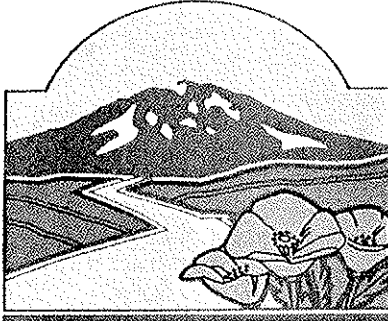


CITY OF  
ANDERSON



# AGENDA ITEM

**May 18, 2010, City Council Meeting**

Approved for Submittal By:

Dana Shigley  
City Manager

A handwritten signature in black ink, appearing to read 'Dana Shigley', written over a horizontal line.

To Be Presented By:

Juanita Barnett  
City Clerk

A handwritten signature in black ink, appearing to read 'Juanita Barnett', written over a horizontal line.

To: Honorable Mayor and Members of the Anderson City Council

Through: Dana Shigley, City Manager  
Telephone 378-6646

From: Juanita Barnett, City Clerk  
Telephone 378-6646

Date: May 18, 2010

## SUBJECT

**CDBG Grant Administration Agreement for Grant No. 09-STBG-6409**

## RECOMMENDATION

The City Clerk recommends that the City Council:

**Authorize the City Manager to enter into an agreement with Adams Ashby Group for a maximum amount of \$65,929, for grant administration and activity delivery for the CDBG General Allocation Grant No. 09-STBG-6409.**

## FISCAL IMPACT

The General Allocation agreement will have no significant fiscal impact as the monies to pay for management of this grant are included in the grant itself. There is a \$23,000 match that we will provide as in-kind labor to help administer the grant.

## **DISCUSSION and BACKGROUND**

Recently we were awarded CDBG General Allocation Grant No. 09-STBG-6409 in the amount of \$600,000 for Down Payment Assistance, Owner Occupied Rehab, and Restroom Rehabilitation at Volonte Park.

For many years, we have contracted with the Shasta County Housing Department to administer our grant programs for the First Time Homebuyer/Down Payment Assistance and Owner Occupied Rehab programs. However, for the new general allocation grant, we issued an RFP for potential consultants to administer the programs. Eventually, we would like to manage our own grant portfolio and using the services of a consultant to manage the new grant is the first step toward accomplishing that goal. Under this agreement, the consultant will spend time training City staff on various areas of grant management and administration.

On March 26, 2010, requests for proposals were sent out to thirteen qualified grant administration firms (including Shasta County Housing) for management of this grant. On April 23, 2010, we received two proposals: one from Adams Ashby Group, and one from Laurin Associates (Shasta County did not submit a proposal). Both firms have experience in administering First Time Home Buyer and Owner Occupied Rehab programs. After reviewing the proposals and conducting phone interviews with both firms, I recommend authorizing the City Manager to enter into an agreement for grant administration and activity delivery to Adams Ashby Group. This firm demonstrated the most experience and capacity to manage our programs.

A copy of the proposed agreement is attached hereto.

## **ATTACHMENTS**

1. Proposed Agreement for Administration of Grant No. 09-STBG-6409

**CITY OF ANDERSON**  
**PROFESSIONAL SERVICES AGREEMENT WITH ADAMS ASHBY GROUP**  
**FOR**  
**THE ADMINISTRATION AND ACTIVITY DELIVERY FOR CDBG GRANT NO. 09-STBG-6409 FOR**  
**OWNER OCCUPIED REHABILITATION AND FIRST TIME HOME BUYER DOWN PAYMENT**  
**ASSISTANCE**

THIS AGREEMENT ("Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_, 2010, is by and between the City of Anderson, a California municipal corporation, hereinafter referred to as "City," and Adams Ashby Group, hereinafter referred to as "Consultant."

**WITNESSETH:**

**SECTION 1 - ORGANIZATION AND CONTENTS.**

This Agreement is divided into the following Sections:

<u>Section/Title</u>	<u>Page No.</u>
SECTION 1 - ORGANIZATION AND CONTENTS	1
SECTION 2 - DESCRIPTION OF PROJECT	2
SECTION 3 - SCOPE OF SERVICES - BASIC; COMPLETION SCHEDULE	2
SECTION 4 - SCOPE OF SERVICES - ADDITIONAL; COMPLETION SCHEDULE	2
SECTION 5 - COMPENSATION	2
SECTION 6 - RESPONSIBILITY OF CONSULTANT	3
SECTION 7 - RESPONSIBILITY OF CITY	3
SECTION 8 - INDEMNIFICATION	4
SECTION 9 - INSURANCE	4
SECTION 10 - GENERAL PROVISIONS	4
10.1 - Access to Records	4
10.2 - Assignment	5
10.3 - Changes to Scope of Work - Basic Services	5
10.4 - Compliance with Laws, Rule, Regulations	5
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**SECTION 2 - DESCRIPTION OF PROJECT**

City desires to undertake that certain project, hereinafter referred to as "project," described in **EXHIBIT "A"** entitled "**DESCRIPTION OF PROJECT**" and to engage Consultant to provide the required professional services relating to it.

**SECTION 3 - SCOPE OF SERVICES - BASIC; COMPLETION SCHEDULE**

Consultant shall perform those basic services in connection with the project as are set forth more particularly in **EXHIBIT "B"** entitled "**SCOPE OF CONSULTANT SERVICES - BASIC; COMPLETION SCHEDULE**" and shall complete said services in accordance with the completion schedule for them incorporated in said Exhibit.

**SECTION 4 - SCOPE OF SERVICES - ADDITIONAL; COMPLETION SCHEDULE**

It is understood by City and Consultant that it may be necessary, in connection with the project, for Consultant to perform or secure the performance of services other than those set forth in **EXHIBIT "B."** In each such instance, Consultant shall advise City, in advance and in writing, of the need for such additional services, their cost and the estimated time required to perform them (if appropriate). Consultant shall not proceed to perform any such required additional service until City has determined that such service is beyond the scope of the basic services to be provided, is required, and City has given its written authorization to perform or obtain it. Each additional service so authorized shall constitute an amendment to this Agreement, shall be identified and sequentially numbered as "Additional Consultant Service No. 1" and so forth, shall be subject to all of the provisions of this Agreement, and shall be attached to **EXHIBIT "C"** entitled "**SCOPE OF CONSULTANT SERVICES - ADDITIONAL; COMPLETION SCHEDULE."**

**SECTION 5 - COMPENSATION; PAYMENT OF FEES**

Consultant shall be compensated for services rendered to City pursuant to this Agreement in the amounts, manner and in accordance with the payment schedule as set forth in **EXHIBIT "D"** entitled "**COMPENSATION; PAYMENT OF FEES."** Amounts due to Consultant from City for services rendered shall be evidenced by the submission to City by Consultant of an invoice, prepared in a form satisfactory to City, setting forth the amount of compensation due for the period covered by it. Each such invoice shall be forwarded to City so as to reach it on the 1st day of

the month, or other applicable period, for which the services invoiced were provided. All such invoices shall be in full accord with any and all applicable provisions of this Agreement. City will review each such invoice and retain them in accordance with **EXHIBIT "D,"** provided however that if Consultant submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, then City shall not be obligated to process any payment to Consultant until a correct and complying invoice has been submitted.

#### **SECTION 6 - RESPONSIBILITY OF CONSULTANT**

By executing this Agreement, Consultant warrants to City that Consultant possesses, or will arrange to secure from others, all of the necessary professional capabilities, experience, resources and facilities necessary to provide to City the services contemplated under this Agreement. Consultant further warrants that Consultant will follow the best current, generally accepted professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the project for which services are rendered under this Agreement. It is expressly understood by all parties to this Agreement that Consultant makes no guarantee or warranty whatsoever to the success of this project.

#### **SECTION 7 - RESPONSIBILITY OF CITY**

To the extent appropriate to the project contemplated by this Agreement, City shall:

7.1 Assist Consultant by placing at Consultant's disposal all available information pertinent to the project, including previous reports and any other data relative to design and construction which may be applicable to it.

7.2 Guarantee access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform Consultant services.

7.3 Examine all studies, reports, sketches, drawings, specifications, proposals and other documents prepared and presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto, within a reasonable time so as not to delay the progress of the work by Consultant.

7.4 Designate in writing a person to act as City's representative with respect to the work to be performed under this Agreement. Such person shall have complete authority to transmit

instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to Consultant's services.

7.5 Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any defect in the project.

7.6 Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.

## **SECTION 8 - INDEMNIFICATION**

Consultant shall hold City, its officers, boards and commissions, and members thereof, its employees and agents harmless of and free from any and all liability arising out of or relating to any negligent act or omission of Consultant or Consultant's employees or agents in rendering the services required by this Agreement and shall protect, defend, and indemnify them against such liability and the legal fees and costs incurred by the City in connection therewith.

## **SECTION 9 - INSURANCE**

Any requirements by City that Consultant carry general liability, errors and omissions, or any other type of insurance in connection with the work to be performed and/or services to be rendered by Consultant pursuant to this Agreement shall be as set forth in **EXHIBIT "E,"** entitled **SPECIAL PROVISIONS.**

## **SECTION 10 - GENERAL PROVISIONS**

### **10.1 Access to Records**

Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under this Agreement on file for at least one (1) year following the date of final payment to Consultant by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit and copying at reasonable times, during Consultant's usual and customary business hours. Consultant shall provide proper facilities to City's representative(s) for access and inspection. Consultant shall be entitled to reasonable compensation for time and expenses related to such access and inspection

activities, which shall be considered to be an additional service to City, falling under the provisions of SECTION 4 hereinabove.

#### **10.2 Assignment**

This Agreement is binding to heirs, successors, and assigns of the parties hereto and shall not be assigned by either City or Consultant without the prior written consent of the other.

#### **10.3 Changes to Scope of Work - Basic Services**

City may at any time and, upon a minimum of ten (10) days' written notice, modify the scope of basic services to be provided under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify City in writing. Upon agreement between City and Consultant as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by City and Consultant shall constitute the Consultant's notice to proceed with the changed scope.

#### **10.4 Compliance with Laws, Rules, Regulations**

All services performed by Consultant pursuant to this Agreement shall be performed in accordance and full compliance with all applicable Federal, State or City statutes, and any rules or regulations promulgated thereunder.

#### **10.5 Conflict of Interest**

If City's City Manager has determined that one or several of Consultant's Principal(s) or Project Manager(s) are subject to any provisions of the Anderson Municipal Code relating to conflict of interest, or the provisions of any rules or regulations which may have been promulgated thereunder, then each such person will be required to comply with said provisions in connection with the services they render to the City under this Agreement. City shall advise Consultant of any such provisions prior to the date of execution of this Agreement.

#### **10.6 Exhibits Incorporated**

All Exhibits referred to in this Agreement and attached to it are hereby incorporated in it by this reference.

#### **10.7 Independent Contractor**

City and Consultant agree that the relationship between them created by this Agreement does not constitute an employer-employee relationship, a partnership or joint-venture relationship of any kind between the City of Anderson and the Consultant. Consultant is not an

agent of the City and has no authority to commit the City in any way whatsoever. Consultant shall be solely responsible for the conduct and control of the work performed under this Agreement. Consultant shall be free to render professional consulting services to others during the term of this Agreement, so long as such activities do not interfere with or diminish Consultant's ability to fulfill the obligations established herein to City.

**10.8 Integration; Amendment**

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing signed by both parties.

**10.9 Jurisdiction**

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that state. If any part of this Agreement shall be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

**10.10 Notice to Proceed; Progress; Completion**

Upon execution of this Agreement by the parties, City shall give Consultant written notice to proceed with the work. Such notice may authorize Consultant to render all of the services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, City shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Consultants shall diligently proceed with the work authorized and complete it within the agreed time period.

**10.11 Ownership of Documents**

Title to all documents, drawings, specifications, and the like with respect to work performed under this Agreement shall vest with City at such time as City has compensated Consultant, as provided herein, for the services rendered by Consultant in connection with which they were prepared.

**10.12 Subcontracts**

Consultant shall be entitled, to the extent determined appropriate by Consultant, to subcontract any portion of the work to be performed under this Agreement. Consultant shall be

responsible to City for the actions of persons and firms performing subcontract work. The subcontracting of work by Consultant shall not relieve Consultant, in any manner, of the obligations and requirements imposed upon Consultant by this Agreement.

**10.13 Term; Termination**

The term of this Agreement shall commence upon City's issuance to Consultant of a notice to proceed for all or a portion of the work, as hereinabove provided, and shall end upon City's acceptance and payment for all or such portion of the work as was authorized by such notice, including any and all retentions. Notwithstanding the foregoing, City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving at least ten (10) days' prior written notice of such termination to Consultant. In any event, termination of the Agreement is subject to the terms and provisions of **Exhibit "D"** of this Agreement.

**10.14 Notices**

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

- a. To City: **Juanita Barnett, City Clerk**  
City of Anderson  
1887 Howard Street  
Anderson, CA 96007
  
- b. To Consultant: **Lori Adams, Principal**  
Ashby Adams Group  
770 L Street, Suite 950  
Sacramento, CA 95814

Nothing hereinabove shall prevent either City or Consultant from personally delivering any such notices to the other.

**SECTION 11 - SPECIAL PROVISIONS**

This Agreement shall include all special provisions, if any, as are set forth on **EXHIBIT "E"** entitled "**SPECIAL PROVISIONS.**"

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

**CITY OF ANDERSON**

**CONSULTANT**

\_\_\_\_\_  
Dana Shigley, City Manager

\_\_\_\_\_  
Lorie Ann Adams, Principal

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Paul Ashby, Principal

\_\_\_\_\_  
Juanita Barnett, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Fitzpatrick, City Attorney

**EXHIBIT "A"**

**DESCRIPTION OF PROJECT**

This project consists of Grant Administration and Activity Delivery for Community Development Block Grant Standard Agreement No. 09-STBG-6409 for First Time Homebuyers/Down Payment Assistance and Owner Occupied Residential Rehab and training City staff in these processes.

## **EXHIBIT "B"**

### **SCOPE OF SERVICES—BASIC; SCOPE OF SERVICES**

The consultant shall be responsible for compliance with all requirements of the CDBG Program funding the project and shall include ongoing services as may be required to fulfill the requirements set forth in the CDBG Standard Agreement #09-STBG-6409, attached hereto and made a part hereof, for the life of said agreement.

Contract services include:

- Marketing both the First Time Homebuyer Down Payment Assistance and the Residential Rehabilitation programs and answer questions from prospective applicants.
- Screening program applicants for income eligibility.
- Processing loan applications for both the First Time Homebuyer Down Payment Assistance and the Residential Rehabilitation programs.
- Conducting any necessary procurement for subcontractors, as requested, including preparation of Requests for Proposals/Qualifications, solicitation of qualified bidders, advertisements, etc.
- Assisting in the preparation of contracts, as requested, for subcontractors and sub-recipients.
- Preparing annual reports and Close Out reports (the City will prepare quarterly reports).
- Maintaining fiscal records and providing complete files to the City for each borrower at grant closeout.
- Training and assisting City staff with performance of on-site inspections and work write-ups.
- Being available to City staff to answer questions regarding the administration of grant activity.
- All additional activities as may be required to fully administer this grant according to CDBG guidelines.

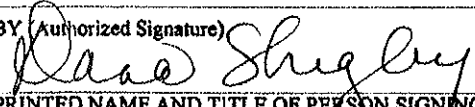
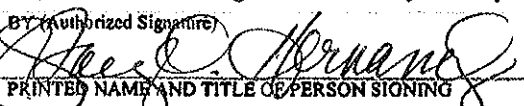
STATE OF CALIFORNIA  
**STANDARD AGREEMENT**  
 STD 213 (Rev 06/03)

AGREEMENT NUMBER 09-STBG-6409
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:  
 STATE AGENCY'S NAME  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
 CONTRACTOR'S NAME  
**City of Anderson**
- The term of this Agreement is: **Upon HCD Approval through 12/31/2012**
- The maximum amount of this Agreement is: **\$600,000.00**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A - Authority, Purpose and Scope of Work	11
Exhibit B - Budget Detail and Payment Provisions	5
Exhibit C - HCD General Terms and Conditions	8
Exhibit D - State of California General Terms and Conditions	6
Exhibit E - Special Terms and Conditions	6
Exhibit F - Additional Provisions	0
<b>TOTAL NUMBER OF PAGES ATTACHED:</b>	<b>36 pages</b>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

<b>CONTRACTOR</b>		California Department of General Service Use Only          MAR 02 2010
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc) City of Anderson		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 2/25/10	
PRINTED NAME AND TITLE OF PERSON SIGNING Dana Shigley City manager		
ADDRESS 1887 Howard Street, Anderson, CA 96007		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME Department of Housing and Community Development		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 3/2/10	
PRINTED NAME AND TITLE OF PERSON SIGNING Stacy Q. Hernandez, Contracts Manager, Budget and Contracts Branch		
ADDRESS 1800 Third Street, Room 350, Sacramento, CA 95811		
		<input checked="" type="checkbox"/> Exempt per: SCM 4.04.3 (DGS Memo dated 6/12/81)

## EXHIBIT A

### AUTHORITY, PURPOSE AND SCOPE OF WORK

#### 1. Authority & Purpose

This Agreement provides official notification of the grant award under the State's administration of the Federal Community Development Block Grant Program (hereinafter, "CDBG" or "the Program") for Non-entitlement jurisdictions pursuant to the provisions of 42 U.S. Code (U.S.C.) 5301 et seq., 24 Code of Federal Regulations (CFR) Part 570, Subpart I, and 25 California Code of Regulations (CCR), Sections 7050 et seq. The Program is listed in the Catalog of Federal Domestic Assistance as 14.228 – CDBG Community Development Block Grant Program. In accepting the grant award, the Grantee agrees to comply with the terms and conditions of this Agreement and all exhibits hereto, the representations contained in the Grantee's application (hereinafter, "the Application") which is hereby incorporated by reference as if set forth in full, and the requirements of the authorities cited above. Any changes made to the Application after this Agreement is executed must receive prior written approval from the Department of Housing and Community Development (Department). For purposes of this Agreement, use of the term "Grantee" shall be a reference to "Contractor".

#### 2. Scope of Work

A. The Grantee shall perform the funded activities described in Scope of Work (Work) as represented in the Application, which is on file at the Department of Housing and Community Development, Division of Financial Assistance, 1800 Third Street, Room 330, Sacramento, California, and which is incorporated herein by reference. All written materials or alterations submitted as addenda to the original Application and which are approved in writing by the Department are hereby incorporated as part of the Application. The Department reserves the right to require the Grantee to modify any or all parts of the Application in order to comply with CDBG requirements. The Department reserves the right to review and approve all Work to be performed by the Grantee in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department. Approval shall not be presumed unless such approval is made by the Department in writing.

B. The grant activity(ies) shall principally benefit the Targeted Income Group (TIG), which is defined as a low- or moderate-income person or household whose income is no more than 80 percent of the median area income, and as described in the Application and shall consist of:

*Rehabilitation of restrooms and parking lot at Volonte Park to benefit 9,022 people (03F).*

*Direct homeownership assistance program to benefit 4 households (13).*

*Housing rehabilitation program to benefit 5 households (14A).*

**EXHIBIT A**

**3. Term of Agreement and Deadlines**

With the exception of the Grant Closing Requirements set forth in Exhibit C, Section 9, the Grantee shall complete the grant activity(ies) by the termination date set forth on the front page of this Agreement, unless a written request for an extension is approved ninety (90) days prior to the termination date in writing by the Department.

**4. State Contract Coordinator**

The State Contract Coordinator for this Agreement for the Department is the CDBG Program Manager, Division of Financial Assistance, or the Program Manager's designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the State Contract Coordinator at the following address:

Contract Coordinator, CDBG  
Division of Financial Assistance, Room 330  
Department of Housing and Community Development  
P. O. Box 952054  
Sacramento, California 94252-2054

**5. Grantee Contract Administrator**

The Grantee's Contract Administrator for this Agreement is listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the following address:

Grantee:	City of Anderson
Name:	Dana Shigley
Title	City Manager
Address:	1887 Howard Street, Anderson, CA 96007
Phone:	(530) 378-6646
Fax:	(530) 378-6666
E-Mail:	dshigley@ci.anderson.ca.us

**6. Special Conditions – General**

**A. 90 Day Special Conditions**

The following conditions apply to all activities, including set aside activities. The Grantee must meet the conditions within ninety (90) days of this Agreement's execution. Failure to meet the following special conditions may result in termination of this Agreement.

## EXHIBIT A

1) Environmental Compliance

The Grantee shall have satisfied all National Environmental Policy Act (NEPA) requirements and the California Environmental Quality Act (CEQA). CEQA shall be approved by the Grantee. The level of compliance varies by activity. NEPA review must be completed by the Grantee for each activity and approved by Department staff prior to incurring costs on the grant activity(ies).

2) Acquisition/Relocation Compliance

The Grantee must document that its compliance with the Uniform Relocation Act and Section 104 (d) before release of funds by the Department. The Grantee must submit a specific relocation assistance plan for each activity which may result in temporary or permanent displacement. For projects where there will be temporary or permanent displacement, the Grantee must submit signed General Information Notices (GINs) from each tenant who was residing in the project at the time of Application submittal. If a Grantee believes that there will be no displacement as a result of their activities, they must submit a letter explaining why no displacement or relocation will occur, which will be subject to written approval by the Department.

3) Program Income Reuse Plan

The Grantee must submit a copy of its plan for administering Program Income. The plan must include a discussion of how the Grantee will collect and disburse Program Income for CDBG eligible activities. The Grantee must also submit program guidelines regarding the Grantee's administrative policies and procedures for managing the Program Income activities.

4) Site Control

The Grantee shall demonstrate Site Control of the proposed project property by submitting one or more of the following to the Department:

- a) Fee title;
- b) A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all Program requirements;
- c) An option to purchase or lease;

## EXHIBIT A

- d) A disposition and development Agreement with a public agency;
- e) A land sale contract, or other enforceable Agreement for the acquisition of the property; or
- f) All easements and right-of-ways (required for completion of the CDBG project) must be obtained.

### 5) Funding Commitments and Project Cost Estimates

- a) All funding required for project completion must be documented and committed. If all funding is not committed, the Department shall terminate this Agreement pursuant to Exhibit D, Section 6. If the Grantee has applied for other funding prior to the execution of this Agreement, the Grantee must notify the Department as soon as that application is approved or denied. If the Grantee must apply for other funding after the execution date of this Agreement, the Grantee must apply at the earliest possible opportunity offered by the other funding source(s) and notify the Department as soon as that application is approved or denied.
- b) A current third party cost estimate must be provided by the engineer or architect for the project.

### 6) Compliance With All Loans and/or Grant Agreements

Pursuant to Exhibit C, Section 18 of this Agreement, the Grantee must comply with State and Federal Laws and Regulations that pertain to matters applicable to the Grantee. Prior to disbursement of any funds under this Agreement, the Grantee shall be in compliance with all loan and/or grant agreements of which it is a party to, and administered by the Department.

### 7) Easements and Rights-of-Way

If required for the completion of a CDBG project, the Grantee must obtain all easements and rights-of-ways required for completion of the CDBG project within twelve (12) months of execution of this Agreement. Failure to obtain these may result in termination of this Agreement.

## EXHIBIT A

### 8) Section 504 Accessibility Requirements

- a) Section 504 Regulations apply when CDBG funds are used on a new construction housing or public facility project or when an existing public facility or housing project with fifteen (15) or more units is being purchased and/or "substantially" rehabilitated. Qualified CDBG assisted housing projects are required to have a certain percentage of the units designed and accessible to persons with mobility and sensory impairments. Any public facilities or a housing project site being developed with CDBG funds must also, to the greatest degree feasible, be made accessible to disabled persons.
- b) The Grantee shall provide documentation satisfactory to the Department verifying that the required housing units public facility described in the project comply with the accessibility standards. CDBG funds will not be released until the necessary documentation is provided. All CDBG funded programs must, to the greatest degree possible, be conducted in buildings which meet Section 504 accessibility standards.

### B. Special Conditions – Public Improvements

If the Work to be performed under this Agreement involves Public Improvement, the following additional special conditions apply:

#### 1) Site Control

Documentation of site control by recordation of fee title or easement for all sites required for project completion must be submitted to the Department prior to going out to bid on the project.

#### 2) Project Timeline or Schedule:

Within ninety (90) days following execution of this Agreement, the Grantee shall submit a project timeline to the Department, for review and approval. If the CDBG project is a component of a larger project, the timeline for both the larger project and the CDBG-funded project must be submitted. The following list of key project events, if applicable, must be part of the schedule:

- a) Completion of all surveys, studies, testing and design;
- b) Completion of the NEPA and CEQA Environmental Review;
- c) Acquisition of site control sufficient to start construction on the project;

**EXHIBIT A**

- d) Approval of the plans and specifications with authorization to go out to bid by the governing body;
- e) Execution of the construction contract;
- f) Pre-construction meeting with the construction Contractor;
- g) Construction period (Start-End);
- h) Connection of TIG households to the system;
- i) Final acceptance of work and filing the notice of completion; and,
- j) Project closeout.

**3) Water and Sewer Laterals or Other Utility Service Connections**

CDBG funds expended on private property improvements may only benefit TIG households. If installation and/or replacement of water and/or sewer or other utility service connections occur on private property, CDBG funds may only be used to pay the cost of improvements associated with TIG households, which is the cost for the portion of the lateral extending across the private property from the public right-of-way boundary to the TIG housing unit, per 24 CFR 570.202(b)(6). Water and sewer lateral connections constructed on private property as "housing rehabilitation" per 24 CFR 570.202(b)(6), must comply with the documentation requirements of the housing rehabilitation activity. Water and sewer lateral connections constructed in the public right-of-way and not designated as "housing rehabilitation" are not subject to these additional conditions.

**4) Assessment Districts**

- a) CDBG funds may be used to pay for improvements financed by special assessments as provided for per 24 CFR 570.482 (b) Special Assessments under the CDBG Program. Special Assessment means the recovery of capital costs of an improvement through a fee or charge levied or filed as a lien against a property as a direct result of a benefit derived from the improvement. Special Assessment does not include periodic charges based on the use of a public improvement, such as monthly water or sewer user charges, even if such charges include the recovery of the capital costs of the improvement per 24 CFR 570.200 (c)(1), General Policies, Special Assessments Under the CDBG Program, Definition of Special Assessment.

**EXHIBIT A**

- b) If the project will include the formation and implementation of an assessment district, the Grantee must submit, within ninety (90) days of execution of this Agreement, an assessment district formation and implementation timeline schedule which shows that the CDBG funds will be expended and benefits will accrue to the TIG beneficiaries before the end of this Agreement. Key time events must include, if applicable, the following items:
- i. Filing of the Environmental Notice of Determination for the project with the County Clerk respective to the project;
  - ii. Adoption of the Resolution of Intention to form the assessment district by the governing body (i.e., City Councils or Board of Supervisors);
  - iii. Holding the protest hearing and recording the assessments and assessment diagram;
  - iv. Awarding the construction contract and sale of bonds; and
  - v. Filing the construction contract notice of completion.
- 5) Assessment Fees
- CDBG funds may be used to pay reasonable user fees established by the governing body, (i.e., City Councils or Board of Supervisors) as a one time charge to gain access to a public improvement. This one time charge may not include real estate, property or ad valorem taxes even if such taxes include the recovery of all or a portion of the capital costs of the public improvement per 24 CFR 570.200 (c)(1).

## EXHIBIT A

### 6) Rate Structure

If the project includes the construction of, or improvements to, a public district such as a water, sewer, solid waste, natural gas or electric power utility, the Grantee shall provide an assurance that the Grantee will provide for future maintenance and capital replacement of the benefiting enterprise agency. The Grantee must submit the following documentation to CDBG, within ninety (90) days of execution of this Agreement:

- a) A copy of the previous year's revenue and expenditure budget showing all revenues and expenditures of the enterprise agency involved. Revenues should include all monthly user charges, hookup fees, connection fees, extension fees, plant expansion fees, land development fees and any other fees or charges related to operation, maintenance, capital improvement or development of the public district involved. Expenditures should include all operating expenses including: labor, materials, equipment, testing, administration, licensing and other costs to operate the system. The budget should include a revenue and expenditure plan for capital replacements and for future growth or expansion. The plan should include the payment of any existing or future capital finance obligations such as revenue bonds or certificates of participation.
- b) A draft copy of projected revenues and expenditures for the three (3) years following this Agreement's execution date. The draft of future revenues and expenditures must include all the features listed in Sub-Section a. above.
- c) A certified copy of the present resolution(s) and/or ordinance(s) which establish the existing monthly user charges, hookup fees, connection fees, extension fees, plant expansion fees, land development fees and any other fees or charges related to the revenues which finance the enterprise agency.
- d) A listing of the number of each of the various types of monthly users for each separate type of user fee listed in the resolution described in Sub-Section c. above.
- e) A written plan, approved by the governing body, for increases in monthly user charges and fees necessary to meet the projected increases in costs, if any, which develop during the three (3) year period described in Sub-Section b.

## EXHIBIT A

### 7) Payment for Targeted Income Households

In order to comply with the provisions of the Housing and Urban Development (HUD), Rural Economic Recovery Act of 1983, the Grantee shall not attempt to recover any capital costs of the public improvement assisted by CDBG funds by assessing any amount against properties owned and occupied by TIG families, unless:

- a) CDBG funds are used to pay the assessment for the (TIG) families; or,
- b) The CDBG funds are used to pay the assessment for the lowest TIG families [fifty percent (50%) of county median income or below] and the Grantee certifies to the Department that it lacks sufficient CDBG funds to pay the assessment of all TIG families (above fifty percent [(50%) of median, up to eighty percent (80%) of median].

### C. Special Conditions – Public Facilities

If the Work to be performed under this Agreement involves Public Facilities, the following additional special conditions apply in addition to all conditions under Section 6A, Special Conditions – Applicable to all activities:

#### 1) Site Control

Documentation of site control by recordation of fee title or easement for all sites required for project completion must be submitted to the Department prior to going out to bid on the project.

#### 2) Project Cost Estimate

A current third party cost estimate must be provided by the engineer or architect for the project and submitted to the Department.

#### 3) Project Timeline or Schedule

The Grantee shall submit a project timeline to the Department, for review and approval.

**EXHIBIT A**

4) Change of Use

The following applies to real property, which was acquired or improved in whole or in-part, using CDBG funds in excess of \$25,000, pursuant to 24 CFR 570.505:

- a) The property must be used to meet the low-income benefit as specified in the Application for a period of five (5) years after termination of this Agreement. The Grantee should prepare a lease/or rent limitation agreement with the users of such property to assure the continuing benefit; or,
- b) If the property does not meet the requirements of Section a) above, the Grantee shall notify the Department that the following requirements have been met:
  - i. If the property is controlled by a third party, the third party shall pay to the Grantee's CDBG Program an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, and improvement to, the property; or,
  - ii. If the property is controlled by the Grantee, the Grantee shall pay to the CDBG Program an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, and improvement to, the property.

D. Special Conditions – Public Improvement in Support of Multi-Family, Non-Senior New Construction Housing

If the Work to be performed under this Agreement involves Public Improvement in Support of Multi-Family, Non-Senior New Construction Housing, the following additional special conditions apply in addition to all conditions under Section 6A, Special Conditions – Applicable to all activities.

- 1) The proportion of the total cost of developing the project to be funded by CDBG funds may not be greater than the proportion of units occupied by TIG households; and
- 2) Not less than twenty percent (20%) of the units must be occupied by TIG households at affordable rents.

## EXHIBIT A

### E. Special Conditions – Homeownership Assistance

If the Work to be performed under this Agreement involves Homeownership Assistance, the following additional special conditions apply in addition to all conditions under Section 6A, Special Conditions – Applicable to all activities.

- 1) Program Guidelines: The Grantee must submit a copy of its Rehabilitation Program Guidelines to the Department for review and approval within ninety (90) days of the execution date of this Agreement.
- 2) If the Grantee proposed to assist homebuyers to purchase newly constructed units in its CDBG application under the Housing Acquisition activity, the following requirements must be met:
  - a) The units must have been available for sale to the general public;
  - b) Development of the new subdivision must not be dependent upon the funding of the homebuyer loan;
  - c) CDBG funds shall not be used for construction; and,
  - d) Homebuyer assistance loans will not be approved prior to the foundation of the housing being in place.

### F. Special Conditions – Housing Rehabilitation

If the Work to be performed under this Agreement involves Housing Rehabilitation, the following additional special conditions apply in addition to all conditions under Section 6A, Special Conditions – Applicable to all activities.

- 1) Program Guidelines: The Grantee must submit a copy of its Rehabilitation Program Guidelines to the Department for review and approval.
- 2) Affordable Rent: If the Grantee's Housing Rehabilitation program provides for rehabilitating rental properties, the Grantee must submit to the Department its provisions for assuring affordable rent for the TIGs. The Grantee may include this information as part of the Program Guidelines.

**EXHIBIT B**

**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Grant Budget**

Specifics of the grant budget shall be agreed upon by the Department and the Grantee prior to the drawdown of any funds.

**2. Contract Amount**

For the purposes of performing the Work, the Department agrees to provide the amount identified below. Unless amended, the Department shall not be liable for any costs in excess of the contract amount, nor for any unauthorized or ineligible costs. Funds provided under this Agreement shall be provided in the form of a grant to the Grantee for the following activity(ies):

*Breakdown of Grant Budget*

<u>Federal Matrix Code</u>	<u>Source Amount</u>	<u>Federal Source Coding</u>
03F	\$ 52,440	Parks, Recreational Facilities
03FD	\$ 4,560	Parks, Recreational Facilities AD
13	\$322,000	Homeownership Assistance
13AD	\$ 28,000	Homeownership Assistance AD
14A	\$132,030	Single Unit Housing Rehabilitation
14H	\$ 30,970	Rehabilitation AD
21A	\$ 30,000	General Administration

**Total \$600,000**

**3. Line Items**

Line item adjustments may be made in accordance with the following:

- A. The following limits apply to the expenditure of funds for general administration. The amount shown above for general administration is the amount requested in the Grantee's application, unless that amount exceeded the CDBG general administration cap of seven and a half percent (7.5%) of the grant request. If the amount requested for general administration exceeded seven and a half percent (7.5%), the Department reduced the general administration request to meet that limitation and re-allocated the excess to activity(ies) implementation. Costs for the annual audit may be a general administration expense and are subject to the seven and a half percent (7.5%) limitation.
- B. The Department may approve a request from the Grantee to reallocate funds between the authorized activities and itemized amounts stated in Exhibit B, Section 2 above. Changes in the aggregate of ten percent (10%) or less, of the total grant amount between activity categories or line items during the term of this Agreement, and expenditures pursuant thereto, may be made only after the Department's express written approval, but do not require a written amendment to this Agreement. Changes between activity categories or line items cannot occur more often than once every six months during the term of this Agreement.

**EXHIBIT B**

- C. Unless incorporated in a written amendment to this Agreement, no change greater than ten percent (10%) of the total grant amount between activity categories or line items during the term of this Agreement shall be made, and no change in which the aggregate results in greater than ten percent (10%) of the total grant amount in adjustments between activity categories or line items during the term of this Agreement shall be made. Any such contract amendment must be executed by the Department prior to expenditures pursuant thereto. Changes between the housing activities of a housing combo program will be allowed based on written approval from the Department.
- D. If HUD changes an Activity Code(s) identified in Section 2 of this Exhibit, the Grantee shall be notified in writing. Any Activity Code change, directed by HUD, shall not require an amendment to this Agreement.

**4. Leverage**

The Grantee has committed leveraged funds in its application. These funds must be expended by the termination date of this Agreement. The Grantee will report on the value of other contributions included as leverage to the project activity(ies). Required contributions to be reported on, as described in the Application, are:

*Breakdown of Leverage Obligated*

<u>Federal Matrix Code</u>	<u>Source Amount</u>	<u>Federal Source Coding</u>
14A	\$ 800	L210-Local-Fee Waivers
21A	\$ 8,000	L120-Local-In-Kind
21A	\$15,000	L600-Local-RDA

**Total \$23,800**

**5. Program Income**

If the Grantee has committed Program Income funds in its Application, this Program Income and/or any additional Program Income committed to an activity must be spent before any grant funds are drawn down for the activity(ies) for which it was committed. Any Program Income in a local revolving loan account, or revolving loan fund designated for the same activity(ies) as any open grant activity must also be spent before grant funds are drawn down for the activity(ies). The Grantee shall report Program Income expenditures on the Funds Request Form, the Quarterly Program Income Report, and the Annual Program Income Report. The following Program Income is committed to grant activities:

No Program Income committed.

**EXHIBIT B**

**6. Expenditure of Funds**

A. General Administration

Costs for general administration may neither be incurred nor funds expended until execution of this Agreement by the Department, unless the Grantee has received prior written approval from the Department. If such approval is desired before execution of this Agreement by the Department, the Grantee shall make the request for approval in writing, but the Grantee will expend these funds at its own risk.

B. Program Implementation and Activity(ies) Delivery

Costs for program implementation and activity(ies) delivery may neither be incurred nor funds expended until the Grantee has received written approval from the Department that the Special Conditions set forth in Exhibit A, Section 6 are met. If such approval is desired before execution of this Agreement by the Department, the Grantee shall make the request for approval in writing.

C. Compliance with the Federal Office of Management and Budget (OMB) Circular A-133

Funds will not be disbursed to Grantees identified by the State Controller's Office (SCO) as non-compliant with the Federal Single Audit Act, as described in OMB Circular A-133, until such compliance is demonstrated.

D. Grant Administration

The Grantee agrees to administer this Agreement in accordance with the provisions of Section 7098 through and including Section 7124 of Title 25 of the CCR.

**7. Expenditure Milestones**

The Grantee must meet expenditure milestones set as follows.

A. All Program Activities, except set-aside activities:

25%	by	06/30/2011
50%	by	12/31/2011
75%	by	06/30/2012
100%	by	12/31/2012

## EXHIBIT B

B. All Project Activities, except set-aside activities:

*None.*

C. If the Grantee does not meet the expenditure milestones as set by the Department, per Title 25, CCR, Section 7066 (d) and (e), the Department may disencumber the difference between the milestone and what was expended for the program activity sixty (60) days after the date of the milestone.

### 8. Method of Payment

The Grantee shall submit all forms to the State Contract Coordinator, as specified in Exhibit A, Section 4, or any other address of which the Grantee has been notified in writing. The Department shall not authorize payments unless it determines that the grant activity(ies), has been performed in compliance with the terms of this Agreement.

#### A. Advances and Reimbursements

- 1) All Activity(ies): To receive an advance or reimbursement for the grant activity(ies) performed, the Grantee shall submit an executed Funds Request form. Reimbursement Fund Requests shall include the level of documentation specified by the Department. For advance of funds, Grantee shall include a justification explaining the need for an advance.
- 2) Lump Sum Draws for Housing Rehabilitation Activity(ies): If the Grantee is using a lump sum draw down payment method for a housing rehabilitation activity, the funds disbursed to the Grantee under a lump sum Fund Request are subject to the expenditure requirements contained in the Federal Regulations, 24 CFR 570.513. Any funds drawn down under a lump sum arrangement must be expended by the termination date of this Agreement.

## EXHIBIT B

### B. Final Payment Requests

- 1) Grantees on the Advance Payment System: The last advance payment request must be submitted to the Department no later than ninety (90) days prior to the termination date of this Agreement.
- 2) Grantees on the Reimbursement Payment System: All requests for final reimbursement must be submitted within forty-five (45) days after the termination date of this Agreement.
- 3) All Requests for Grant Funds Not Previously Requested: If the final request for funds expended during the contract term has not been received by the Department within the forty-five (45) days of this Agreement's termination date, the Department shall disencumber any funds remaining in the Agreement and grant funds will no longer be available.

## EXHIBIT C

### HCD GENERAL TERMS AND CONDITIONS

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

This Agreement is effective upon approval/execution by the State, which is the date stamped by the Department in the lower right hand corner cover page of this Agreement. The Grantee agrees, subject to Exhibit B, Section 6A and 6B, that neither Work shall commence, nor will any costs be incurred to be paid with CDBG funds, prior to the effective date of the Agreement unless the Grantee has received prior written approval from the Department. The Grantee agrees that the Work shall be completed by the termination date specified on the cover page of this Agreement (as stated in Exhibit A, Section 3).

#### 2. Sufficiency of Funds and Termination

- A. The Department may terminate this Agreement at any time for cause by giving at least fourteen (14) days written notice to the Grantee. Cause shall consist of violations of any terms and/or special conditions of this Agreement, upon the request of HUD, or withdrawal of the Department's expenditure authority. Upon termination of this Agreement, unless otherwise approved in writing by the Department, any unexpended funds received by the Grantee shall be returned to the Department within fourteen (14) days of the Notice of Termination.
- B. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays which would occur if the Agreement were executed after the determination was made.
- C. This Agreement is valid and enforceable only if sufficient current funds are made available to the Department by the United States Government for the Federal fiscal year. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or statute enacted by the Congress or State Legislature or any statute enacted by the Congress or the State Legislature, which may affect the provisions, terms or funding of this Agreement in any manner.
- D. If Congress does not appropriate sufficient funds for the Program, the Department may amend this Agreement to reflect any reduction in funds, or it may terminate this Agreement by giving fourteen (14) days written notice to the Grantee.

#### 3. Meeting National Objectives

All grant activities performed under this Agreement must meet one of the National Objectives of the HUD regulations.

## EXHIBIT C

The funded activities shall benefit TIG households, as specified in the grant Application, and this benefit must be achieved by the Grant termination date.

### 4. Inspections of Grant Activity

- A. The Grantee shall inspect any grant activity performed by contractors and subrecipients hereunder to ensure that the grant activity(ies) is being and has been performed in accordance with the applicable Federal, State and/or local requirements and this Agreement.
- B. The Department reserves the right to inspect any grant activity(ies) performed hereunder to verify that the grant activity(ies) is being and has been performed in accordance with the applicable Federal, State and/or local requirements and this Agreement.
- C. The Grantee agrees to require that all grant activity(ies) found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to its contractor or subcontractor, respectively, until it is so corrected.

### 5. Insurance

The Grantee shall have and maintain in full force and effect during the term of this Agreement such forms of insurance, at such levels as may be determined by the Grantee and the Department to be necessary for specific components of the grant activity(ies) described in Exhibit A.

### 6. Contractors and Subcontractors

- A. The Grantee shall not enter into any agreement, written or oral, with any contractor without the prior determination of the contractor's eligibility. A contractor or subcontractor is not eligible to receive grant funds if the contractor is not licensed, not in good standing with the State of California, or is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible contractors.
- B. An agreement between the Grantee and any contractor shall require the contractor and its subcontractors, if any, to:
  - 1) Perform the grant activity(ies) in accordance with Federal, State and local housing and building codes, as are applicable.
  - 2) Comply with the applicable State and Federal requirements described in Exhibits D and E of this Agreement which pertain to, among other things, labor standards, non discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace.

### EXHIBIT C

- 3) Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the grant activity(ies) or any part of it.
- 4) Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the grant activity(ies) or any part of it.
- 5) Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of five (5) years from date of termination of this Agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement, and any amendments, whichever is later.
- 6) Permit the State, Federal government, the Bureau of State Audits, the Department and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to the Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

#### 7. Periodic Reporting Requirements

During the term of this Agreement, the Grantee must submit the following reports by the dates identified, respectively, or as otherwise required at the discretion of the Department. The Grantee's performance under this Agreement will be based in part on whether it has submitted the reports on a timely basis.

- A. Financial and Accomplishment Report (FAR) (Semi-Annual): Submit by January 31 and July 31.
- B. Annual Grantee Performance Report (GPR): Submit by July 31 starting from the contract effective date to subsequent June 30, and for each State fiscal.
- C. Section 3 Report: Submit with the annual GPR by July 31 for each State Fiscal Year.
- D. Wage Compliance Reports: Semi-annual Wage Compliance Reports are to be submitted by October 31 and April 30 during the entire construction period. The final Wage Compliance Report is to be submitted thirty (30) days after construction is completed.
- E. Quarterly Program Income Report: Submit on or before January 31, April 30, and October 31, of each year.

## EXHIBIT C

- F. Annual Program Income Report: Submit by July 31 of each year regardless of whether or not the Grantee has any open grants.
- G. Funds Request Form: Submit a Funds Requests Form as funds are needed.
- H. Any other reports that may be required as a Special Condition of this Agreement.
- I. Any other reports required as a Special Condition of this Agreement.

### 8. Monitoring Requirements

The Department shall perform a program and/or fiscal monitoring of the grant activity(ies). The Grantee shall be required to resolve any monitoring findings to the Department's satisfaction by the deadlines set by the Department. If findings are not adequately resolved in a timely manner, the Department may deduct points from the Grantee's performance score on future applications.

### 9. Grant Closing Requirements

- A. The Grantee must submit the following within forty-five (45) days after the termination date of this Agreement:
  - 1) The Final FAR: The period of this report is the final period of this Agreement.
  - 2) The Final Funds Request: If any, for final reimbursement.
- B. The Grantee must submit the following within ninety (90) days after the termination date of this Agreement:
  - 1) The Final GPR, per current State CDBG Grant Management Manual.
  - 2) The Closeout Certification Letter, per current State CDBG Grant Management Manual.
  - 3) Return of Unexpended Funds: All funds received by the Grantee but not expended by the termination date of this Agreement must be accounted for and returned. Funds shall be returned in accordance with the current State CDBG Grant Management Manual..
  - 4) The Closeout FAR: The period of this report is from the Start Date of the Agreement to the End Date of this Agreement.
  - 5) Annual Audit Report: The Grantee must submit a annual audit report to the State Controller's Office (SCO) pursuant to the requirements of the Federal Office of Management and Budget (OMB) Circular A-133.
  - 6) Evidence, satisfactory to the Department, of compliance with any other Special Conditions of this Agreement.

**EXHIBIT C**

**10. Obligations of Grantee with Respect to Certain Third Party Relationships**

The Grantee 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 Program with respect to which assistance is being provided under this Agreement to the Grantee. The Grantee shall comply with all lawful requirements of the Department necessary to ensure that the Program, with respect to which assistance is being provided under this Agreement to the Grantee, is carried out in accordance with the Department's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the Department under Section 104(g) of the Housing and Community Development Act of 1974.

**11. Signs**

If the Grantee places signs stating that the Department is providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the project that the Department is a source of financing through the CDBG Program.

**12. Audit/Retention and Inspection of Records**

- A. The Grantee must have intact, auditable fiscal records at all times. If the Grantee is found to have missing audit reports from the SCO during the term of this Agreement, the Grantee will be required to submit a plan to the State, with task deadlines, for submitting the audit to the SCO. If the deadlines are not met, the Grantee will be subject to termination of this Agreement and disencumbrance of the funds awarded. The Grantee's audit completion plan is subject to prior review and approval by the Department.
- B. The Grantee agrees that the Department or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Grantee agrees to provide the Department or its designee with any relevant information requested and shall permit the Department or its designee 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 that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60 et seq. The Grantee further agrees to maintain such records for a period of five (5) years after final payment under this Agreement. The Grantee shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC 10115.10.
- C. An expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Grantee. Expenditures for grant activity(ies) not described in Exhibit A shall be deemed authorized if the performance of such grant activity(ies) is approved in writing by the Department prior to the commencement of such grant activity(ies).

### EXHIBIT C

- D. Absent fraud or mistake on the part of the Department, the determination by the Department of the allowability of any expenditure shall be final.
- E. For the purposes of annual audits under OMB Circular A-133 (The United States Office of Management and Budget Circular for Audits of States and Local Governments), Grantee shall use the Federal Catalog number 14.228 for the State CDBG Program.
- F. Pursuant to OMB Circular A-133, the Grantee shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. Audit costs for this Agreement are a general administration expense and are subject to the general administration expenditure limits associated with this Agreement. The costs of the CDBG-related portion of the audit may be charged to the program in accordance with Public Law 98-502, OMB Circular A-133 and Section 7122 of Title 25 CCR.
- G. Notwithstanding the foregoing, the Department will not reimburse the Grantee for any audit cost incurred after the termination date of this Agreement.
  - 1) The audit shall be performed by a qualified State, Department, local or independent auditor. The agreement/contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
  - 2) If there are audit findings, the Grantee 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, the audit process ends and the Department will notify the Grantee in writing. If the Department is not in agreement, the Grantee will be contacted in writing and informed what corrective actions must be taken. This action may include the repayment of disallowed costs or other remediation.
  - 3) The Department shall not approve reimbursement for any expenditures for the audit, prior to receiving an acceptable audit report.
  - 4) If so directed by the Department upon termination of this Agreement, the Grantee shall cause all records, accounts, documentation and all other materials relevant to the grant activity(ies) to be delivered to the Department as depository.

## EXHIBIT C

**13. Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or other Public Officials**

No member, officer, or employee of the Grantee, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the program assisted under this Agreement. The Grantee shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this Section.

**14. 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 Grantee 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.

**15. Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole 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. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Grantee shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

**16. Lead-Based Paint Hazards**

Activity(ies) performed with assistance provided under this Agreement are subject to lead-based paint hazard regulations contained in Title 8 (Industrial Relations) and Title 17 (Public Health) of the CCR and 24 CFR Part 35 (Lead Disclosure). Any grants or loans made by the Grantee with assistance provided under this Agreement shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these Regulations. The Grantee shall be responsible for the notifications, inspections, and clearance certifications required under these Regulations.

## EXHIBIT C

### 17. Prevailing Wages

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Grantee shall ensure that the requirements of California Labor Code (LC), Chapter 1, commencing with Section 1720, Part 7 (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Grantee and a licensed building contractor, the Grantee shall serve as the "awarding body" as that term is defined in the Labor Code. Where the Grantee will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

### 18. Compliance with State and Federal Laws and Regulations

- A. The Grantee agrees to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Grantee, its subgrantees, contractors or subcontractors, and the grant activity, and any other State provisions as set forth in Exhibit D.
- B. The Grantee agrees to comply with all Federal laws and regulations applicable to the CDBG Program and to the grant activity(ies), and with any other Federal provisions as set forth in Exhibit E.

EXHIBIT D

**STATE OF CALIFORNIA**  
**GENERAL TERMS AND CONDITIONS**

1. **Approval**

This Agreement is of no force and effect until signed by both parties.

2. **Amendment**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. **Assignment**

This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. **Indemnification**

Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Grantee in the performance of this Agreement.

5. **Disputes**

Grantee shall continue with the responsibilities under this Agreement during any dispute.

6. **Termination for Cause**

The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided.

7. **Independent Contractor**

Grantee, and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

**EXHIBIT D**

**8. Non-Discrimination Clause**

- A. During the performance of this Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- B. Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

**9. Timeliness**

Time is of the essence in this Agreement.

**10. Governing Law**

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

**11. Child Support Compliance Act**

If this Agreement is in excess of \$100,000, by executing this Agreement, Grantee acknowledges and agrees to the following:

- A. Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable State and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

**EXHIBIT D**

- B. Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

**12. Severability**

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

**13. Drug-Free Workplace Requirements**

Grantee shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and shall provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- B. Establish a Drug-Free Awareness Program to inform employees about: (1) the dangers of drug abuse in the workplace; (2) the Grantee's policy of maintaining a drug-free workplace; (3) any available counseling, rehabilitation and employee assistance programs; and (4) penalties that may be imposed upon employees for drug abuse violations.
- C. Every employee who works on the proposed contract will: (1) receive a copy of the Grantee's drug-free workplace policy statement; and (2) agree to abide by the terms of the Grantee's statement as a condition of employment under this Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Government Code Section 8350 et seq.)

**EXHIBIT D**

**DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California:

**14. Conflict of Interest**

Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

**A. Current State Employees (Public Contracts Code Section 10410):**

1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
2. No officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

**B. Former State Employees (Public Contracts Code Section 10411):**

1. For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.
2. For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a contract with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving State service.

**C. If Grantee violates any provisions of above Sections, such action by Grantee shall render this Agreement void. (Public Contracts Code Section 10420).**

## EXHIBIT D

- D. Members of boards and commissions are exempt from this Section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Public Contracts Code Section 10430 (e))

### 15. Labor Code/Workers' Compensation

The Grantee needs to be aware of the provisions which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

### 16. Americans With Disabilities Act

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

### 17. Grantee Name Change

An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, the State will process the amendment.

### 18. Corporate Qualifications to Do Business in California

- A. If Grantee is a corporation, the State may verify that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.
- B. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the State not be subject to the franchise tax.
- C. Both domestic and foreign corporations (those incorporated outside California) must be in good standing in order to be qualified to do business in California. If Grantee is a corporation, the State will determine whether Grantee is in good standing by contacting the Office of the Secretary of State.

**EXHIBIT D**

**19. Resolution**

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

**20. Air or Water Pollution Violation**

Under the State laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of the provisions of Federal law relating to air or water pollution.

**21. Payee Data Record Form Std. 204**

This form must be completed by all contractors that are not another State agency or other government entity.

**22. National Labor Relations Board Certification**

If Grantee is receiving Federal funds under this Agreement, Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two-year period because of Grantee's failure to comply with an order of a Federal court, which orders Grantee to comply with an order of the National Labor Relations Board. (Not applicable to public entities.)

EXHIBIT E

**SPECIAL TERMS AND CONDITIONS**

**1. Anti-Lobbying Certification**

The Grantee shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity(ies) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

"The undersigned certifies, to the best of his or her knowledge or belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions."

**2. Bonus or Commission, Prohibition Against Payments of**

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- A. Obtaining the Department's approval of the application for such assistance; or
- B. The Department's approval of the applications for additional assistance; or

## EXHIBIT E

- C. Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

### 3. **Citizen Participation**

The Grantee is subject to the requirements concerning citizen participation contained in Federal Regulations at 24 CFR 570.486, Local Government Requirements.

### 4. **Clean Air and Water Acts**

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

### 5. **Conflict of Interest of Certain Federal Officials**

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

### 6. **Environmental Requirements**

The Grantee shall comply with the provisions of the National Environmental Policy Act (NEPA) by following the procedures contained in 24 CFR Part 58.

### 7. **Equal Opportunity**

- A. The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances:

During the performance of this agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any grant activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

**EXHIBIT E**

**B. Rehabilitation Act of 1973 and the "504 Coordinator":**

The Grantee further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Grantees with fifteen (15) or more permanent full or part time employees, the local designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator."

**C. The Training, Employment, and Contracting Opportunities for Business and Lower- Income Persons Assurance of Compliance:**

- 1) The grant activity(ies) to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the HUD Act of 1968, as amended, 12 U.S.C. 1701u. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in 24 CFR 135.34(a)(2).
- 2) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- 3) The Grantee will include these Section 3 clauses in every contract and subcontract for work in connection with the grant activity(ies) and will, at the direction of the Department, take appropriate action pursuant to the contract or subcontract upon a finding that the Grantee or any contractor or subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135 and, will not let any contract unless the Grantee or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

**EXHIBIT E**

4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement shall be a condition of the Federal financial assistance provided to the grant activity(ies), binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the Agreement through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

D. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or more:

The Grantee hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246), the Standard Equal Employment Opportunity, and the Construction Contract Specifications. The Grantee furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts.

**8. Flood Disaster Protection**

- A. This Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act.
- B. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.
- C. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.

## EXHIBIT E

- D. These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

### 9. Labor Standards--Federal Labor Standards Provisions

The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

- A. Davis-Bacon Act (40 U.S.C. 3141-3148) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.
- B. "Anti-Kickback Act of 1986" (41 U.S.C. 51-58) prohibits any person from (1) providing, attempting to provide, or offering to provide any kickback; (2) soliciting, accepting, or attempting to accept any kickback; or (3) including directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.
- C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. 3702) requires that workers receive "overtime" compensation at a rate of one to one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- D. Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

### 10. Procurement

The Grantee shall comply with the procurement provisions in 24 CFR Part 85.36, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

## EXHIBIT E

### 11. Program Income

"Program Income" means gross income earned by the Grantee from grant-funded activities and is subject to CDBG regulatory requirements pursuant to 24 CFR 570.489 (e), Program Administrative Requirements, Program Income. These regulations include the requirement that the Grantee record receipt and expenditure of Program Income as part of the financial transactions of the grant activity(ies).

### 12. Non-Performance

Prior to closing out this Agreement, the Department shall review the actual National Objective and/or Public Benefit achievements of the Grantee. In the event that the National Objective and/or Public Benefit requirements are not met, the Department may, in its sole discretion, impose any or all of the following remedies: recapture of part or all of the Program Income; reimbursement of part or all of the grant amount; and/or exclusion of the Grantee from further CDBG funding for a period of time to be determined by the Department.

### 13. Relocation, Displacement, and Acquisition

The provisions of the Uniform Relocation Act, as amended, 49 CFR Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any acquisition of real property is carried out by the Grantee and assisted in whole or in part by funds allocated by CDBG.

### 14. Uniform Administrative Requirements

The Grantee shall comply with applicable Uniform Administrative Requirements as described in 24 CFR Section 570.502, including cited Sections of 24 CFR Part 85.

**EXHIBIT "C"**

**SCOPE OF SERVICES—ADDITIONAL; COMPLETION SCHEDULE**

No additional services are scheduled at this time.

**EXHIBIT "D"**

**COMPENSATION; PAYMENT OF FEES**

Consultant agrees to perform the services described in Exhibit B – Scope of Services for City.

City agrees to compensate Consultant as follows:

At an hourly rate of \$75.00 for each principal and \$55.00 for the CD Assistant, as follows:

Grant Administration:	Not to exceed \$27,000.00
First Time Homebuyer Activity Delivery:	Not to exceed \$21,000.00
Owner Occupied Residential Rehab:	Not to exceed \$17,929.00

Total agreement not to exceed \$65,929.00

**EXHIBIT "E"**

**SPECIAL PROVISIONS**

**INSURANCE REQUIREMENTS FOR CONSULTANT**

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims and injuries to persons or damages to property which may arise from or in connection with the work hereunder by the CONSULTANT, his agents, representatives, employees or subcontractors. The cost of such insurance shall be the sole responsibility of the CONSULTANT.

A. Minimum Scope of Coverage:

Insurance shall cover:

1. Professional Liability.
2. Comprehensive General Liability.
3. Automobile Liability.
4. Workers Compensation.

B. Minimum Limits of Insurance:

1. Professional Liability: \$1,000,000 errors and omissions.
2. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
4. Workers Compensation: Limits as set forth in the Labor Code of the State of California.

C. Deductibles:

Any deductibles must be declared to and approved by the City.

D. Other Insurance Provisions:

The Policies must contain the following provisions:

1. General Liability and Automobile Liability Coverage:

- a. The City, its officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT; premises owned, leased, or used by the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees and volunteers.
- b. The CONSULTANT's insurance coverage shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance maintained by the City, its officials, employees and volunteers shall be excess of CONSULTANT's insurance and shall not contribute with it.
- c. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees and volunteers.
- d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's liability.

2. Workers Compensation:

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from work performed by CONSULTANT for the City.

3. All Coverage:

Each insurance policy required herein shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' advance written notice to City by certified mail, return receipt requested.

E. Acceptability of Insurers:

Insurance shall be placed with insurers admitted to do business in California and with a Best rating of no less than A+.

F. Verification of Coverage:

CONSULTANT shall furnish the City with certificates of insurance coverage with the City named as an additional insured, and with original endorsements affecting coverage as required by this Agreement for General Liability, Professional Liability and Automobile Liability. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the City before work commences.

G. Subcontractors:

CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.