

AGREEMENT NUMBER 10-STBG-6711
REGISTRATION NUMBER

1. 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

County of El Dorado

2. The term of this Agreement is: **Upon HCD Approval through 06/30/2013**

3. The maximum amount of this Agreement is: **\$800,000.00**

4. 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	4
Exhibit C - State of California General Terms and Conditions*	GTC - 610
Exhibit D - CDBG Terms and Conditions	7
Exhibit E - Special Terms and Conditions	5
Exhibit F - Additional Provisions	0
TOTAL NUMBER OF PAGES ATTACHED:	27 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.documents.dgs.ca.gov/ols/GTC-610.doc>

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

CONTRACTOR		California Department of General Service Use Only MAR 15 2011
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc) County of El Dorado		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 3-10-2011	
PRINTED NAME AND TITLE OF PERSON SIGNING Daniel Nielson, M.P.A., Director of Human Services		
ADDRESS 3057 Briw Road, Suite A, Placerville, CA 95667		
STATE OF CALIFORNIA		
AGENCY NAME Department of Housing and Community Development		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 3/15/11	
PRINTED NAME AND TITLE OF PERSON SIGNING Stacy Q. Hernandez, Contracts Manager, Business & Contract Services Branch		
ADDRESS 1800 Third Street, Room 350, Sacramento, CA 95811		

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 and may require an amendment to this Agreement. 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:

Public Infrastructure In Support of Housing New Construction (PIHNC - Sunset Lane Apartments) to benefit up to fifty (50) income eligible housing units. (03K)

Jurisdiction-wide Housing Rehabilitation Program to benefit up to five (5) income eligible households. (14A)

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3. Term of Agreement and Deadlines

With the exception of the Grant Closing Requirements set forth in Exhibit D, 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:	County of El Dorado
Name:	Cynthia Kjellin
Title	Program Manager II
Address:	3057 Briw Road, Suite A, Placerville, CA 95667
Phone:	(530) 642-7266
Fax:	(530) 295-2672
E-Mail:	Cynthia.kjellin@edcgov.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.

1) Environmental Compliance

The Grantee shall have satisfied all National Environmental Policy Act (NEPA) requirements and California Environmental Quality Act (CEQA) requirements. 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 in writing by Department staff prior to incurring costs on the grant activity(ies).

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2) Acquisition/Relocation Compliance

The Grantee must document its compliance with the Uniform Relocation Act, 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 evidence of 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;
- 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.

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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 C, Section 7. 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) Grant/Activity Administration Documentation

There are four methods of administering a grant and/or completing grant activities:

- a) Use of in-house staff only;
- b) Subrecipient agreement(s) with qualified non-profit(s);
- c) Consultants/contractors/others obtained through Federal procurement procedures; and,
- d) Any combination of the above methods.

The Grantee must provide the following documentation demonstrating that one or more of these methods were used for the general administration of the grant and for all activities proposed in this Agreement's Work and in the Application.

- a) Use of in-house staff only: If not previously provided in the Application, submit staff resumes and duty statements that clearly identify Grantee staff have capacity and experience to complete administration of the proposed activities in the Application.
- b) Subrecipient agreement(s) with qualified non-profit(s): Subrecipients, and their respective agreements with the Grantee, must adhere to all Program requirements.

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Submit the subrecipient agreement that was executed between the non-profit and the Grantee. (Submitting draft documents for review prior to execution is recommended.) The scope of work in the subrecipient agreement must match the description of activity in this Agreement. Any parts of the activity description in this Agreement not covered by the subrecipient agreement must have separate procurement information. If the subrecipient is using CDBG funds to hire other consultants or subrecipients to do part or all of the Work then the procurement documentation or additional subrecipient agreements must be provided to the Department for review and approval.

- c) Consultants: Submit procurement documentation that all third party consultants are procured in accordance with Federal Procurement Procedures and Chapter 8 of the Grant Management Manual, as follows:
- i. A copy of the document used to notify prospective consultants, such as a Request for Proposal or similar document.
 - ii. A list of all bid respondents, showing respondents' contact information and the dollar amount of each proposal.
 - iii. A brief description of the process used to select the consultant/ contractor/other, including the rationale for the selection.

Additional information may be found in the Grant Management Manual, Chapter 2 - Program Operators, and Chapter 12 - Procurement Checklist.

7) Compliance With All Loans and/or Grant Agreements

Pursuant to Exhibit D, 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 to which it is a party, which are administered by the Department.

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 for and accessible to persons with mobility and sensory impairments.

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- b) For a federally assisted new construction housing project, Section 504 requires 5% of the dwelling units, or at least one unit, whichever is greater, to meet Uniform Federal Accessibility Standards or a standard that is equivalent or stricter, for persons with mobility disabilities. An additional 2% of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities.
- c) Under Section 504, alterations are substantial (i.e. substantially rehabilitated) if they are undertaken to a housing project that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility; and require that a minimum of 5% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with mobility disabilities and an additional 2% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with hearing or visual disabilities.
- d) The Grantee shall provide documentation satisfactory to the Department verifying that the required housing units or 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 - 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.

C. Special Conditions – Public Improvements

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

1) 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;

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- 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.

2) Laterals (not an eligible Public Improvement activity)

Lateral connections are defined as a utility connection (water, sewer or other utility service) between a main utility line and a housing unit. Laterals are only eligible for CDBG assistance under a housing rehabilitation activity, regardless if located on private property or in the public right-of-way. Laterals provide individual benefit to TIG households, per 24 CFR 570.202(b)(6), and are not a benefit to the general public. Note: lateral connections must comply with the documentation requirements of the housing rehabilitation activity.

3) Assessment Districts

- a) CDBG funds may be used to pay for improvements financed by special assessments, 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.
- 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;

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- 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.

4) 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).

5) 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.

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- 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) above.
- 6) 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].

D. 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 – General:

1) 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 Sub-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,

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- 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.

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;
- 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) Final acceptance of work and filing the notice of completion; and,
- i) Project closeout.

E. 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.

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F. 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 – General:

- 1) Program Guidelines: The Grantee must submit a copy of its Homeownership Assistance Program Guidelines and its Program Income Re-Use Plan 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 Homeownership Assistance 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) Homeownership Assistance loans will not be approved prior to the foundation of the housing being in place.

G. 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 – General:

- 1) Program Guidelines: The Grantee must submit a copy of its Housing Rehabilitation Program Guidelines and its Program Income Re-Use Plan 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 TIG occupants. The Grantee may include this information as part of the Housing Rehabilitation 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):

<i>Breakdown of Grant Budget</i>		
<u>Federal Matrix Code</u>	<u>Source Amount</u>	<u>Federal Source Coding</u>
03K	\$483,000	PIHNC - Street Improvements
03KD	\$ 42,000	PIHNC Activity Delivery
14A	\$174,150	Housing Rehabilitation - Single-Unit Residential
14H	\$ 40,850	Housing Rehabilitation Activity Delivery
21A	\$ 60,000	General Administration

Total \$800,000

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 or if there is a Department error in recording the Activity Code, the Grantee shall be notified in writing and the correction 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>
03K	\$4,500	L120-Local-In Kind
14A	\$2,500	L120-Local-In Kind
21A	\$ 500	L110-Local-Staff Time

Total \$7,500

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	12/31/2011
50%	by	06/30/2012
75%	by	12/31/2012
100%	by	06/30/2013

EXHIBIT B

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

25% by	06/30/2012
50% by	12/31/2012
75% by	03/31/2013
100% by	06/30/2013

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.

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.

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EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. 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 Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor 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 Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor 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 (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §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. Contractor 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.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor 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

b. The contractor, 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.

17. UNENFORCEABLE PROVISION: 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.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D

CDBG 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). This Agreement will expire on the date set forth in Exhibit A.

2. Sufficiency of Funds and Termination

- A. The Department may terminate this Agreement at any time for cause by giving at least 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.

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

EXHIBIT D

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.
 - 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.

EXHIBIT D

- 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 Year.
- 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.
- 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.

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.

EXHIBIT D

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.

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.

EXHIBIT D

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).
- 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.

EXHIBIT D

- 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.

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

Pursuant to 24 CFR 570.611, 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 or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter.

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.

EXHIBIT D

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.

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 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
- 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.

EXHIBIT E

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.

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."

EXHIBIT E

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.
- 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.

EXHIBIT E

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.
- 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.

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- 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.

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.