

**COMMUNITY DEVELOPMENT BLOCK GRANT
AGREEMENT**

**BETWEEN
COUNTY OF SANTA BARBARA
AND
THE CITY OF GUADALUPE**

CFDA 14.218

THIS AGREEMENT (herein called the "Agreement") is made and entered into by and between the COUNTY of Santa Barbara (herein called the "COUNTY"), a political subdivision of the State of California, and the City of Guadalupe (herein called the "OWNER"), whose address is 918 Obispo Street, Guadalupe, CA 93434 and is made with reference to the following:

WHEREAS, the COUNTY has secured funding pursuant to the Community Development Block Grant program ("CDBG Funds") from the United States Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383 (42 U.S.C. §§ 5301 et seq.); and the regulations promulgated thereunder (24 CFR Part 570) ("Regulations"); and

WHEREAS, the OWNER represents that it has the skills, expertise, and all licenses and permits necessary to carry out the project described under this Agreement; and

WHEREAS, on July 27, 2012, HUD approved under the FY 2012-2013 Annual Action Plan the OWNER'S use of \$150,000, and on June 18, 2013, HUD approved under the FY 2013-14 Annual Action Plan the OWNER'S use of \$217,500 in CDBG Funds to carry out the project described in the Statement of Work attached hereto as Exhibit A and incorporated herein by this reference ("Statement of Work"), sometimes hereinafter referred to as the "Project"; and

WHEREAS, the COUNTY desires to make available to OWNER a grant of CDBG Funds in an amount not to exceed three hundred sixty seven thousand five hundred Dollars and No Cents (\$367,500) ("COUNTY Grant") to be used by OWNER to perform the work as stated and set out in the Statement of Work and to carry out the Project, as permitted by the HCD Act and the Regulations and according to the terms and conditions more particularly set forth herein; and

WHEREAS, OWNER'S use of CDBG Funds in carrying out the Project are eligible activities under 24 CFR Subpart C, §§ 570.200 et seq.;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed between the parties hereto that:

I. SCOPE OF WORK

A. General

All work stated and set out in the Statement of Work will be performed at 1025 Guadalupe St., Guadalupe, CA 93434, under the supervision of Andrew Carter, City Administrator, who shall ensure that the background and qualifications of the OWNER's staff, contractors and subcontractors performing the work stated and set out in the Statement of Work and carrying out the Project are

appropriate and, if applicable, meet the minimum standards established by pertinent licensing bodies.

B. Statement of Work

Under this Agreement, OWNER will carry out and invoice the County for reimbursement of expenses under the CDBG Program for the seismic retrofitting of the American Legion Hall, including pre-construction costs (appraisal fees, studies, permits, etc.), construction labor and materials, and project management/activity delivery. The American Legion Hall serves as the City of Guadalupe's only community center, which serves the low-income residents of the City. The Project meets one of the criteria under 24 CFR 570.208, specifically 24 CFR 570.208(a)(1), and also complies with one or more of HUD's National Objectives as required under 570.200(a)(2) by benefitting low- and moderate-income persons. The American Legion Hall serves as the City's community center and is used by residents for community activities and by non-profit organizations that serve these residents. The use of CDBG funds for the Project qualifies as an eligible activity under the Low Mod Area Benefit (LMA) as the Project will benefit an area where at least 51 percent (51%) of the residents are low- and moderate-income persons. The use of CDBG Funds for the Project will not exceed \$367,500.00. OWNER shall invoice the County for reimbursement under the CDBG Program. The Statement of Work includes the activities eligible under the Community Development Block Grant program as set forth in Exhibit A to this Agreement. OWNER will be responsible for performing the work stated and set out in the Statement of Work and carrying out the Project in a manner satisfactory to the COUNTY and consistent with all federal requirements and standards required as a condition of providing these CDBG Funds.

C. Staffing

Any changes in the staff who perform work under this Agreement must be approved in writing by the COUNTY. All of the work stated and set out in the Statement of Work shall be performed by OWNER or under OWNER's supervision. OWNER represents that it possesses, and that its contractors and subcontractors shall possess, the professional and technical personnel required to perform the work stated and set out in the Statement of Work required by this Agreement, and that it and its contractors and subcontractors will perform all work stated and set out in the Statement of Work in a manner commensurate with the highest professional standards. The OWNER and its contractors and subcontractors shall perform all work in a manner commensurate with their own usual and customary standards and with the reasonable and ordinary level of care provided by others performing similar or like work.

All work stated and set out in the Statement of Work shall be performed by qualified and experienced personnel who are not employed by COUNTY. OWNER represents and warrants that the work stated and set out in the Statement of Work to be performed will conform to the requirements of this Agreement, all applicable federal, state and local laws, and the highest professional standards.

OWNER represents and warrants to COUNTY that it and its contractors and subcontractors have, shall obtain, and shall keep in full force and effect during the term hereof, at their sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required to practice their professions.

D. Performance Monitoring

The COUNTY will monitor the performance of the OWNER against goals and performance standards set forth in the Statement of Work. OWNER's substandard performance as determined by the COUNTY will constitute OWNER's noncompliance with this Agreement. If action to correct such substandard performance is not taken by the OWNER within seven (7) business days after being notified by the COUNTY, contract suspension or termination procedures will be initiated as more fully detailed in Section VI.F.

E. Changes

Any changes to this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement executed by the OWNER and COUNTY.

F. COUNTY Recognition

OWNER shall ensure recognition of the role of the COUNTY in providing CDBG Funds through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the OWNER shall include a reference to the support provided herein in all publications made possible with CDBG Funds made available under this Agreement.

II. TERM

This Agreement shall begin on the date executed by all parties to be effective as of July 1, 2013, and end on June 30, 2014, unless such time is extended by written Amendment executed in the same manner as this Agreement, or unless terminated earlier or there are no CDBG Funds available for any reason.

A. Time Of Performance

All work to be performed hereunder and set out in the Statement of Work shall be completed by the expiration date. However, OWNER's obligations to complete the Scope of Work shall survive the expiration of the term of this Agreement, and COUNTY may extend the term of this Agreement and any provisions herein that COUNTY deems necessary to ensure such completion.

B. Reversion of Assets.

Any real property under the OWNER'S control that is or was acquired or improved in whole or in part with CDBG Funds shall either be:

1. Used to meet one of the national objectives in 24 CFR 570.208 (formerly 24 CFR 570.901) until five years after expiration of the Agreement, or for such longer period of time as determined to be appropriate by COUNTY; or

2. Not used in accordance with Section II.B.1, in which event the OWNER shall pay to the COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG Funds for the acquisition of, or improvement to, the property. The payment is program income to the COUNTY.

III. BUDGET

The budget prepared by the OWNER and provided to COUNTY for the performance of the work stated and set out in the Statement of Work is delineated in Exhibit B to this Agreement.

COUNTY may require a more detailed budget breakdown than the one contained herein, and the OWNER shall provide such supplementary budget information within one (1) week in the form and content prescribed by the COUNTY. Any amendments to the budget must be approved in writing by both the COUNTY and the OWNER.

OWNER represents that the budget includes only allowable costs and an accurate analysis of costs acceptable under the CDBG Program pursuant to the Regulations, including, but not limited to, 24 CFR 570.502(a), which includes requirements for compliance with OMB Circular No. A-87 "Cost Principles for State, Local and Indian Tribal Governments," OMB Circular A-128, "Audits of State and Local Governments" (implemented at 24 CFR part 44); and with 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" or the related CDBG provision, and all Subparts and Appendices, as applicable. These items shall be in sufficient detail to provide a sound basis for the COUNTY to effectively monitor OWNER's performance under the Agreement.

IV. PAYMENT

Upon compliance with the reporting requirements outlined in Section VII.C below, it is expressly agreed and understood that the total amount to be reimbursed by the COUNTY to the OWNER under this Agreement shall not exceed the budget delineated in Exhibit B. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Exhibit B hereto and in accordance with completion of work, as detailed in the Scope of Work. Upon the submission of an acceptable "Expenditure Summary and Payment Request (ESPR)", for which a sample is attached hereto as Exhibit C, together with proper supporting documentation, records and reports required in Sections VII.B and VII.C for the work described in Section I of this Agreement, COUNTY shall review the claim and when approved, make payment.

COUNTY has no obligation to provide CDBG Funds under this Agreement if for any reason there is not funding available from HUD to pass through to OWNER or if the Agreement is terminated or suspended.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via U.S. Mail (postage prepaid), commercial courier, or personal delivery. Notices may be delivered by facsimile or other electronic means if the party to be noticed agrees to delivery by these means and if that delivery is followed by delivery via U.S. Mail (postage prepaid), commercial courier, or personal delivery the next business day. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice:

COUNTY
County of Santa Barbara
Community Services Department,
Division of Housing and Community

OWNER
City of Guadalupe
Andrew Carter, City Administrator
918 Obispo Street

Development
Dinah Lockhart, Deputy Director
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101

Guadalupe, CA 93434
Office: (805) 356-3891

Office: (805) 568-3520
Fax: (805) 560-1091

VI. GENERAL CONDITIONS

A. General Compliance

The OWNER agrees to comply with the requirements of the Regulations at 24 CFR 570, including subpart K, except that (1) the OWNER does not assume the COUNTY's environmental responsibilities described in 24 CFR 570.604 and (2) the OWNER does not assume the COUNTY's responsibility for initiating the review process under the provisions of 24 CFR Part 52. In addition, the OWNER agrees to comply with the Federal Terms and Conditions attached hereto and incorporated herein as Exhibit D. The OWNER also agrees to comply with the terms of HUD's award to County, including the grant agreement, assurances in an application, or a notice of award and all other applicable Federal, state and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices and policies governing the CDBG Funds provided under this Agreement. The judgment of any court of competent jurisdiction, or the admission of the OWNER in any action or proceeding against OWNER, whether the COUNTY is a party thereto or not, that OWNER has violated any such law, regulation, ordinance or order, shall be conclusive of that fact as between OWNER and COUNTY. The OWNER further agrees to utilize CDBG Funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The OWNER shall at all times remain an independent contractor with respect to the work to be performed under this Agreement. COUNTY shall not be responsible for paying any taxes on OWNER'S behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, OWNER agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and workers' compensation Insurance. In addition, OWNER understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

C. Insurance and Indemnification

The OWNER shall comply with the insurance and indemnification provisions set forth in Exhibit E "Basic Indemnification and Insurance Requirements" attached hereto and incorporated herein.

D. Workers' Compensation

The OWNER shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement as set forth in Exhibit E "Basic Indemnification and Insurance Requirements" attached hereto and incorporated herein.

E. Amendments

The COUNTY and OWNER 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 are approved by the COUNTY's governing body. Such amendments shall not invalidate this Agreement.

The COUNTY may, in its discretion, amend this Agreement to conform with Federal, state or local governmental laws, regulations, ordinances, orders, rules, directives, circulars, bulletins, notices, guidelines, policies, or available funding amounts.

F. Suspension or Termination

In accordance with 24 CFR 570.503(b)(6), the COUNTY may suspend or terminate this Agreement in accordance with 24 CFR 85.43 if the OWNER materially fails to comply with the terms of HUD's award to County, including, but not limited to, the grant agreement, assurances in an application, or a notice of award or any terms of the Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the laws, rules, regulations, ordinances, provisions, orders, guidelines, policies, circulars, bulletins, notices or directives referred to herein, or as may become applicable at any time;
2. Failure, for any reason, of the OWNER to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of CDBG Funds provided under this Agreement; or
4. Submission by the OWNER to the COUNTY of reports that are incorrect or incomplete in any material respect.

In addition, in accordance with 24 CFR 85.44, the Agreement may be terminated for convenience by either the COUNTY or the OWNER, in whole or in part, by setting forth the reasons for such terminations, the effective date, and, in the case of partial termination, the portions to be terminated. However, if in the case of a partial termination the COUNTY determines that the remaining portions of the Agreement will not accomplish a purpose for which the Agreement was made, the COUNTY may terminate the Agreement in its entirety.

If HUD demands reimbursement for payments to OWNER due to OWNER's failure to comply with the terms of HUD's award to County, including, but not limited to, the grant agreement, assurances in an application, or a notice of award, any applicable term of this Agreement, or any law, regulation, ordinance, order, rule, directive, circular, bulletin, notice, guideline or policy referred to herein, or as may become applicable at any time, OWNER shall fully and completely reimburse COUNTY in the total amount of such disallowed payments.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The OWNER agrees to comply with 24 CFR 570.502(a) and the Uniform Administrative requirements referenced therein, including, but not limited to, OMB Circular No. A-87, "Cost

Principles for State, Local, and Indian Tribal Governments”; OMB Circular A-128, “Audits of State and Local Governments” (implemented at 24 CFR part 44); and with the sections of 24 CFR part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” or the related CDBG provision specified in 24 CFR 570.502(a). OWNER agrees to adhere to the accounting principles and procedures referenced therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The OWNER agrees to comply with 24 CFR 570.610 “Uniform Administrative Requirements and Cost Principles”. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

3. Administrative Requirements

The OWNER also agrees to comply with all applicable uniform administrative requirements set forth in 24 CFR 570.502 and all applicable requirements set forth in 24 CFR Part 5 (24 CFR 5.100-5.2011) and with the sections of 24 CFR part 85 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” or the related CDBG provision specified in 24 CFR 570.502(a). CDBG Funds received by OWNER from COUNTY pursuant to this Agreement shall be maintained in an account in a banking or savings and loan institution separate and apart from any other funds of OWNER or of any principal or member of OWNER. No costs shall be invoiced or billed except for expenditures authorized in the budget contained within this Agreement and also Exhibit B. The itemized costs shall be of sufficient detail to provide a sound basis for the COUNTY to effectively monitor costs under this Agreement.

B. Documentation and Record Keeping

1. Records to be Maintained

The OWNER shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 or by COUNTY’s ordinances or policies that are pertinent to the work to be performed or activities to be funded under this Agreement. Such 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 CDBG assistance;
- d. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- e. Financial records as required by 24 CFR 570.502; and
- f. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The OWNER shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a period of at least four (4) years. The retention period begins on the date of the submission of the COUNTY’s annual performance and evaluation report to HUD, as prescribed in 24 CFR 91.520, in which the activities assisted under the Agreement are reported on for the final time rather than from the date

of submission of the COUNTY's final expenditure report for HUD's award to County. Notwithstanding the above, if there is litigation, claims, disputes, audits, negotiations or other actions that involve any of the records and that have started before the expiration of the four-year period, then all records must be retained until completion of the actions and final resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Ownership Of Documents

Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by OWNER, its officers, employees, agents, representatives, contractors and subcontractors, in the course of performing this Agreement, shall be and become the exclusive property of COUNTY, and COUNTY shall have the sole right to use such materials in its sole discretion without further compensation to OWNER or any other party. OWNER shall, at OWNER's own expense, provide such Documents to COUNTY upon COUNTY'S written request.

4. Disclosure

The OWNER 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 COUNTY's or OWNER's responsibilities with respect to the work performed or the Project described in this Agreement, may be prohibited under state or federal law unless written consent is obtained from such person benefitting from the work performed under this Agreement or the Project and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The OWNER's obligations to the COUNTY shall not end until all close-out requirements are completed. Activities to be completed during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the COUNTY), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the OWNER has control over CDBG Funds, including program income.

6. Audits & Inspections

All OWNER records with respect to any matters covered by this Agreement shall be made available to the COUNTY, HUD, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the OWNER within 30 days after receipt of the audit report by the OWNER. Failure of the OWNER to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The OWNER hereby agrees to have an annual agency audit conducted in accordance with current COUNTY policy concerning OWNER audits and OMB Circular A-133.

COUNTY shall have the right to audit and review all records maintained by OWNER pursuant to the terms of this Agreement. Any such audit or review may be conducted at any time

during regular business hours. OWNER is responsible for obtaining an audit in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. §§ 7501 et seq.) and Federal agency implementing regulations, all as amended from time to time. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

7. Access to Records

The OWNER shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to books, records and accounts by the COUNTY, HUD or other authorized officials or their agents, to ascertain compliance with the laws, rules, regulations, executive orders, ordinances, resolutions, guidelines, policies, directives, standards and provisions stated in this Agreement or the CDBG program.

C. Reports

OWNER shall provide the COUNTY with a "CDBG Quarterly Status Report" (Exhibit F) and an unduplicated count of persons benefiting from the work performed or the Project described in this Agreement on or before the 10th day of the following months: October, January, April, and July, setting forth its activities for the previous quarter. The "CDBG Quarterly Status Report" shall contain, without limitation, the ethnic group, income level, female head of household status, and other data as may be requested by COUNTY, of each person assisted and the result of such assistance. The OWNER shall report said information on the "CDBG Quarterly Status Report" which has all the federally required data elements necessary for reporting in the Integrated Disbursement and Information System (IDIS). If OWNER fails to do so, COUNTY may withhold CDBG Funds until the required written CDBG Quarterly Status Reports are received. In addition to the CDBG Quarterly Status Report, OWNER shall, on or before July 10, furnish COUNTY with a summary of OWNER's activities for the Fiscal Year.

The CDBG Quarterly Status Report shall also include the following:

1. Documentation of the income level of persons and/or children and families receiving or benefiting from the Project;
2. Ethnicity, race and Head of Household data, consistent with the CDBG Quarterly Status Report requirements; and
3. Any additional information such as pamphlets, copies of newspaper articles, or brief reports on any special accomplishments achieved by the OWNER in performing the work or carrying out the Project during the Fiscal Year.

VIII. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The OWNER shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C., §§ 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C., §§ 3601 et seq.), Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C., §§ 5301 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., §§ 791 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C., §§ 12101 et seq.), the Age Discrimination Act of 1975 (42 U.S.C., §§ 6101 et seq.), Executive Order 11063, and Executive Order 11246

as amended by Executive Orders 11375, 11478, 12107 and 12086, and all implementing regulations, and all as may be amended.

2. Nondiscrimination

The OWNER shall 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 HCD Act are still applicable. In addition, COUNTY'S Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara COUNTY Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the Ordinance were specifically set out herein and OWNER agrees to comply with said Ordinance.

3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C., §§ 2000d et seq.)(P.L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the OWNER 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 rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the COUNTY and the United States are beneficiaries of and entitled to enforce such covenants. The OWNER, 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

The OWNER shall comply with all Federal regulations issued pursuant to and in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against qualified individuals with disabilities or handicaps in any Federally assisted program.

5. Relocation Requirements

The OWNER shall comply with relocation and acquisition requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C., §§ 4601 et seq.), and all implementing regulations, including, but not limited to, those set forth in Title 24 CFR Part 42 and 49 CFR Part 24, all as may be amended.

6. Program Income

The use of program income by OWNER shall comply with the requirements set forth in 24 CFR 570.504. Additionally, upon expiration of this Agreement, the OWNER shall remit to the COUNTY and CDBG Funds on hand at the time of expiration, any accounts receivable attributable to the use of CDBG Funds, and all program income balances held by OWNER, with the exception of the following: those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs. The reversion of any project related assets shall comply with 24 CFR Part 85 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Affirmative Action

1. Approved Plan

The OWNER agrees that it shall be committed to carry out an Affirmative Action Program pursuant to and in accord with President's Executive Order 11246 of September 24, 1966. The OWNER shall submit to COUNTY a plan for an Affirmative Action program prior to OWNER's receipt of funds. COUNTY's acceptance of OWNER's Affirmative Action Program shall not be deemed to be or construed as OWNER's compliance with Executive Order 11246 or any other applicable Federal or state law, regulation, rule, executive order, ordinance, resolution, guideline, policy, directive, or standard.

2. Women- and Minority-Owned Businesses (W/MBE)

The OWNER will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement, as referenced in "D/MBE/WBE Implementation Guidelines" attached hereto and incorporated herein as Exhibit G. As used in this Agreement, 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 African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The OWNER may rely on written representations by businesses regarding their status as minority and women's business enterprises in lieu of an independent investigation.

3. Access to Records

The OWNER shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to all books, records and accounts by the COUNTY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The OWNER 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 HUD, advising the labor union or workers' representative of the OWNER's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The OWNER will, in all solicitations or advertisements for employees placed by or on behalf of the OWNER, state that it is an Equal Opportunity and Affirmative Action employer.

6. Contract and Subcontract Provisions

The OWNER will include the provisions of Sections VIII.A, Civil Rights, and VIII.B, Affirmative Action, in every contract or subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own contractors and subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The OWNER is prohibited from using CDBG Funds provided herein or personnel employed in the performance of work under this Agreement for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities. The OWNER agrees to comply with the Federal Labor Standards Provisions attached hereto and incorporated herein as Exhibit H.

2. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968 (12 U.S.C., § 1701u), and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder, and the Section 3 Implementation Guidelines attached hereto and incorporated herein as Exhibit G, all as may be amended, prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided under this Agreement and binding upon the COUNTY, the OWNER and any of the OWNER'S contractors or subcontractors. Failure to fulfill these requirements shall subject the COUNTY, the OWNER and any of the OWNER'S contractors or subcontractors, their successors and assigns if any as permitted under this Agreement, to those sanctions specified by any agreement through which Federal assistance is provided. The OWNER certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

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

"The work to be performed under this Agreement is a project 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 low- and very low-income residents of the project area, and that 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."

The OWNER 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 CDBG-funded 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. OWNER agrees to 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 CDBG-funded project is located. Where feasible, priority should be given to business concerns that 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 OWNER certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The OWNER 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 workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Contracts and Subcontracts

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

3. Labor Standards Requirements

The OWNER shall comply with labor standards requirements as set forth in 24 CFR 570.603, 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.

D. Conduct

1. Assignability

The OWNER shall not assign or transfer any interest in this Agreement without the prior written consent of the COUNTY thereto and any attempt to so assign or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination; provided, however, that claims for money due or to become due to the OWNER from the COUNTY 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 promptly to the COUNTY.

2. Contracts and Subcontracts

a. Approvals

The OWNER shall not enter into any contracts or subcontracts with any agency or individual in the performance of this Agreement without the written consent of the COUNTY prior to the execution of such agreement.

b. Monitoring

The OWNER will monitor all contracted and subcontracted work and services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The OWNER shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any contract or subcontract executed in the performance of this Agreement.

d. Selection Process

The OWNER shall undertake to insure that all contracts and subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all contracts and subcontracts shall be forwarded to the COUNTY along with documentation concerning the selection process.

3. Hatch Act

The OWNER agrees that 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 5 U.S.C., §§ 7321 et seq. or 5 CFR Parts 733 and 734, all as may be amended.

4. Conflict of Interest

The OWNER agrees to abide by the provisions of 24 CFR 85.36 and 570.611, which include (but are not limited to) the following:

- a. The OWNER 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 the OWNER 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 CDBG-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 CDBG-assisted activity, or with respect to the proceeds from the CDBG-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 the COUNTY, the OWNER, or any designated public agency.

5. Lobbying

The OWNER hereby certifies that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or

employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. It will require that the language of paragraph (d), immediately below, of this certification be included in the award documents for all awards and subawards at all tiers (including subcontracts, subgrants, contracts, and grants under grants, loans, and cooperative agreements) and that OWNER and all contractors and subcontractors shall certify and disclose accordingly:
- d. Lobbying Certification

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.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this Agreement results in any copyrightable material or inventions, the COUNTY and/or HUD reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

COUNTY shall be the owner of the following items incidental to the Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. OWNER shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

7. Religious Activities

The OWNER agrees that CDBG Funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

8. Conditions For Religious Organizations

If OWNER represents that it is, or may be deemed to be, a religious or denominational institution or organization or an organization operated for religious purposes which is supervised or controlled by or in connection with a religious or denominational institution or organization, OWNER agrees that:

- a. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
- b. It will not discriminate against any person applying for the use or occupancy of the facility to be constructed as part of the Project on the basis of religion and will not limit the use or occupancy of the facility to be constructed as part of the Project or give preference to persons on the basis of religion;
- c. It will provide no religious instruction or counseling, conduct no religious worship or religious services, engage in no religious proselytizing, and exert no other religious influence in carrying out the Project; and
- d. The portion of a facility assisted in whole or in part under this Agreement shall contain no sectarian or religious symbols or decorations.

OWNER shall comply with all applicable conditions of Title 24 CFR 570.503(b)(6) prescribed by HUD for the use of CDBG Funds by religious organizations if OWNER is a religious organization.

9. Federal Contracts

The OWNER agrees that every person or entity that requests or receives a federal contract, grant, loan or cooperative agreement from or through a federal agency or receives or requests from or through a federal agency a commitment that would provide for the United States to insure or guarantee a loan must file with that agency a written declaration and certify that he, she or it has not made and will not make any prohibited expenditure. Further, any person or entity that requires or receives from a person or entity referred to above, a contract or subcontract under a federal contract, a subgrant or grant under a federal grant, or a contract or subcontract to carry out any purpose for which a particular federal loan is made, or contract or subcontract under a federal cooperative agreement, is required to file a written declaration with the person or entity that received the federal contract, grant, loan or commitment to insure or guarantee a loan.

This Agreement is subject to and incorporates the terms of the Housing and Community Development Act of 1974, 24 CFR Part 570, and COUNTY'S CDBG Program Guidelines, all as may be amended.

10. Drug Free Workplace

The OWNER shall comply with the Federal Drug-Free Workplace Act (41 U.S.C., §§ 8101 et seq.), and shall make all good faith efforts to continue to maintain a drug-free workplace, including establishing a drug-free awareness program to inform employees about the dangers of drug abuse and the OWNER's policy and penalties for drug abuse violations occurring in the workplace. In addition, OWNER agrees to provide a drug-free workplace in accordance with the COUNTY's Drug Free Workplace Policy as follows:

- A. OWNER will publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the OWNER's workplace and will specify the actions that will be taken against employees for violation of such prohibition.
- B. OWNER will establish an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The OWNER's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- C. OWNER will require that each employee to be engaged in the performance of the Agreement be given a copy of the statement specified in paragraph A.
- D. OWNER will notify the employee that, as a condition of employment under the Agreement, the employee will:
 - (1) Abide by the terms of the statement specified in paragraph A; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- E. OWNER will notify the COUNTY in writing, within ten calendar days after receiving notice under paragraph D from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice to every grant officer or other designee on whose Agreement activity the convicted employee was working.
- F. OWNER will take one of the following actions, within 30 calendar days of receiving notice under paragraph D, with respect to any employee who is so convicted:
 - (1) Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C., §§ 701 et seq.), as amended; or
 - (2) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency.
- G. OWNER agrees to make a good faith effort to maintain a drug-free workplace through implementation of paragraphs A, B, C, D, E, and F.

IX. ENVIRONMENTAL CONDITIONS

A. Air and Water

The OWNER shall comply with the following requirements insofar as they apply to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C. , 7401, *et seq.*;

2. Federal Water Pollution Control Act, , 33 U.S.C., §§ 1251 *et seq.*, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder, all as may be amended;
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as may be amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), and Executive Order 11988 relating to the evaluation of flood hazards, prevention, control, and abatement of water pollution, the OWNER shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The OWNER agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-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. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

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

In general, this requires 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.

X. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XI. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not affect the meaning, construction or effect of the terms of this Agreement.

XII. WAIVER

The COUNTY's failure to act with respect to a breach by the OWNER shall not constitute or be construed as a waiver of COUNTY'S rights with respect to subsequent or similar breaches. Any delay or failure of the COUNTY to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision, and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

XIII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the COUNTY and the OWNER for the OWNER's use of funds received under this Agreement and it supersedes all prior and contemporaneous communications and proposals, whether electronic, oral, or written between the COUNTY and the OWNER with respect to this Agreement. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

XIV. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

XV. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

XVI. NONEXCLUSIVE AGREEMENT

OWNER understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar work or services as those provided by OWNER as the COUNTY desires.

XVII. CALIFORNIA LAW

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

XVIII. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

XIX. AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any local, state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, OWNER hereby warrants that it shall not have breached the terms or conditions of

any other contract or agreement to which OWNER is obligated, which breach would have a material effect hereon.

XX. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits to this Agreement, the provisions of the Agreement shall prevail over those in the Exhibits.

[Signatures on Following Page]

IN WITNESS WHEREOF, COUNTY and OWNER have executed this Agreement by the respective authorized officers as set forth below to be effective on the date executed by the COUNTY.

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board

By: _____
Deputy

By: _____
Salud Carbajal, Chair
Board of Supervisors

APPROVED AS TO FORM:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: _____
Deputy County Counsel

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

By: _____
Deputy Auditor-Controller
Gregory Eric Levin
Advanced and Specialty Accounting

APPROVED:

By: _____
Ray Aromatorio, ARM, AIC
Risk Manager

OWNER
City of Guadalupe

BY: _____
Frances A. Romero
Mayor