

Attachment B
Funding Agreement

AGREEMENT

FUNDING AGREEMENT FOR AB2034 ONE TIME HOUSING FUNDS
BETWEEN

THE COUNTY OF SANTA BARBARA
AND
Transitions Mental Health Association

THIS AGREEMENT is made by and between the

COUNTY OF SANTA BARBARA, a political subdivision of the State of California,
hereinafter referred to as "**COUNTY**"; and

Transitions Mental Health Association hereinafter referred to as
"**CONTRACTOR**"

with reference to the following:

WHEREAS, in October, 2001 the **COUNTY** Department of Alcohol, Drugs, and
Mental Health Services (ADMHS) issued a Request for Application's (RFA) soliciting
proposals for the use of up to \$500,000 (\$250,000 each, North and South **COUNTY**) of
one-time housing funds received through the AB2034 Grant (hereinafter referred to as
AB2034) awarded in year 2000 to ADMHS, to develop or acquire affordable housing for
mentally ill persons; and

WHEREAS, **CONTRACTOR** submitted a proposal pursuant to the **COUNTY'S** RFA
to ADMHS (**COUNTY**); and

WHEREAS, **COUNTY'S** ADMHS Department approved **CONTRACTOR'S**
proposed project for the use of the requested AB2034 monies.

NOW, THEREFORE, in consideration of the premises, promises, covenants and
conditions herein contained, **COUNTY** and **CONTRACTOR** hereby agree as follows:

1. PROJECT DESCRIPTION; AMOUNT AND USE OF AB2034 FUNDS

- A. Subject to the terms and conditions contained in this Agreement, **COUNTY** agrees
to provide to **CONTRACTOR** a 30 year elimination loan of AB2034 one -time
housing funds in a total amount not to exceed two hundred and fifty thousand dollars
(\$250,000), to assist **CONTRACTOR** in purchasing housing stock in Santa Maria
(herein after referred to as the Project.) The funds will be used for the down-
payment, closing costs and loan origination fees on two single family homes; one
property has already been identified and is a four bedroom house located at 1418 S.
Raven Court in Santa Maria. The second property will be identified and placed into
escrow within one month of the execution of this agreement and a more specific
description of the Project shall be set forth in Exhibit A (to be developed once
project(s) are defined and selected). The Project shall provide a minimum total of 6
beds for use and occupancy as set forth in Paragraph 3 herein. This funding

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assistance shall be subject to a contingent grant repayment obligation, in accordance with Section 4 herein.

- B. Up to 5%, or \$12,500, of the total amount of AB2034 funds available to **CONTRACTOR** pursuant to this Agreement may be used for out-of-pocket Project financing/escrow costs such as loan application fees, property appraisal and inspection fees, and the earnest money deposit to open escrow, and **CONTRACTOR** staff and administrative costs incurred in packaging the Project, provided however, that no more than \$10,000 in AB2034 funds shall be used for said staff and administrative costs. The balance of the AB2034 funds shall be applied towards the equity, down payment or property rehabilitation (to bring housing up to HUD standards for the Public Housing & Section 8 Rental Assistance Programs), and/or appliance purchase (including range, refrigerator, washer and dryer) required to purchase and convert the Project property.
- C. AB2034 monies provided to **CONTRACTOR** pursuant to this Agreement shall be used exclusively for the purposes expressly authorized herein. If, at any time within applicable statutory periods of limitation, it is determined by **COUNTY** that the funds provided under the terms of this Agreement have been used by or on behalf of **CONTRACTOR** in a manner or for a purpose not expressly authorized by this Agreement, **CONTRACTOR** shall, at **COUNTY'S** request, pay immediately to **COUNTY** an amount equal to one hundred ten percent (110%) of any amount expended in violation thereof, together with all of **COUNTY'S** costs of collection, including attorneys' fees, if any.

2. TERM OF COUNTY AB2034 ONE-TIME HOUSING FUNDS COMMITMENT

The term of the **COUNTY'S** commitment to reserve/provide AB2034 one-time housing funds to **CONTRACTOR** as provided herein shall be from [closing date of escrow to and including June 30, 2032], subject to extension and termination as hereinafter provided. This term may be extended by letter agreement executed by and between **CONTRACTOR** and the Director of the **COUNTY** ADMHS Department. Upon extension, all of the other terms and conditions of the this Agreement shall remain in full force and effect.

In the event that **CONTRACTOR** is unable to comply with the conditions prerequisite to the **COUNTY'S** disbursement of the AB2034 monies for the purchase/conversion of the project as provided in this Agreement, or any extensions thereof, this Agreement shall terminate and be of no further force and effect.

3. PROJECT OCCUPANCY AND AFFORDABILITY REQUIREMENTS

A. For the purposes of this Section, the following terms and definitions shall apply:

1. "Very Low-Income Client" - A "Very Low-Income Client" is a client whose annual gross income does not exceed the Supplemental Security Income (SSI) annual allowance as established and periodically revised by the Social Security Administration.

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2. "Low-Income Client" - A "Low-Income Client" is a client whose annual gross income does not exceed fifty percent (50%) of the **COUNTY'S** median income figure for a one-person household, as established and periodically revised by the U.S. Department of Housing and Urban Development (HUD) for the Public Housing and Section 8 Rental Assistance Programs.
 3. "Affordable Rents" -The maximum affordable rent levels are established on a per unit or room, rather than a per person, basis. "Affordable Rents" for very low-income units shall not exceed thirty percent (30%) of the **COUNTY'S** adopted [monthly] income figures for very low-income households as established for each household size, and for low-income units shall not exceed the applicable Fair Market Rent (FMR) based on unit size as established and periodically revised by HUD pursuant to the Section 8 Certificate Program.
 4. Supported Housing Initiative Act (SHIA) – A client enrolled in the SHIA grant program during the remaining grant term of 7/1/02 – 6/30/04.
- B. **CONTRACTOR** agrees that project occupancy and affordability requirements as set forth herein shall remain in effect for a period of no less than thirty (30) years from the closing date of escrow for the purchase of the Project site by **CONTRACTOR**.
- C. As **COUNTY**-approved revised income limits and affordable rents are released, but not more frequently than once per year, **CONTRACTOR** may, upon notification to ADMHS, adjust Project rents in accordance with effective **COUNTY** standards and requirements. Under no circumstances, however, shall Project rents be increased or decreased by more than ten percent (10%) for any given one-year period.
- D. **CONTRACTOR** agrees that the Project shall be maintained and operated as a rental housing project in accordance with the terms of this Agreement, and that all of the project units/beds shall be occupied by mentally ill adult clients of **COUNTY** and **CONTRACTOR** as follows:
1. SHIA enrolled clients will have priority access to a minimum of 6 beds during the remainder of the grant term 7/1/02 – 6/30/04.
 2. In the event that the Department is unable to refer an eligible **COUNTY** client to occupy a **COUNTY**-reserved Project bed for a period of thirty (30) days or more after said bed becomes vacant or available for occupancy, then **CONTRACTOR** may make said bed available for occupancy by a mentally disordered **CONTRACTOR** client who is income-eligible as provided above. In the event that neither the **COUNTY** nor **CONTRACTOR** is able to refer an eligible client to occupy a Project bed for a period of sixty (60) days, then **CONTRACTOR** may make said bed available for occupancy by any very low- or low-income person.
- E. Pursuant to the foregoing project affordability and occupancy requirements, **CONTRACTOR** shall establish written procedures for reviewing client incomes and determining client eligibility to reside at the project. Such procedures shall be reviewed and approved by the ADMHS Department prior to implementation.

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4. CONTINGENT GRANT REPAYMENT OBLIGATION

- A. In the event that during the thirty (30)-year period commencing on the closing date of escrow for the subject purchase of the project site by **CONTRACTOR**, **CONTRACTOR** fails to comply with the affordability and occupancy requirements set forth in Section 3 herein, or disposes of its interest in the project, then **CONTRACTOR** shall, upon written demand by **COUNTY**, reimburse **COUNTY** for the total AB2034 one-time housing funds grant amount provided to **CONTRACTOR** pursuant to this Agreement.
- B. **CONTRACTOR** shall execute a promissory note in the grant amount and shall secure such note by a recorded Deed of Trust and Assignment of Rents or a letter of credit or other security instrument acceptable to and approved by County Counsel prior to release of funds to **CONTRACTOR**. The **COUNTY** agrees to subordinate its security interest in the project property to other project lender(s) if required as a condition of securing other necessary financing.
- C. The parties hereto agree that the contingent repayment obligation set forth above is a remedy to be elected in the discretion of **COUNTY**, and that it shall be in addition to, and not in lieu of any other remedy to which **COUNTY** may be entitled at law or in equity. Specifically, **CONTRACTOR** agrees that an action at law would be inadequate to achieve the objectives of **COUNTY** in entering into this Agreement, and that **COUNTY** shall be entitled to specific enforcement in equity of the provisions of this Agreement.
- D. Anything herein to the contrary notwithstanding, at the conclusion of the thirty (30)-year period set forth above, if not earlier repaid, and provided that there is no action pending at law or in equity regarding enforcement of the terms and conditions of this Agreement, this conditional grant repayment obligation shall terminate, and the grant referred to in Section 1 herein shall become fully vested.

5. METHOD AND CONDITIONS FOR DISBURSEMENT OF FUNDS TO CONTRACTOR

Disbursements to **CONTRACTOR** of the funds provided for in Section 1 herein, shall be made in accordance with the following procedures and subject to the following conditions:

A. AB2034 Funds for Project Packaging/Escrow Expenses

1. In order to receive payment or reimbursement from the **COUNTY** for out-of-pocket Project escrow and/or financing-related expenditures to be funded with AB2034 funds, **CONTRACTOR** shall request and obtain pre-approval of such expenditures from the Director for the **COUNTY** ADMHS Department, or his designee, of any AB2034 expenditures for out-of-pocket Project escrow and/or financing costs as a prerequisite to **COUNTY** payment or reimbursement of said expenditures.

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2. **CONTRACTOR** shall submit to the Director for the **COUNTY ADMHS** Department, an invoice or certified claim on the County Treasury for approved Project packaging/escrow expenditures, itemizing each expenditure for which payment is requested. Said claim shall have attached thereto copies of invoices and receipts, as applicable, substantiating the claimed expenses.

B. AB2034 Funds for Project Purchase

1. At least fourteen (14) days' prior to the scheduled close of escrow date for the transfer of the Project property, **CONTRACTOR** shall file with the Director of the **COUNTY ADMHS** Department, or his designee, an invoice or certified claim on the County Treasury funds. Said claim shall have attached thereto a copy of the Escrow Statement or Save Agreement substantiating property acquisition costs for which claim is being made.
2. Upon **COUNTY'S** approval of said claim, a warrant for said purchase funds shall be issued to **CONTRACTOR** by **COUNTY** one (1) day prior to the scheduled closing date of escrow and shall be directly and immediately deposited by **CONTRACTOR** into the escrow account established for said transaction. In the event that escrow does not close as scheduled, said warrant may be held undeposited by the escrow officer assigned to the subject purchase until the subsequent close of escrow or until such time as the **COUNTY** requests **CONTRACTOR** in writing to return said warrant. In the event that acquisition of the Project property by **CONTRACTOR** does not occur as provided herein or as on escrow statement(s) submitted to **COUNTY**, **CONTRACTOR** shall immediately return said warrant (funds) to the **COUNTY**.

6. NON-ASSIGNABILITY

This Agreement is not transferable or assignable, in whole or in part, by **CONTRACTOR** without the prior written consent of the **COUNTY** Board of Supervisors. Any attempted or actual assigning by **CONTRACTOR** without such **COUNTY** consent shall be void and shall, at the option of the **COUNTY**, terminate this Agreement.

7. REPORTING BY CONTRACTOR

- A. From the date of execution of this Agreement until the purchase of the Project property by **CONTRACTOR** is completed as provided above, **CONTRACTOR** agrees to submit to the Director for the **COUNTY ADMHS** Department, or his designee, monthly reports, due by the first day of each calendar month beginning with **June 1, 2002**. Said monthly report shall:
 1. Describe **CONTRACTOR'S** progress in consummating the subject property purchase and implementing the Project, including subsequent actions to be taken; [completing milestones] and
 2. Provide an expenditure/budget status report on the Project packaging funds.

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B. Upon the close of escrow for the subject purchase, **CONTRACTOR** agrees to submit to the **COUNTY** ADMHS Department a monthly report, due on the first of every month. Said monthly report shall:

1. Document compliance with the occupancy requirements as forth in Section 3 herein; and
2. Delineate, for the pending year, the unit-by-unit rent schedule for the project as adopted by **CONTRACTOR**, and shall specify the percentage, if any, by which the project rents have been increased over the previous year's rents. Said report shall include a statement, signed by a duly authorized representative of **CONTRACTOR**, certifying that said rent schedule is in accordance with the affordability requirements set forth in Section 3; and
3. Describe the project management and maintenance plan for the past and coming year, and set forth the project budget for the coming year.
4. Document both the number of vacancy and occupancy days for the prior monthly period for each unit.
5. Listing of names of each resident and beginning date of residency.
6. Amount of security deposit charged each resident; any deposit refunds, amounts, and amount of any deposit funds withheld, including reason(s).

8. Audit of Project Records

The **COUNTY** shall have the right to audit and review all records maintained by **CONTRACTOR** pertinent to the project pursuant to the terms of this Agreement. Any such audit and review may be conducted at any time during regular business hours, upon reasonable advance notice by **COUNTY** to **CONTRACTOR**.

9. Audited Financial Report

The **CONTRACTOR** shall submit to **COUNTY** a copy of their annual financial statement. This report shall be submitted within thirty (30) days after the report is received by **CONTRACTOR** from the auditor.

10. Property Insurance

At all times upon purchasing the Project property, and throughout the term of this agreement, **CONTRACTOR** shall maintain in full force and effect a policy of fire and extended coverage insurance on the Project, which insurance shall be with insurer and under forms of policies satisfactory to **COUNTY** and shall provide that notice be given to **COUNTY** at least thirty (30) days prior to cancellation or material change. **CONTRACTOR** shall file with the **COUNTY** Risk Manager a certified copy of said policy, and any attachments, renewals, or amendments thereto.

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11. Termination of Agreement/Notices

- A. **COUNTY** shall have the right to terminate this Agreement immediately if **COUNTY** determines that **CONTRACTOR** has incurred obligations or made expenditures from the AB2034 loan for purposes which are not permitted or which are prohibited under the terms of this Agreement. **COUNTY** shall also have the right to terminate this Agreement immediately if **COUNTY** determines that **CONTRACTOR** is conducting the Project in violation of any of the terms of this Agreement, or has filed a petition in bankruptcy, or for receivership or reorganization, or has filed any other petition under the Bankruptcy Act or has taken or committed any act preparatory to the filing of any such petition or has become or is insolvent or has committed any other act of bankruptcy or insolvency.
- B. **CONTRACTOR** may, for any reason, prior to the expiration date of the term of commitment set forth in Section 2 herein, and any renewals thereof, have the right to cancel and terminate this Agreement upon sixty (60) days notice in writing to the **COUNTY**.
- C. Upon a material breach of the terms and conditions of this Agreement by one of the parties, this Agreement may be terminated upon the mailing of a written notice of termination by the other party. Any such written notice shall be sufficient if sent by registered mail postage prepaid, as the case may be, to:

1. To **COUNTY**: Director
 Santa Barbara County
 Alcohol, Drug and Mental Health Services
 300 N. San Antonio Road
 Santa Barbara, CA 93110

2. To **CONTRACTOR**: Transitions Mental Health Association
 Jill Bolster-White
 P.O. Box 15408
 San Luis Obispo, CA 93406

3. Or, at such other address, or to such other person, that the parties may from time-to-time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the United States mail.

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12. THIS AGREEMENT INCLUDES:

- A. EXHIBIT A – Description of Project property and floor plan
- B. EXHIBIT B – Standard Indemnification and Insurance Provisions

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AGREEMENT

Agreement for Services of Independent **CONTRACTOR** between the County of Santa Barbara and Transitions Mental Health Association.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by **COUNTY**.

COUNTY OF SANTA BARBARA

By: [Signature]
Chair, Board of Supervisors
Date: 6-18-02

CONTRACTOR

By: [Signature]
Tax Id No 95-3509040.

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: [Signature]
Deputy

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: [Signature]
Deputy

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

By: [Signature] Deputy
County Counsel

APPROVED AS TO FORM:
ALCOHOL, DRUG, AND MENTAL HEALTH SERVICES
JAMES L. BRODERICK, Ph.D.
DIRECTOR

By: [Signature]
Director

APPROVED AS TO FORM:
JOHN A. FORNER
RISK ANALYST, SENIOR

By: [Signature]

EXHIBIT B
STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

1. INDEMNIFICATION

A Indemnification pertaining to other than Professional Services:

1. **CONTRACTOR** shall defend, indemnify and save harmless the **COUNTY**, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgements or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the **CONTRACTOR** or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgements or liabilities resulting from the sole negligence or willful misconduct of the **COUNTY**.
2. **CONTRACTOR** shall notify the **COUNTY** immediately in the event of any accident or injury arising out of or in connection with this Agreement.

2. INSURANCE

A Without limiting the **CONTRACTOR'S** indemnification of the **COUNTY**, **CONTRACTOR** shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the **COUNTY**. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place **CONTRACTOR** in default. Upon request by the **COUNTY**, **CONTRACTOR** shall provide a certified copy of any insurance policy to the **COUNTY** within ten (10) working days.

1. **Workers' Compensation Insurance:** Statutory Workers' Compensation and Employers Liability Insurance shall cover all **CONTRACTOR'S** staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the **COUNTY**. In the event **CONTRACTOR** is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if **CONTRACTOR** has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and **CONTRACTOR** submits a written statement to the **COUNTY** stating that fact.
2. **General and Automobile Liability Insurance:** The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of **CONTRACTOR** and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the **CONTRACTOR** in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between **COUNTY** and

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CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of **CONTRACTOR** pursuant to **CONTRACTOR'S** activities hereunder. **CONTRACTORS** shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. **COUNTY**, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the **COUNTY**.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the **CONTRACTOR** is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the **COUNTY** shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

- B** **CONTRACTOR** shall submit to the office of the designated **COUNTY** representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. **COUNTY** shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by **COUNTY** or acceptance of the certificate of insurance by **COUNTY** shall not relieve or decrease the extent to which the **CONTRACTOR** may be held responsible for payment of damages resulting from **CONTRACTOR'S** services of operation pursuant to the contract, nor shall it be deemed a waiver of **COUNTY'S** rights to insurance coverage hereunder.
- C** In the event the **CONTRACTOR** is not able to comply with the **COUNTY'S** insurance requirements, **COUNTY** may, at their sole discretion and at the **CONTRACTOR'S** expense, provide compliant coverage.

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- D The above insurance requirements are subject to periodic review by the **COUNTY**. The **COUNTY'S** Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the **COUNTY** or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of **COUNTY'S** risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. **CONTRACTOR** agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.