

CDBG HOUSING REHABILITATION LOAN AND GRANT PROGRAM ADMINISTRATION AGREEMENT

This administration agreement is dated as of December 4, 2012, and is between Contra Costa County, a political subdivision of the State of California (the "County"), and the City of Concord, a California municipal corporation (the "City").

RECITALS

- A. The City has received Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development ("HUD") pursuant to the provisions of Title I of the Housing and Community Development Act of 1974, as amended.
- B. The City has approved the use of \$262,652 of CDBG funds for a housing rehabilitation loan and grant program. The program will be directed to owner-occupied single-family residences in Concord. The program will make funds available as follows: \$138,132 in housing rehabilitation loans and grants; \$50,000 as a revolving loan fund; \$24,620 in lead based paint abatement grants (2009 – 2010 remaining funds); and \$49,900 for County administration.
- C. The City desires to have the County administer the City's housing rehabilitation loan and grant program. The City is willing to pay the County for providing the services described in this agreement.

The parties therefore agree as follows:

AGREEMENT

- 1. Term. Unless sooner terminated as provided in this agreement, the term of this agreement is from December 4, 2012 through June 30, 2013.
- 2. County Obligations.
 - a. Intake and Review. The County will provide the following services related to the intake and review of loan and grant applications:
 - i. Distribute loan and grant application forms to interested property owners.
 - ii. Consult with property owners and provide information regarding CDBG requirements.
 - iii. Review applications to determine each applicant's loan and/or grant eligibility. To be eligible for a loan and/or grant of CDBG funds, applicants must meet the most current loan and/or grant and moderate-income guidelines established by HUD and the City for the CDBG program. Eligibility for a loan or grant of

CDBG funds will be based on the criteria set forth in the Housing Rehabilitation Loan and Grant Program Overview (Exhibit A) and Priority List (Attachment 1) attached hereto.

- iv. Determine whether property complies with Federal environmental requirements with respect to historic preservation, floodplain management, explosive and flammable operations and toxic chemical/radioactive materials. Provide information to the City to enable City to complete Appendix A of the HUD Environmental Rehabilitation Review Sheet. If applicable, advise the City of the need for consultation with the State Historic Preservation Officer (SHPO). Wait for environmental clearance from the City before proceeding with loan or grant application.
 - v. If a loan application appears to meet eligibility standards and the loan sought exceeds \$55,000, submit the application to the City for approval.
 - vi. Approve loans to eligible applicants in any amount up to and including \$55,000. Submit a copy of each approved loan application to the City, along with a copy of the executed promissory note and deed of trust.
 - vii. If a loan application appears to meet eligibility standards and the loan sought is a *deferred* loan for an amount greater than \$20,000, submit the application to the City for approval.
 - viii. Approve grants to eligible applicants.
- b. Loan Processing. If a loan and/or grant application is approved, the County will:
- i. Conduct initial inspection of properties of eligible applicants and prepare inspection reports.
 - ii. Assist eligible applicants with securing contractual services to undertake eligible work, including preparing bid packages, noticing the availability of bid packages, reviewing bids received, and confirming the contractor and any subcontractors are not on the list of debarred, suspended, or ineligible contractors. The County may assist the applicant in choosing a contractor from the County's courtesy list of contractors or may assist the applicant in choosing a contractor who has a license from the State Contractor's Board and a business license from the City of Concord.
 - iii. Assist eligible applicants with the preparation of loan/grant application documents.
 - iv. If a loan is being made, prepare the loan documents between the homeowner and the City, under which the homeowner evidences its obligation to repay the loan through the execution of a promissory note, which note is secured by a deed of

trust that names the City as the beneficiary. If a grant is made, prepare the grant documents between the homeowner and the City.

- v. Verify the contractor's general liability, automobile liability and workers' compensation insurance coverage prior to each project start date. Contractor's general liability policy must list the County and the City as additional insured.
 - vi. Verify the contractor's licenses including a business license from the City, and evaluation of contractor's qualifications. For work exceeding \$2,000, verify that the contractor has a license from the State Contractor's Board.
 - vii. Coordinate the signing of Rehabilitation Contract with selected Contractor, prior to initiation of work. Upon signature, homeowner will be provided an anticipated timeline and completion date for the work.
 - viii. Perform periodic inspections to determine that work is being performed in accordance with the contract between the homeowner and the contractor.
 - ix. Perform final inspection to determine that the work has been completed in accordance with the terms of the contract between the homeowner and the contractor.
 - x. If work is performed in accordance with homeowner's contract with the contractor during the term of the contract, with homeowner's agreement, authorize progress payments to contractor. If work is completed in accordance with homeowner's contract with the contractor, with the homeowner's agreement, accept the work and authorize the final payment to contractor. Requests for progress payments are to be submitted to the City in the form of an invoice three days after the loan is executed for 80% of the loan or grant amount. Requests for final payment are to be submitted to the City in the form of an invoice after the work has been accepted.
- c. Reporting. The County shall report quarterly in City Data Services on the number of applicants and loans signed, jobs completed, demographic data, race/ethnicity, income level, household type, etc., which report is due the 15th of the month following the end of each quarter. Backup documentation will include a detailed report identifying all loans and grants made with CDBG funds that are administered by the County under this agreement. The report is to include the name of the homeowner, the address and parcel number of the improved property, the loan/grant amount, the term of the loan, if applicable, the type of work performed as a result of the loan/grant, and program demographic information. The report is to contain the name of each contractor, along with the contractor's address and license number.
- d. Records. The County shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this agreement. Such records are to include, but are not limited to:

- i. Records providing a full description of each activity undertaken.
 - ii. Records that establish the eligibility of activities.
3. City Obligations. The City is responsible for the following:
- a. Reviewing applications submitted by the County for loans in excess of \$55,000 to determine whether to approve the loan. If the City approves the loan, the City will authorize the County in writing to proceed with the processing of the loan application.
 - b. Providing to the County funds sufficient for payment to the contractor.
 - c. Designing, printing and distributing all promotional literature relating to the program. The City will pay for all printing and other costs associated with the promotional literature. The City will advertise the program in City-published newsletters and similar publications, and will bear the cost of doing so.
 - d. Processing plans, issuing all necessary permits and issuing any relevant final occupancy permits through the City's Building Division. All projects must conform to the City's building codes.
 - e. Determining whether a project meets the City's building codes and taking any code enforcement action it deems necessary.
 - f. Complying with any reporting requirements that may be required by applicable federal and state housing laws and community development laws.
 - g. Paying invoices received pursuant to Section 2.b.ix., above, within 30 days of receipt.
 - h. Receiving loan repayments from the homeowner. The City is responsible for enforcement of the payment obligation by the homeowner up to and including foreclosure on the property. The City is responsible for collection actions on delinquent loans.
4. Compensation. The City shall pay the County for the services provided by the County to the City under this agreement. The amount payable to the County under this agreement is estimated not to exceed Forty-Nine Thousand Nine Hundred Dollars (\$49,900). The amount payable to the County will be calculated as follows:
- a. The City shall pay the County Seven Hundred Fifty Dollars (\$750) for each loan/grant application processed under this agreement, whether or not a loan or grant is actually funded.
 - b. The City shall pay the County an additional Seven Hundred Fifty Dollars (\$750) for each initial inspection made by the County under this agreement, whether or not a loan or grant is actually funded.

- c. The City shall pay the County twenty percent (20%) of the loan or grant amount of each transaction funded, which amount includes the Fifteen Hundred Dollars (\$1,500) paid to the County pursuant to subsections a. and b. of this Section 4,
- 5. Invoices and Payment. The County shall invoice the City quarterly for amounts due under this agreement. The City shall pay all amounts due to the County under this agreement within thirty (30) days of receipt of an invoice. In no event will the City's obligation under this agreement exceed Forty-Nine Thousand Nine Hundred Dollars (\$49,900).
 - 6. Inspection of Work. It is understood that periodic review of the County's work under this agreement may be necessary and the right to do so review is reserved by the City. The City will have access to any books, documents, papers and records of the County that are directly pertinent to the work performed under this agreement, except for confidential attorney/client materials. If required by applicable federal and state housing laws or community development laws, the County agrees to have an annual audit of activities provided to the City under this agreement.
 - 7. Compliance with Federal Requirements. In carrying out the terms of this Agreement, the City and the County shall comply with all applicable CDBG program regulations as contained in 24 CFR Part 570.502 (A) and Subpart K, except the City is responsible for initiation and completion of environmental review. In addition, the County agrees to comply with the following:
 - a. CDBG regulations governing the eligibility of fair housing activities as contained in 254 CFR 570.904.
 - b. The attachments as listed below of the Uniform Administrative Requirements for Grants and Cooperative Agreements to state and local governments (24 CFR part 85), as applicable, including:
 - i. Section 85.3, Definitions.
 - ii. Section 85.6, Additions and exceptions.
 - iii. Section 85.12, Special grant or subgrant conditions for "high-risk" grantees.
 - iv. Section 85.20, Standards for financial management systems, except paragraph (a).
 - v. Section 85.21, Payment, except as modified by Sec.570.513.
 - vi. Section 85.22, Allowable costs.
 - vii. Section 85.26, Non-Federal audit
 - viii. Section 85.32, Equipment, except in all cases in which the equipment is sold, the proceeds are program income.
 - ix. Section 85.33, Supplies.
 - x. Section 85.34, Copyrights.
 - xi. Section 85.35, Subawards to debarred and suspended parties.
 - xii. Section 85.36, Procurement, except paragraph (a);
 - xiii. Section 85.37, Subgrants

- xiv. Section 85.40, Monitoring and reporting program performance, except paragraphs (b) through (d) and paragraph (f).
 - xv. Section 85.41, Financial reporting, except paragraphs (a), (b), and (e).
 - xvi. Section 85.42, Retention and access requirements for records.
 - xvii. Section 85.43, Enforcement.
 - xviii. Section 85.44, Termination for convenience.
 - xix. Section 85.51, Later disallowances and adjustments.
 - xx. Section 85.52, Collection of amounts due.
- c. OMB Circular No. A-87, which relates to cost principles for state, local and Indian Tribal Governments.
 - d. OMB Circular No. A-128, which relates to audits of states, local governments, and non-profit organizations.
 - e. Public Law 88-352, which refers to Title VI of the Civil Rights Act of 1964, "Affirmative Action Program," which provides that no person in the United States shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The County agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, and as subsequently amended. The County shall submit a plan for an Affirmative Action Program upon the request of the City.
 - f. Public Law 90-284, which refers to the Fair Housing Act, which states that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap or familial status and which requires that all programs and activities related to housing and community development be administered in a manner to affirmatively further the policies of the Fair Housing Act.
 - g. Section 109 of Title I of the Housing and Community Development Act of 1974, which states that no person in the United States shall on the ground of race, color, national origin or sex 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 Community Development funds made available pursuant to this act.
 - h. Section 504 of the Rehabilitation Act of 1973, as amended, which states that no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.

- i. Age Discrimination Act of 1975, as amended, which states that no persons in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- j. Section 3 of the Housing and Urban Development Act of 1968, which states the work to be performed under this contract 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. 1701. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower-income persons within the unit of local government or the metropolitan area in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same metropolitan area as the project.
- k. Conflict of interest regulations as contained in 24 CFR 570.611, which require, among other things, that except for approved eligible administrative or personnel costs, no person who is an employee, agent, consultant or officer of the County may obtain a personal or financial interest or benefit from the activity under this Agreement, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Upon written request of the County, the City may request the U.S. Department of Housing and Urban development to grant an exception to the foregoing requirement on a case-by-case basis in accordance with 24 CFR 570.611 (d).
- l. The County will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract the term 'minority and women-owned business enterprises' means businesses that are 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 City may rely on written representations by the County regarding their status as a minority and female business enterprise in lieu of an independent investigation.
- m. The County agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours, and Safety Standards Act, the Copeland (Anti-Kickback) Act (40 U.S.C.276, 327-333) 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 contract. The County shall maintain documentation that demonstrates compliance with hour and wage requirements of this section. Such documentation is to be made available to the City for review upon request.

The County agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight households, all contractors engaged under contracts in excess of \$2,000 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 1,3,5, and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by the state or local law, nothing hereunder is intended to relieve the County of its obligation, if any, to require payment of the higher wage. The County shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirement of this paragraph, for such contracts in excess of \$10,000.

- n. The County agrees that any construction or rehabilitation structures with assistance provided under this contract shall be subject to HUD Lead Based Paint Regulations at 24 CFR Part 35, and in particular Sub-part B: thereof.
- o. Equal Employment Opportunity. All contracts shall contain a provision requiring compliance with E.G. 11246, "Equal Employment Opportunity," as amended by E./P. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
- p. Copeland "Anti-Kickback" Act (18 U.S.C. 276C). All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor regulations (29 CFR part 3 "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or In Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
- q. Clean Air Act (42 U.S.C. 7401 et. seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.), as amended. Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et. seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- r. Debarment and Suspension (E.O. 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O. 12549 and

12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

- s. The County agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the federal regulations specified in 24 CFR 570.200(j)
- t. The County agrees that no funds provided, nor personnel employed under this agreement, will in any way or to any extent be engaged in the conduct of political activities in violation of Chapter 15 or Title V United States Code.

8. Certification.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any Agency, 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, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying, in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that Agency shall certify and disclose accordingly.
- d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

9. Termination. This agreement may be terminated by the County or the City upon ninety (90) days' written notice. Upon termination of this agreement, the City shall pay to the County all

amounts due, or previously due, to the County at the time of termination. In the event the Federal funding for this Agreement ceases, this Agreement is terminated. In the event of unforeseeable budget adjustments by the Federal Government, this Agreement is subject to re-negotiation.

10. Amendments. If Federal or State regulations, laws, funding requirements or funding amounts applicable to the subject of this agreement are adopted or revised during the term of this agreement, this agreement will be deemed amended, as necessary, to assure conformance with such Federal and State requirements. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this agreement, except as necessary to comply with Federal or State requirements, such modifications will be incorporated only by written amendment of this agreement signed by the parties.

11. Insurance

During the entire term of this Agreement and any extension or modification thereof, the County shall keep in effect insurance policies meeting the following insurance requirements:

- a. Liability Insurance. The County shall provide comprehensive general liability insurance, including coverage for owned and non-owned automobiles, with a minimum combined single limit coverage of \$1,000,000 for all damages, including consequential damages, due to bodily injury, sickness or disease, or death to any person or damage to or destruction of property, including the loss of use thereof, arising from each occurrence. Such insurance shall be endorsed to include the City and its officers, officials, agents, employees and volunteers as additional insureds as to all services performed by the County under this Agreement.
- b. Workers' Compensation. The County shall provide the City with a Certificate of Insurance evidencing workers' compensation insurance coverage for its employees.
- c. All Risk Insurance. The County shall provide a policy or policies of All Risk Property Damage Insurance including Flood Plain Insurance whenever applicable, particularly where CDBG funds are used in the acquisition of real property.

12. Indemnification. The City agrees to indemnify and hold harmless the County and its officers and employees for the City's share of any and all claims, costs and liability, including attorneys fees, for any damage, injury or death of or to any person or the property of any person arising out of the willful misconduct or the negligent acts, errors or omissions of the City in the City's performance under this agreement. The County agrees to indemnify and hold harmless the City and its officers and employees for the County's share of any and all claims, costs and liability, including attorneys fees, for any damage, injury or death of or to any person or the property of any person arising out of the willful misconduct or the negligent acts, errors or omissions of the County in the County's performance under this agreement.

13. Third Parties. Nothing in this agreement is intended, nor shall it be construed, to create rights inuring to the benefit of third parties.
14. Remedies. The County and City waive their respective rights to trial by jury of any claim or cause of action arising out of this agreement.
15. Notice. All correspondence regarding this agreement, including invoices, payments, and notices, shall be delivered by deposit in the United States mail, postage prepaid, and shall be directed to the following persons at the following addresses:

COUNTY: Catherine O. Kutsuris, Director
Contra Costa County
Department of Conservation & Development
Building Inspection Division
30 Muir Road
Martinez, CA 94553

CITY: Marla Parada
Community Grants Manager
Parks & Recreation Department
Community Services Division
City of Concord
1950 Parkside Drive, M/S 10.
Concord, CA 94519

16. Construction. The section headings and captions of this agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this agreement. This agreement may not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. The parties to this agreement and their counsel have read and reviewed this agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply to the interpretation of this agreement. The Recitals are, and are to be enforceable as, a part of this agreement.
17. Severability. If any term or provision of this agreement is, to any extent, held invalid or unenforceable, the remainder of this agreement will not be affected.
18. Authorizations Obtained. The person executing this agreement on behalf of the City represents that he or she has the requisite legal authority to enter into this agreement on behalf of the City and to bind the City to the terms of this agreement. The person executing this agreement on behalf of the County represents that he or she has the requisite legal authority to enter into this agreement on behalf of the County and to bind the County to the terms of this agreement.

19. Entire Agreement. This agreement contains the entire agreement between the parties and all prior understandings or agreements, oral or written, regarding this matter are superseded.

CONTRA COSTA COUNTY

CITY OF CONCORD

By: _____
Catherine O. Kutsuris,
Director, Department of
Conservation & Development

By: _____
Joan Carrico
Director of Parks and Recreation

APPROVED AS TO FORM:
Sharon L. Anderson, County Counsel

APPROVED AS TO FORM:

By: Kathleen M. Andrus
Kathleen Andrus
Deputy County Counsel

By: _____
Mark Coon
City Attorney

FINANCE DIRECTOR'S CERTIFICATION: CONCORD, CA DATE: _____

I hereby certify that adequate CDBG funds exist or will be received during the current fiscal year 2012-13 to pay the anticipated expenses to be incurred pursuant to this contract.

To wit: the sum of

\$138,132 Housing Conservation Loans and Grants

Acct #252-9500C999-252-1215-211

\$50,000 Revolving Loan Fund

Acct #252-9500C999-252-1101-111-66780

\$49,900 Housing Administration

Acct #252-8800-1Z01-63800-400

\$24,620 Lead Based Paint Abatement Grants (2009-10 funds) Acct. #254-9500C999-254-2113-211

By: _____
City of Concord
Finance Director