each contract for the purchase of goods or services that is paid for in whole or in part with ARPA Funds; (viii) all information required to be reported under Exhibit A and (ix) any other information that City may request to demonstrate that Grantee used the ARPA Funds solely for Authorized Activities in accordance with this Agreement. Grantee shall include with the report a certification that it used the ARPA Funds solely

for Authorized Activities in accordance with the terms of this Agreement.

8. Notices. All notices or requests required or contemplated by this Agreement will be in writing and delivered to the other party's Authorized Representative by personal delivery, U.S. Mail, nationwide overnight delivery service, email, or as otherwise specified herein. Delivery is deemed effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, (b) actual receipt at the address identified below, or (c) three business days following deposit in the U.S. Mail of registered or certified mail sent to the address identified below. A party's contact information, below, may be changed by providing written notice of any change to the other party.

TO CITY:

Molly Rattigan, Deputy City Manager
CITY OF NAPA
P.O. Box 660
NAPA, CA 94559-0660
mrattigan@cityofnapa.org

TO GRANTEE:

Jocelyn Lin
Director of Housing Development
1425 Corporate Center Parkway
Santa Rosa, CA 95407
jlin@burbankhousing.org

9. Indemnification. To the full extent permitted by law, Grantee will indemnify, hold harmless, release, and defend the City (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "Liability") of any nature, arising out of, pertaining to, or relating to Grantee's acts or omissions under this Agreement except that Grantee will not be obligated to indemnify City for the proportionate share of the Liability caused by the City's active negligence, sole negligence, or willful misconduct. Grantee's indemnification obligations under this Agreement are not limited by any limitations of any insurance held by Grantee, including, but not limited to, workers' compensation insurance.
10. Insurance. Without limiting Grantee's indemnification obligations in Section 10, Grantee will procure and maintain throughout the period of this Agreement, the following policies of insurance and endorsements from insurers (if other than the State Compensation Fund) with a current A.M. Best rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Grantee, its agents, employees or subcontractors:
- a. Commercial General Liability Policy. Commercial General Liability Insurance (CGL) at least as broad as CG 00 01, covering premises and operations and including but not limited to, owners and contractors protective, product and completed operations, personal and advertising injury and contractual liability

coverage with a minimum per occurrence limit of \$1,000,000 covering bodily injury and property damage; General Aggregate limit of \$2,000,000; Products and Completed Operations Aggregate limit of \$2,000,000 and Personal & Advertising Injury limit of \$2,000,000, written on an occurrence form. If the Authorized Activities involve explosive, underground or collapse risks, XCU will be included. If a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement or the general aggregate will be twice the required occurrence limit.

- b. Automobile Liability Policy. Automobile liability insurance with coverage at least as broad as ISO Form numbers CA 0001 06 92, Code 1 (any auto), covering use of all owned, non-owned, and hired automobiles and all vehicles used in the performance of this Agreement with minimum coverage of not less than \$1,000,000 per accident, combined single limit for bodily injury and property damage liability.
- c. Workers' Compensation. Workers' Compensation insurance meeting statutory limits of the Labor Code; and Employer's Liability insurance on an "occurrence" basis with a limit of not less than \$1,000,000. The workers' compensation policy will contain or be endorsed to contain a waiver of subrogation against the City, its officials, officers, agents, and employees.
- d. Endorsements. The CGL and automobile liability policies will contain or be endorsed with the following provisions:
 - i. The City, its officers, elected or appointed officials, employees, volunteers, and agents, are covered as additional insureds for liability arising out of the operations performed by or on behalf of Grantee. The coverage will contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, volunteers, and agents.

11.5.2. The Grantee's insurance is primary and non-contributory with respect to all obligations assumed by Grantee pursuant to this Agreement or any other services provided. Any insurance carried by City shall not contribute to, or be excess of insurance maintained by Grantee, nor in any way provide benefit to Grantee, its affiliates, officers, directors, employees, subsidiaries, parent company, if any, or agents.

11.5.3 The inclusion of more than one insured will not operate to impair or limit the rights of one insured against another, and the coverage will apply as though separate policies have been issued to each insured.

- a. All Policies.
 - ii. For all insurance policies required under this Agreement, prior to the City's execution of this Agreement, Grantee will furnish the City with certificates and original endorsements effecting the required coverage. Each certificate of insurance will state that the coverage afforded by the policy or policies will not be reduced, cancelled, or allowed to expire without at least 30 days written notice to City, unless due to non-payment of premiums, in which case at least 10 days written notice is required. Notice required under this

subsection will be sent by certified mail. Each required policy will include an endorsement providing that the insurer agrees to waive any right of subrogation it may have against the City. The endorsements will be on forms provided by City or as approved by City's Risk Manager.

The coverage types and limits required pursuant to this Agreement shall in no way limit the liability of Grantee.

- i. Any deductible or self-insured retention of \$100,000 or more will be disclosed to the City prior to the City's execution of this Agreement and is subject to approval by the City.
- ii. If Grantee does not keep all required insurance policies in full force and effect, the City may, in addition to other remedies under this Agreement, terminate or suspend this Agreement.

11. Compliance with Law.

- a. Legal and Licensing Compliance. Grantee will comply with all applicable federal, state and local laws, rules, and regulations related to the Authorized Activities or use of ARPA Funds under this Agreement. Grantee represents and warrants to City that Grantee has and will keep in effect during the term of this Agreement all licenses (including, but not limited to, the City of Napa business license), permits, qualifications, and approvals of whatsoever nature which are legally required for Grantee to practice Grantee's profession or perform the Authorized Activities.
- b. Nondiscrimination. At all times during the term of this Agreement, Grantee will comply with all applicable federal, state, and local laws, rules, and regulations prohibiting discrimination based on race, ethnicity, color, national origin, religion, marital status, age, sex, sexual orientation, disability (including any physical or mental impairment that substantially limits a major life activity), medical condition, or any protected class.
- c. Taxes. Grantee will file tax returns as required by law and pay all applicable taxes on the ARPA Funds paid pursuant to this Agreement. Grantee will be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes.
- d. Provisions Deemed Inserted. Every provision of law required to be inserted or referenced in this Agreement will be deemed to be inserted or referenced.

12. General Provisions.

- a. Headings. The heading titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
- b. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or

unenforceable, the Agreement will be construed as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

- c. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Napa.
- d. Attorney's Fees. If any litigation is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- e. Assignment and Delegation. This Agreement will not be assigned or transferred in whole or in part, nor will any of the Grantee's duties be delegated, without the City's prior written consent. Any attempt to assign, transfer, or delegate this Agreement, in whole or any part, without the City's prior written consent will be void and of no force or effect. Any consent by the City to one assignment, transfer, or delegation will not be deemed to be consent to any subsequent assignment, transfer, or delegation.
- f. Modifications. This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.
- g. Waivers. No waiver of a breach, default, or duty under this Agreement will be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.
- h. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter hereof. This Agreement supersedes all prior negotiations, Agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.
- i. Interpretation. Each party to this Agreement has had an opportunity to review the Agreement, and to consult with its respective legal counsel regarding the meaning of the Agreement. Accordingly, Civil Code Section 1654 will not apply to interpret any uncertainty in the meaning of the Agreement.

13. Signatures.

- a. Counterparts. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.
- b. Signatures; Electronic Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Grantee and the City. The parties agree that this Agreement may be executed and transmitted electronically and that electronic signatures shall have the same force and effect as original signatures in accordance with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.; the California Uniform Electronic Transactions Act, Civil Code Section 1633.1 et seq. and California Government Code Section 16.5.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date set forth below.

CITY:
CITY OF NAPA, a California charter City

GRANTEE:
Heritage House Partners, L.P., a California limited partnership

By: _____
Steve Potter, City Manager

By: _____
Lawrance Florin, President and CEO

By: _____
Ben Wickham, Chief Operating Officer

"Effective Date"

COUNTERSIGNED:

Erika Leahy, City Auditor

APPROVED AS TO FORM:

Sabrina Wolfson, Interim City Attorney

Exhibit A**Authorized Activities and Eligible Costs**

Grantee shall use the ARPA Funds provided under this Agreement to reimburse the Grantee for increased construction costs for the Heritage House and Valley Verde Apartments located at 3700 Valle Verde Drive, due to supply chain delays, increases in materials and supplies, increases in interest rates, and the rise in insurance premiums during construction. The project has faced challenges in timely construction, and in order to meet the housing needs of the most vulnerable residents exiting homelessness for permanent supportive housing, the Grantee created a plan to phase in occupancy for move-ins to occur as soon as possible. The phasing resulted in increased costs that would have otherwise been taken from the operating contingencies and impacted the level of supportive services over the lifetime of the project.

Grantee may, on a reimbursement basis, utilize funds as follows for the development of the 90 units at Heritage House and Valle Verde, of which 44 are dedicated as permanent supportive housing for clients exiting homelessness.

Cost Category	Amount
Construction Hard Costs	\$535,488
General Contractor General Conditions	\$23,561
Architect/Engineering Costs	\$58,788
Construction Loan Interest	\$77,629
General Liability Insurance	\$71,000

Exhibit B

APRA Quarterly Report

Grantee Name: _____ Date: _____

Project Name: _____

Grantee Address: _____

Primary Contact: _____ Email: _____

Reporting Period: _____

Project Status of Completion

Pick one that most represents the status of the project:

Not Started Completed less than 50% Completed 50% or more Completed

Expenditures for this Quarter

Date	Category	Description of Expenditure	Amount
Total			

Progress Report

The chart should be completed using information from the Subaward Agreement - Statement of Work and/or Proposed Budget. Add lines if needed.

Program Component	Program Outcome	Indicator/ Measurement	Goal	Actuals
<i>Example: Rental Assistance</i>	<i>Provide rental assistance to those struggling to pay their monthly rent</i>	<i># of families assisted</i>	<i>1000</i>	<i>950</i>

(Continued Below)

Please describe the amount of funding, staffing, and other resources leveraged through partnerships being used towards programs.

How has ARPA funding allowed your organization to successfully implement programs?

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Signature: _____ Date: _____

Print Name: _____ Title: _____

Subaward Information

Subrecipient Name:	
Subrecipient Unique Identifier (SAM):	N/A
Federal Award Identification Number (FAIN):	N/A
Federal Award Date:	
Subaward Period of Performance Start and End Date:	Effective Date -6/30/2024
Total Amount of Federal Funds Obligated to Subrecipient (including the current financial obligation):	
Federal Award Project Description:	SEE BACKGROUND INFORMATION
Name of Primary Awarding Entity:	U.S. Department of Treasury
Name of First Pass Through Entity:	City of Napa
CFDA Number:	21.027
CFDA Program Title:	American Rescue Plan Act
Identification of whether the award is R&D	No
Indirect Cost Rate:	N/A

[END OF AGREEMENT]