# **MORE Program GENERAL TERMS AND CONDITIONS**

1. **Effective Date, Commencement of Work and Completion Dates**

This Agreement is effective upon the date of the Department representative’s signature on page one of the fully executed Standard Agreement, STD Form 213 and shall expire on the end date set forth STD Form 213, Section 2. The Recipient agrees that, except as approved by the Department in accordance with Section 300.8 of the MORE Guidelines, Work shall not commence prior to Loan Closing. Work must be completed by the deadlines set forth in this Agreement and is subject to the specified expiration date for this Agreement unless Recipient submits a written request for an extension which is approved by the Department in writing at least ninety (90) calendar days prior to the expiration date of this Agreement. Any such extension shall require an amendment to this Agreement executed by all parties prior to the operative expiration date hereof.

1. **Termination**

The Department may terminate this Agreement at any time for cause by giving at least fourteen (14) calendar days’ notice in writing to the Recipient. Such termination rights shall be in addition to, and not in limitation of, any other rights and remedies available to the Department under this Agreement or any other agreements contemplated herein, including without limitation at law or in equity, or in the documents evidencing the Loan, all of which shall be cumulative and nonexclusive to the maximum extent permitted by law. Recipient must return any unexpended Loan proceeds to the Department within thirty (30) calendar days of the Department’s written notice of termination. Recipient’s violation of any provisions or special conditions of this Agreement, the Disbursement Agreement, or the Regulatory Agreement or Covenant, shall be cause for termination, including but not limited to:

1. Recipient’s failure to timely satisfy each of the conditions set forth in this Agreement, the Disbursement Agreement, or the Project Report.
2. Determination by the Department that:
3. any material fact, representation, or warranty made or furnished to the Department by the Recipient in connection with the Application or the Project Report shall have been untrue, incomplete, or misleading at the time that such fact, representation, or warranty was made (or made known) to the Department, or subsequently becomes untrue or misleading; or,
4. the Recipient has at any time concealed any material fact from the Department related to the Application or the Mobilehome Park or Work.
5. A petition for relief under the Bankruptcy Code filed by, or on behalf of Recipient, or by or on behalf of any entity with a controlling ownership interest in the Recipient (a “**Principal**”), or the filing of any pleading or answer by Recipient, or by any Principal, in any involuntary proceeding under the Bankruptcy Code; a general assignment by Recipient, or by any Principal, for the benefit of creditors; or the filing of an application for the appointment of a receiver, trustee, custodian or liquidator for Recipient for any of its property, or for any Principal or for any of the Principal’s property.
6. Failure of Recipient, or of any Principal, to effect a full dismissal of any involuntary petition under the Bankruptcy Code that is filed against Recipient, or filed against any Principal, or that in any way restrains or limits Recipient, or any Principal, or the Department regarding the Loan or the Mobilehome Park, prior to the earlier of the entry of any court order granting relief sought in such involuntary petition, or thirty (30) calendar days after the date of filing of such involuntary petition.
7. Attachment, levy, execution, or other judicial seizure of any portion of the Mobilehome Park, or any substantial portion of the other assets of Recipient, or of any Principal, Recipient, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) calendar days after the attachment, levy, execution, or seizure.
8. Pendency of any proceeding challenging the legal existence or authority of Recipient, or of any Principal, or any proceeding challenging the legality of the Mobilehome Park.
9. Recipient’s failure to timely close Department-approved third-party construction financing as described in Section 3 (“Timing”) of this Exhibit D of this Agreement.
10. The Department’s determination that the objectives and requirements of the MORE Program cannot be met within applicable timeframes.
11. **Timing**
12. Recipient must close the construction financing approved by the Department and commence Work to improve the Mobilehome Park in accordance with the Work schedule(s) attached to the Disbursement Agreement, or as extended by the Department pursuant to the terms and requirements thereof. Upon the Department’s request, the Recipient and/or owner of the Mobilehome Park must promptly provide evidence of recorded deeds of trust for all construction financing, payment of all construction lender fees, issuance of building permits (a grading permit does not suffice to meet this requirement) and notice to proceed delivered to the contractor.
13. Recipient must satisfy all conditions for the final Loan disbursement no later than the Disbursement Deadline identified in Section 1, Provision B.1 of Exhibit E of this Agreement.
14. **Conflicting Provisions**

In the event of a conflict between this Agreement or the Program Requirements and any Recipient-controlled documents, this Agreement and the Program Requirements shall prevail, be applicable and be enforced by the Department, notwithstanding any prior conduct of the Department, including without limitation, the Department’s prior or preliminary review of any such documents at the time of construction loan closing or otherwise.

1. **Consent**

The parties agree that wherever the consent of, approval of, or acceptance by the Department or the Recipient is required under this Agreement, such consent, approval, or acceptance means prior express written consent, approval, or acceptance. The consent, approval, or acceptance of any party, where required, will not be unreasonably withheld, conditioned, or delayed, unless the same is specified as being in that party’s sole and absolute discretion or other words of similar import.

1. **Mandatory Contractual Obligations**

When used in this Agreement, the term “must” and “shall” denote a mandatory contractual obligation and is not permissive.

**CONDITIONS FOR LOAN CLOSING**

The Department shall not approve Loan Closing nor disburse any funds pursuant to this Agreement until Recipient has satisfied each of the conditions in this Part entitled “Conditions for Loan Closing,” or the Department has, in writing, waived or excused performance of the condition.

1. **Site Control**

1. As of the date of Loan closing, the Recipient must have site control of the real property on which the Mobilehome Park is or will be located (the “**Property**”), and each offsite location where Work shall be performed. Site control must continue through the full term of the Loan, unless otherwise permitted under the MORE Guidelines. (See e.g., MORE Guidelines Section 606.) The Property shall be in the name of the Recipient, or an entity controlled by the Recipient evidenced by one of the following means:
2. Fee title to the Property evidenced by a current title report (within ninety (90) days of Loan Closing) showing the applicant holds fee title; or for Property located on land held in trust by the BIA for the Tribal Entity Recipient, a certified title status report issued by the BIA or an attorney’s opinion regarding chain of title and current title status;
3. A leasehold interest in Property for a minimum term of forty (40) years, with provisions that enable the lessee to perform the Work on, and encumber, the Property, and allow the lessee to comply with all applicable Program Requirements. For Property located on land held in trust by the BIA for the Tribal Entity Recipient, Recipient must also obtain BIA approval of the leasehold, or a valid sublease thereof recorded with the U.S. Department of the Interior, Division of Land Titles and Records.
4. Some other instrument which establishes to the Department’s satisfaction that the Recipient, or an entity controlled by Recipient, has a legal right to encumber, mortgage, hypothecate, occupy, improve, and perform the work on the Property as required by this Agreement in accordance with Program Requirements.
5. For offsite improvements, the Recipient shall have, as deemed appropriate by the Department:
6. A right of way or easement, which is either perpetual, or of sufficient duration to meet Program Requirements, and which allows the Recipient to access, improve, occupy, use, maintain, repair, and alter the property underlying the right of way or easement; or
7. An encroachment permit allowing Recipient to construct improvements or facilities within the public right of way or on public land; or
8. a combination of any of the above.
9. If the Recipient’s interest in the Property is a leasehold, the ground lease must provide adequate security for the Loan. The Recipient must provide a copy of the ground lease for the Department’s legal review and approval. The lessor and lessee will be required to sign the Department's standard lease rider, unless the lessor agrees to sign the Loan documents described in Section 23 of this Exhibit D of this Agreement (captioned “**Loan Documents and Loan Security**”) and encumber all of the lessor’s interest in the Property. Where the lessee and the lessor are affiliated or related parties, both the lessee and the lessor must execute all Loan Documents in order to encumber both the leasehold and fee interests in the Property.
10. **Preliminary Report**

The Recipient must provide a current preliminary report from a title company acceptable to the Department for the Property on which the Mobilehome Park is located. If the Recipient’s interest in the Property is leasehold, then the Recipient must provide a current preliminary report from a title company acceptable to the Department for the leasehold interest and the fee interest. For Property located on land held in trust by the BIA for the Tribal Entity Recipient, Recipient must provide a certified title status report issued by the BIA or an attorney’s opinion regarding chain of title and current title status acceptable to the Department.

1. **Construction Contract**

Recipient must enter into a written contract with the contractor identified in the Disbursement Agreement (the “**Contractor**”) for the performance of construction activities required for completion of the Work on the Mobilehome Park.

1. **Permits and Approvals**
2. Recipient has obtained all required permits and approvals required for the lawful construction activities in connection with the Work.
3. Where approval by a local public works department, or its equivalent, is required for the Work, Recipient must submit a statement from that department, or other documentation acceptable to the Department, indicating that the Work has received that approval.
4. Recipient has received all required public agency entitlements and land use approvals for the Mobilehome Park.
5. **Site Inspection**

The Department reserves the right, upon reasonable notice and without obligation, to inspect the Work site and any structures or other improvements thereon to determine, investigate or assess whether the Work site complies with this Agreement and the Program Requirements. If the Department reasonably determines that the site does not comply with this Agreement or the Program Requirements, the Department reserves the right to rescind the award and the Loan.

1. **Environmental Conditions**
2. If the Scope of Work includes construction of a Mobilehome Park at a new site, or expansion of the Mobilehome Park beyond the metes and bounds it occupied prior to commencement of the Work, Recipient must provide a Phase I Environmental Site Assessment (”ESA”) for the Work site, in conformance with ASTM Standard Practice E 1527, evaluating whether the Work site is affected by any recognized environmental conditions. In the event the Phase I ESA indicates evidence of recognized environmental conditions and the Recipient desires to proceed with the Work, the Recipient must provide the Department with a Phase II report, and such further reports as required by the Department in form and content acceptable to the Department. At a minimum, the Recipient must perform or cause to be performed all work necessary to fully address and remediate the environmental conditions referenced in the ESA and/or the Phase II report in compliance with all applicable federal, state, local and other laws, statutes, regulations, orders, and findings. Any remediation work to be performed shall be subject to the Department’s approval.
3. If the Scope of Work includes rehabilitation or demolition of existing structures, Recipient must also provide an asbestos assessment and a lead-based paint report for the Department’s review and approval.
4. The budget for the Work must include sufficient funds to pay costs associated with the above-referenced reports and remediation.
5. Recipient must obtain all applicable CEQA and NEPA clearances and submit evidence thereof as required by the Department.
6. If the Mobilehome Park is located within Indian Country, Recipient shall not be subject to this provision and to the extent applicable, the Department will satisfy any environmental clearances pursuant to the California Environmental Quality Act.
7. **Recipient’s Status**
8. Prior to Loan Closing, the Recipient must provide the Department with copies of all documents in effect establishing that the Recipient is a legal entity with legal standing to sue or be sued in a court of law, to enter into valid enforceable contracts (“**Organizational Documents**”). Such documents include but are not limited to, articles of incorporation, bylaws, articles of organization, operating agreements, certificates of partnership, and partnership agreements, and any filings required to form or exist as a legal entity.
9. The Department neither approves nor disapproves the Recipient’s Organizational Documents or those of any other entity affiliated with the Recipient. However, the Department may require changes thereto if necessary to ensure that the Recipient has sufficient control of the Property and authority to enter into the Loan Documents, and that the term of the Recipient is equal to or greater than the term of the Loan Documents, or to resolve conflicts between the Recipient’s Organizational Documents and the Loan Documents, this Agreement, or the Program Requirements.
10. **Relocation**
11. If there is or will be any residential or commercial displacement directly or indirectly caused by the Work, and where the Work is subject to state or federal laws governing such displacement and provision of relocation benefits, Recipient must provide a relocation plan to the Department for its review and approval. The Department must approve the relocation plan prior to Loan Closing. The relocation benefits and plan must comply with the requirements of state law (Gov. Code, § 7260 et seq.), the regulations adopted by the Department (Cal. Code Regs., tit. 25, § 6000 et seq.), and Program Requirements. To the extent applicable, local relocation law as well as the Federal Uniform Relocation Assistance and Real Property Acquisition Act, 49 CFR Part 24, including Appendix A to Part 24, shall apply. To the extent of any variation in the applicable relocation laws, the stricter standard shall apply. Sufficient funds must be allocated in the Work budget(s) to pay all costs of relocation benefits and assistance as set forth in the relocation plan accepted by the Department.
12. If the Work will not cause any displacement, the Recipient must submit to the Department an original fully executed Certification Regarding Non-Application of Relocation Benefits and Indemnification Agreement (prepared by the Department) prior to Loan Closing along with corroborating documentation for the Department’s review and approval, establishing to the Department’s satisfaction that there are no relocation requirements. If there is federal funding of the Work, the Recipient must comply with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) requirements to the extent applicable.
13. **Displacement**
14. Recipient shall provide to the Department verification that no Residents shall be involuntarily displaced as a result of the Activity or verification that the impacts of displacement shall be mitigated. Compliance with Government Code section 66427.5 shall be conclusive proof that Recipient has mitigated economic displacement. Where the Loan is made in response to a declared Natural Disaster, Recipient must in all circumstances shall comply with the requirements of Section 302.5.
15. If displacement of Residents is anticipated as a result of the Activity, Recipient shall submit for Department review and approval a Displacement Plan.
16. If the Mobilehome Park is located within Indian Country, Recipient shall comply with federal relocation law, as applicable, including any relocation requirements under 24 C.F.R. Section 1000.14.
17. **Other Sources of Funding**
18. Recipient must provide evidence of binding agreements for construction financing and enforceable commitments for permanent financing as identified in the Application and the updated budget and Sources and Uses schedule attached to the Disbursement Agreement (or equivalent, alternative financing approved by the Department) demonstrating adequate funding to complete the Work on the Mobilehome Park and to provide permanent financing, therefore. The terms and conditions of all financing shall be subject to the Department’s review and approval.
19. Unless otherwise approved by the Department, prior to the close of any construction financing, the Recipient must provide to the Department for its review and approval, a copy of the loan documents and development budgets approved by all other construction lenders.
20. Recipient must obtain an interest rate cap on any interest rate that is not fixed for the full term of a senior loan. The interest rate at the cap must not jeopardize the feasibility of the Mobilehome Park. Interest rate resets, renewals, extensions of letters of credit, or other senior loan provisions, must not require the Recipient to re-qualify.
21. Recipient must fully disclose to the Department in writing all payments, lender fees, bond fees, issuer fees, trustee fees, letter of credit fees, swaps fees, hedge fees, enhancement fees, credit facility and liquidity fees, and other fees, charges and costs, in addition to principal and interest payments for any other financing secured by the Mobilehome Park.
22. **Administrative Contractors**

Recipients who relied on an Administrative Subcontractor at the application stage to satisfy Program Requirements related to organizational stability and capacity to carry out the Activity described in the Application shall have in effect, at time of Loan Closing and through the date of the final disbursement of Loan proceeds, a legally enforceable contract with an Administrative Subcontractor approved by the Department which requires the Administrative Subcontractor to supervise the Work, including without limitation, conduct periodic site visits, prepare periodic inspection reports, verify the validity of the construction contractor’s payment requests, and prepare or review change orders, and, upon completion of construction, provide the certification described in Section 40 of this Exhibit D of this Agreement.

1. **Appraisals**

If the Work includes the purchase of the Property, the Recipient must provide an appraisal acceptable to the Department of the as-is value of the Property, prepared by a qualified, California licensed appraiser.

1. **Insurance Requirements**

The Recipient must obtain and maintain for the term of the Loan hazard and liability insurance for the Mobilehome Park in accordance with the Department’s requirements which shall be detailed in the Disbursement Agreement, including flood insurance, if applicable. The Department must be named as a loss payee or an additional insured on all such policies. Such policies also must provide for notice to the Department in the event of any lapse of or change in coverage and in the event of any claim thereunder. The Recipient must provide evidence satisfactory to the Department of compliance with these insurance requirements, including without limitation all necessary certificates of insurance.

1. **Performance and Payment Bonds or Letter of Credit**

The Recipient shall provide security to assure completion of the Project by furnishing the Department and other construction lenders with Performance and Payment Bonds, or a Letter of Credit, as described in the Disbursement Agreement, in an amount at least equal to one hundred percent (100%) of the approved costs of the Work.

1. **Disbursement Agreement**

The Department must have in its possession a Disbursement Agreement executed by the Recipient and such other entities as the Department may require, signed by the person(s) who are duly authorized to sign the Disbursement Agreement on behalf of the parties thereto. The Disbursement Agreement must include all required attachments, including, but not limited to, a disbursement schedule, Work schedule(s), and an updated Work budget detailing the cost items for the Work approved by the Department including a Sources and Uses schedule identifying funding sources available to pay for said cost items.

1. **Initial Disbursement at Loan Closing**

The initial disbursement of Loan proceeds shall occur at Loan Closing and may consist of an advance for eligible costs which have not yet been incurred in accordance with MORE Guidelines Section 602, or for reimbursement of costs incurred prior to application which have been approved by the Department pursuant to MORE Guidelines section 300.8, or a combination thereof. Recipient shall submit a Request for Funds prior to Loan Closing for the Department’s review and approval, which meets all conditions of the Disbursement Agreement for an advance or for reimbursement, as may be applicable to the initial Request for Funds.

1. **Loan Documents & Loan Security**
2. Recipient shall select an independent escrow/title company approved by or otherwise acceptable to the Department, which escrow/title company shall be charged with maintaining custody of the following instruments which constitute the Department’s Loan Documents, and where required, witnessing, and acknowledging Recipient’s execution thereof, and recording them as described herein:
3. A Regulatory Agreement, or a Covenant if the Mobilehome Park is located in Indian Country;
4. A promissory note evidencing the Loan (the “**Note**”); and
5. A deed of trust to secure the Loan (the “**Deed of Trust**”).
6. The Deed of Trust and Regulatory Agreement or Covenant, shall be recorded in the official records of the county in which the Mobilehome Park is located subject only to those liens and encumbrances approved by the Department. For Mobilehome Parks located within Indian Country, the Covenant and Deed of Trust shall also be approved by the BIA and filed with the U.S. Department of the Interior, Division of Land Title and Records.
7. The Department will not record its Loan Documents in a lien position junior to any encumbrance or lien which limits the Department’s remedies.
8. Unless the Department’s regulatory agreement is recorded in a senior position, the Department will not record its Deed of Trust in a lien position junior to encumbrances securing loans with balloon payments or call options other than is reasonable in case of default, or to encumbrances securing the loans of entities who have, or who are affiliated with entities who have, ownership interests in the Mobilehome Park.
9. Recipient must execute and enter into such additional agreements as the Department may deem reasonable and necessary to satisfy applicable Program Requirements and the terms and conditions of this Agreement.
10. **Title Insurance**
11. As a condition of Loan Closing, the escrow/title company selected by Recipient must be irrevocably committed to issue the following: (1) an ALTA Loan Extended Coverage Policy Form 2006 or later with endorsements as required by the Department, which include, but are not limited to, CLTA Endorsement No. 122 with respect to advances under the Loan; (2) upon completion of construction activities required as part of the Work, a new ALTA policy with such endorsements as the Department may request, which include, but are not limited to, CLTA Endorsement No. 122 with respect to advances under the Loan; and (3) upon the final disbursement of Loan proceeds when the construction loan becomes permanent financing, an LP-10 Rewrite, Form 2006, with endorsements as required by the Department, consistent with the section immediately following.
12. At permanent closing, the Recipient must provide an updated preliminary report from a title company acceptable to the Department and an ALTA As-Built Survey acceptable to the Department. The Recipient must provide a pro forma ALTA lender’s policy of title insurance if requested by the Department and the Recipient must ensure the issuance to the Department of an ALTA lender’s policy of title insurance as contemplated herein. The condition of title, insurer, liability amount, form of policy and endorsements shall be subject to the request and approval of the Department. Such endorsements must include, but are not limited to, a CLTA endorsement 100.2-06, and may include CLTA endorsements 105, 110.9 and 116 for their ALTA equivalents. The policy must insure that the Borrower holds good and marketable fee simple title (or leasehold, if approved by Department) and that the Department is the beneficiary of an attached and perfected fee (or leasehold) deed of trust lien on the Mobilehome Park, free and clear of all encumbrances, encroachments, other interests and exceptions to title other than as shall have been previously approved in writing by the Department. The Department’s deed of trust and Regulatory Agreement and the other loans indicated under the “Permanent Funding” section of the Application shall have the lien priority as indicated in the Application and approved by the Department.

**CONSTRUCTION PHASE REQUIREMENTS**

1. **Notice to Proceed**

After Loan Closing, Recipient shall issue a Notice to Proceed to the Contractor to commence construction activities in connection with the Work.

1. **Mobilehome Park Construction and Work**

Recipient shall ensure that the Work is performed in a competent, professional manner in accordance with approved plans and specifications, subject to any change orders accepted by the Department where such acceptance is required. Recipient shall ensure the Work is completed at the lowest reasonable cost consistent with the scope, design, and locality. Recipient shall have a fully executed contract with all contractors employed to perform any portion of the Work which describes the Work the contractor is to complete. Recipient shall ensure such contractors are appropriately licensed.

1. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

The Recipient agrees to comply with all state and federal laws, rules, guidelines (including applicable Guidelines) and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Development, the Recipient, its contractors or subcontractors, and any Loan activity.

1. **Construction Phase Information**
2. During the construction period, if requested by the Department, the Recipient must provide the Department with information related to the progress of the Work, including, but not limited to, copies of any change orders and modifications to construction documents; all inspection reports prepared by any consultant; and all information relative to Mobilehome Park income, expenses, occupancy, relocation benefits and expenses, and operations.
3. Upon written notice to Recipient, Department may require its advance written approval of all future change orders and modifications. Notwithstanding the foregoing, deviations from the plans and specifications which have the effect of reducing the quality, life or utility of a specified item or system must receive the prior written approval of the Department. Should change orders be submitted to the Department for its approval, they shall be deemed accepted if not rejected in writing within ten (10) business days of receipt by the Department. Recipient must not authorize or approve any change orders rejected by the Department.
4. **Construction Phase Disbursements**

The Department shall disburse funds during the construction period in response to each Request for Funds which complies with the Disbursement Agreement and Program Requirements, and so long as this Agreement remains in effect.

1. **Inspection**
2. The Department and any authorized representative of the Department shall have the right, prior to completion of the Work, to enter upon and inspect the Work site and Mobilehome Park. Such right to inspect shall include, but shall not be limited to, the right to inspect all Work done, all materials and equipment used or to be used, and all books and records, including payroll records, maintained in connection with the Work. Such right of inspection shall be exercised in a reasonable manner.
3. The Department shall have no affirmative duty to inspect the Work site or Mobilehome Park and shall incur no liability for failing to do so. Once having undertaken any inspection, neither the Department, nor any representative of the Department, shall incur any liability for failing to make any such inspection properly, or for failing to complete any such inspection. The fact that such inspection may or may not have occurred shall not relieve the Recipient or any of its contractors or other lenders or the locality or anyone else of any obligation they may have with respect to the Work site or Mobilehome Park, including any obligation to conduct inspections.
4. **Updated Information**

During the construction period, Recipient must provide the Department with updated documentation to reflect any change in the information previously provided relating to the Loan, including updated information regarding funding sources and uses and income information. All changes shall be subject to Department approval. However, if the Mobilehome Park or Work is changed in any way as to make it ineligible for funding under the Program Requirements, then the Loan commitment will be cancelled, and all Program funding shall be disencumbered.

1. **Signage**
2. If Recipient places signs on the construction site to acknowledge one or more other lenders in connection with the Mobilehome Park or Work, then Recipient must also place signs on the construction site for the Work stating that the Department is providing financing through the Program. The signs must be placed at the appropriate location(s) and must exhibit the message set forth in Section 1, Provision D.1 of Exhibit E to this Agreement in a similar size and layout as that of the other lenders who have been acknowledged. Each sign must be maintained in a prominent location visible and legible to the public through completion of the Work.
3. Upon installation of each sign, the Recipient must submit a digital photograph thereof to the Department to verify compliance with these signage requirements.
4. **Photographs**

The Recipient must provide the Department, upon request, with copies of any photographs that may be taken of the Work and/or the Mobilehome Park by or on behalf of the Recipient. The Recipient must provide an acceptable written consent and release agreement authorizing use of said photographs, all at no expense to the Department.

1. **Title Insurance upon Completion of Construction**

Upon completion of all construction activities required as part of the Work, the escrow/title insurance company selected by Recipient must issue a new title policy as required under Section 24 of this Exhibit D of this Agreement.

**CONDITIONS TO FINAL DISBURSEMENT AND COMMENCEMENT OF PERMANENT FINANCING**

The Department shall not approve the final disbursement of Loan proceeds, including the ten percent (10%) retention of construction costs, until Recipient has satisfied each of the following conditions, or the Department has, in writing, waived or excused performance of the condition.

1. **Recorded Notice of Completion**

Upon completion of the construction activities connected with the Work, The Recipient must provide the Department with a copy of a Notice of Completion for the Work duly recorded in the county in which the Mobilehome Park is located.

1. **Lien Waivers**

Recipient must submit to the Department all lien waivers required by the Department or provide evidence to the Department’s satisfaction that the applicable statutory periods for filing mechanic and other similar liens has expired for the subject Work.

1. **Disposition of Mechanic’s Liens**

Recipient must submit evidence satisfactory to the Department that all mechanic’s liens that were recorded against the Property or stop notices that were delivered to the Department or any other construction lender, have been paid, settled, bonded around or otherwise extinguished or discharged.

1. **Final Certificate of Occupancy**

The Recipient shall provide to the Department a final certificate of occupancy for the Mobilehome Park (or an equivalent form of occupancy certification or approval) issued by the local agency having jurisdiction over such certificates.

1. **Permit to Operate**

The Recipient shall provide the Department a copy of a valid permit to operate for the Mobilehome Park, or evidence to the Department’s satisfaction that the Mobilehome Park has been issued all necessary permits, licenses or other permissions required for lawful operation of the Mobilehome Park.

1. **Recipient or Administrative Subcontractor Certification**

Recipient must provide the Department with a certificate or certificates, each in form and substance satisfactory to the Department, executed jointly by the Recipient and its Administrative Subcontractor(s), or other appropriately licensed professional (e.g., Architect or Engineer), each certifying that the Work has been completed in accordance with all applicable federal, state, and local laws, and applicable Program Requirements.

1. **Cost Certification**

At the request of the Department, the Recipient must submit a cost certification for the Work audited by an independent certified public accountant in accordance with the requirements of the Department. The Recipient (and the developer or builder if there is an identity of interest with the Recipient) must keep and maintain records of all construction costs incurred in connection with the activities and improvements described in the Application and Project Report and make such records available for review by the Department.

1. **Acceptance of Work**

As a condition to the final disbursement of Loan proceeds, Recipient must demonstrate to the Department’s satisfaction that all construction activities in connection with the Work have been completed in accordance with this Agreement, and that the Work has been accepted by any person or governmental agency whose approval may be required.

1. **Relocation Plan Implementation Report**

The Recipient must provide a report, in form and content acceptable to the Department, detailing its actions in implementing its relocation plan. Such report must include, but not be limited to, a summary of the actions taken, identifying all sources of the relocation assistance provided, the amounts paid, and benefits provided to, by or on behalf of the Recipient.

1. **Displacement Plan Implementation Report**

The Recipient must provide a report, in form and content acceptable to the Department detailing its actions in implementing its Displacement Plan. Such report must include, but not be limited to, a summary of all actions taken to mitigate the impacts of displacement.

1. **Title Insurance Policy Upon Commencement of Permanent Financing**

The escrow/title insurance company selected by Recipient must be prepared and irrevocably committed to issue the Department a new title insurance policy, an LP-10 Rewrite, Form 2006, which complies with Section 24 of this Exhibit D of this Agreement.

1. **Compliance with California’s Prevailing Wage Law**

The Work may be subject to California’s prevailing wage law (Lab. Code, § 1720 et seq.). The Recipient is urged to seek professional legal advice about the law’s requirements. Prior to the final disbursement of Loan proceeds, the Department will require a certification of compliance with California’s prevailing wage law. The certification must verify that prevailing wages have been or will be paid (if such payment is required by law), and that labor records will be maintained and made available to any enforcement agency upon request. The certification must be signed by the general contractor(s) and the Recipient, and such other entities as required by the Department.

1. **Asset Management and Compliance Requirements**
2. The Recipient must obtain all documents and information contemplated by the Department as a condition to final disbursement, and must submit such documents and information required, for the Department’s review and approval, along with the following items (in a format provided or approved by the Department):
	* 1. a proposal for management agent with management agent’s qualifications and all other supporting documentation attached;
		2. a management contract;
		3. a management plan, including the Development’s marketing and tenant selection plan if spaces are to be leased;
		4. a template residential tenant lease, if spaces are to be leased;
		5. an initial-year operating budget and Schedule of Rental Income (SRI);
		6. evidence of current property hazard and liability insurance in accordance with the applicable Program Requirements.
3. Prior to close of the Loan, the Recipient must obtain the Department’s review and approval of the above-mentioned items (i) through (vi) and any additional documents required by the Department.
4. Furthermore, the Recipient shall be provided links to the Department’s Asset Management and Compliance Web page, which, in conjunction with the Regulatory Agreement, sets forth the obligations and requirements to which the Recipient must adhere for the use, operation and occupancy of the Mobilehome Park, including but not limited to reporting requirements.

**OPERATIONS, REPORTING, AND MISCELLANEOUS PROVISIONS**

1. **Occupancy**

Assisted Units shall be subject to the income and rent restrictions set forth in Section 1, Provision A-2, of Exhibit E to this Agreement.

1. **Fair Housing and Nondiscrimination**

The Recipient shall comply with all applicable state and federal laws, rules, guidelines, and regulations that pertain to nondiscrimination and fair housing. Such laws include without limitation, the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101, et seq.); the Fair Housing Act at Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 36k01, et seq.) as amended by the Fair Housing Amendments Act of 1988; the California Fair Employment and Housing Act (Government Code Section 12900, et seq.); the Unruh Civil Rights Act (Civil Code Section 54, et seq.); Government Code Section 11135; the Rehabilitation Act of 1973 (29 U.S.C. Section 794); and all regulations promulgated pursuant to those statutes, as applicable. These requirements do not apply to Property located on Trust Land.

1. **Affirmative Fair Housing Marketing Plan and** **Fair Housing Compliance**

Recipient must develop and implement an affirmative fair housing marketing plan satisfactory to the Department and shall adopt a written non-discrimination policy as described in Section 205 of the Guidelines. Appropriate aspects of the initial Affirmative Fair Housing Marketing Plan must be incorporated into the ongoing management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for Assisted Housing Spaces in the Mobilehome Park. Recipient is encouraged to refer to HUD's guidelines for Affirmative Fair Housing Marketing Plans. Recipient must comply with all state and federal fair housing laws. At the Department’s election, Recipient must submit an attorney’s opinion acceptable to the Department describing the intended occupancy restrictions and how they comply with the California Unruh Civil Rights Act (Civ. Code, §§ 54 et seq.) and the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.). Occupancy restrictions must be carried out in a manner which does not violate state or federal fair housing laws and Section 205 of the Guidelines.

1. **Reporting**

Recipient must comply with all reporting requirements set forth in the Program Requirements and laws applicable to the Work and the Mobilehome Park to the fullest extent possible. Additionally, Recipient and the owner of the Mobilehome Park shall submit annually, for Department review and approval, a report on forms provided by the Department which shall include the following information:

1. Recipient’s progress in completing the Work and status of all funded Activities;
2. A description of the Work to be undertaken during the next reporting period;
3. A description of obstacles encountered which affected completion of any portion of the Work and actions undertaken by Recipient to overcome such obstacles;
4. A description of actions taken to ensure completion of the Work within expenditure deadlines;
5. Information on the number of units assisted;
6. Resident income levels; and
7. Mobilehome Park rent schedules.
8. **Audit/Retention and Inspection**
9. The Department, its representatives or employees, or its delegatees shall have the right to review, obtain, and copy all records pertaining to performance of the Agreement. Recipient must provide the Department or its delegatees with any relevant information requested and must permit the Department or its delegatees access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material. Recipient further agrees to maintain such records for a minimum period of four (4) years after final payment under the Agreement unless a longer period of records retention is stipulated.
10. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the Work. At the Department’s request, the Sponsor must provide, at its own expense, a financial audit prepared by a certified public accountant.
11. The audit shall be performed by a qualified State, Department, local or independent auditor. The Agreement for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
12. If there are audit findings, the Recipient must submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, will conclude the audit process, and notify the Recipient in writing. If the Department is not in agreement, the Recipient will be contacted in writing and will be informed as to the corrective actions required to cure any audit deficiencies. This action could include the repayment of disallowed costs or other remediation.
13. If so, directed by the Department upon termination of this Agreement, the Recipient must cause all records, accounts, documentation, and all other materials relevant to this Agreement to be delivered to the Department as depository.
14. **Rental and Operating Subsidy Contracts**
	* + 1. The Recipient must provide the Department with full and complete copies of all contracts, and all amendments thereto, regarding rental subsidies and other operating subsidies to be provided to tenants residing in the Mobilehome Park.
			2. Recipient may substitute a source of funding for a rent or operating subsidy so long as it is acceptable to the Department. The amount, terms, and conditions of the new source of funding must provide an equivalent or greater level of rent or operating subsidy to the Mobilehome and be acceptable to the Department.
15. **Restrictions on Transfer and Change of Ownership**

The Recipient’s right to do any of the following is subject to the Department’s approval in its sole and absolute discretion:

A. directly or indirectly sell, transfer, convey, encumber, hypothecate, pledge or otherwise alienate the Mobilehome Park or the Property, or any portion thereof or interest therein;

B. discharge or replace any general or managing partner, manager or managing member or other control person of Recipient, or amend, modify or add to any partnership agreement, operating agreement or other Organizational Documents related to any such entities or persons, including any provisions related to the management or control thereof (except where Recipient is a limited partnership, Recipient may sell or transfer limited partnership interests in a limited partnership without the Department’s approval);

C. wind up, liquidate or dissolve the affairs of the Recipient or enter into any transaction of merger or consolidation with respect to Recipient, any control person of Recipient; or

D. change the organizational or management structure of the Recipient.

The Recipient shall also comply with all other requirements in the applicable Program Requirements governing sales, transfers, and encumbrances, including but not limited to a Right of First Offer in compliance with Section 303 of the Guidelines.

1. **Change of Conditions**

The Department reserves the right to re-underwrite the Mobilehome Park and funded Activity based on new information or funding sources. Particular attention will be paid to the continued feasibility of the Mobilehome Park and the maintenance of the security position of the Loan. In the event the Department determines the Mobilehome Park, and funded Activity is no longer financially feasible, the award and any Loan commitments issued by the Department may be revoked and disencumbered.

1. **Representations & Warranties**
2. Recipient represents and warrants that as of the date of this Agreement, Recipient is a duly organized and validly existing entity, in good standing under California law and that the persons signing this Agreement on Recipient’s behalf has the authority to act on Recipient’s behalf of and to bind Recipient in accordance with the terms of this Agreement.
3. Recipient represents and warrants that as of the date of any and all Loan closings, Recipient shall be duly organized, validly existing, and in good standing under California law, and that Recipient shall have the authority to enter into the Loan and all related Loan Documents.
4. Recipient further represent and warrant that as of the date of any and all Loan closings, the person(s) executing the Loan Documents on behalf of Recipient will have full authority to act on Recipient’s behalf and to bind Recipient in accordance with the terms of those documents and applicable Program Requirements.
5. Recipient further represents and warrants that there are no pending or threatened suits, actions, or proceedings to which the Recipient is subject, or to which the Mobilehome Park or the Property is subject, which would affect the Recipient’s ability to enter into and perform its obligations under this Agreement.
6. Recipient further represents and warrants that neither the Recipient nor any of its affiliated or related entities is the subject of any pending or threatened bankruptcy or creditors’ rights proceedings, whether voluntary or involuntary.
7. **Survival of Obligations**

The obligations of the Recipient as set forth in this Agreement shall survive all Loan closings, construction and permanent, and the Recipient shall continue to cooperate with the Department and perform acts and provide documents as provided herein.

1. **Litigation**

The Recipient must notify the Department immediately of any claim or action undertaken by or against Recipient or the Mobilehome Park which affects or may affect this Agreement, the Department, the Mobilehome Park, or the Work, and must take such with respect to the claim or action as is consistent with the terms of this Agreement, the interests of the Department, and the objectives of the MORE Program.

1. **Entire Agreement; Severability**

This Agreement constitutes the entire agreement between the Recipient and the Department. All prior representations, negotiations, and undertakings with regard to the subject matter hereof are superseded hereby. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole and absolute discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect.

1. **Obligations of Recipient with Respect to Certain Third-Party Relationships**

The Recipient agrees it shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Work with respect to which assistance is being provided under this Agreement. The Recipient must comply with all lawful requirements of the Department necessary to ensure the completion, occupancy, and use of the Mobilehome Park in accordance with this Agreement.

1. **Modification or Waiver under AB 1010**

The Department reserves the right to waive or modify any requirements under this Agreement, or any Program Requirement, as authorized by and in accordance with Assembly Bill No. 1010 (Chapter 660, Statutes of 2019) which is codified at Health and Safety Code section 50406, subdivision (p).

1. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Recipient of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions. Any waiver, to be effective, shall be expressed, in writing, duly executed by the Department, and delivered to the Recipient.

1. **Defense and Indemnification**

Recipient agrees to defend, indemnify, and hold harmless the Department, and its appointees, agents, employees, and officers, from any losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including attorneys’ fees), which may arise in connection with Recipient's use of the MORE Program funds and performance under this Agreement. If any attorney, including the California Attorney General, is engaged by the Department to enforce, construe, or defend any provision of this paragraph, with or without the filing of any legal action or proceeding, Recipient shall, individually or jointly, pay to the Department, immediately upon demand, the amount of all attorneys’ fees and costs incurred by the Department in connection therewith.

1. **Assignment Prohibited**

This Agreement must not be assigned, in whole or in part, to any other person without the consent of the Department, in its sole and absolute discretion. The Recipient is the only beneficiary of this Agreement.

1. **Cash Out**

No cash-out is permitted, in escrow or otherwise, to the Recipient, or to any related party thereof (other than for reimbursement of the lower of actual cost or appraised value of land used by the Mobilehome Park) or to any partners or members of Recipient, including cash-out of equity, deferred developer fee, seller-carry back loan, fees owed by seller to Recipient, or for any other purpose for the entire term of the Loan and/or Regulatory Agreement, whichever is longer. Excess funds on close of escrow must be applied to reserve accounts or must be applied against the Department Loan(s), in the Department’s sole and absolute discretion.

1. **Invalidity of Statute, Regulation or Use**

In the event that a state or federal governmental entity, which has the authority to do so, determines that any use of Loan funds contemplated by this Agreement is unlawful or contrary to any applicable provision of federal or state law, this Agreement shall be deemed modified to eliminate such unlawful use or application and/or to add necessary restrictions or requirements. In the event of such determination, the Department shall notify Recipient, in writing, of the specific modifications to this Agreement, which are required by such determination. Recipient shall have fifteen (15) calendar days after receipt of such notice to terminate this Agreement and return any and all funds advanced including interest earned on such funds. If Recipient fails to so act within the fifteen (15) day period, the modification shall become part of this Agreement effective on the date of receipt of notice and binding on the parties hereto.

1. **Attorney’s Fees, Costs**

In any action to enforce or relating to this Agreement, the prevailing party shall be entitled to recover from the other party, its costs and expenses, including attorneys’ fees. The term "costs and expenses" as used herein shall include all costs and expenses actually and reasonably incurred, including, but not limited to, attorneys’ fees; filing, motion, and jury fees; juror food and lodging; taping, videotaping, and transcribing depositions and travel expenses to attend depositions; service of process by a public officer, registered process server, or other means; expenses of attachment including keeper's fees; premiums on surety bonds; ordinary witness fees pursuant to section 68093 of the Government Code; fees of expert witnesses whether or not ordered by the court; transcripts of court proceedings whether or not ordered by the court; court reporters fees as established by statute; investigation expenses in preparing the case for trial; postage, telephone and photocopying charges; costs in investigation of jurors or in preparation for voir dire; models, blowups and photocopies of exhibits; and any other item that is required to be awarded to the prevailing party pursuant to statute as an incident to prevailing in the action at trial or on appeal. Such costs and expenses shall be recoverable whether the services were rendered by a salaried employee of the party or by an independent contractor.

1. **Governing Law**

This Agreement must be construed with and be governed by the laws of the State of California. All references to codes refer to the California Codes.

1. **Integration**

This Agreement, together with Exhibit A through Exhibit E attached hereto, incorporating references herein, and enclosures herewith, sets forth all of the promises, agreements and understandings to date among the parties hereto with respect to the Loan, and there are no promises, agreements, or understandings, oral or written, express or implied, other than as set forth or incorporated herein. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

1. **Amendment of this Agreement.**

No amendment or modification of this Agreement shall be valid unless set forth in an express writing and executed by authorized representatives of all the parties. Any amendment or modification shall become effective as of the date of the authorized Department representative’s signature thereto or as of the date specified in the amendment.

1. **Construction**

Each party hereto acknowledges and agrees that each has had opportunity to have independent counsel review this Agreement and each hereby fully waives the application of any law, statute or rule of construction or interpretation, including without limitation California Civil Code Section 1654, to the effect that any ambiguities are to be construed against the drafting party.