

EXHIBIT A

HOME PROGRAM INTERGOVERNMENTAL AGREEMENT FOR SERVICES

THIS HOME PROGRAM INTERGOVERNMENTAL AGREEMENT FOR SERVICES (this "Agreement") is made and entered into under the joint exercise of powers provisions of the Government Code of the State of California, California Government Code Section 6500-6536 this ____ day of _____, 2018 ("Effective Date") by and between the City of American Canyon, a California municipal corporation ("Grantee") and the Housing Authority of the City of Napa, a California public agency and Subrecipient of the Grantee (hereinafter "Program Operator"). Grantee and Program Operator are public entities organized and operating under the laws of the State of California and each is a public entity as defined in California Government Code Section 6500. Grantee and Program Operator may be referred to collectively as "the Parties."

A. The Grantee has applied for and received grant funds from the California State Department of Housing and Community Development ("HCD") HOME Investment Partnerships Program ("HOME Program Grant") allocated to the State from the U.S. Department of Housing and Urban Development ("HUD") under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, and in implementing regulations set forth in part 92 of Title 24 of the Code of Federal Regulations ("CFR"), and in section 8200 *et seq.* of Title 25 of the California Code of Regulations ("CCR").

B. The Grantee's use of the Grant Funds is governed by that certain Standard Agreement 16-HOME-111383 by and between the Grantee and HCD dated December 29, 2017 attached hereto as Exhibit A and incorporated herein by this reference ("the Standard Agreement"). Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Standard Agreement.

C. The Grantee wishes to utilize the Home Program Grant to fund an Owner-Occupied Rehabilitation Program ("Rehabilitation Program") and a Down Payment Assistance Program ("Down Payment Program") and to engage the Program Operator to assist the Grantee in administering such programs.

NOW, THEREFORE, it is agreed between the parties as follows:

1. SCOPE OF SERVICE

A. Activities. The Program Operator will be responsible for administering the Rehabilitation Program and the Down Payment Program (collectively, the "Programs") in the City of American Canyon ("City"), in a manner reasonably satisfactory to the Grantee and consistent with all standards required by the Standard Agreement. The Program Operator shall comply with all terms and conditions of the Standard Agreement applicable to the Services (defined below) being provided by Program Operator pursuant to this Agreement. The Program

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Operator will perform the program delivery activities and general administration activities described in subsections (1) and (2) below (collectively, "Services").

- (1) Program Delivery Activities. Program Operator will provide the following delivery activities:

Down Payment Program: Loan application processing and underwriting, income determination, inspection of properties, preparation of loan documents, NEPA environmental review, and preparation of project closing documents and draw requests.

Loan approval of applicant and final determination as to the appropriate level of environmental review under NEPA shall be the decision of the Grantee based upon the recommendation of the Program Operator.

Rehabilitation Program: Loan application processing and selection of loan recipients, income determination, inspecting and documenting conditions of dwellings, developing bid specifications, conducting bid walks, pre-construction conference, preparing Minor Rehabilitation Residential Environmental Reviews, preparing contracts and loan documents, monitoring construction activities, preparing payment requests and lien waivers, preparing and recommending approval of change orders, inspecting completed work, preparing and recording Notices of Completion, and preparing project closing documents and draw requests, and providing technical assistance.

Determination of applicant eligibility, scope of work, amount of loans, change orders, and other similar decisions shall be the decision of the Grantee based upon the recommendation of the Program Operator.

Delivery Activities for Program Income are not included within the Services. However, if Grantee desires Program Operator to provide such services, Program Operator will provide them on a time and materials basis at the rates set forth in Section 4 upon mutual agreement of the Parties.

- (2) General Administration. The Program Operator shall provide the following administrative activities: program outreach and marketing, annual occupancy monitoring, and preparation of reports required by the HOME Program, including quarterly and annual Program Income Reports and Performance Reports, and any applicable labor reports.

B. Program Goals. In providing the Services, the Program Operator shall use best efforts to s provide technical assistance and down payment assistance loans to approximately five (5) households and rehabilitation loans to approximately seven (7) households in the City.

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C. Staffing. The Program Operator shall provide staff to operate the Programs. Staff assigned to the Programs may include a Housing Rehabilitation Specialist, Affordable Housing Representative, Housing Secretary, Office Assistant, Management Analyst, Housing Inspector, Housing Specialist, and Housing Manager.

D. Performance Monitoring. The Grantee will monitor the performance of the Program Operator against goals and performance standards set forth herein. Substandard performance including, without limitation, as provided in Section 6.C, herein, as solely determined by the Grantee will constitute a material breach of, and non-compliance with, this Agreement. If action to correct such substandard performance is not taken by the Program Operator within 15 calendar days after being notified in writing by the Grantee, Grantee will be entitled to suspend and/or terminate this Agreement with 15 calendar days' notice.

2. TIME OF PERFORMANCE. This Agreement shall have a term of three (3) years, starting on the ____ day of _____, 2018, and ending on the ____ day of _____, 2021 (the "Term"); provided however, the Term of this Agreement shall be automatically extended to cover any extensions of the deadline to expend Program funds set forth in Section 3A of Exhibit A of the Standard Agreement.

3 BUDGET.

First Time Homebuyer Activity Delivery	\$38,000
Rehabilitation Activity Delivery	\$68,000
Program Administration	<u>\$16,667</u>
Total for Term of Agreement	\$122,667

Grantee will compensate Program Operator for the performance of Services under this Agreement in an amount not to exceed One Hundred Twenty Two Thousand Six Hundred Sixty Seven Dollars, \$122,667.00, as outlined above.

4. PAYMENT. The Grantee will pay Program Operator for Program Operator's time and expenses necessary to perform the Services as compensation in full for Services satisfactorily performed in compliance with this Agreement. The rate for Program Operator's time shall be the then-current fully burdened overhead rate (the "Fully Burdened Overhead Rate") for the employee performing the Services. The Fully Burdened Overhead Rate is an hourly billable rate that captures all Program Operator costs associated with an employee, over and above gross compensation or payroll costs. Typical costs associated with the Fully Burdened Overhead Rate include payroll taxes, worker's compensation, health insurance, paid time off, pension contributions, and other benefits. The applicable Fully Burdened Overhead Rate will depend on the Program Operator employee performing the Services as each employee has a different

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Fully Burdened Overhead Rate that is calculated based on that particular employee's salary and benefits.

It is expressly agreed and understood that the total amount to be paid by the Grantee to Program Operator for the Services provided under this Agreement shall not exceed the total set forth in Section 3. Payments to Program Operator shall be made against the line item budgets specified in Section 3, herein. The Program Operator shall comply with the provisions in OMB Circular A-87 regarding charges for Services and will charge Grantee for actual costs rather than a fixed fee. Program Operator shall not be entitled to any compensation for additional services provided without Grantee's prior written authorization.

Program Operator will submit a quarterly itemized invoice to the Grantee for the Services provided during the preceding quarter. The invoice will identify the Services performed, the hours spent performing the Services, the applicable Fully Burdened Overhead Rate(s), and any authorized expenses. Grantee may require a more detailed invoice from Program Operator for the cost of Services provided under this Agreement, and the Program Operator shall provide such supplementary information within 30 calendar days in the form and content prescribed by the Grantee. The Grantee will pay the Program Operator within 30 days after receipt of each invoice.

5. NOTICES. Communication and details concerning this Agreement shall be directed to the following contract representatives:

Grantee:

City of American Canyon
Jason Holley, Interim City Manager
4381 Broadway, Suite 201
American Canyon, CA 94503
707-647-4519

Program Operator:

Housing Authority of the City of Napa
Lark Ferrell, Housing Manager
P. O. Box 660
Napa, CA 94559
707-257-9543

6. SPECIAL CONDITIONS.

A. General Compliance. During the performance of this Agreement, the Program Operator agrees to comply with the requirements of 24 CFR Part 92 and Section 8200 through, and including, Section 8220 of Title 25 of the CCR concerning the HOME Investment Partnerships Program, and California Health and Safety Code Section 50886 except that: (1) the Program Operator does not assume the Grantee's responsibility for compliance with the National Environmental Policy Act, and (2) the Program Operator does not assume the Grantee's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Program Operator also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the Services provided under this Agreement.

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B. Workers' Compensation. The Program Operator shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

C. Suspension or Termination. In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Program Operator materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

- (1) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
- (2) Failure, for any reason, of the Program Operator to fulfill in a timely and proper manner its obligations under this Agreement;
- (3) Ineffective or improper use of HOME Program Grant funds; or
- (4) Program Operator's submission to the Grantee of reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Program Operator, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of this Agreement will not accomplish the purpose for which this Agreement was made, the Grantee may terminate this Agreement in its entirety. If this Agreement is terminated for convenience, Program Operator will be entitled to compensation for Services performed up to the notice of termination. Unless otherwise approved by Grantee, Program Operator shall refrain from providing any, and will not be entitled to compensation for, any services provided after the termination of this Agreement.

7. ADMINISTRATIVE REQUIREMENTS.

A. Documentation and Record-Keeping.

- (1) Records to be maintained. The Program Operator shall maintain all documents and records required by 24 CFR Part 92.508 and 25 CCR 8216 that are pertinent to the Services to be provided by Program Operator under this Agreement. Title to and ownership of all such documents and records shall be in Grantee, which shall at all times be entitled to have access to, and possession and copies of, such

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documents and records. Such documents and records shall include, but not be limited to:

- (a) Records providing a full description of each activity undertaken;
- (b) Records required to determine the eligibility of activities;
- (c) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance;
- (d) Records documenting compliance with the fair housing and equal opportunity components of the HOME program; and
- (e) Financial records as required by 24 CFR Part 570.502 and OMB; and Circular A-110.

(2) Retention. The Program Operator shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the expiration or termination of this Agreement. Records for any displaced person must be kept for three (3) years after s/he has received final payment or five (5) years after the expiration or termination of this Agreement. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

(3) Client Data. The Program Operator shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

(4) Disclosure. The Program Operator understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Program Operator's responsibilities with respect to the Services provided under this Agreement, is prohibited unless written consent is obtained from such persons receiving service and, in the case of a minor, that of the responsible parent/guardian. Notwithstanding the foregoing, Program Operator understands and agrees that such information is not private or confidential as to Grantee in

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Grantee's administration and oversight of Program Operator's responsibilities under this Agreement, and that Program Operator shall at all reasonable times provide Grantee with complete access to and complete copies of such information, including without limitation, all documents, records and materials retained by Program Operator, as determined to be necessary by Grantee.

(5) Audits, Access and Inspections. Notwithstanding any other provision of this Agreement, all Program Operators documents, information, books, records and other materials with respect to any matters covered by this shall be made available to the Grantee, HCD, their designees or the Federal and State Government, at any time during normal business hours, as often and as promptly as the Grantee or HCD deems necessary, to audit, examine, copy and make excerpts or transcripts of all relevant information and data. Any deficiencies noted in audit reports that relate to matters within the responsibility and control of Program Operator must be corrected by the Program Operator in accordance with the audit report. Failure to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Program Operator hereby agrees to comply with current Grantee policy concerning Program Operator's year-end audit/financial statement requirements, as applicable, in OMB Circular A-133.

C. Reporting. Upon Grantee's request, the Program Operator shall submit a progress report to the Grantee in the form and content as required by the Grantee.

D. Procurement.

(1) OMB Standards. Unless specified otherwise within this Agreement, the Program Operator shall procure all materials, property, or services in accordance with the requirements of 24 CFR 92.505.

(2) Travel. The Program Operator shall obtain prior written approval from the Grantee for any travel costs.

8. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT. During the performance of the Services, the Program Operator agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24; and Section 104 (d) of the Housing and Community Development Act of 1974, as amended, and implementing regulation 24 CFR 92, and applicable State HOME Regulations.

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9. PERSONNEL AND PARTICIPANT CONDITIONS.

A. Civil Rights.

(1) Compliance. During the performance of the Services, the Program Operator agrees to comply with all applicable local and state laws including, but not limited to, 14-S01, the California Fair Employment and Housing Act and 14-F03, the California Civil Rights Act of 1964, as amended, and with Title VI of the Civil Rights Act of 1964, as amended, Title VII of the Civil Rights Act of 1968, as amended, Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1976, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375 and 12086.

(a) During the performance of the Services, the Program Operator further certifies that its physical facilities will be accessible in compliance with Section 504 of the Rehabilitation Act of 1973.

(b) During the performance of the Services, the Program Operator certifies that it will make provisions in the Programs for communicating with hearing and speech impaired persons.

(c) During the performance of the Services, the Program Operator certifies that any advertising and outreach materials for the Programs will contain the Program Operator's TDD/TTY number or the telephone number of the California Relay Service.

(2) Nondiscrimination. During the performance of the Services, the Program Operator will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Program Operator will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Program Operator agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

(a) The Program Operator will conduct an analysis of racial and ethnic participation rates in the HOME Program, as well as the participation rates by female-headed households and persons with disabilities where applicable, to determine whether any group is

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actually, or is projected to be, participating at levels below the representation of these groups in the City's population, based on general population data available from the U.S. Census. Program Operator will develop an affirmative marketing strategy to promote interest among such under represented groups in the Grantee's programs. The Program Operator will include information in its performance report as to the affirmative outreach methods it has employed within the past year in compliance with this subsection.

(3) Land Covenants. The Standard Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with the HOME Program Grant, the Program Operator shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or improvements erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Program Operator, in undertaking its obligation to carry out the Program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not, itself, so discriminate.

(4) Section 504. During the performance of the Services, the Program Operator agrees to comply with any Federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Program Operator with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Affirmative Action.

(1) Approved Plan. To the extent applicable to Program Operator's performance of the Services, the Program Operator agrees that it shall be committed to carry out, pursuant to the Grantee's specifications, an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.

(2) M/WBE. To the extent applicable to Program Operator's performance of the Services, the Program Operator will use its best efforts to afford minority-women-owned business enterprises (M/WBE) the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women-owned business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-

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Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Program Operator may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

(3) Access to Records. During the performance of the Services, the Program Operator shall furnish and cause each of its own subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HCD, HUD or its agent, or other authorized State and Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

(4) Notifications. To the extent applicable to Program Operator's performance of the Services, the Program Operator will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) EEO/AA Statement. To the extent applicable to Program Operator's performance of the Services, the Program Operator will, in all solicitations or advertisements for employees placed by or on behalf of Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

(6) Subcontract Provisions. The Program Operator will include the provisions of Paragraphs 9.A, Civil Rights, and 9.B, Affirmative Action, in every subcontract or purchase order under this Agreement, specifically or by reference, so that such provisions will be binding upon each of its own divisions or subcontractors.

C. Employment Restrictions.

(1) Prohibited Activity. The Program Operator is prohibited from using Home Program Grant funds or personnel employed in the administration of the Programs for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

(2) Labor Standards. During the performance of the Services, the Program Operator agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the

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Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Program Operator shall maintain documents related to compliance with this subsection. Such documentation shall be made available to the Grantee for review upon request.

(3) The Program Operator shall, except with respect to the rehabilitation or construction of residential property containing (12) twelve or more HOME-assisted units, comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Program Operator of its obligation, if any, to require payment of the higher wage. The Program Operator shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirement of this paragraph.

(4) Housing and Urban Development Act of 1968 "Section 3" Clause.

(a) Compliance. To the extent applicable to Program Operator's performance of the Services, Program Operator shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued prior to the execution of this Agreement. Failure to fulfill these requirements shall subject the Grantee, the Program Operator and any of the Program Operator's subcontractors, their successors and assigns, to those sanctions specified by the Standard Agreement. The Program Operator certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Program Operator further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program provided direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest

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extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

To the extent applicable to Program Operator’s performance of the Services, the Program Operator further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the HOME-funding project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Program Operator certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

(b) Notifications. To the extent applicable to Program Operator’s performance of the Services, the Program Operator agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker’s representative of its commitments under the Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

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(c) Subcontracts. The Program Operator will include the Section 3 clause in every subcontract under this Agreement and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by HUD. The Program Operator will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135, and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(5) Drug Free Workplace. During the performance of the Services, the Program Operator agrees to comply with the requirements of the Secretary of HUD in accordance with the Drug-Free Workplace requirements and all other applicable Federal, state and local laws and regulations pertaining to drug-free workplace standards, insofar as those acts apply to the performance of this Agreement. The Program Operator shall maintain a written Drug-Free Workplace policy. Such policy shall be made available to the Grantee for review upon request.

D. Conduct.

(1) Assignability. The Program Operator shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee. Any unauthorized assignment shall be void and unenforceable. Claims for money due or to become due to the Program Operator from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished to the Grantee.

(2) Subcontracts.

(a) Approvals. The Program Operator shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the prior written consent of the Grantee.

(b) Monitoring. The Program Operator will monitor all subcontracted services on a regular basis to assure compliance with this Agreement. Results of monitoring efforts shall be summarized in written reports provided to Grantee and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

(c) Content. The Program Operator shall cause this Agreement in its entirety to be included and made a part of any subcontract executed in the performance of this Agreement.

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(d) Selection Process. The Program Operator shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competitive basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

(3) Hatch Act. During performance of the Services, the Program Operator shall comply with Chapter 15 of Title 5 of the United States Code.

(4) Conflict of Interest. During performance of the Services, the Program Operator agrees to abide by the provisions of 24 CFR 85.36 with respect to conflicts of interest for procurement of property and with 24 CFR 84.42 for procurement of services. In all cases not governed by these two sections, the Grantee and Program Operator shall comply with 24 CFR 92.356. The Program Operator covenants that in the performance of this Agreement no persons having such a financial interest shall be employed or retained by the Program Operator hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, or of any designated public agencies receiving funds under the HOME program.

(5) Lobbying. The Program Operator hereby certifies that:

(a) No Federal or State 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 HOME Program Grant, the Standard Agreement or this Agreement;

(b) If any funds other than Federal or State 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 the HOME Program Grant, the Standard Agreement or this Agreement, Program Operator will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) Program Operator will require that the language in this subsection 9(D)(5) be included in any subcontracts and that all

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Program Operator subcontractors shall certify and disclose accordingly; and

(d) This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

(6) Faith-based Activities. The Program Operator shall comply with the requirements of 24 CFR 92.257 which provide, in part, that "Organizations that are directly funded under the HOME Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance funded under this part."

10. ENVIRONMENTAL CONDITIONS.

A. Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Program Operator shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

B. Lead-Based Paint. The Program Operator agrees that any construction or rehabilitation of residential structures funded with the HOME Program Grant shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

C. Historic Preservation. The Program Operator agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the procedures set forth in 36 CFR, Part 800, and Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

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In general, this provision requires Program Operator to obtain concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

11. **INDEPENDENT ENTITIES.** Grantee and Program Operator are independent entities, and Grantee and Program Operator and their respective officers, agents and employees are not, and shall not be deemed, employees of the other agency for any purpose including, but not limited to, worker's compensation and employee benefits.

12. **PRIVILEGES, IMMUNITIES AND OTHER BENEFITS.** In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the Parties when performing their functions within the territorial limits of their respective Public Agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

13. **GENERAL PROVISIONS.**

A. **Amendments.** The Grantee or Program Operator may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each Party, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Program Operator from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons; provided however, if such amendments result in a change in the funding, the scope of Services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Program Operator.

B. **Indemnification.** To the full extent permitted by law, Program Operator will indemnify, hold harmless, release, and defend the Grantee (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all liability or claims (including actions, demands, damages, injuries, settlements, losses, or costs [including legal costs and attorney's fees]) (collectively, "Liability") of any nature, arising out of, pertaining to, or relating to Program Operator's negligence, recklessness, or willful misconduct in the performance of its obligations under this Agreement. Consistent with Civil Code Section 2782, Program Operator will not be obligated to indemnify Grantee for the proportionate share of the Liability caused by the Grantee's active negligence, sole negligence, or willful misconduct.

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To the full extent permitted by law, Grantee will indemnify, hold harmless, release, and defend the Program Operator (including its officers, elected or appointed officials, employees, volunteers, and agents) from and against any and all Liability of any nature, arising out of, pertaining to, or relating to Grantee's negligence, recklessness, or willful misconduct in the performance of its obligations under this Agreement and the Standard Agreement. Consistent with Civil Code Section 2782, Grantee will not be obligated to indemnify Program Operator for the proportionate share of the Liability caused by the Program Operator's active negligence, sole negligence, or willful misconduct.

C. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, this Agreement will be construed as not containing that term, and the remainder of this Agreement will remain in full force and effect; provided, however, this section will not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

D. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement will be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement will be filed and heard in a court of competent jurisdiction in the County of Napa.

E. Attorney's Fees. If any litigation is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

F. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.

G. Interpretation. Each party to this Agreement has had an opportunity to review the Agreement, and to consult with its respective legal counsel regarding the meaning of the Agreement. Accordingly, Civil Code Section 1654 will not apply to interpret any uncertainty in the meaning of the Agreement.

EXHIBIT A

H. Counterparts. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

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

GRANTEE:
City of American Canyon

PROGRAM OPERATOR:
Housing Authority of the City of Napa

Jason Holley, Interim City Manager

Rick Tooker, Deputy Executive Director

Attest:

Attest:

Suellen Johnston, City Clerk

Dorothy Roberts, Authority Secretary

Countersigned:

Desiree Brun, City Auditor

Approved As To Form:

Approved As To Form:

William Ross, City Attorney

Michael Barrett, Authority General Counsel

EXHIBIT A

EXHIBIT "A"

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

AGREEMENT NUMBER

16-HOME-11383

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

City of American Canyon

2. The term of this

Agreement is:

Upon HCD Approval through 07/13/2035

3. The maximum amount of this

Agreement is:

\$1,000,000.00

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

3

Exhibit B - Set-up and Payment Provisions

3

Exhibit C - State of California General Terms and Conditions*

GTC - 04/2017

Exhibit D - HOME Program Terms and Conditions

22

Exhibit E - Special Terms and Conditions

1

Exhibit F - Additional Provisions

0

TOTAL NUMBER OF PAGES ATTACHED

29 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. The GTC 04/2017 documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

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

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc)

City of American Canyon

BY (Authorized Signature)

DATE SIGNED (Do not type)

12/14/17

PRINTED NAME AND TITLE OF PERSON SIGNING

Jason Holley, Interim City Manager

ADDRESS

4381 Broadway Street, Suite 201, American Canyon, CA 94503

California Department of
General Service
Use Only

DEC 29 2017

STATE OF CALIFORNIA

AGENCY NAME

Department of Housing and Community Development

BY (Authorized Signature)

DATE SIGNED (Do not type)

12/29/17

PRINTED NAME AND TITLE OF PERSON SIGNING

Synthia Rhinehart, Contracts Manager, Business & Contract Services Branch

ADDRESS

2020 W. El Camino Ave., Sacramento, CA 95833

X. Exempt per: SCM 4.04.A.3 (DGS
Memo dated 6/12/81)

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EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority & Purpose

This Standard Agreement (hereinafter "Agreement") will provide official notification of the conditional reservation of funds under the State of California's administration of the Home Investment Partnerships Program (hereinafter "HOME") by the Department of Housing and Community Development (hereinafter the "Department") pursuant to the provisions of the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the HOME Investment Partnerships Program (Title 24 Code of Federal Regulations Part 92), California Health and Safety Code Section 50896, and Title 25, Division 1, Chapter 7, Subchapter 17 of the California Code of Regulations, Sections 8200 through 8220 (the "State Regulations"), all as amended and in effect from time to time. The HOME Program is listed in the Catalog of Federal Domestic Assistance (CFDA) as 14.239 - HOME Investment Partnerships Program. In accepting this conditional reservation of funds, the Contractor (sometimes referred to herein as the "HOME Recipient") agrees to comply with the terms and conditions of this Agreement, the Notice of Funding Availability (NOFA) under which the HOME Recipient applied, the representations contained in the HOME Recipient's application for this funding allocation (the "Application"), and the requirements of the authorities cited above.

2. Scope of Work

A. HOME Recipient shall perform the Scope of Work (hereinafter "Work") as described in the Application, which is on file at the Department, Division of Financial Assistance, 2020 West El Camino Ave., Suite 650, 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 a Contract Management Section Manager or higher Departmental official, as appropriate, are hereby incorporated as part of the Application. The Department reserves the right to require the HOME Recipient to modify any or all parts of the application in order to comply with HOME Investment Partnerships Program federal and/or State Regulations or requirements. The Department reserves the right to review and approve all Work to be performed by the HOME Recipient in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department. Any approval shall not be presumed unless such approval is made by the Department in writing.

B. The Work shall consist of:

<u>Project Location</u>	<u>Type of Activity</u>	<u>HOME Activity</u>	<u>HOME</u>
		<u>Funds</u>	<u>Units</u>
City of American Canyon	(13) First-Time Homebuyer Program	\$633,750	5
	(14A) Owner-Occupied Rehabilitation Program	\$341,250	7
	(21A) State Recipient Administration	\$25,000	

HOME State Recipient Program
NOFA Date: 12/06/2016
Approval Date: 11/21/2017
Prep. Date: 11/21/2017

EXHIBIT A

3. Term of Agreement and Deadlines

- A. All Program funds shall be expended by: July 31, 2020
- B. All Drawdown Requests shall be submitted by: September 30, 2020.
- C. This Agreement shall expire on: July 13, 2035.

No payments shall be made for drawdown requests received after August 31, 2020. Any funds not drawn down by August 31, 2020, shall be disencumbered.

Pursuant to 24 CFR 92.254, any homeownership units funded by HOME that do not have a ratified sales contract with an eligible homebuyer for the housing within nine (9) months of the date of completion of construction or rehabilitation, shall be rented to an eligible tenant pursuant to the requirements of 24 CFR 92.252.

4. Contract Amount

For the purposes of performing the Work, the Department agrees to provide the amount shown on Page 1, No. 3 of this Agreement (STD 213). In no instance shall the Department be liable for any costs for Work in excess of this amount, nor for any unauthorized or ineligible costs. The HOME Recipient agrees to administer this allocation in accordance with the provisions of 24 CFR 92 and Section 8200 through, and including, Section 8220 of Title 25 of the California Code of Regulations. The Agreement amount shall be expended as follows:

(13) First-Time Homebuyer Program	\$633,750
(14A) Owner-Occupied Rehabilitation Program	\$341,250
(21A) State Recipient Administration	\$25,000

5. Activity Delivery Costs

HOME Recipients shall report the amount of Activity funds used for Activity Delivery Costs on the HOME Set-Up and Completion Reports. The HOME Recipient must request Activity Delivery Costs (ADC) in proportion to the amount of Activity funds being drawn down. The maximum amount of ADC that may be drawn for each specific activity is:

- A. Up to 24% of the HOME loan/grant amount for Owner-Occupied Rehabilitation (OOR).
- B. Up to 6.5% of the HOME loan/grant amount for First-Time Homebuyer (FTHB) activities including rehabilitation;
- C. Up to 6.5% of the HOME Construction loan amount for First-Time Homebuyer activities involving in-fill construction; and,
- D. Up to 5% of the total household assistance amount to reimburse the cost of unit inspections and eligibility determinations for Tenant-Based Rental Assistance.

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EXHIBIT A

These amounts may be modified by a Department HOME Program Management Memorandum. The total amount of ADC drawn down during the entire contract term must be for actual costs incurred according to 2 CFR Part 200 and have documentation in each project file. The requirements of 2 CFR Part 200 apply to all non-Federal Entities.

6. Other Funding Sources

- A. Other Funding Sources - The HOME Recipient shall report on the value of other contributions included as leverage to the project activity with each Project Set-Up and Completion Report (this is one report). The Project Set-Up and Completion Report is the report, which conveys the information needed to establish a project-specific account in the Federal Integrated Disbursement and Information System (IDIS). It is also the report that is used to convey any changes to the project-specific account, or report the final project-specific information in IDIS established by U.S. Department of Housing and Urban Development (HUD).
- B. Match - All matching contributions for a specific activity required by 24 CFR 92.218-222 are waived. However, the HOME Recipient shall report all match eligible funding in the Project Set-Up Report and Project Completion Report.
- C. Subsidy Limits - The amount of HOME funds the HOME Recipient may contribute to HOME-assisted housing on a per-unit basis may not exceed the per-unit dollar limits established by HUD, as referenced in 24 CFR 92.250.

7. HOME Program Contract Coordinator

The HOME Recipient's contact for this Agreement may vary; therefore, you will be contacted directly by your assigned representative. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be sent by first class mail to the Contract Management HOME Program Manager at the following address:

Name: Ken Holder, HOME Program Manager
Phone: (916) 263-1501
Fax: (916) 263-2763
Email: HOME@hcd.ca.gov
Address: Department of Housing and Community Development
Division of Financial Assistance
P.O. Box 952054
Sacramento, CA 94252-2054

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EXHIBIT B

SET-UP AND PAYMENT PROVISIONS

1. Definitions

- A. "Activity Delivery Costs" means "related soft costs" as this term is defined in the HOME Final Rule 24 CFR 92.206(5)(d). The Activity Delivery Costs are included in the "HOME Activity Funds". The HOME Recipient may expend up to the indicated Activity Delivery Cost as identified in Exhibit A, 5. HOME funds for Activity Delivery Costs and Home Activity Funds shall be drawn down at the same time. If the activity is not completed, and a Project Completion Report for the full amount drawn down is not filed, all HOME funds, including ADC must be repaid to the Department.
- B. "Project Set-Up" refers to the forms and process required to reserve HOME funds in IDIS for a specific HOME assisted project.
- C. "Project Disbursement" refers to the forms and process required to request the drawdown of HOME funds from IDIS for a project's previously reserved HOME funds.
- D. "Project Completion Report" refers to the form and process required to report a project "complete". The Project Completion Report must be submitted to HCD within 60 days of the final draw request. If the activity is not complete, and a Project Completion Report for the full amount drawn down is not filed, all HOME funds for the particular project must be repaid to the Department.
- E. "Administration" refers to eligible administrative and planning costs as provided in 24 CFR 92.207.

2. General Set-Up Requirements

The HOME Recipient shall submit the following for the Department's approval, prior to project set-up in IDIS:

- A. The "General Set-Up Conditions Checklist" on a form provided by the Department and any required supporting documentation, including a program budget, and Affirmative Fair Market Analyses with marketing plan.
- B. For FTHB Activities, the Contractor shall submit a revised FTHB Feasibility Worksheet (Exhibit B7 of the Program application) as part of their General Set-up Conditions to confirm program feasibility.
- C. Any other documents, certifications, or evidence deemed necessary by the Department prior to Project Set-Up prior to Project Set-Up.

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EXHIBIT B

3. Individual Project Set-Up Requirements

The HOME Recipient shall submit the following documentation to the Department:

- A. HUD-required Project Set-Up Report; and,
- B. Any other documents, certifications, or evidence deemed necessary by the State prior project set-up.

4. Project Disbursement Requirements

The HOME Recipient shall submit the following documentation to the Department prior to the disbursement of funds:

- A. HUD-required Project Drawdown Request Form;
- B. Std. 204, Payee Data Record form (if necessary);
- C. Designated Payee letter (if necessary);
- D. Evidence of sufficient and eligible HOME match, if necessary for funding;
- E. Any other documents, certifications, or evidence deemed necessary by the Department prior to disbursement of project funds; and,
- F. For the final drawdown, a revised Project Completion Report, if any funding sources and/or amounts have changed since the most recently submitted Project Set-Up Report.

5. Project Completion Requirements

The HOME Recipient shall submit the following documentation to the Department for project completion:

- A. HUD-required final Project Set-Up and Completion Report; and,
- B. Any other documents, certifications, or evidence deemed necessary by the Department prior to project completion.

6. General Conditions of Disbursement

- A. The HOME Recipient shall spend Program Income in the local account, before requesting funds from the Department and shall not request disbursement (drawdown request) of HOME funds under this Agreement until the funds are needed for the reimbursement of eligible costs. The amount of each request shall be limited to the amount needed for reimbursement of actual expenses for Work that has been completed. Work completed means FTHB escrow has closed, TBRA rent subsidies were paid, and/or OOR construction/rehabilitation costs are paid for Work completed, and inspected.

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EXHIBIT B

- B. No later than 60 days after any final project drawdown request, the HOME Recipient shall provide a Project Completion Report to the Department. In the event that a Project Completion Report is not received by the Department within the 60-day period, the Department shall suspend further Project Set-Ups for the Contractor until the Project Completion Report is received by the Department and is accepted in IDIS.
- C. In the event the Department determines funds were used for ineligible expenses, further Project Set-Ups and all disbursements may be withheld until the issue of the ineligible expenses is resolved to the satisfaction of the Department.

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EXHIBIT D

HOME TERMS AND CONDITIONS

1. Effective Date and Commencement of Work

This Agreement is effective upon approval by the Department. This approval date is indicated by the date stamped by the Department in the lower right hand corner of page one of this Agreement, STD 213. The HOME Recipient agrees that the Work shall not commence, nor any costs to be paid with HOME funds be incurred or obligated by any party prior to execution of this Agreement by the Department, completion of all required environmental clearances, and compliance with the applicable conditions of this Agreement. Notwithstanding the aforementioned statement, there are two circumstances when costs may be incurred prior to the execution of this Agreement. First, administrative expenses for eligible NEPA compliance work may be incurred prior to the execution of this Agreement. Second, with Contract Management Section Manager or Section Chief approval, other costs may also be incurred prior to the execution of this Agreement. Such costs may consist of procurement of administrative subcontractors, development of program guidelines, architectural, engineering and other professional services required to prepare plans, drawings, specifications, or work write-ups that are incurred not more than 24 months prior to the project being set up in IDIS. The HOME Recipient agrees that the Work shall be completed by the Expenditure date specified in Exhibit A, Section 3, A. This Agreement shall expire on the date set forth in Exhibit A, Section 3, C.

2. Sufficiency of Funds

- A. This Agreement is valid and enforceable only if sufficient funds are made available to the Department by the United States Government for the purposes of the HOME Program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or State Legislature, promulgated in State or federal regulations, or any State or federal statute, as now in effect and as may be amended from time to time which may affect the provisions, terms, or funding of this Agreement in any manner, including 2 CFR Part 200.
- B. The parties to this Agreement mutually agree that if the Congress does not appropriate sufficient funds for the HOME Program, the Department, at its sole discretion, either may amend the contract to reflect any reduction in funds, or it may unilaterally cancel the contract with 14 days written notice to the HOME Recipient.

3. Disencumbrance of Funds and Termination

- A. The Department at its discretion, may require a partial disencumbrance of funds awarded when the HOME Recipient has difficulty expending funds during the contract period, and it appears they will be unable to expend them prior to the expenditure deadline (See Exhibit A, Section 3, A).
- B. The Department may terminate this Agreement at any time for cause by giving 14 days written notice to the HOME Recipient. Cause shall consist of any violation of the HOME requirements; any terms and/or special conditions of this Agreement; upon the request of HUD; unreasonably low rate of expenditure; or, upon a reduction in or elimination of the Department's expenditure authority.

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- C. Unless otherwise approved by the Department, upon termination or cancellation of this Agreement, the HOME Recipient shall complete all Work in progress and terminate any other activities that were to be paid for with HOME funds. Any unexpended funds received by the HOME Recipient shall be returned to the Department within 14 days of the Notice of Termination or Notice of Cancellation.

4. Litigation

The HOME Recipient 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.

5. 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 HOME Recipient of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

6. HOME Recipient's Application for Funds

- A. HOME Recipient has submitted to the Department an Application for funding under the HOME Program. The Department is entering into this Agreement on the basis of, and in substantial reliance upon, HOME Recipient's facts, information, assertions and representations contained in that Application, and in any subsequent modifications or additions thereto approved by the Department. The Application and any approved modifications and additions thereto are hereby incorporated into this Agreement.
- B. HOME Recipient warrants that all information, facts, assertions and representations contained in the Application and approved modifications and additions thereto are true, correct, and complete to the best of HOME Recipient's knowledge. In the event that any part of the Application and any approved modification and addition thereto is untrue, incorrect, incomplete, or misleading in such a manner that would substantially affect the Department's approval, disbursement, or monitoring of the funding and the HOME loans and grants or activities governed by this Agreement, then the Department may declare a breach hereof and take such action or pursue such remedies as are provided for breach hereof.

7. Federal and State Laws and Regulations

The HOME Recipient agrees to comply with all federal laws and regulations applicable to the HOME Program, including any federal Office of Management and Budget (OMB) Circular and all applicable HUD rules and regulations (including, without limitation, the HOME Grant-Based Accounting Interim Rule dated December 2, 2016 and any final rule related thereto.)

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8. Uniform Administrative Requirements

The HOME Recipient shall comply with the Federal Uniform Administrative Requirements set forth in 24 CFR 92.505 as may be updated by the federal government. This means compliance with OMB Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments" and the following sections of 24 CFR 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" 85.6, 85.12, 85.20, 85.22, 85.26, 85.32, through 85.34, 85.36, 85.44, 85.51, and 85.52. Generally speaking, these sections permit the HOME Recipient to use its own procurement procedures if they meet federal standards. Pursuant to 24 CFR 85.36(b)(3), no employee, officer or agent (including subcontractors who perform specific administrative tasks and/or administer the local HOME Program) may also be the developer and/or owner of a HOME-assisted program or project, unless approved in writing by HUD in advance of the project commencement.

9. Project Requirements

The HOME Recipient shall comply with 24 CFR 92, Subpart F as applicable, in accordance with the type of project assisted.

A. Maximum Per Unit Subsidy Amount and Subsidy Layering

In accordance with 24 CFR 92.250 and Section 8207 of the State HOME Regulations, the HOME Recipient shall demonstrate to the Department, in a format identified by the Department, that the amount of HOME funds invested on a per-unit basis shall not exceed the current HOME per-unit subsidy limits as established by HUD that apply to the area where the housing is located, and that the HOME funds in combination with other financing and assistance, is not more than is necessary to provide housing to low-income households. The HOME Recipient shall provide a formal certification concerning the governmental assistance provided or to be provided to a project. If no such governmental assistance is to be provided at the time of the application or in the future, the HOME Recipient shall certify to that fact. The HOME Recipient shall also certify that should other governmental assistance be sought in the future, the Department shall be promptly notified. Activities assisted under this Agreement are subject to the underwriting and subsidy-layering requirements established by the Department for each activity pursuant to the requirements of 24 CFR 92.250 and 92.254.

For homeowner activities, the home sale price shall be determined through an appraisal and any applicable underwriting standards meeting the specifications approved by the Department in the CHDO program guidelines. The sales price shall also be subject to the Maximum Purchase Price Limits approved by the Department pursuant to 24 CFR 92.254.

For all First-Time Homebuyer activities, the HOME Recipient shall submit the Closing Disclosure (settlement statement from the escrow company) at the same time the Individual Project Set-Up Report is submitted to the Department.

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B. Maximum Purchase Price/After Rehabilitation Value Limits

Homebuyer acquisition and/or rehabilitation activities shall meet the Maximum Purchase Price/After-Rehabilitation Limits published or otherwise approved by the Department pursuant to the requirements set forth in 24 CFR 92.254.

C. Property Standards

The HOME Recipient shall ensure that all housing units meet the property standards in 24 CFR 92.251. All rental housing shall be maintained in compliance with 24 CFR 92.251 for the duration of the affordability period.

The HOME Recipient shall ensure that upon project completion, housing rehabilitated with HOME funds meets applicable local rehabilitation standards or another rehabilitation standard meeting the requirements of 24 CFR 92.251. The HOME Recipient shall ensure that the written scope of work must be in sufficient detail to establish the basis for a uniform inspection of the assisted housing to determine compliance with the requirements of this section. The HOME Recipient shall review and approve all written cost estimates after determining that costs are reasonable. The HOME Recipient shall conduct an initial property inspection to identify deficiencies that must be addressed, as well as progress and final inspections to determine that work was done in accordance with work write-ups.

The HOME Recipient shall ensure that existing housing that will be acquired for homeownership must be decent, safe, sanitary and in good repair. At a minimum, this housing must meet all applicable State and local housing quality standards and code requirements, and contain no deficiencies set forth by HUD based on applicable Uniform Physical Condition Standards at 24 CFR 5.705. The HOME Recipient shall inspect the housing and document this compliance based upon an inspection that is conducted no earlier than 90 days before the commitment of HOME assistance. If the housing does not meet these standards, the housing must be rehabilitated to meet these standards or it cannot be acquired with HOME funds.

All housing occupied by tenants receiving HOME tenant-based rental assistance must meet the standards established in 24 CFR 982.401 or the successor requirements as established by HUD.

Construction of all manufactured housing including manufactured housing that replaces an existing substandard unit under the definition of 'reconstruction' at 24 CFR 92.2 must meet the Manufactured Home Construction and Safety Standards codified at 24 CFR part 3280. These standards preempt State and local codes, which are not identical to the federal standards for the new construction of manufactured housing.

The HOME Recipient shall ensure that manufactured housing assisted with HOME funds complies with applicable State and local laws or codes. In the absence of such laws or codes, the installation must comply with the manufacturer's written instructions for installation of manufactured housing units. All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the definition of "reconstruction" must be on a permanent foundation that meets the requirements for foundation systems as set forth in 24 CFR 203.43f(c)(i). All new manufactured housing and all manufactured housing that replaces an existing substandard unit under the

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EXHIBIT D

definition of "reconstruction" must, at the time of project completion, be connected to permanent utility hook-ups and be located on land that is owned by the manufactured housing unit owner or land for which the manufactured housing owner has a lease for a period at least equal to the applicable period of affordability. In HOME-funded rehabilitation of existing manufactured housing the foundation and anchoring must meet all applicable State and local codes, ordinances, and requirements or in the absence of local or state codes, the Model Manufactured Home Installation Standards at 24 CFR part 3285. Manufactured housing that is rehabilitated using HOME funds must meet HOME property standards requirements of this section, as applicable. The HOME Recipient shall document this compliance in accordance with inspection procedures established pursuant to 24 CFR 92.251, as applicable.

D. Affordability

The HOME Recipient shall ensure all assisted housing meets the minimum affordability period requirements as specified in 24 CFR 92.252 and Section 8208 of the State HOME Regulations for rental housing or 24 CFR 92.254 for homeownership, as applicable as shown below. For rental housing activities, the federal and state affordability periods run concurrently. HOME funds for activities that do not meet these affordability requirements are subject to recapture by the Department.

1) Rental Rehabilitation Activities:

Federal Minimum Period of Affordability (In Years)	20
State Minimum Period of Affordability (In Years)	55

2) Rental Rehabilitation Activities:

Amount of HOME Assistance Per Unit	Rental Rehab With or Without Acquisition	Rental Rehab Without Acquisition	Rental Rehab With Acquisition
	Federal Minimum Period of Affordability (In Years)	State Minimum Period of Affordability (In Years)	State Minimum Period of Affordability (In Years)
More than \$40,000	15	20	55
\$15,000 to \$40,000	10	15	55
Less than \$15,000	5	10	55

EXHIBIT A

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EXHIBIT D

3) Homeowner Activities:

Amount of HOME Assistance Per Unit	Federal Minimum Period of Affordability (In Years)	State Minimum Period of Affordability (In Years)
More than \$40,000	15	15
\$15,000 to \$40,000	10	10
Less than \$15,000	5	5

E. Income Determination

Households assisted under this Agreement must meet the income determination requirements of 24 CFR 92.203, including but not limited to the requirement to examine at least two months' source documentation evidencing annual income (e.g. wage statement, interest statement, unemployment compensation statement) when determining household income. In meeting these requirements, the income determination rules under 24 CFR Part 5 shall be used, including the Part 5 definition of income.

F. Fees and Other Project-Related Soft Costs

Pursuant to 24 CFR 92.214, fees such as loan servicing fees, origination fees, or other fees related to the cost of administering HOME funds cannot be charged to low-income beneficiaries except as expressly authorized by the Department pursuant to the requirements of this section. Pursuant to 24 CFR 92.206, other staff and overhead costs directly related to carrying out the project, such as work specifications preparation, loan processing, inspections, lead-based paint evaluations (visual assessments, inspections, and risk assessments), and other services related to assisting potential owners, tenants, and homebuyers cannot be charged to individual households. These costs may be charged to the project as Activity Delivery Costs for projects assisted with HOME funds or they may be charged as administrative and planning costs under 24 CFR 92.207, not to exceed the applicable limits specified in Exhibit A. Project-related soft costs incurred in assisting households who do not become HOME beneficiaries are eligible administrative and planning costs under 92.207.

G. Written Agreements

The HOME recipient shall enter into a written agreement that complies with the provisions of 24 CFR 92.504 with any other entity or individual to which it disburses HOME funds. This Agreement must be executed prior to providing the HOME funds.

H. Providing Additional HOME Funds to a Project

Housing may be re-assisted by the HOME Program in accordance with any of the following: upon expiration of applicable federal affordability period, or as permitted under 24 CFR 92.214 (a)(6), or under 24 CFR 92.502. Housing may also be re-assisted as permitted by federal waiver.

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I. Repayment of Funds

If the HOME Recipient either: (i) does not complete its project by July 31, 2020, or (ii) before that date fails to expend any funds the Department disburses to it pursuant the requirements applicable to the award of HOME funds granted herein, then the HOME Recipient shall: repay all such disbursed HOME funds to the Department, (ii) forfeit and have no further rights or claim to any other remaining herein-granted HOME award funds, and (iii) consent to and facilitate as necessary the Department's use of all the foregoing referenced funds for any purpose, including as may be necessary to satisfy any Department obligation regarding repayment of those funds to the State's HOME Investment Trust Fund in accordance with 24 CFR 92.503(b). For example, if a HOME Recipient receives a HOME grant of \$5,000,000 but is only disbursed and expends \$4,500,000 by the expenditure deadline referenced in the Standard Agreement, but has timely and completely finished the project in a manner that satisfies all applicable requirements for the granted award funds then only the remaining unused funds be returned to the Department.

Under other circumstances, if the housing does not meet the affordability requirement for the specified time period, the HOME Recipient shall repay all HOME funds to the local HOME account or the Department, as directed by the Department. Repayment of funds does not relieve the HOME Recipient of the legal obligation to seek judicial enforcement of the security documents, or such other actions, as may be required to meet the affordability requirements.

J. Tenant-Based Rental Assistance

All households receiving Tenant-Based Rental Assistance (TBRA) must have a written lease with the owner of the rental housing for which the TBRA assistance is being provided that meets the lease requirements of 24 CFR 92.253.

Pursuant to 24 CFR 92.209, the rent standard for TBRA programs shall be the applicable local rent standard established under 24 CFR Part 982 for the Section 8 Housing Choice Voucher Program, unless annual written approval has been provided by the Department to use a rent standard based on local market conditions.

The HOME Recipient shall establish the utility allowance either by using the HUD Utility Schedule Model or otherwise determine the utility allowance for the project based on the types of utilities used at the project.

Pursuant to the requirements of 24 CFR 92.209, preferences in TBRA programs may be established for special needs populations and persons with disabilities. These preferences shall be subject to prior written approval by the Department.

HOME Recipients may require recipients of TBRA to participate in a self-sufficiency program as a condition of selection for assistance or renewal of assistance; however, once assistance has been granted or renewed, the failure to continue participating in self-sufficiency services cannot be used as a basis for terminating assistance. Households receiving TBRA as relocation assistance cannot be required to participate in a self-sufficiency program as a condition of receiving assistance.

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10. Equal Opportunity Requirements and Responsibilities

A. Executive Order 11063 (1962)

This Order prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

B. Executive Order 12892 (1994), as amended

This Order requires federal agencies to affirmatively further fair housing in their programs and activities.

C. The Architectural Barriers Act of 1968, as amended (42 USC 4151 et seq.)

This Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

D. Executive Order 12898, Environmental Justice (1994)

This Order requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

E. Affirmative Marketing

The HOME Recipient shall adopt and follow affirmative marketing procedures that provide information, through the implementation of an outreach-marketing program, to attract all eligible persons in the area to the HOME housing without regard to race, color, national origin, sex, religion, familial status, or disability. This affirmative marketing includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 CFR 92.351. These affirmative marketing procedures shall be approved by the Department in accordance with the requirements of 24 CFR 92.351.

F. Section 504 of the Rehabilitation Act of 1973 and the "504 Coordinator"

The HOME Recipient agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR 8. For HOME Recipient's with 15 or more permanent, full-or part-time employees, this includes but is not limited to, the designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator".

G. The Civil Rights and Age Discrimination Acts Assurances

During the performance of this Agreement, the HOME Recipient 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,

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handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.

H. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3)

- 1) The Work to be performed under this Agreement is on a project, or projects, assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u). Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for Work in connection with the project be awarded to businesses, which are located in, or owned in substantial part by persons residing in the area of the HOME project.
- 2) The parties to this agreement shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 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 HOME Recipient shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice informing the said labor organization or worker's representative of the HOME Recipient's commitments under the Section 3 clause and shall post copies of the notice in conspicuous places available to said employees and applicants for employment or training.
- 4) The HOME Recipient shall include these Section 3 clauses in every contract and subcontract for Work in connection with the project and shall, at the direction of the Department, take appropriate action pursuant to the contract upon a finding that the HOME Recipient or any contractor or subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR 135, and shall not let any contract unless the HOME Recipient or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- 5) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the HOME project, binding upon the HOME Recipient, its successors, and assigns. Failure to fulfill these requirements shall subject the HOME Recipient, 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 135.

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- I. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or more. All solicitations for bids and all construction contracts and subcontracts of \$10,000 or more issued by the HOME Recipient are required to include the following:
 - 1) The Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246) The HOME Recipient furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts as required by Executive Order 11246;
 - 2) The Standard Equal Opportunity Clause (41 CFR 60 - 1.4); and,
 - 3) The Standard Equal Employment Opportunity Construction Contract Specifications (41 CFR) 60 - 4.3).

11. Environmental Review

The HOME Recipient shall comply with the National Environmental Policy Act (NEPA) contained in 42 USC 4321-4347 and the implementing regulations at 24 CFR 50 and 58. No actions by any party (including the HOME Recipient, the developer, owner, or sponsor) shall be undertaken for any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives under 24 CFR 58.22 until HUD or the Department has issued an environmental clearance. Prior to the commitment of funds, the HOME Recipient shall submit to the Department the required NEPA documents for approval, unless the Department has waived this requirement in writing.

First-Time Homebuyer Acquisition with Rehabilitation (FTHB)

If the HOME Recipient is working under an existing FTHB Authority to use Grant Funds, the HOME Recipient must submit a project specific Appendix A and supporting documentation to the Department for review, prior to committing funds to the project; otherwise, a Statutory worksheet with supporting documentation is necessary.

Owner-Occupied Rehabilitation (OOR)

If the HOME Recipient is working under an existing OOR Authority to use Grant Funds, the HOME Recipient must submit a project specific Appendix A and supporting documentation to the Department for review, prior to committing funds to the project; otherwise, a Statutory Worksheet with supporting documentation is necessary.

12. Displacement, Relocation, and Acquisition

The HOME Recipient shall comply with the federal displacement, relocation, and real property acquisition rules governing the HOME Program, which are contained in the Uniform Relocation Act, with implementing regulations at 49 CFR 24; and Section 104 (d) of the Housing and Community Development Act of 1974, as amended, with implementing regulation at 24 CFR 92, and applicable State HOME Regulations.

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13. Labor Standards/Prevailing Wage

A. Federal Requirements

- 1) The HOME Recipient agrees to comply with the requirements of the United States Department of Labor and the Secretary of Labor in accordance with the Davis-Bacon and related Acts as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 3701 et seq. (with implementing regulations at 29 CFR 5 and 29 CFR 1926) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The HOME Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 USC 874 et seq. and 40 USC 276(c) with implementing regulations at 29 CFR 3). The HOME Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request.
- 2) All contracts for new construction or rehabilitation projects with twelve (12) or more HOME-assisted units shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the U. S. Department of Labor regulations at 29 CFR 1, 3, 5, and 7, which govern the payment of wages and the ratio of apprentices and trainees to journey workers. If, however, there are wage rates imposed by State or local law that are higher than those required under such regulations, nothing herein is intended to relieve the HOME Recipient or any contractor/subcontractor of their obligation, if any, to require payment of the higher wage. The HOME Recipient shall cause or require to be inserted in full, in all such contracts subject to said regulations, provisions meeting the requirements of this paragraph, HUD's Federal Labor Standards Provisions form HUD-4010 (07/2003), or its revised replacement that meet the requirements of this paragraph. All said contracts shall also comply with the provisions of 24 CFR 92.354.

B. Department Requirements

- 1) When funds provided through this Agreement are used for construction work, or in support of construction work, the HOME Recipient shall ensure that the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of the State of California Labor Code (State Labor Code) (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.
- 2) 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 with HOME funds. All construction work shall be done through the use of a written contract (the "construction contract") with a properly licensed building contractor incorporating these requirements. When the construction contract is between the HOME Recipient and a licensed contractor, the third party shall serve as the "awarding body."

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The construction contract and any amendments thereto shall be subject to the prior written approval of the Department. 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 as required by Section 1720 of the State Labor Code.

14. Lead-Based Paint Hazards

Assistance provided under this Agreement is subject to the Lead-Based Paint Poisoning Prevention Act and subsequent amendments; and to HUD Lead-Based Paint Regulations found at 24 CFR 35, et al.

15. Conflict of Interest

In the procurement of property and services, the HOME Recipient shall comply with the conflict of interest provisions in 24 CFR 85.36 for the procurement of property and with 24 CFR 84.42 for the procurement of services. In all cases not governed by these two sections, the HOME Recipient shall comply with 24 CFR 92.356. Section 24 CFR 92.356 prohibits, in part, that any employee, agent, consultant, officer or elected or appointed official, "who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter."

16. 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.

17. Certification Regarding Lobbying (Byrd Amendment)

- A. The HOME Recipient shall require that the language of this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- B. 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 Section 1352, Title 31, U.S. Code. 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.
- C. "The undersigned certifies, to the best of his or her knowledge and belief, that:
 - 1) No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the

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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.

- 2) If any funds other than federally appropriated funds have been paid or shall 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, the undersigned shall complete and submit Standard For-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions."

18. Bonus or Commission Prohibition

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining Department approval of the application for such assistance, or Department approval of the applications for additional assistance, or any other approval or concurrence of the Department required under this Agreement, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, or 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.

19. Contractors and Subcontractors - State Requirements

- A. The HOME Recipient shall not enter into any agreement, written or oral, with any construction contractor without determination of the construction contractor's eligibility. A construction contractor or subcontractor is not eligible to receive HOME funds if not licensed and in good standing with the State of California.
- B. The Department reserves the right to review and approve any contracts or agreements executed by the HOME Recipient related to any HOME-assisted projects.
- C. The contract between the HOME Recipient and any construction contractor shall require the construction contractor and its subcontractors, if any, to:
 - 1) Perform the Work in accordance with federal, State and local housing and building codes as applicable;
 - 2) Provide security to assure completion of the project by furnishing the borrower and construction lenders with Performance and Payment Bonds, or other security approved in advance in writing by the Department;
 - 3) Comply with the applicable Labor Standards/Prevailing Wage Provisions of Paragraph 12 of this Exhibit;
 - 4) Comply with the applicable Equal Opportunity Requirements described in Paragraph 9 of this Exhibit;

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- 5) Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who shall perform the Work or any part of it; and,
- 6) Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the Department, 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 Work or any part of it.

20. Contractors and Subcontractors - Federal Non-Debarment Certification

- A. Preamble: As a condition of receipt of federal funds under this Agreement, the HOME Recipient and all of its contractors and their subcontractors are required to provide the certification set forth below in Paragraph E, and include this certification in their contracts.
- B. This certification is required by the federal government and contains terms defined in Executive Order 12549, a copy of which is available from the Department. Generally speaking, for purposes of this Agreement: (1) "prospective lower tier participant" refers to the HOME Recipient and any other party or person that shall receive funds from this Agreement, such as general contractors and their subcontractors; (2) "lower tier transaction" refers to contracts let by the HOME Recipient or HOME Recipient's contractors utilizing funds provided through this Agreement; and (3) "this proposal" refers to the HOME Recipient's HOME application and any bid or application from a prospective lower tier participant.
- C. By signing this Agreement, the HOME Recipient is providing the certification set forth below. The HOME Recipient shall provide immediate written notice to the Department if at any time the HOME Recipient learns that its certification was erroneous when submitted or has become erroneous.
- D. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
 - 1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 - 2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.
- E. By signing this Agreement the HOME Recipient agrees that it shall not knowingly enter into any lower tier transaction with a person or entity that is proposed for debarment under 48 CFR 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
- F. By signing this Agreement, the HOME Recipient agrees that it shall include the above certification in all lower tier transactions to which it is a part; and it shall require that each of its contractors include the certification in their subcontracts.

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21. Faith-Based Activities

The HOME Recipient shall comply with the requirements of 24 CFR 92.257, which provide, in part, that "Organizations that are directly funded under the HOME Program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance funded under this part." HOME funds and activities must be separate in time and location from explicitly religious activities.

22. Insurance

A. The HOME Recipient shall have and maintain in full force and effect during the term of this contract:

- 1) Comprehensive general liability insurance in the amount of not less than one million dollars (\$1,000,000);
- 2) Worker's compensation insurance; and,
- 3) Other forms of insurance, at such levels, as may be determined by the HOME Recipient and the Department to be necessary for specific components of the Work listed in Exhibit A.

B. The HOME Recipient agrees to furnish satisfactory evidence of the above listed insurance coverage to the Department upon request. Insurance coverage shall not be canceled or changed unless written notice is sent to the State thirty days prior to the effective date of the action. The Department reserves the right to waive or modify these insurance coverage requirements upon demonstration of cause satisfactory to the Department, and contingent upon the HOME Recipient providing evidence of an alternative to conventional insurance sufficient to provide equivalent protection.

23. Records

A. The HOME Recipient shall maintain the program, project, financial, program administration, and federal requirement records specified in 24 CFR 92.508 for inspection by the Department.

B. All records specified in 24 CFR 92.508 shall be retained for the time periods specified in Section 28 below. These records shall include, but are not limited to the following: (i) a full description of each project assisted with HOME funds, including the location (address of each unit), form of HOME assistance, and the units or tenants assisted with HOME funds; (ii) the source and application of funds for each project, including supporting documentation in accordance with 24 CFR 85.20; and records to document the eligibility and permissibility of the project costs; (iii) records demonstrating that each project meets the minimum per-unit subsidy amount of 92.205(c), the maximum per-unit subsidy amount of 92.250(a), and the subsidy layering and underwriting evaluation adopted in accordance with 92.250(b); (iv) records (e.g., inspection reports) demonstrating that each project meets the property standards of 92.251 at project completion; (v) records demonstrating that each tenant-based rental assistance project meets the written tenant selection policies and criteria of 92.209 (c), including any targeting requirements, the rent reasonableness requirements of 92.209 (f), the maximum subsidy provisions of

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24 CFR 92.209(h), property inspection reports and calculation of the HOME subsidy and (vi.) records (written agreements) demonstrating compliance with the written agreement requirements in 92.504.

- C. If so directed by the Department upon termination of this Agreement, the HOME Recipient shall cause all records, accounts, documentation and all other materials relevant to the Work to be delivered to the Department as depository.

24. Reporting

- A. Commencing with the effective date of this Agreement and continuing through the acceptance of the Project Completion Report in IDIS and no later than thirty days after the end of each calendar quarter, the HOME Recipient shall submit a quarterly performance report to the Department on forms provided by the Department.
- B. For "Rental Project" and "First-Time Homebuyer Project" activities, commencing with the effective date of this Agreement and continuing through the acceptance of the Project Completion Report in IDIS and no later than the tenth business day of the following month, the HOME Recipient shall submit a "State HOME Project Monthly Status Report" to the Department on forms provided by the Department.
- C. Upon project completion, and annually thereafter during the required period of affordability, the HOME Recipient shall submit on an annual basis to the Department all HOME monitoring documentation necessary to ensure that HOME Recipients are in continued compliance with federal and State regulations. Such documentation requirements and the annual submission deadline shall be provided by the Department.
- D. Upon acceptance of the Project Completion Report in IDIS and throughout the affordability period, the HOME Recipient shall submit on July 1, and no later than July 31, an Annual Performance Report on a form provided by the Department.

25. Breach and Remedies

- A. The following shall constitute a breach of this Agreement:
- 1) HOME Recipient's failure to comply with the terms of this Agreement.
 - 2) HOME Recipient's failure to comply with, or HOME Recipient's failure to assure that all recipients of HOME funds comply with, applicable state and federal HOME rules and regulations.
 - 3) Use of, or permitting the use of, HOME funds provided under this Agreement for any ineligible costs or for activities not approved under this Agreement.
 - 4) Any failure to comply with the deadlines set forth in Exhibit A.
 - 5) HOME Recipient's failure to assure that the appropriate security documents and lien agreements applicable to the Work are executed and, where appropriate, recorded.

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- 6) HOME Recipient's failure to monitor the progress of the Work and the activities of any recipient of HOME funds provided under this Agreement in a commercially reasonable manner.
 - 7) HOME Recipient's failure to exercise commercially reasonable due diligence in the enforcement of the security documents and lien agreements.
 - 8) Lack of continued capacity to carry out the approved Work either on behalf of the HOME Recipient or by the HOME Recipient named in this Agreement.
- B. In addition to any other remedies that may be available to the Department in law or equity for breach of this Agreement, the Department, after written notice and reasonable time to cure, may:
- 1) Bar the HOME Recipient from applying for future HOME funds;
 - 2) Revoke any other existing HOME award(s) to the HOME Recipient;
 - 3) Withhold any funds remaining undisbursed under this Agreement;
 - 4) Require the return of any unexpended HOME funds disbursed under this Agreement;
 - 5) Require repayment of HOME funds disbursed and expended under this agreement;
 - 6) Require the immediate return to the Department of all funds derived from the use of HOME funds including, but not limited to program income, recaptured funds and returned funds; and,
 - 7) Require the HOME Recipient to assign the security documents and lien agreements for the Work to the Department.
- C. All remedies available to the Department are cumulative and not exclusive.

26. Inspections

- A. Before a project can be designated as completed in IDIS, the HOME Recipient shall perform an on-site inspection of all Work performed hereunder to ensure that the Work has been performed in accordance with the applicable federal, State and/or local requirements, the construction contract, and this Agreement. The HOME Recipient agrees to require that all Work found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to the construction contractor or subcontractor until it is so corrected.

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- B. The Department reserves the right to inspect the property at any time during the period of construction and throughout the period of affordability.

27. Project Site

Notwithstanding any provision in this Agreement, the parties hereto further agree and acknowledge that this Agreement does not constitute a commitment of funds or approval of a project site, and that such a commitment of funds or an approval of a project site may occur only upon satisfactory completion of environmental review and receipt by the HOME Recipient of a release from the Department.

28. Security Documents and Lien Agreements

HOME funds shall be disbursed in the form of loans except for funds disbursed for the purposes set forth in the Department HOME Regulations Section 8205(b)(2), which shall be provided in the form of a grant. The HOME Recipient shall ensure that all loans made by the HOME Recipient are evidenced by a promissory note, the repayment of which is secured by a deed of trust to be recorded on the property being assisted, or by other security approved by the Department in writing. The HOME Recipient agrees that all said documents shall be executed and where appropriate, recorded, prior to disbursement of funds to the project and shall contain the applicable minimum affordability period set forth in 24 CFR 92.252 and 92.254.

29. Audit/Retention and Inspection of Records

- A. The HOME Recipient agrees that the Department or its designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement. The HOME Recipient 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 who might reasonably have information related to such records 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 Government Code Section 8546.7. The HOME Recipient further agrees to maintain such records for a period of five years after final payment under this Agreement, unless a longer period of records retention is stipulated.
- B. The HOME Recipient further agrees to retain all records for a period of five years after the final payment under this Agreement, or as specifically stipulated below.
- 1) Rental housing project records shall be retained for five years after the project completion date. The records that specify individual tenant income verifications, project rents and project inspections must be retained for five years after the affordability period terminates. Tenant-based rental assistance project records shall be retained for five years after the period of rental assistance terminates.
 - 2) Homeownership housing project records shall be retained for five years after the project completion date. The documents imposing recapture/resale restrictions must be retained for five years after the affordability period terminates.

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- 3) All written agreements must be retained for five years after this Agreement terminates.
 - 4) Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment.
 - 5) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, all records must be retained until completion of the action and resolution of all issues, which arise from it.
 - 6) The HOME Recipient also agrees to include in any contract that it enters into in an amount exceeding \$10,000, the Department's right to audit the contractor's records and interview their employees. The HOME Recipient shall comply with the caveats and be aware of the penalties for violation of fraud and for obstruction of investigation as set forth in California Public Code Section 10115.10.
- C. The determination by the Department of the eligibility of any expenditure shall be final.
- D. Pursuant to 24 CFR §85.26 and OMB Circular A-133, a HOME Recipient who received in excess of \$500,000 in federal funds annually, shall cause to be performed an annual single or program-specific audit conducted for that year by the close of each fiscal year in which this Agreement is in effect, of the following:
- 1) The financial statements and a schedule of federal awards and the auditor's report on the statements and the schedule;
 - 2) A written report of the independent auditor's understanding of the internal control structure and the assessment of control risk;
 - 3) The auditor's report on compliance; and,
 - 4) Other items as stipulated in OMB Circular A-133.
- E. The audit shall be performed by an independent certified public accountant. Selection of an independent audit firm shall be consistent with procurement standards contained in 24 CFR 85.36.
- F. The HOME Recipient shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for audit shall allow access by the Department to the independent auditor's working papers.

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- G. The HOME Recipient shall submit three copies of all required audit reports to the State Controller's Office within 30 days after receipt of the auditor's report, nine months after the end of the required audit period, unless a longer period is agreed to in advance, to:

State Controller's Office
Division of Audits
Single Audit Unit
3301 C Street, Suite 705
Sacramento, CA 95816

In addition, the HOME Recipient shall submit one copy of the audit report within the same timeframe described in this paragraph to:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

- H. The performance of this Agreement by the HOME Recipient shall be subject to examination and audit by the State Auditor pursuant to Government Code Section 8546.7.
- I. The HOME Recipient is responsible for the completion of audits and all costs of preparing audits.
- J. If there are audit findings, the HOME Recipient must submit a detailed response acceptable to the Department for each audit finding.
- K. The HOME Recipient shall retain all books and records relevant to this Agreement for a minimum of five (5) years after the project completion, as evidenced by the certificate of occupancy or submittal of the HUD-required Completion Report whichever is later, except that 1) records of individual tenant income verifications, project rents inspections shall be retained for the most recent five year period, until five years after the affordability terminates; and, 2) records relating to any and all audits or litigation relevant to this Agreement shall be retained for five years after the conclusion or resolution of the matter.

30. Signs

During the construction period of a project, the Department may place or require to be placed signs on the property stating that the HOME Program is providing financing. The signs shall indicate in a typeface and size commensurate with its funding that the Department is a source of financing for the project, through the HOME Program.

31. Special Conditions-Contractors/Sub Contractors

The HOME Recipient agrees to comply with all conditions of this Agreement including the Special Conditions set forth in Exhibit E. These conditions shall be met to the satisfaction of the Department prior to Project Set-Up or disbursement of funds, as appropriate. The HOME Recipient shall ensure that all contractors and/or subcontractors are made aware of and agree to

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comply with all of the conditions of this Agreement and the applicable federal and State requirements governing the use of HOME funds. Failure to comply with these conditions may result in cancellation of this Agreement.

32. Conditional Reservation of Funds

Notwithstanding any provision in this Agreement, the parties hereto agree and acknowledge that this Agreement constitutes a conditional reservation of funds.

33. Federal Property Management Standards

The HOME Recipient shall comply with the HUD property management standards as set forth in 24 CFR 85.31 and 85.32.

34. Eligible Uses of Program Income

Program Income may be retained by the HOME Recipient for the term of this Agreement provided the HOME Recipient is in full compliance with all applicable HOME program requirements. Per 24 CFR 92.500(c)(1), Program Income must be placed in an interest bearing local HOME account.

Program Income shall be used for eligible activities as specified in the federal HOME regulations and as more specifically described at 24 CFR 92.2 and 92.503. Recipient shall obtain advance HOME management approval for the use of Program Income, and shall comply with all HOME program requirements including advance HOME set-up and NEPA approval, shall expend all program income prior to reimbursement for new grant funds from HCD, and shall report on the use of Program Income quarterly.

35. State Contract Manual Requirements (Section 3.11, Federally Funded Contracts (Rev. 3/03):

A. All contracts, except for State construction projects that are funded in whole or in part by the Federal government, must contain a 30-day cancellation clause and the following provisions:

- 1) It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- 1) This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this Program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
- 2) The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

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- 3) The department has the option to invalidate the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction in funds.
- A. Exemptions from provisions A.1 through A.4 above may be granted by the Department of Finance provided that the director of the State agency can certify in writing that Federal funds are available for the term of the contract.
- B. GC § 8546.4(e) provides that State agencies receiving Federal funds shall be primarily responsible for arranging for Federally required financial and compliance audits, and shall immediately notify the Director of Finance, the State Auditor, and the State Controller when they are required to obtain Federally required financial and compliance audits.

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EXHIBIT E

SPECIAL TERMS AND CONDITIONS

These Special Conditions are specific for this Standard Agreement.

1. None.