

ATTACHMENT A  
COUNTY OF SANTA BARBARA  
EMERGENCY SHELTER GRANT PROGRAM

FORM OF SUBRECIPIENT AGREEMENT  
2008-2009

THIS AGREEMENT ("Agreement") is made and entered into on July 1, 2008, by and between the County of Santa Barbara ("County") and \_\_\_\_\_ ("Operating Agency") with reference to the following facts:

A. County has been designated as an entitlement jurisdiction by the United States Department of Housing and Urban Development for the Emergency Shelter Grant (ESG) program and will administer and carry out the County's ESG Program as part of an Urban County Consortium under the Housing and Community Development Act of 1974, as amended ("the Act"); and

B. County has established a fund to assist non-profit agencies that serve such needs in those portions of County for which Emergency Shelter Grant (ESG) financing is available; and

C. County has adopted the 2007-2010 Consolidated Plan and a 2008 Budget for ESG for FY 2008-2009 ("the Program"); and

D. County has submitted to the United States Housing and Development Department ("HUD") a 2008 Action Plan and this Agreement is consistent with and implements that Action Plan; and

E. Operating Agency desires to participate in the Program.

NOW, THEREFORE, for good and valuable consideration, County and Operating Agency agree as follows:

1. AGREEMENT ADMINISTRATION. The Director of County Housing and Community Development Department (HCD Director) is fully authorized to act for County in the administration of this Agreement consistent with its provisions. The HCD Director may delegate, in writing, any of his/her duties under this Agreement.

2. SCOPE OF SERVICES. Operating Agency agrees to perform all services listed in Exhibit A attached hereto and incorporated by this reference ("the Services").

3. IMPLEMENTATION PROCEDURES. Funds under this agreement shall only be used for the purposes described Exhibit A and in the operating budget ("Budget") attached hereto as Exhibit B and incorporated by this reference. The HCD Director shall not execute agreements necessary to initiate the project(s) under this Agreement until the project(s) have been approved by the HCD Director and, if applicable, funds released by U.S. Department of Housing and Urban Development ("HUD").

4. TIME OF PERFORMANCE. Operating Agency's services shall commence on or after July 1, 2008, and shall be completed not later than June 30, 2009.

5. SOURCES AND AVAILABILITY OF FUNDS. It is understood by the parties hereto the funds being used for the purposes of this Agreement are funds furnished to County through HUD pursuant to the provisions of the ESG Program. In full recognition of the funding source and notwithstanding any other provision of this Agreement, (i) the maximum amount of ESG funds that may be provided pursuant to this Agreement shall not exceed \_\_\_\_\_ Dollars (**\$** \_\_\_\_\_) and (ii) any such amount shall only be

provided by County as reimbursement to Operating Agency for funds actually and validly paid by Operating Agency for a County-approved project described in Exhibit A and (b) from ESG funding County actually receives from HUD for such purposes. County shall incur no liability to the Operating Agency, its officers, agents, employees, or suppliers for any delay or failure by County in making any such payments of ESG funds under the Agreement.

## 6. COMPENSATION.

A. REIMBURSEMENT AFTER PERFORMANCE. Subject to Paragraphs 5 above, and 8.I. below after Operating Agency's performance of the Services, County shall reimburse Operating Agency an amount not to exceed Dollars (\$ ), which constitutes full and complete reimbursement for the performance under this Agreement.

B. USE OF FUNDS. All funds approved under this Agreement shall be used solely for reimbursement of costs approved in the Budget. Funds shall not be used as a cash advance, as security to guarantee payments for any non-program obligations, or as loans for non-program activities. Operating Agency shall not incur any expenditure for travel outside County's jurisdictional boundary, unless specifically authorized in Exhibit A. Operating Agency certifies and agrees that it will not use any funds provided through this Agreement for entertainment or for gifts or for political purposes. Operating Agency shall not bill for and County shall not pay for any services which are funded by other sources.

C. FISCAL LIMITATIONS. The United States of America, acting through HUD, may, in the future, place unanticipated program or fiscal limitations on ESG funds. County, in turn, may pass this program or fiscal limitation on ESG funds onto County. Accordingly, County reserves the right to unilaterally revise this Agreement to take account of actions affecting HUD program funding. In the event of funding reduction, County may reduce the budget of this Agreement in its entirety or may limit the rate of the Operating Agency's use of both its uncommitted and its unspent funds. When HUD has directed or requested that the County implement a reduction in funding, in whole or as to a cost category, with respect to funding for this Agreement, the HCD Director may act for County in implementing and effecting such a reduction and in revising this Agreement for such purpose.

D. METHOD OF PAYMENT. The funds to be paid under this Agreement shall be disbursed to Operating Agency only after its full and satisfactory performance of its obligations as set forth in Exhibit A and after receipt and approval by County of a periodic detailed invoice in a form specified and approved by the HCD Director. Operating Agency shall submit invoices as specified on Exhibit B and Section 8 below.

E. CHANGES IN COMPENSATION. County reserves the right to reduce compensation when County's fiscal monitoring indicates Operating Agency's rate of expenditure will result in unspent funds at the end of the program year. Change in the grant allocation will be made after consultation with Operating Agency. Such changes shall be made by written amendment, as set forth in Paragraph 10 of this Agreement.

F. FINAL PAYMENT. County reserves the right to withhold ten percent (10%) of the total amount to be paid pursuant to this Agreement on a completed project until completion is certified by the HCD Director after which County shall pay the withheld ten percent (10%) to Operating Agency in accordance with this Agreement.

7. ASSURANCES. Operating Agency hereby assures and certifies it has complied with the Act, applicable regulations, policies, guidelines, and requirements, and that it will comply with all applicable federal, state, and local laws, regulations, 24 CFR Part 85, and OMB Circular A-87 as these relate to acceptance and use of federal funds for this federally assisted program. Operating Agency gives assurance and certifies it will comply with provisions of 41 CFR 60-4.1 and 24 Code of Federal Regulations 135.20, each

of which are incorporated herein by this reference. Operating Agency further assures and certifies it will comply with any future amendments or changes to these required assurances and that during the terms of this Agreement will maintain current copies of these assurances at the address specified in Paragraph 30 of this Agreement.

#### 8. PERFORMANCE STANDARDS.

A. **COMPLIANCE.** Operating Agency agrees to comply with specific project implementation and expenditure standards as adopted by the Board of Supervisors.

B. **PROCEDURES.** Operating Agency agrees to utilize County forms and procedures and bill for expenditures not more often than monthly.

C. **ACCOUNTING.** Operating Agency shall establish and maintain on a current basis an adequate accrual accounting system in accordance with generally accepted accounting principles and standards. The subrecipient agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

D. **AUDIT AND INSPECTIONS.** Operating Agency shall make available at any time during normal business hours, to authorized County, HUD, and the Comptroller General of the United States personnel or any of their authorized representatives for inspection, its performance, financial, and all other records pertaining to performance of this Agreement, and allow County personnel or authorized representatives to inspect and monitor its facilities and program operations, including the interview of Operating Agency staff and program participants as required by the County. Operating Agency agrees to submit all necessary data to complete the Consolidated Annual Performance and Evaluation Report (CAPER) in order to monitor program accountability and progress in accordance with HUD requirements at the time and in the format designated by the HCD Director. Any deficiencies noted in audit reports must be fully cleared by Operating Agency within thirty (30) days after receipt by Operating Agency. Failure of Operating Agency to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. Operating Agency hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits and OMB Circular A-133.

E. **PERFORMANCE MONITORING.** County will monitor the performance of the Operating Agency against goals and performance standards as stated in Exhibit A. Substandard performance as determined by County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Operating Agency within a reasonable period of time after being notified by County, the County may unilaterally terminate this Agreement.

F. **PROGRESS REPORTS.** Operating Agency shall submit regular Progress Reports to County in the form, content, and frequency as required by County.

G. **REVENUE DISCLOSURE.** Operating Agency shall make available to County's or HUD's representatives for inspection and audit, upon request at any time during the duration of this Agreement and during a period of five (5) years thereafter, all of its books and records relating to the operation of each project or business activity which is funded in whole or in part with federal or state grant monies, whether or not such grants are received through County. Failure of Operating Agency to comply with the requirements of this Subsection constitutes a material breach and grounds upon which County may cancel, terminate, or suspend this Agreement.

H. **JOINT FUNDING.** For programs in which there are sources of funds in addition to ESG funds, Operating Agency shall provide proof of such funding. All restrictions and/or requirements

provided for in this Agreement relative to accounting, budgeting, and reporting apply to the total program regardless of funding source. Operating Agency shall keep separate financial records for each of its programs and services.

I. FINANCIAL PHASE OUT PERIOD. Operating Agency agrees to complete all necessary financial phase out procedures required by the HCD Director within ninety (90) calendar days after the expiration date of the Agreement ("the financial phase out period"). County is not liable to reimburse any expenses or costs associated with this Agreement that are submitted after the financial phase out period. Thereafter, those funds, if any, not paid to Operating Agency under this Agreement will be immediately reprogrammed by County into other eligible activities in County. The HCD Director may request a final financial audit for activities performed under this Agreement at the expiration of the financial phase out period.

9. OPERATING AGENCY PROPERTY.

A. NONEXPENDABLE PROPERTY.

1. Nonexpendable property means leased or purchased tangible personal property having a useful life of more than one (1) year and an acquisition cost of Three Hundred Dollars (\$300.00) or more per unit ("Nonexpendable Property"). Nonexpendable Property includes, but is not limited to, office equipment, real property, any interest in, or encumbrance of such real property, and funds derived from the sale or disposition of Nonexpendable Property. Operating Agency shall obtain at least three (3) documented bids prior to purchasing Nonexpendable Property and agrees to purchase from the lowest responsible bidder. Purchase of Nonexpendable Property costing One Thousand Dollars (\$1,000.00) or more per unit requires prior written approval of the HCD Director.

2. Utilization of funds derived from the sale or disposition of Nonexpendable Property requires prior approval of County and shall otherwise comply with all applicable laws and regulations. If this Agreement is terminated, then County reserves the right to direct the final disposition of all Nonexpendable Property acquired under this Agreement, in addition to all funds derived from its sale or disposition.

3. Operating Agency agrees all Nonexpendable Property shall be properly identified, inventoried, and charged at its actual price, after deduction of all cash discounts, rebates, and allowances received by Operating Agency. This inventory shall be made available to the HCD Director upon request.

B. EXPENDABLE PROPERTY. Expendable property is all tangible personal property other than nonexpendable property. The purchase or disposition of expendable property valued at One Thousand Dollars (\$1,000.00) or more per unit requires the prior written approval of the HCD Director.

C. PURCHASING DEADLINES. Operating Agency agrees to purchase all Expendable and Nonexpendable Property in this Agreement prior to the last three (3) months of the term of this Agreement. All purchased property must be in the possession of Operating Agency prior to the last two (2) months of this Agreement. After County approves administrative equipment necessary for performance, Operating Agency may purchase such equipment through County's Purchasing Manager [Mike, make sure this is within John McMillan's authority to do and OK with him] or from private vendors, provided requirements are met as specified by County. Operating Agency may purchase from an Operating Agency-related agency/organization only if funding source procurement requirements are met, prior authorization is obtained in writing from County, and no private gain accrues to Operating Agency or to any of its employees or officers.

10. AGREEMENT Extensions and minor modifications. The HCD Director may extend the time for performance and/or modify Exhibit A to this Agreement, provided that any such modification is:

- A. Requested in writing by Operating Agency;
- B. In the best interest of County and Operating Agency;
- C. Consistent with the Act, the goals of the ESG Program, applicable federal regulations, and the other provisions of this Agreement;
- D. Approved by the HCD Director, in writing, prior to expenditures being made, including the deletion or addition of eligible ESG activities and does not change the overall value of the services being provided; and
- E. Consistent with the 2007-2010 Consolidated Plan and 2008 Budget for ESG and Human Service Programs for 2008-2009 for the County as approved by the Board of Supervisors.
- F. Any change in time of performance shall not exceed twelve (12) months per extension and an aggregate of thirty-six (36) months.
- G. Any modifications to the payments to be received under this Agreement shall comply with A-E, above, and may be paid for out of surplus monies identified within Operating Agency's ESG allocation from County. Such modifications must be agreed to by the County in writing and the total amount to be paid to the Operating Agency must be within the aggregate ESG allocation to Operating Agency as approved by Board of Supervisors.

11. ASSIGNMENT. This Agreement is not assignable, in whole or in part, by Operating Agency without the prior written consent of County. Any attempt by Operating Agency to assign any performance of the terms of this Agreement is null and void and constitutes a material breach of this Agreement.

12. OUTSIDE EMPLOYMENT. In its written personnel policies, Operating Agency shall prohibit any outside employment of its employees that:

- A. Interferes with the efficient performance of the employee's duties in the program supported by this Agreement; or
- B. Involves a conflict of interest or an appearance of conflict with the employee's duties in the program supported by this Agreement; or
- C. Occurs during the employee's regular or assigned working hours in the program supported by this Agreement, unless, during the entire day on which such employment occurs, the employee is on vacation, compensatory leave, or leave without pay.

Operating Agency agrees to establish effective procedures to enforce these provisions and provide specific procedures regarding outside employment of its full-time personnel whose duties are not readily confined to a standard workday or workweek. Such personnel include but are not limited to executive directors, neighborhood workers, and other employees whose responsibilities require them to be available for duty during evenings or on weekends.

13. INDEPENDENT CONTRACTOR. In the performance of this Agreement, each party will be acting in an independent capacity and not as agent, employee, partner, joint venture, or associate of the other. The employees or agents of one party shall not be deemed or construed to be the agents or employees of the other party for any purpose whatsoever. County shall be exempt from payment of Unemployment

Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as Operating Agency is an independent contractor.

14. WORKER'S COMPENSATION. Operating Agency shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

15. COMPLIANCE WITH LAWS. The parties agree to be bound by applicable federal, state, and local laws, ordinances, regulations, and directives. This Agreement is subject to and incorporates by this reference the terms of the Act; of 24 CFR Part 570; of 24 CFR Part 85; of OMB Circular A-87; and of the Rehabilitation Act of 1973 (Public Law 93-112). This Agreement is subject to and incorporates the Copeland Anti-Kickback Act of 1968 (Public Law 90-577), which provides that "whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever, induces any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he/she is entitled under his/her contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

16. NON-DISCRIMINATION. No person shall, on the grounds of race, sex, creed, disability, color, religion, or national origin, be excluded from participation in, refused the benefits of, or otherwise subjected to discrimination in any activities, programs or employment supported by this Agreement. Operating Agency agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable. Operating Agency also agrees to comply with the County non-discrimination ordinance as set forth in the County Code Section 2-95.

17. CIVIL RIGHTS COMPLIANCE. Operating Agency agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII 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 (HCD) of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

18. Section 504. Operating Agency agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. County shall provide Operating Agency with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

19. RELIGIOUS AND POLITICAL ACTIVITIES. Operating Agency agrees funds under this Agreement will be used exclusively for performance of the Services to be provided under this Agreement, and that no funds made available under this Agreement shall be used to promote any religious or political activity. Operating Agency further agrees it will not perform or permit to be performed any religious or political activities in connection with the performance of this Agreement.

Operating Agency hereby agrees in connection with performance of this Agreement, Operating Agency:

A. Will not discriminate against any employee or applicant for employment on the basis of religion, nor limit employment or give preference in employment to any person on the basis of religion;

B. Will not discriminate against any person applying for Services provided hereunder on the basis of religion, nor limit such services or give preference to any person on the basis of religion;

C. Will not provide religious instruction or counseling, conduct religious worship or services, engage in religious proselytizing, or exert religious influence of any kind in the provision of the Services; provided, however, that an Operating Agency that is a faith-based organization (FBO) may use space in their facilities to provide ESG-funded services, without removing religious art, icons, scriptures, or other religious symbols provided that the FBO does not use direct ESG funds to support any inherently religious activities, including but not limited to worship, religious instruction, and proselytization.

D. Agrees the funds received under this Agreement shall not be used to construct, rehabilitate, or restore any facility owned by the Operating Agency wherein the Services are provided, except that minor repairs may be made if such repairs are directly related to services, and, in dollar amounts, constitute only a minor portion of the ESG expenditures for the Services.

20. NEPOTISM. Operating Agency shall not hire or permit the hiring of any person to fill a position funded through this Agreement, if a member of that person's immediate family is employed in an administrative capacity by County's ESG Program or by the Community Development Programs Office administering the ESG Program. For the purposes of this Agreement, "immediate family" means spouse, child, mother, father, brother, sister, uncle, step-parent, and stepchild. "Administrative capacity" means having selection, hiring, supervisory, or management responsibilities, including serving on Operating Agency's governing body.

21. LOBBYING. No federally appropriated funds have been or will be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or an employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Agreement, the making of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal Agreement, grant, loan, or cooperative agreement. If any funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Agreement, grant, loan, or Cooperative Agreement, then County shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

22. HATCH ACT. Operating Agency agrees no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S. C.

23. CONFLICT OF INTEREST. Operating Agency, its agents, employees, and volunteers shall comply with all applicable federal, state, and local laws and regulations governing conflict of interest. To this end, Operating Agency will make available to its agents, employees, and volunteers copies of all applicable federal, state, and local laws and regulations governing conflict of interest. Operating Agency shall furnish to County, prior to performance of its project(s) under this Agreement, a written list of all current or proposed sub-grantees/subcontractors, vendors, and personal service providers, including subsidiaries of Operating Agency, who will receive Ten Thousand Dollars (\$10,000.00) or more during the term of this Agreement. The list shall include the names, addresses, telephone numbers, identification of principal(s), and a description of services to be provided. During the term of this Agreement, Operating Agency shall notify the County in writing of any change in the list of sub-grantees/subcontractors, vendors, personal services providers, or subsidiaries of Operating Agency within fifteen (15) days after any change.

Operating Agency agrees to abide by the provisions of 24 CFR 84.42 and 24 CFR 570.611, which include (but are not limited to) the following:

- a. Operating Agency shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

- b. No employee, officer or agent of Operating Agency shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to ESG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the ESG-assisted activity, or with respect to the proceeds from the ESG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer or elected or appointed official of County, Operating Agency, County or any designated public agency.

24. AFFIRMATIVE ACTION. Operating Agency shall make every effort to ensure that all projects funded wholly or in part by ESG funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, Operating Agency shall make every effort to employ residents within the jurisdictional boundaries of County and shall keep a record of the positions that have been created directly by, or as a result of, its Program(s).

A. Operating Agency agrees it will incorporate, or cause to be incorporated, into any Agreement for construction work or modification thereof, as defined in Executive Order 11246, which is paid for in whole or in part with funds obtained from County, the following equal opportunity clause:

"During the performance of this Agreement, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County of Santa Barbara setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.

(3) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(4) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials."

B. Operating Agency is responsible for complying with the provisions of 24 CFR, Part 135, "Employment Opportunities for Business and Lower Income Persons in Connection with Assisted Project." Operating Agency will also ensure that the provisions of 24 CFR, Part 135, are included in any subcontracts. Operating Agency agrees to affirmatively advertise material bids and to solicit participation



from small, minority-owned, and female-owned businesses to the maximum extent possible. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's 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-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. Operating Agency may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

C. Operating Agency will refrain from entering into any contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with any contractor debarred from or ineligible for government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Secretary of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

25. INDEMNIFICATION. Operating Agency agrees to indemnify, defend, and save harmless County, its agents, officers, and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with Operating Agency's operations, the Services or this Agreement.

26. AUDIT EXCEPTIONS BY STATE AND FEDERAL AGENCIES. Operating Agency agrees that in the event its Program hereunder is subject to audit exceptions by appropriate state and federal audit agencies, it shall be responsible for complying with such exceptions and paying for the full amount of County's liability to the funding agency resulting from such audit exception.

27. INSURANCE AND INDEMNITY. Without limiting Operating Agency's indemnification of County, Operating Agency shall provide and maintain at its own expense during the term of this Agreement a program of insurance satisfactory to County covering its operations hereunder. Operating Agency agrees to be bound by the provisions contained in Exhibit C attached hereto and incorporated by this reference. Operating Agency's satisfaction of the terms of this Paragraph is a condition precedent to commencement of services under this Agreement and to reimbursement of Operating Agency by County.

28. TERMINATION OF AGREEMENT FOR CAUSE.

If County determines that Operating Agency has incurred obligations or made expenditures for purposes which are not permitted or are prohibited under the terms and provisions of this Agreement, or if County determines Operating Agency has failed to fulfill its obligations under this agreement in a timely and professional manner, or if Operating Agency is in violation of any of the terms or provisions of this Agreement, or if County is given notice by HUD of termination of HUD's Grant Agreement with County, or if Operating Agency should be adjudged to be bankrupt, or if Operating Agency makes a general assignment for the benefits of Operating Agency creditors, or if a receiver should be appointed in the event of Operating Agency insolvency, then County shall have the right to unilaterally terminate this Agreement effective immediately upon giving written notice thereof to Operating Agency. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to effective date of such termination. Subject to the availability of ESG funds, the Operating Agency shall be paid for all work satisfactorily completed under the terms of this agreement prior to the effective date of such termination. If County's termination of the Operating Agency for cause is defective for any reason, including but not limited to County's reliance on erroneous facts concerning Operating Agency's performance, or any defect in the notice thereof, then County's maximum liability shall not exceed the amount payable to Operating Agency under Paragraph 5 or 6 of this Agreement.

A. This Agreement may be terminated at any time by either party upon giving thirty-days' (30-days') written notice to the other party. The HCD Director shall give such notice of termination on behalf of County. In addition, County may immediately terminate this Agreement upon the termination, suspension, discontinuation, or substantial reduction in ESG funding for the Services or if for any reason the timely completion of the work under this Agreement is rendered improbable, infeasible, or impossible. In such event, Operating Agency shall be compensated for all services actually rendered and all necessarily incurred costs performed in good faith in accordance with the terms of this Agreement.

B. When the HCD Director has reasonable grounds to question Operating Agency's fiscal accountability, financial soundness, or compliance with this Agreement, he/she may suspend this Agreement for up to sixty (60) days upon three-days' (3-days') notice to Operating Agency of his/her intention so to do, pending an audit or other resolution of such questions. In no event, however, shall any revision made by County affect expenditures and legally binding commitments made by Operating Agency before it receives notice of such revision, provided that such amounts have been committed in good faith, are otherwise allowable, and are consistent with HUD cash withdrawal guidelines.

C. Upon termination of this Agreement, County reserves the right to determine the final disposition of any program income as described in 24 CFR 570.504 and 24 CFR Part 85.25. Final disposition may include the County taking possession of any such program income.

29. REVERSION OF ASSETS. Upon termination or expiration of this Agreement, Operating Agency shall transfer to County any ESG funds on hand at the time of termination or expiration and any accounts receivable attributable to the use of ESG funds. Any real property acquired or improved with ESG funds under this Agreement in excess of \$25,000 must be used to meet one or the national objectives in §570.208 until five (5) years after the expiration of this Agreement or, disposed of in such a manner that results in the County being reimbursed in the amount of the current fair market value of the property less any portion attributable to non-ESG funds involved in the acquisition of, or improvements to, the real property. Any records or assets under the Operating Agency's control that were acquired or improved, in whole or in part, with ESG funds will be returned to the County within thirty (30) days after the termination or expiration date of this Agreement.

30. NOTICES AND REPORTS. All notices, reports, and statements shall be in writing and served in person or by first class U.S. Postal Service, postage prepaid, at the following addresses:

To Operating Agency:

To County:

HCD Director  
County of Santa Barbara  
105 E. Anapamu Street, Suite 105  
Santa Barbara, California 93101  
Attn: Housing Finance Division Manager

31. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between County and Operating Agency for the Services and use of funds available under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between County and Operating Agency with respect to this Agreement.

IN WITNESS WHEREOF County has authorized this Agreement to be entered into by the HCD Director and the County seal affixed, and attested by the County Clerk, and Operating Agency has authorized this Agreement to be entered into through its authorized officers as set forth below.

APPROVED AS TO FORM:

County of Santa Barbara,  
a political subdivision of the State of California:

DENNIS A. MARSHALL  
COUNTY COUNSEL

By: \_\_\_\_\_

Name: John Torell

Its: Chair of the Board of Supervisors

By: \_\_\_\_\_  
Mary McMaster  
Senior Deputy County Counsel

Operating Agency:

By \_\_\_\_\_

Title: \_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

BOB GEIS  
AUDITOR CONTROLLER

By: \_\_\_\_\_  
Mark Paul  
Division Chief

Expenditure Accounting Information  
Fund: \_\_\_\_\_ Dept: \_\_\_\_\_  
Line Item: \_\_\_\_\_ Program: \_\_\_\_\_

**APPROVED AS TO FORM:**

RAY AROMATORIO  
RISK PROGRAM ADMINISTRATOR

By: \_\_\_\_\_