

**CONTRACT FOR THE USE OF HOME FUNDS BETWEEN
HOUSING CONSORTIUM OF THE EAST BAY AND
THE COUNTY OF ALAMEDA**

THIS CONTRACT, made and entered into this 5th day of June, 2012 by and between the COUNTY of ALAMEDA, hereinafter referred to as "COUNTY" and HOUSING CONSORTIUM OF THE EAST BAY hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY is desirous of contracting with CONTRACTOR for the provision of certain services, a description of which are presented in Exhibit A, attached hereto; and

WHEREAS, COUNTY is the lead agency of the Alameda County HOME Consortium and a recipient of funds pursuant to the HOME Investment Partnership Act, under the U.S. Department of Housing and Urban Development; and

WHEREAS, Alameda County Housing and Community Development Department, as lead agency in the Alameda County HOME Consortium, has approved the scope of work specified in this contract; and

WHEREAS, CONTRACTOR is willing and able to perform duties and render services which are determined by the COUNTY to be necessary or appropriate for the welfare of residents of the COUNTY; and

WHEREAS, COUNTY desires that such duties and services be provided by CONTRACTOR, and CONTRACTOR agrees to perform such duties and render such services, as more particularly set forth below:

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

1. Attached hereto, marked Exhibit A, and by this reference made a part hereof, is a description of the duties and services to be performed for COUNTY by CONTRACTOR, and CONTRACTOR agrees to comply with all provisions, to perform all work, and to provide all such duties and services set forth in Exhibit A in a professional and diligent manner.
2. COUNTY has allocated \$300,000 in Urban County HOME funds to be expended under this contract. Terms and conditions for payment are attached in Exhibit B.
3. The term of this contract begins on June 5th, 2012 and ends on December 31, 2015 or when all contract terms have been completed. CONTRACTOR shall meet the timelines for the specific tasks designated in Section 6 of Exhibit A attached hereto, provided that the Housing Director or her designee shall have the authority to amend such timelines as may be reasonably necessary, without further action or authority by the legislative body of the COUNTY.

4. All housing assisted through this contract shall meet at a minimum the HOME affordability requirements of 24 CFR Part 92.252 or 92.254. For all housing assisted through this contract, CONTRACTOR agrees to execute a regulatory agreement that will be recorded as a deed restriction and will specify a term of affordability that will last at least fifty-nine (59) years from the issuance of the certificate of occupancy.
5. CONTRACTOR shall maintain on a current basis complete records, including books of original entry, source documents supporting accounting transactions, eligibility and service records as may be applicable, a general ledger, personnel and payroll records, canceled checks, and related documents and records to assure proper accounting of funds and performance of this contract in accordance with instructions provided and to be provided by COUNTY. CONTRACTOR shall comply with all such instructions.
6. CONTRACTOR shall maintain project-specific records demonstrating compliance with the HOME regulations at 24 CFR Part 92, Subpart F, concerning property standards, energy efficiency, tenant protection, qualification as affordable housing, and other project requirements. These records shall be made available for inspection by COUNTY upon COUNTY's request.
7. As required by HOME regulations, all project records are to be retained by CONTRACTOR for at least three (3) years beyond the term of affordability for the units acquired, rehabilitated or constructed under this contract. Because the term of affordability under this contract is fifty-nine (59) years, CONTRACTOR shall retain records for a minimum of sixty-two (62) years. CONTRACTOR will cooperate with COUNTY in the preparation of, and will furnish any and all information required for reports to be prepared by COUNTY as may be required by the rules, regulations, or requirements of COUNTY or of any other governmental entity. CONTRACTOR will also permit access to all books, accounts, or records of any kind to COUNTY or to any other governmental entity for purposes of audit or investigation, in order to ascertain compliance with the provisions of this contract.
8. CONTRACTOR shall abide by the Federal requirements specified in the HOME regulations at 24 CFR Part 92, Subpart H, governing equal opportunity, fair housing, affirmative marketing, relocation, labor standards, environmental review, lead-based paint, and other federal requirements.
9. **HOLD HARMLESS/INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR shall hold harmless, defend and indemnify the COUNTY, its Board of Supervisors, officers, employees and agents (collectively "Indemnitees") from and against any and all claims, losses, damages, liabilities or expenses, including reasonable attorney fees, incurred in the defense thereof, for the death or injury to any person or persons (including employees of CONTRACTOR OR COUNTY) or damage of any property (including property of CONTRACTOR or COUNTY) which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where

such Liabilities are proximately caused solely by the negligence or willful misconduct of any Indemnitee.

10. COUNTY, with prior written notice of 14 days to CONTRACTOR, may at any time during the term of this contract conduct an evaluation of the CONTRACTOR's performance with respect to this contract. Said evaluation shall cover both objectives and program of CONTRACTOR. CONTRACTOR shall maintain and retain records with respect to such objectives, program, and evaluations, and shall cooperate with COUNTY in making these or any other evaluation reports; CONTRACTOR shall permit access by COUNTY to the premises, shall furnish all information requested by COUNTY, and shall afford COUNTY access to all such records of CONTRACTOR.
11. CONTRACTOR shall be as fully responsible to COUNTY for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by them, as CONTRACTOR is for the acts and omissions of persons directly employed by CONTRACTOR. CONTRACTOR may transfer interest in this contract (whether by assignment or novation) with prior written approval of COUNTY. CONTRACTOR may assign its rights to receive compensation from the COUNTY for performance of the contract to financial institutions for the purpose of securing financial resources, provided that written consent from the supervising department shall have first been obtained. No party shall, on the basis of this contract, in any way contract on behalf of, or in the name of, the other party to the contract, and any attempted violation of the provisions of this sentence shall confer no rights, and shall be void.
12. Neither the CONTRACTOR nor any of its employees shall by virtue of this contract be an employee of COUNTY for any purpose whatsoever, nor shall it or they be entitled to any of the rights, privileges, or benefits of COUNTY employees. CONTRACTOR shall be deemed at all times an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this contract. CONTRACTOR assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment.
13. CONTRACTOR agrees to maintain the confidentiality of any information which may be obtained with this work. COUNTY shall respect the confidentiality of information furnished by CONTRACTOR to COUNTY.
14. CONTRACTOR shall comply with all applicable laws, ordinances, and codes of Federal, State and local governments, in performing any of the work embraced by this contract.
15. CONTRACTOR agrees to comply with all requirements which are now, or which may hereafter be, imposed by HUD for the HOME Program, as well as such requirements as may be imposed by the COUNTY or the Alameda County HOME Consortium. CONTRACTOR agrees that it will not use funds received pursuant to this agreement, either directly or indirectly, as a contribution in order to obtain any Federal funds under any Federal programs without prior written approval of COUNTY. Further, CONTRACTOR agrees that upon the return of any funds granted, loaned, or otherwise

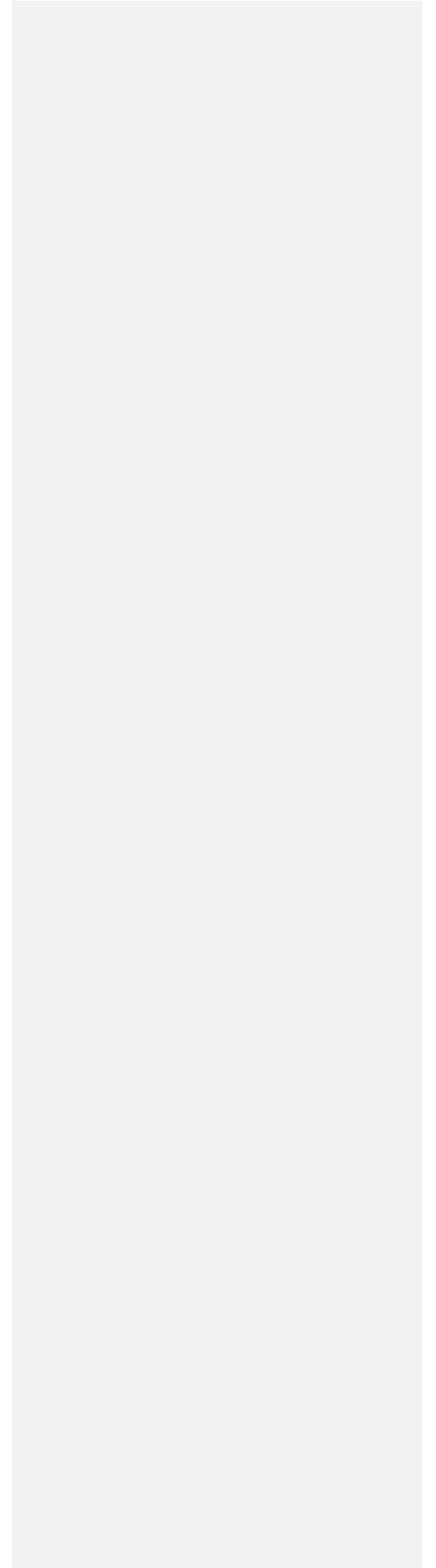
distributed by the CONTRACTOR that COUNTY paid to CONTRACTOR under this contract, or the receipt of any funds by the CONTRACTOR as a direct result of any funds granted, loaned or otherwise distributed by the CONTRACTOR that COUNTY paid to CONTRACTOR under this contract, CONTRACTOR shall return the funds to COUNTY, unless COUNTY otherwise directs in writing.

16. CONTRACTOR agrees that it will comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, and that no person in the United States shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era veteran's status, political affiliation, or any other non-merit factors be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available by COUNTY pursuant to this contract.
17. CONTRACTOR shall not, during the term of this contract, without obtaining the written consent of COUNTY, permit any member of the governing board of the CONTRACTOR to perform for compensation any administrative or operational functions for the CONTRACTOR with respect to the performance of this contract (including, but not by way of limitation, fiscal, accounting, or bookkeeping functions).
18. COUNTY and CONTRACTOR agree to abide by uniform administrative requirements stated in 24 CFR Part 92.505.
19. Rental units assisted with the HOME funds disbursed through this contract must be maintained in compliance with the Housing Quality Standards established by the Alameda County HOME Consortium for the duration of the regulatory agreement executed in conjunction with the project.
20. CONTRACTOR shall not request disbursement of HOME funds pursuant to this contract until the funds are needed for payment of eligible costs. The amount of each request shall be limited to the amount needed.
21. In conjunction with performance of this contract, CONTRACTOR has been made cognizant of and will comply with, all applicable affirmative action, Equal Employment Opportunity Practices Provisions and equal opportunity guidelines and requirements of the federal, state or local government. CONTRACTOR will use its best efforts to utilize minority and female enterprises and ensure that minority and female-owned enterprises have equal opportunity to compete for subcontractor work under this contract. CONTRACTOR shall maintain records documenting data on the race, ethnicity, and single-headed household status (by gender of household head) of households applying for or benefiting from HOME-funded activities, on actions taken to affirmatively further fair housing, and on outreach to minority and female enterprises, including data indicating the racial/ethnic or gender character of each business receiving a subcontract of \$25,000 or more paid with HOME funds.

22. CONTRACTOR and CONTRACTOR's employees shall comply with the COUNTY's policy of maintaining a drug-free work place. Neither CONTRACTOR nor CONTRACTOR's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at any COUNTY facility or work site. If CONTRACTOR or any employee of CONTRACTOR is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a COUNTY facility or work site, the CONTRACTOR within five days thereafter shall notify the head of the COUNTY department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement.
23. Time is of the essence in each and all provisions of this contract.
24. CONTRACTOR shall maintain, at all times during the term of this contract, the insurance and bonding documentation described in Exhibit C to this contract, and shall comply with all other requirements set forth in that Exhibit.
25. CONTRACTOR agrees to comply with the requirements of the Section 3 Plan, attached hereto as Exhibit D.
26. CONTRACTOR agrees to comply with the property management standards required of all Federal grantees, attached hereto as Exhibit E.
27. If, through any cause, CONTRACTOR shall fail to fulfill in timely and proper manner its obligations under this contract, or if CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this contract, COUNTY shall thereupon have the right to terminate this contract by giving written notice to CONTRACTOR of such termination and specifying the effective date of such termination. Without prejudice to the foregoing, CONTRACTOR agrees that if, prior to the termination or expiration of this contract, upon any final or interim audit by COUNTY, COUNTY finds that CONTRACTOR has failed to fulfill its obligations under this contract in a timely and proper manner, that CONTRACTOR shall forthwith bring itself into compliance and shall pay to COUNTY forthwith whatever sums are so disclosed to be due to COUNTY (or shall, at COUNTY's election, permit COUNTY to deduct such sums from whatever amount remains undistributed by COUNTY to CONTRACTOR pursuant to this contract); if this contract shall have terminated or expired, and it shall be disclosed upon such audit, or otherwise, that such failure shall have occurred, the CONTRACTOR shall pay to COUNTY forthwith whatever sums are so disclosed to, or determined by, COUNTY to be due to COUNTY, or shall, at COUNTY's election, permit the COUNTY to deduct such sums from whatever amounts remain undistributed by COUNTY to CONTRACTOR pursuant to this or any other contract between the COUNTY and CONTRACTOR. Anything in this contract to the contrary notwithstanding, COUNTY or CONTRACTOR shall have the right to terminate this contract with or without cause at any time upon giving at least 30 days' written notice prior to the effective date of such termination. This condition for termination of Agreement may be modified by mutual consent of both parties.

28. This contract can be amended only by written agreement of the parties hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this contract on the day first mentioned above.

COUNTY OF ALAMEDA

CONTRACTOR

By _____
President, Board of Supervisors

HOUSING CONSORTIUM OF THE EAST BAY
a California nonprofit public benefit Corporation

Approved as to form:
Donna Ziegler,
County Counsel

By: _____
William Fleishhacker
Deputy County Counsel

By: _____
Darin Lounds
Executive Director

Date: _____

Date: _____

Housing Consortium of the East Bay
1440 Broadway, Suite 700
Oakland, CA 94612

Tax ID: 27-1713917

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

EXHIBIT A
ALAMEDA COUNTY WORK PROGRAM
BETWEEN
ALAMEDA COUNTY HOUSING & COMMUNITY DEVELOPMENT PROGRAM
AND
HOUSING CONSORTIUM OF THE EAST BAY

1. CONTRACTOR shall use the HOME funds subject to this contract to develop the property located at ADDRESS OF PROJECT_____. The funds will be used to develop NAME OF PROJECT_____, a 19-unit new construction project. Under this contract, 11 of the units must be restricted for households with incomes at or below 50% of Area Median Income at move-in. The Low HOME rents are to be charged to HOME assisted tenants. Refer to Section L in this exhibit for instructions on addressing over-income tenants.
2. CONTRACTOR shall meet all requirements outlined in the Notice of Funds Available (NOFA) issued January 2011, unless otherwise approved by the Housing Director or her designee.
3. CONTRACTOR shall have primary responsibility for carrying out all phases of the development, including but not limited to, securing additional financing; obtaining planning approvals; construction; tenant relocation; formulating a services plan appropriate for the disability of the residents; leasing and asset management for the term of the project regulatory agreement. All actions related to the development of the project shall be reviewed and approved by the Housing Director or her designee prior to commencement.
4. CONTRACTOR must have its own insurance. It should include general liability, auto, workers' compensation and property insurance. In the general liability coverage, the County needs to be named as additional insured. Ongoing insurance requirements after construction completion are outlined in the Regulatory Agreement. Ongoing insurance requirements after construction completion are outlined in the Regulatory Agreement

If CONTRACTOR will hire subcontractors at a later date, it is the CONTRACTOR's responsibility to ensure that its subcontractors carry all insurance as required by the County prior to the start of the construction.

5. CONTRACTOR will form a limited partnership of which CONTRACTOR or an affiliated nonprofit corporation or limited liability company is the general partner. That partnership shall enter into and be bound by a Promissory Note, Regulatory Agreement, Deed of Trust, and Loan Agreement, which shall be referred to as LOAN DOCUMENTS. That partnership shall record against the property the Regulatory Agreement and Deed of Trust, which shall specify affordability and occupancy levels, term of affordability, maintenance and management standards, and other related requirements as part of the funding and RFP. In the event of a conflict between this CONTRACT and the LOAN DOCUMENTS, the LOAN DOCUMENTS shall prevail.

The Housing Director or her designee shall set the terms and conditions of such loan documents. This CONTRACT will be assigned by the CONTRACTOR to such limited partnership.

6. CONTRACTOR shall meet specific time lines for the following tasks:

A. Begin Construction	November 2012
B. Construction Completion	November 2013
C. Occupancy & Certification	January 2014
D. Close-Out Report (see Exhibit B for details)	June 2014

7. CONTRACTOR shall comply with the following additional requirements:

- A. **Environmental Review:** All requirements under the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) must be complied with.
- B. **Relocation:** All Contracts funded with Federal and State funding must comply with the Federal Uniform Relocation and the State Relocation requirements.
- C. **Davis-Bacon:** CONTRACTOR is responsible for wage requirements if applicable.
- D. **Prevailing Wage:** CONTRACTOR shall pay State prevailing wages if applicable.
- E. **Competitive Bidding:** COUNTY requires competitive bidding of all construction and professional services contracts arising from the use of its funds.
- F. **Construction Contract:** For record keeping purposes, the following items are required to be submitted prior to construction start:
 - a. Inspection Reports for Rehab Projects
 - b. Final Work Write Up – Cost Estimation
 - c. Contractor Bid Documents
 - d. Results of Bids
 - e. Contractor Eligibility Form
 - f. Contractor’s Certificate of Insurance
 - g. Evidence of Contractor Licensure
 - h. Debarment List-Proof that General or Subcontractors are not suspended
 - i. Pre-Construction Conference Report
 - j. Lead-based Paint Compliance Documentation
 - k. New Construction or Rehabilitation Contract
 - l. Notice to Proceed
 - m. Asbestos Report

During Construction, the following are required to be submitted as part of the monthly reporting requirements:

- 1. Approved Change Orders
- 2. Contractor Payment Requests (we have list of payments – not copies)

3. Payment Certifications

After Construction Completion, and prior to release of retention, the following are required to be submitted to HCD as part of the close out report:

1. Documentation of Final Inspection
2. Lien Release and Final Lien Waivers for GC and all Sub-contractors
3. Receipt of Final Payment Form
4. Certificate of Occupancy
5. Notice of Completion

G. Section 504 Disabled and Senior Access: CONTRACTOR must meet the requirements of the Americans with Disabilities Act and the Fair Housing Act, among other local, state, and federal laws. Projects with any federal funds must also meet the more stringent accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (24 CFR 100.205 and Part 8). Section 504 sets minimum percentages of accessible units, and calls for fully accessible common areas, among its numerous requirements. For federally funded projects, 5% of the total number of units must be accessible to people with physical disabilities, and an additional 2% of units must be accessible to people with auditory and visual disabilities, as defined in the Uniform Federal Accessibility Standards (UFAS). CONTRACTOR and project architect must make a written certification of compliance with Section 504, Title 24, ADA, and the Federal Fair Housing Act. Title 24, ADA, and the Federal Fair Housing Act will also impose accessibility requirements on buildings

H. Section 3 Local Low to Moderate-Income Hiring: CONTRACTOR must work with the COUNTY to meet Federal requirements for local and low to moderate-income employment. This includes making an affirmative effort to hire Section 3 residents or businesses when new employment opportunities are available. CONTRACTOR must advertise employment opportunities in places where Section 3 residents and businesses are located. CONTRACTOR must track and report on new and existing Section 3 business and residents hired or retained for this CONTRACT.

I. Fair Housing Marketing/Lease: CONTRACTOR must submit a Preliminary Management Plan and Fair Marketing Plan. A Final Management and Marketing Plan will be required 180 days prior to construction completion and a Management Contract must be submitted to HCD 90 days prior to construction completion. The final Marketing Plan must be approved prior to beginning rent-up activities, including marketing flyers and application materials. CONTRACTOR must adopt tenant selection policies and criteria as required by 24 CFR 92.253, and if possible, the EveryOneHome Leasing Guidelines.

The lease between a tenant and CONTRACTOR of a rental unit assisted with the funds under this contract must be not for less than one year, unless by mutual agreement between the tenant and the owner. Contractor must abide by all lease terms required by 24 CFR 92.253.

J. Lead-Based Paint: The use of lead-based paint on HCD funded projects is

prohibited. Testing and abatement of lead-based paint in federally-funded rehabilitation projects may be required. Projects typically must follow the federal guidelines, which require notification to prospective residents of potential lead-based paint hazards, among other requirements.

- K. **Non Discrimination:** CONTRACTOR must agree not to discriminate on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, HIV/AIDS, or any other arbitrary basis in the course of carrying out contracted activities, as well as in the ongoing operations and management of the project for the full term of the regulatory agreement. For so long as the Development is assisted with Section 8 Project-based vouchers, the CONTRACTOR may apply such tenant selection standards as are permitted under the Section 8 Project-based voucher program regulations.
- L. **Annual Recertification of Tenant Income:** CONTRACTOR is required to re-examine tenant incomes annually to ensure that tenants continue to meet the income requirements of HCD funding programs. As required by the Regulatory Agreement, rent schedules and utility allowances, including any increases, must be reviewed and approved annually by HCD and adhere to guidelines of the funding source. Projects that are also assisted with Low Income Housing Tax Credits or MHP will be subject to those relevant rules regarding over-income tenants. Rents and tenant incomes will be annually reviewed for compliance by HCD.
- M. **Reporting:** CONTRACTOR shall be responsible to HCD for ongoing reports on the progress and condition of the project.
- a. **During Construction** CONTRACTOR shall provide information on the progress of the project to HCD as part of request for funding. See paragraph F for more details.
 - b. **Close Out Report** Before the County shall release retention, Contractor shall provide the following close out materials
 - i. MBWBE & Section 3 reporting form
 - ii. Rent-up report
 - iii. Cost certification/project audit/Final Sources and Uses
 - iv. Certificate of Occupancy
 - v. Lien Releases and final payment certification
 - vi. Final Management Plan
 - vii. Final Affirmative Fair Marketing Plan and outreach materials
 - viii. Final Relocation Report (if applicable)
 - ix. Final Report on Section 504 (list of which units are accessible)
 - x. Final Report on Title 24
 - xi. Funding Source Close-out Report
 - xii. EveryoneHome Unit Data Form
 - xiii. Environmental Clearance/Mitigation Documents
 - c. **Quarterly Reports** For the first year after the project is completed,

CONTRACTOR shall submit to HCD quarterly reports not more than 60 days after the end of each quarter. These reports shall include financial statements, operating budgets, actual vs. budget, tenancy reports and a cash flow proforma. These requirements are more clearly detailed in the regulatory agreement.

- d. **Annual Reports** After the first year, or when the Housing Director or her designee determines, an annual report must be submitted not more than 180 days after the end of the fiscal year. These reports must include financial statements, operating budgets, actual vs. budget, tenancy reports and a cash flow proforma. These requirements are more clearly detailed in the regulatory agreement.

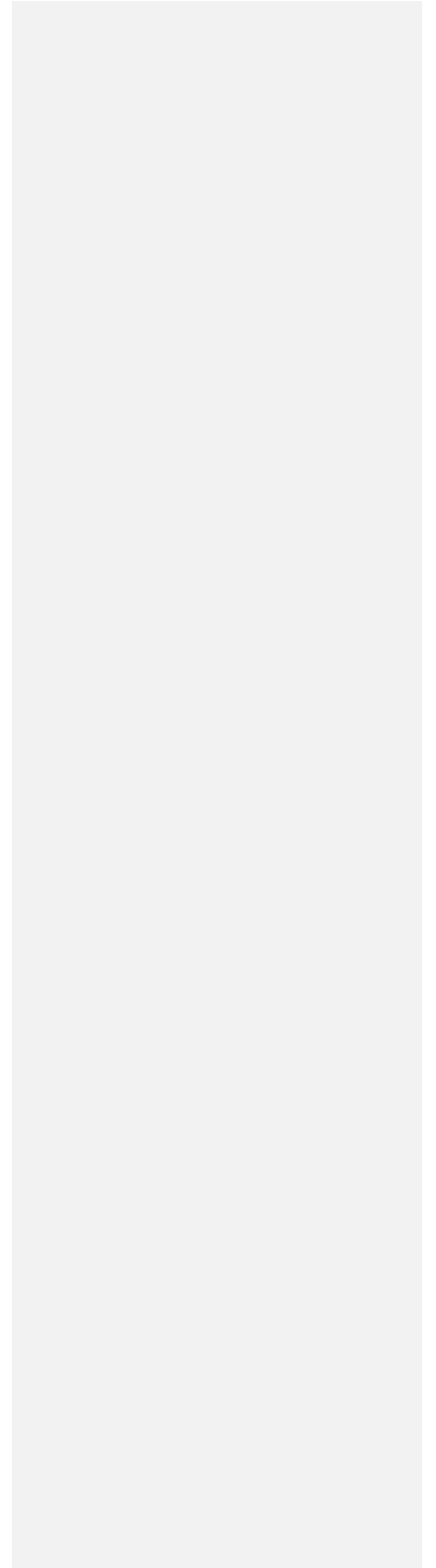


EXHIBIT B

**CONDITIONS FOR PAYMENT BETWEEN
ALAMEDA COUNTY HOUSING AND COMMUNITY DEVELOPMENT
AND CONTRACTOR**

1. BUDGET

Before disbursement of Contract funds may be made, CONTRACTOR shall establish a budget, to be approved in writing by the Housing Director or her designee, specifying by line item the expenditures to be made with Alameda County funds. A minimum of \$50,000 of this CONTRACT must be allocated to a Developer Fee line item and will be held as a retention until all reports required in Exhibits A and B are received. Once a budget is approved by the County, changes may be made only with a written request to be approved by the Housing Director or her designee in advance of a request for disbursement of funds.

2. METHOD OF PAYMENT

All requests for a funding draw or reimbursement will be in a format approved by the County.

- a. All requests for a funding draw or reimbursement shall be on Contractors letterhead, contain an original authorized signature, invoice number, total amount requested and amounts towards each line item on the approved budget. This document shall be called an "Invoice", and shall track disbursements made by budget line item, current requests, and amount remaining in the budget line item.

Line Item	Total Budget	Previous Requests	Current Request	Balance Remaining
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- b. All invoices shall be paid on a funding draw or reimbursement basis, and be made no more than monthly with supporting documentation of actual costs incurred during the period of time covered by the invoice. If under a specific line item, Contractor has more than one form of back up or supporting documentation, Contractor must summarize the documentation and include a subtotal of items which add up to the line item total. Invoices must be properly organized and are subject to return to Contractor if they are not.
- c. Requests for funding draw or reimbursement must be received within 60 days of the end of each month or period covered.
- d. All funds disbursed to CONTRACTOR must be expended within fifteen (15) days of approval of the receipt of funds. The final disbursement shall be requested by CONTRACTOR not less than sixty (60) days before project completion.

- e. Any adjustments made by the fiscal auditors at the year-end audit, under the AICPA guidelines and other relevant federal regulations should be brought to the attention of County staff for reconciliation.
- f. CONTRACTOR is responsible for reporting any matching funds used on this project which do not originate from HCD sources. These funds can include funding to cover staff who are working on this project, but paid from another source of funds.

3. REQUESTS FOR ADJUSTMENTS TO BUDGET LINE ITEMS

Once the line item budget has been approved, there can be no more than four (4) requests for adjustments to the budget during the contract period, including any final adjustments done at the end of the project, unless otherwise approved by the Housing Director or her designee, which approval shall not be unreasonably withheld. Any change in the budget that results in lower costs shall be communicated to COUNTY immediately. If Housing Director or her designee determines that the total amount of funds under this contract exceeds the amount necessary to complete the project, Housing Director or her designee may adjust the contract accordingly. The budget amendment should be on letterhead, must contain an original signature, and must track the requested change by line item, showing original budget amount, balance expended to date, remaining funding by each line item, the amount to be moved between line items, and the final new budget amount. Budget amendments take between two and three weeks to process, and must be processed prior to receipt of an invoice requesting funding under the new budget. The Housing Director or her designee reserves the right to deny any budget modification request.

4. COMPLIANCE WITH FEDERAL REGULATIONS

Contractor's administrative procedures must be in compliance with the following regulations:

- A. OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- B. OMB Circular A-110, Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.
- C. Paragraph (b) of Section 570.502 of sub-part J of 24 CFR 85, Common Rule of Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments.
- D. Section 44.6 of 24 CFR Part 44 (Non-Federal Government Audit Requirements), Common Rule of Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments

5. PUBLIC RECOGNITION OF FUNDING

Contractor will publicly recognize the funding provided by the Alameda County Housing and Community Development Department (HCD) and in all newspaper articles and any other public relations opportunities related to this project. HCD staff and members of the Board of Supervisors will be invited to participate in the groundbreaking and grand opening ceremonies, if held.

6. RETENTION OF FUNDS

HCD will retain \$50,000 of the contract amount until receipt of close-out documents. Close-out documents include:

- i. MBWBE & Section 3 reporting form
- ii. Rent-up report
- iii. Cost certification/project audit/Final Sources and Uses
- iv. Certificate of Occupancy & recorded Notice of Completion
- v. Lien Releases, and final payment certification
- vi. Final Building Department Inspection
- vii. Final Management Plan
- viii. Final Affirmative Fair Marketing Plan and outreach materials
- ix. Final Relocation Report (if applicable)
 - x. Final Report on Section 504 (list of which units are accessible)
 - xi. Final Report on Title 24
 - xii. EveryOneHome Unit Data Form

EXHIBIT C

COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following insurance coverage, limits and endorsements:

TYPE OF INSURANCE COVERAGES		MINIMUM LIMITS
A	Commercial General Liability Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability	\$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	Commercial or Business Automobile Liability All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses.	\$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	Workers' Compensation (WC) and Employers Liability (EL) Required for all contractors with employees	WC: Statutory Limits EL: \$100,000 per accident for bodily injury or disease
D	Course of Construction /Builder's Risk All Risk	\$ Value of Completed project or materials

E **Endorsements and Conditions:**

1. **ADDITIONAL INSURED:** General Liability and Automobile Liability Policies shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees and volunteers.
2. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement with the following exception: Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following termination and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.
3. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies shall be primary insurance to any insurance available to the Indemnified Parties and Additional Insured(s). Pursuant to the provisions of this Agreement, insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.
4. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
5. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
6. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by any one of the following methods:
 - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies.
 - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured.
7. **CANCELLATION OF INSURANCE:** All required insurance shall be endorsed to provide thirty (30) days advance written notice to the County of cancellation.
8. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The require certificate(s) and endorsements must be sent to:
 - Department/Agency issuing the contract
 - With a copy to Risk Management Unit (125 – 12th Street, 3rd Floor, Oakland, CA 94607)

EXHIBIT D

ALAMEDA COUNTY AFFIRMATIVE ACTION PLAN UNDER SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

PURPOSE

To insure that to the greatest extent feasible, projects financed by the Alameda County Housing and Community Development Program provide business and employment opportunities for businesses in the Alameda County project areas funded by Federal HOME Funds

In all contracts for work in connection with a Community Development project, the following clause (referred to as the Section 3 Clause), will be included:

1. The work to be performed under this contract 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). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but not before the contract is

executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 405e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

SECTION 3 EMPLOYMENT PLAN

NAME OF CONTRACTOR: **HOUSING CONSORTIUM OF THE EAST BAY**

Services to be Provided: **New construction of affordable housing for very-low income households**

Contract Amount: **\$300,000**

Contract amount does not exceed Section 3 dollar threshold. Section 3 requirements do not apply.

Contract does not include housing rehabilitation, housing construction or other public construction. Section 3 requirements do not apply.

Section 3 requirements do apply. Contractor has been notified of Section 3 requirements and has completed the anticipated work force analysis **below**.

Comment [AZS1]: Check if contract is at least \$100K

The following work force is anticipated to be necessary to satisfactorily complete this work:

Job Classifications Existing Work Force Anticipated New Hires

All new hires of the Contractor, and all new hires of all sub-contractors to the General Construction Contractor.

CONTRACTOR agrees to undertake a good faith effort to comply with all of the provisions of Section of the Housing and Urban Development Act of 1968.

HOUSING CONSORTIUM OF THE EAST BAY

Contractor

By:

Darin Lounds, Executive Director

Date

EXHIBIT E
PROPERTY MANAGEMENT STANDARDS

1. This attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments. Federal grantor agencies shall require State and local governments to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this attachment are included.
2. The following definitions apply for the purpose of this attachment:
 - a. Real property. Real property means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.
 - b. Personal property. Personal property means property of any kind except real property. It may be tangible -- having physical existence, or intangible -- having no physical existence, such as patents, inventions, and copyrights.
 - c. Nonexpendable personal property. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.
 - d. Expendable personal property. Expendable personal property refers to all tangible personal property other than nonexpendable property.
 - e. Excess property. Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs.
3. Each Federal grantor agency shall prescribe requirements for grantees concerning the use of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:
 - a. The grantee shall use the real property for the authorized purpose of the original grant as long as needed.
 - b. The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be

limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

- c. When the real property is no longer needed as provided in a. and b., above, the grantee shall return all real property furnished or purchased wholly with Federal grant funds to the control of the Federal grantor agency. In the case of property purchased in part with Federal grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.
4. Standards and procedures governing ownership, use, and disposition of nonexpendable personal property furnished by the Federal Government or acquired with Federal funds are set forth below:
 - a. Nonexpendable personal property acquired with Federal funds. When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, title will not be taken by the Federal Government except as provided in paragraph 4a(4), but shall be vested in the grantee subject to the following restrictions on use and disposition of the property:
 - (1) The grantee shall retain the property acquired with Federal funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Federal funds. When there is no longer a need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with other Federal grants it has received in the following order of priority:
 - (a) Other grants of the same Federal grantor agency needing the property.
 - (b) Grants of other Federal agencies needing the property.
 - (2) When the grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:
 - (a) Nonexpendable property with an acquisition cost of less than \$500 and used four years or more. The grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

- (b) All other nonexpendable property. The grantee may retain the property for its own use provided that a fair compensation is made to the original grantor agency for the latter's share of the property. The amount of compensation shall be commuted by applying the percentage of Federal participation in the grant program to the current fair market value of the property.
- (3) If the grantee has no need for the property, disposition of the property shall be made as follows:
 - (a) Nonexpendable property with an acquisition cost of \$1,000 or less. Except for that property which meets the criteria of (2)(a) above, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed in accordance with (iii) below.
 - (b) Nonexpendable property with an acquisition cost of over \$1,000. The grantee shall request disposition instructions from the grantor agency. The Federal agency shall determine whether the property can be used to meet the agency's requirement. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal grantor agency shall issue instructions to the grantee within 120 days and the following procedures shall govern:
 - (i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee's participation in the grant program to the current fair market value of the property, plus any shipping or interim storage costs incurred.
 - (ii) If the grantee is instructed to otherwise dispose of the property, he shall be reimbursed by the Federal grantor agency for such costs incurred in its disposition.
 - (iii) If disposition instructions are not issued within 120 days after reporting, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed by applying the percentage of Federal participation in the grant program to the sales proceeds. Further, the grantee shall be permitted to retain \$100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expense.

4. Where the grantor agency determines that property with an acquisition cost of \$1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, it may reserve title to such property, subject to the following provisions:
 - (a) The property shall be appropriately identified in the grant agreement or otherwise made known to the grantee.
 - (b) The grantor agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Federal grant for which it was acquired. If the grantor agency fails to issue disposition instructions within 120 days, the grantee shall apply the standards of 4a(1), 4a(2)(b) and 4a(3)(b).
 - b. Federally-owned nonexpendable personal property. Unless statutory authority to transfer title has been granted to an agency, title to Federally-owned property (property to which the Federal Government retains title including excess property made available by the Federal grantor agencies to grantees) remains vested by law in the Federal Government. Upon termination of the grant or need for the property, such property shall be reported to the grantor agency for further agency utilization or, if appropriate, for reporting to the General Services Administration for other Federal agency utilization. Appropriate disposition instructions will be issued to the grantee after completion of Federal agency review.
5. The grantees' property management standards for nonexpendable personal property shall also include the following procedural requirements.
- a. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage of Federal funds used in the purchase of property; location, use, and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share.
 - b. A physical inventory of property shall be taken and the results reconciled with the property records or least once every two years to verify the existence, current utilization, and continued need for the property.
 - c. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.
 - d. Adequate maintenance procedures shall be implemented to keep the property in good condition.

- e. Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.
6. When the total inventory value of any unused expendable personal property exceeds \$500 at the expiration of need for any Federal grant purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with 4a(2)(b).
7. Specified standards for control of intangible property are provided as follows:
- a. If any program produces patentable items, patent rights, processes, or inventions, in the course of work aided by a Federal grant, such fact shall be promptly and fully reported to the grantor agency. Unless there is prior agreement between the grantee and grantor on disposition of such items, the grantor agency shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery -- including rights under any patent issued thereon -- shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 F.R. 16889).
 - b. Where the grant results in a book or copyrightable material, the author or grantee is free to copyright the work, but the Federal grantor agency reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

EXHIBIT F
COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION
For Procurements Over \$25,000

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principles, and any named subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessary result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: **HOUSING CONSORTIUM OF THE EAST BAY.**

SIGNATURE: _____ DATE: _____
Darin Lounds, Executive Director