



**HOUSING AUTHORITY  
of the County of Los Angeles**

Administrative Office  
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*Commissioners*

**Carlos Jackson**  
*Executive Director*

May 11, 2004

Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Honorable Board of Commissioners  
Housing Authority of the  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors and Commissioners:

**APPROVE A COMMUNITY DEVELOPMENT BLOCK GRANT FLOAT LOAN TO THE  
HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES FOR  
REHABILITATION OF SIX HOUSING DEVELOPMENTS (ALL DISTRICTS)  
(3 Vote)**

**IT IS RECOMMENDED THAT THE BOARD OF SUPERVISORS:**

1. Find that rehabilitation activities to be performed at the housing developments, including Nueva Maravilla, Carmelitos, Harbor Hills, Orchard Arms, Foothill Villa, and Southbay Gardens are exempt from the provisions of the California Environmental Quality Act (CEQA), as described herein, because they involve activities that will not have the potential for causing a significant effect on the environment.

2. Approve a 30-month Community Development Block Grant (CDBG) Float Loan with the Housing Authority of the County of Los Angeles for \$6,200,000 in Countywide CDBG funds to fund rehabilitation activities at housing developments including Nueva Maravilla in unincorporated East Los Angeles; Carmelitos in the City of Long Beach; Harbor Hills in the City of Lomita; Orchard Arms in Valencia; Foothill Villa in La Crescenta; and Southbay Gardens in unincorporated South Los Angeles.
3. Authorize the Chairman to execute the CDBG Float Loan Agreement, presented in substantially final form, for the purposes described herein, to be effective following approval as to form by County Counsel and execution by all parties.

**IT IS RECOMMENDED THAT THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY:**

1. Approve a 30-month Community Development Block Grant (CDBG) Float Loan Agreement for \$6,200,000 in Countywide Community Development Block Grant (CDBG) funds with the County of Los Angeles to fund rehabilitation activities at housing developments including Nueva Maravilla in unincorporated East Los Angeles; Carmelitos in the City of Long Beach; Harbor Hills in the City of Lomita; Orchard Arms in Valencia; Foothill Villa in La Crescenta; and Southbay Gardens in unincorporated South Los Angeles; and authorize the Executive Director to execute the Float Loan Agreement and all related documents, to be effective following approval as to form by County Counsel and execution by all parties.
2. Authorize the Executive Director to incorporate the above funds, as needed, into the Housing Authority's approved budget.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:**

The purpose of this action is to provide financing for a CDBG Float Loan for rehabilitation of six Housing Authority developments.

**FISCAL IMPACT/FINANCING:**

There is no impact on the County general fund. Countywide CDBG funds, in the amount of \$6,200,000, will be used to provide the Float Loan at a fixed interest rate of one percent per annum, with interest only payable monthly and a balloon payment of outstanding

principal balance at maturity. Based on an 30-month term and a total draw of the loan, the County will earn \$155,000 in interest.

To repay the loan, the Housing Authority will establish a sinking fund with revenue provided annually by the U.S. Department of Housing and Urban Development (HUD) through the Capital Fund Program. The loan will be additionally collateralized by an AA grade, direct pay, callable upon demand, irrevocable letter of credit. The Housing Authority will secure the letter of credit and the County will be named as beneficiary. The letter of credit ensures the repayment of the loan.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS:**

This loan will be made under the County Float Loan Program, which finances activities that benefit low- and moderate-income persons in the County, including the rehabilitation of publicly owned residential property. Funding is made from the County's available Line of Credit with HUD. The program is administrated in accordance with federal guidelines, specifically 24 Code of Federal Regulations (CFR) 570.208 (a)(3), 24 CFR 203.48 and 24 CFR 570.201(c).

Loan proceeds will finance rehabilitation activities at the following sites: Nueva Maravilla, in unincorporated East Los Angeles; Carmelitos, in the City of Long Beach; Harbor Hills, in the City of Lomita; Orchard Arms in Valencia; Foothill Villa in La Crescenta; and Southbay Gardens in unincorporated South Los Angeles.

At its meeting of April 28, 2004, the Housing Commission recommended approval of this action. County Counsel has reviewed the CDBG Float Loan Agreement

The CDBG Float Loan Agreement and a description of the renovations, with cost estimates, are provided as Attachments A and B respectively.

**ENVIRONMENTAL DOCUMENTATION:**

Pursuant to 24 Code of Federal Regulations, Part 58, Section 58.35(a)(3)(i), these projects are excluded from the need to prepare an Environmental Impact Statement or an Environmental Assessment under the provisions of the National Environmental Policy Act, because they involve activities that will not alter existing environmental conditions. Also, the projects are exempt from the provisions of CEQA, pursuant to State CEQA Guidelines 15301, because they involve negligible or no expansion of use beyond what currently exists and do not have the potential for causing a significant effect on the environment.

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The environmental review records for these projects are available for viewing by the public during regular business hours at the Housing Authority's main office located at 2 Coral Circle, Monterey Park.

**IMPACT ON CURRENT PROGRAM:**

This loan is consistent with a goal of the County Float Loan Program to finance activities that provide benefits to low- and moderate-income persons in the County, including the rehabilitation of publicly owned residential property.

Respectfully submitted,

CARLOS JACKSON  
Executive Director

CJ:RMS:mj

Attachments: 2

## **LOAN AGREEMENT**

THIS LOAN AGREEMENT is dated for identification purposes only as of the \_\_\_\_\_ day of \_\_\_\_\_, 2004 (the “Agreement”) by and between the COUNTY OF LOS ANGELES, a public body corporate and politic (the “COUNTY”) and the HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES, (the “Borrower”). The COUNTY and the Borrower individually are sometimes hereinafter referred to as a “Party” and collectively as the “Parties”.

### **RECITALS**

A. WHEREAS, the County of Los Angeles, by and through the COUNTY has entered into an agreement with the United States of America through its Department of Housing and Urban Development (“HUD”) to execute a Community Development Block Grant (“CDBG”) program pursuant to the Housing and Community Development Act of 1974, as amended (the “Act”);

B. WHEREAS, Borrower desires to borrow up to the maximum principal amount of Six Million Two-Hundred Thousand Dollars (\$6,200,000) (the “Loan”) from the COUNTY for the purpose of obtaining working capital (the “Project”) to be utilized by Borrower for assistance in financing rehabilitation activities at its housing developments (the “Site”);

C. WHEREAS, the COUNTY desires to make the Loan to Borrower, on the terms and conditions set forth herein;

D. WHEREAS, the COUNTY has made a determination that the Project, or portions thereof, to which the proceeds of the Loan are to be applied pursuant to this Agreement is a CDBG eligible activity benefiting low- and moderate-income persons and that the activity is necessary to further the purposes of the Act and that reasonable benefits will accrue to residents within the Los Angeles County Urban County jurisdiction;

E. WHEREAS, the COUNTY has made a determination that the Loan is appropriate to carry out a rehabilitation project; and

F. WHEREAS, Borrower has agreed to obtain the irrevocable Letter of Credit, described below, to secure repayment of the Loan by Borrower as provided herein.

NOW, THEREFORE, the Parties agree as follows:

**1. LOAN BY THE COUNTY**

The COUNTY agrees, subject to the terms and conditions of this Agreement and in consideration of the representations, covenants and obligations of Borrower contained in this Agreement, to loan to Borrower, in one or more disbursements, up to the maximum sum of Six Million Two-Hundred Thousand Dollars (\$6,200,000) to be used

solely for the purposes described below and so long as such purposes constitute CDBG eligible rehabilitation activities.

**2. NOTE; INTEREST**

Prior to any disbursement of any Loan proceeds to Borrower hereunder, Borrower shall execute and deliver to the COUNTY a Promissory Note (the "Note") in the form of Exhibit "A" attached hereto, which Note sets forth the interest rate, the date and other terms and conditions of the Loan. The Note shall be dated by Borrower as of the date of its execution and, upon receipt of the Note, the COUNTY shall insert the Maturity Date (as defined below) therein. The disbursed and unpaid amount of the Loan shall accrue interest as of the date on which Loan proceeds are first disbursed to Borrower by the COUNTY as provided herein (the "Initial Disbursement"), and ending (except as to interest at the "Default Rate", as defined in the Note) on that date which is thirty (30) months after the date of the Note (the "Maturity Date"), at the lesser of (a) the rate of one percent (1%) or (b) the maximum rate of interest permitted to be paid to the COUNTY pursuant to any applicable usury law. Interest shall be computed on the basis of actual number of days and a 365-day year. Borrower shall pay interest in arrears commencing on the first day of the month following the Initial Disbursement and continuing thereafter on the first day of each month to and including that month during which the Maturity Date occurs. On the Maturity Date, the entire unpaid principal balance of the Loan, plus all accrued and unpaid interest thereon, and any other amounts payable by Borrower under the terms of this Agreement and the Note shall be due and payable. All payments,

including any prepayments or funds received upon acceleration pursuant to Section 3 below, shall be applied first toward costs of collection and late charges, if any, then toward accrued and unpaid interest and then toward the unpaid principal balance under the Note. As used herein, "Term" shall mean the period of time commencing with the date of the Note and terminating on the date when Borrower has repaid the entire outstanding principal balance and accrued interest on the Loan.

If a payment of interest not timely made remains overdue for a period of ten (10) days after the same becomes due and payable, Borrower, without notice or demand by the COUNTY or any other holder of the Note, shall pay a late charge in an amount equal to five percent (5%) of the delinquent interest owing (the "Late Charge"). Borrower agrees that an amount equal to the Late Charge is a reasonable estimate of the damage to the COUNTY or other holder of the Note in the event of late payment of interest due hereunder.

### **3. ACCELERATION**

The entire principal balance of the Loan and all accrued and unpaid interest thereon shall be due and payable on the Maturity Date; provided, however, that the entire principal balance of the Loan and all accrued and unpaid interest thereon shall, at the election of the COUNTY and upon notice to Borrower thereof (except no notice or election shall be required with respect to Non-Curable Defaults as defined in Sections 14(A)(1) through 14(A)(7) below), become immediately due and payable without

presentment, demand, protest or other notice of any kind, all of which are hereby waived by Borrower, upon the occurrence of any Event of Default as set forth in Section 14.

4. **LOAN REPAYMENT; VOLUNTARY PREPAYMENT; MANDATORY REPAYMENT**

At any time after the disbursement of the Loan proceeds, Borrower may, subject to its compliance with the following procedure, voluntarily prepay all or a portion of the unpaid principal amount of the Loan and any or all accrued interest thereon without penalty. In the event Borrower wishes to voluntarily prepay (a “Voluntary Prepayment”) all or any portion of the unpaid principal amount of the Loan and accrued interest thereon, Borrower shall deliver to the COUNTY at least ten (10) days prior written notice (the “Prepayment Notice”) of such election which Prepayment Notice shall identify (i) the date such prepayment is to occur (the “Prepayment Date”), (ii) the total principal to be paid, and (iii) the total accrued interest to be paid.

It is acknowledged by the Parties that the COUNTY may require prepayment (a “Mandatory Prepayment:”) (either in whole or in part) of the Loan at any time by delivery of written notice (the “Notice of Mandatory Prepayment”) to Borrower. The Notice of Mandatory Prepayment shall set forth (i) the date such prepayment is to occur (the “Required Prepayment Date”), (ii) the total principal to be paid, and (iii) the total accrued interest to be paid. The Notice of Mandatory Prepayment shall be delivered to Borrower at least ten (10) days prior to the Required Prepayment Date.

The amount of principal and accrued interest set forth in the Prepayment Notice to be prepaid and the amount of principal and accrued interest set forth in the Notice of Mandatory Prepayment to be prepaid shall constitute an amount owing by Borrower to the COUNTY under this Agreement as of the Prepayment Date and the Required Prepayment Date, respectively.

The COUNTY shall be permitted, upon (i) the Maturity Date of the Loan, or (ii) the occurrence of any Event of Default as set forth in Section 14 and Borrower's failure to timely cure such Default after delivery of notice to Borrower as specified therein (except with respect to Non-Curable Defaults as defined in Sections 14 (A) (1) through 14 (A) (7) below in which case no notice is required), to draw on the irrevocable Letter of Credit (as defined below) the total outstanding principal, accrued and unpaid interest and other amounts owing under the Loan as of the date such draw plus, at the COUNTY's option, any interest, principal or other payments received directly from Borrower during the period commencing ninety-five (95) days prior to the earlier of the (i) date of such draw, or (ii) the date of any Act of Bankruptcy (as defined herein below) occurring with respect to Borrower. As used herein, the term "Act of Bankruptcy" means the filing of a voluntary petition in bankruptcy under the United States Bankruptcy Code or an adjudication pursuant to an involuntary proceeding under the United States Bankruptcy Code.

The COUNTY shall be permitted, upon (i) any Prepayment Date, and/or (ii) any Required Prepayment Date, to draw on the Letter of Credit the amount of any Voluntary

Prepayment and/or any Mandatory Prepayment. In the event any such draw is for the entire outstanding principal and all accrued and unpaid interest due on the Loan as of the date of such draw, whether pursuant to a Voluntary Prepayment or a Mandatory Prepayment, the COUNTY shall be permitted to draw on the Letter of Credit the total outstanding principal, accrued and unpaid interest and other amounts owing under the Loan as of the date of such draw plus, at the COUNTY's option, any interest, principal or other payments received directly from Borrower during the period commencing ninety-five (95) days prior to the earlier of the (i) date of such draw, or (ii) the date of any Act of Bankruptcy occurring with respect to Borrower.

Provided that there are no other amounts owing the COUNTY after its draw on the Letter of Credit of the total outstanding principal, interest and other amounts owing under the Loan (and, if the COUNTY elects, any interest, principal or other payments received directly from Borrower during the period commencing ninety-five (95) days prior to the earlier of the (i) date of such draw, or (ii) the date of any Act of Bankruptcy occurring with respect to Borrower), the COUNTY shall return the Letter of Credit to the Bank (as defined below) after its receipt of all funds in accordance with such draw.

Borrower hereby agrees and understands that any partial prepayment of the Note shall not relieve Borrower of the duty to comply with the terms and conditions set forth in the CDBG or the covenants described in Sections 9 and 10 herein, and such obligations and covenants shall remain in full force and effect pursuant to their terms.

**5. SECURITY AND SOURCE OF PAYMENT**

Payment of principal and interest on the Loan shall, at all times during the Term, be secured by a direct pay, irrevocable, unconditional and callable upon demand letter of credit (the "Letter of Credit") provided by \_\_\_\_\_, or another bank (the "Bank") acceptable to the COUNTY in its sole discretion for the account of Borrower. The Letter of Credit shall at all times be (i) in the amount no less than the then outstanding principal amount of the Loan plus the equivalent of three (3) months interest (computed at the rate in effect at the inception of the Loan) (hereinafter, the "Required Amount"), (ii) in favor of the COUNTY, (iii) in the form attached hereto as Exhibit "B", and (iv) having an expiration date which is at least ninety (90) days after the Maturity Date of the Note; provided, however, that Borrower shall be permitted to obtain a Letter of Credit with an earlier maturity provided that, no later than thirty (30) days prior to the expiration of such Letter of Credit, (i) such Letter of Credit is renewed to provide an expiration date which is at least ninety (90) days after the Maturity Date of the Note, or (ii) a replacement Letter of Credit, in conformance with the requirements hereunder and having an expiration date which is at least ninety (90) days after the Maturity Date of the Note, is issued in favor of the COUNTY.

Notwithstanding the satisfaction of all other conditions applicable to a distribution of Loan proceeds to Borrower under this Agreement, Borrower shall not be entitled to receive Loan proceeds to the extent such receipt would cause the amount of

the then issued Letter of Credit to be less than the Required Amount. To the extent Borrower wishes to receive such Loan proceeds, Borrower must have the then issued Letter of Credit amended to an amount or have a replacement Letter of Credit issued (otherwise in conformance with all the requirements hereunder) in the amount which is no less than the Required Amount. For example, if Borrower originally has a \$4,000,000 Letter of Credit issued to the COUNTY and Borrower desires Loan proceeds which would bring the Required Amount to \$6,000,000, then Borrower must, prior to the disbursement of additional Loan proceeds, have the then issued Letter of Credit amended to or have a replacement Letter of Credit issued in an amount not less than \$6,000,000, subject to Board of Supervisors approval and Line of Credit availability.

Draws on the Letter of Credit shall be conditioned upon the presentation to \_\_\_\_\_ or the Bank at its office designated in the Letter of Credit of a sight draft and certificate in accordance with the terms of the Letter of Credit. Neither the acceptance of the sight draft and certificate transfer, nor receipt of monies by the COUNTY under the Letter of Credit shall in any manner relieve Borrower of any obligation hereunder, under the Note or under the terms of any other document executed or given herewith, except to the extent of payment actually received by the COUNTY under the Letter of Credit and, to the extent the COUNTY receives actual payment under the Letter of Credit specifically with respect to an amount (the "Previously Paid Amount") previously received directly from Borrower, then the COUNTY shall promptly reimburse to Borrower or, if required by applicable law, to the trustee in any bankruptcy proceeding involving Borrower, the Previously Paid Amount.

**6. CONDITIONS TO THE COUNTY FUNDING THE LOAN**

The obligation of the COUNTY to make any disbursement of Loan proceeds under this Agreement shall be expressly subject to the following conditions:

- A. The execution of this Agreement by the COUNTY and Borrower.
- B. Receipt by the COUNTY of the Letter of Credit in form and substance as provided in Exhibit "B" hereto or otherwise satisfactory to the COUNTY, in its sole discretion, and from a bank reasonably acceptable to the COUNTY.
- C. Receipt by the COUNTY of the executed Note.
- D. Receipt by the COUNTY from the Borrower of such documents, certifications and opinions of counsel as are reasonably required by the COUNTY, in form and substance satisfactory to the COUNTY, evidencing (i) that this Agreement, the Note and all other documents given or executed in connection herewith are duly and validly executed by and on behalf of and constitute the valid and enforceable obligation of the Borrower thereunder, pursuant to the respective terms of each of such documents, and (ii) that the execution and delivery of the Agreement, the Note and all other documents

executed, or given hereunder or in connection herewith and the performance by the Borrower thereunder will not breach or violate any articles of incorporation, any by-law restriction, or any law or governmental regulation nor, to the best knowledge of Borrower and Borrower's members and officers, constitute a breach of or default under any instrument or agreement to which Borrower may be a party, and (iii) such other matters as are reasonably required by the COUNTY.

E. The availability to the COUNTY of allocated but undrawn CDBG funds in an amount sufficient to fund the respective disbursements of the Loan.

F. If necessary, receipt of environmental clearance for the Project.

G. No uncured Event of Default shall have occurred.

H. Borrower shall have provided to the COUNTY a disbursement request, in the form and manner, with the accompanying documentation, as is specified by Section 15 of this Agreement.

I. Borrower shall have provided to the COUNTY, in form satisfactory to the COUNTY, copies of good standing certificates from the California Secretary of State, certifying that Borrower is duly qualified and in good standing.

J. Borrower shall have provided to the COUNTY, in form satisfactory to the COUNTY, (i) certified copies of a resolution of the Commissions of the Housing Authority of the County of Los Angeles approving, on behalf of Borrower, this Agreement and the other documents executed by Borrower in connection herewith, and (ii) a certificate of the Secretary or an Assistant Secretary of Borrower certifying the names and true signatures of the officers of Borrower authorized to sign this Agreement on behalf of Borrower, and the other documents to be delivered by it hereunder.

7. **OBLIGATION OF BORROWER UNCONDITIONAL**

The obligation of Borrower to repay the Loan and all accrued interest thereon shall be absolute and unconditional, and until such time as all of the outstanding principal of and interest on the Note shall have been fully paid, Borrower agrees that it:

A. Will use the Loan proceeds solely for the purposes set forth below in Section eight; and

B. Will not terminate or suspend any payments or obligations under this Agreement, the Note, or the Letter of Credit or any other document executed hereunder or in connection herewith for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any duty, liability or obligation arising out of or in connection with this Agreement or any document executed hereunder or in connection herewith.

**8. PURPOSES OF LOAN**

Borrower covenants to use the proceeds of the Loan solely for purposes of financing CDBG eligible activities and paying CDBG eligible costs incurred in connection with providing working capital (but only to the extent permitted by applicable CDBG regulations) necessary for the Project to be funded by the Loan. The Loan proceeds may not be used for, and Borrower hereby covenants that it shall not use such proceeds for, any ineligible purchases and expenditures as set forth in 24 CFR 570.207. In no event shall Borrower use or otherwise invest the proceeds of the Loan except as expressly provided in this Agreement. As of the execution hereof, Borrower intends to use the Loan proceeds solely to provide working capital for rehabilitation of the Project. The purpose of the Loan is to assist in financing rehabilitation projects at housing development sites owned by the Borrower.

**9. COVENANTS OF BORROWER**

As additional consideration for the making of the Loan by the COUNTY, Borrower covenants as follows:

A. Compliance with Laws. Borrower shall, during the Term, comply with all applicable federal, state, and local laws, ordinances, regulations and directives as they pertain to the performance of this Agreement. This Agreement is subject to and incorporates the terms of the Act and 24 Code of Federal Regulations (CFR), Chapter V, Part 570, and all amendments or successor laws, regulations or guidelines thereto (collectively, the “Laws, Regulations and Guidelines”). Borrower understands that the Project, or that portion thereof funded by the Loan (in the event the entire Project is not funded by the Loan), must comply at all times during the Term with one or more of the three broad national objectives set forth in 24 CFR 570.208 and Borrower covenants that it will cooperate with the COUNTY and HUD, as necessary, to maintain compliance therewith.

Borrower further understands and agrees that unless HUD has determined that the Project has received appropriate environmental review and clearance, no Loan proceeds shall be disbursed hereunder until compliance with environmental review and clearance procedures set forth at 24 CFR Part 58.

B. Affirmative Action. During the Term, Borrower shall take affirmative action to ensure that the Project shall provide equal employment and career advancement opportunities for minorities and women and, to the greatest extent feasible, to provide opportunities for training and employment of low and moderate income persons when employed by Borrower. In connection therewith, Borrower, shall provide the COUNTY with data indicating the racial/ethnic and family income character of each business entity

receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with CDBG funds, and the amount of the contract or subcontract. In satisfying the requirements of this Section 9 C, Borrower shall require that a Prospective Employee Questionnaire attached hereto as Exhibit "C", be submitted by each contractor or subcontractor certifying the racial/ethnic and income characteristics of its employees and business staff. In furtherance of the foregoing, Borrower shall deliver to the COUNTY a list, acceptable to the COUNTY, setting forth affirmative steps taken by Borrower, or to be taken by Borrower to assure that minority business and women's business enterprises are offered an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

Borrower shall deliver to the COUNTY semiannually, prior to January 31 and July 31 of each fiscal year, a report summarizing the nature of the businesses with which Borrower has entered into contracts and subcontracts in connection with the Project during the preceding six (6) month period ending December 31 or June 30, as applicable. The obligation of Borrower to deliver the report specified in this Section 9 C shall expire upon delivery of the report summarizing the last contracts and subcontracts entered into by Borrower in connection with the Project and to be paid in whole or in part with Loan proceeds.

C. Covenant to Perform Services. Borrower shall, during the Term, perform services consistent with the goals and objectives set forth in the Los Angeles Urban County Community Development Block Grant Statement of Objectives and Projected Use of Funds, as adopted during the Term by the Board of Supervisors of the County of Los Angeles, which Statement is incorporated herein by this reference.

E. Revenue Disclosures. Borrower shall make available for inspection and audit to the COUNTY's representatives, upon seventy-two (72) hours written request, at any reasonable time during the Term and for a period of five (5) years thereafter, at Borrower's offices, or, if requested by the COUNTY, at another location within Los Angeles County, all of the books and records of Borrower relating to the operation of the Project or this Agreement. All such books and records shall be maintained by Borrower. In the event any litigation, claim or audit is started before the expiration of the 5-year period, said books and records shall be retained until all litigation, claims, or audit findings involving said books and records shall have been resolved. The COUNTY agrees to maintain the confidentiality of all the information contained in the book and records of the Borrower, in accord with Agreement.

F. Other Reports. Upon seventy-two (72) hours written notice, at any reasonable time, Borrower shall prepare and submit to the COUNTY, in addition to the books and records described above, all additional reports and any financial, program progress, monitoring, evaluation or other reports required by HUD or the COUNTY or its

representatives as they relate to the Project or this Agreement. Borrower shall ensure that its employees, agents, officers, and board members furnish such information, which in the reasonable judgment of COUNTY representatives, may be relevant to a question of compliance with this Agreement or HUD directives, or with the effectiveness, legality and achievements of the CDBG Program as they relate to the Project or this Agreement. Borrower shall retain all existing records and data relating to the Project for a five (5) year period after the expiration of the Term. In the event any litigation, claims or audit is started before the expiration of said 5-year period, said books and records shall be retained until all litigation, claims or audit findings involving said books and records have been resolved.

G. Indemnification. Borrower agrees to and does hereby indemnify, defend and save harmless the COUNTY, the County of Los Angeles (the “County”), and their respective agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees of counsel acceptable to the COUNTY, and claims (collectively, “Claims) for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage, arising from or connected with the Project (except to the extent caused by the gross negligence or willful misconduct of the COUNTY or the County or their employees), and including any workers’ compensation suits, liability or expense arising from or in connection with services performed on behalf of Borrower by any person pursuant to this Agreement.

H. Audit by State and Federal Agencies. Borrower agrees that in the event this Agreement or the Loan is subjected to audit, monitoring or other inspections by appropriate state and federal agencies, it shall be responsible for complying with such inspections and paying, on behalf of itself and the COUNTY, the full amount of the liability to the funding agency resulting from such inspections in the event such liability results from a failure by Borrower to satisfy applicable law or its obligations under this Agreement.

I. Program Evaluation and Review. Borrower shall, during regular business hours, allow COUNTY authorized personnel to inspect and monitor its facilities and program operations as they relate to the Project or this Agreement, including the interview of Borrower's staff and program participants, as reasonably required by the COUNTY during the Term.

J. Hazardous Materials. Borrower covenants and agrees that, during its ownership and/or occupancy of the Site, it shall not (i) knowingly deposit "Hazardous Materials" (as defined below) in, on or upon the Site, or (ii) knowingly permit the deposit of Hazardous Materials in, on or upon the Site, and Borrower hereby assumes any and all liability arising in connection with any such deposit of Hazardous Materials; provided, that this sentence shall not be construed or understood to prohibit Borrower from allowing Hazardous Materials to be brought upon the Site so long as they are materials which are used in the normal course of business, and so long as such materials are used, stored and disposed of in accordance with all applicable governmental restrictions.

Borrower agrees to indemnify, defend and hold the COUNTY harmless from and against any claims respecting the presence of Hazardous Materials in, on or upon the Site to the extent such Hazardous Materials are brought thereon by or on behalf of Borrower, its employees, agents or contractors.

For purposes of this Agreement, the term “Hazardous Materials” means, without limitation, gasoline, petroleum products, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls or related or similar materials, asbestos or any other substance or material as may now or hereafter be defined as a hazardous or toxic substance by any federal, state or local environmental law, ordinance, rule or regulation, including, without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 6901 et seq.), (ii) the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), (iii) the Clean Air Act (42 U.S.C. Section 7401 et seq.), (iv) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. Section 6902 et seq.), (v) the Toxic Substances Control Act (15 U.S.C. Section 2601-2629), (vi) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), (vii) the Carpenter-Presley-Tanner Hazardous Substance Account Act (CA Health & Safety Code Section 25300 et seq.), (viii) the Hazardous Waste Control Law (CA Health & Safety Code Section 25100, et seq.), (ix) the Porter-Cologne Water Quality Control Act (CA Water Code Section 13000 et seq.), (x) the Safe Drinking Water and Toxic Enforcement Act of 1986, (xi) the Hazardous Materials

Release Response Plans and Inventory (CA Health & Safety Code Section 25500 et seq.), (xii) the Air Resources Law (CA Health & Safety Code Section 39000 et seq.), or (xiii) in any of the regulations adopted and publications promulgated pursuant to the foregoing.

K. Insurance. Borrower shall procure and maintain at Borrower's expense and until such time as Borrower has repaid the entire outstanding principal balance and accrued interest on the Loan, the following insurance, for which the COUNTY shall be named as additional named insured, against claims for injuries to persons or damages to property which may arise from or in connection with the development and operation of the Project by the Borrower, and their agents, representatives, employees or subcontractors.

(1) COMPREHENSIVE GENERAL LIABILITY: \$1,000,000 combined single limit for each occurrence (\$2,000,000 General Aggregate) for bodily injury, personal injury and property damage, including products and completed operations coverage.

(2) AUTOMOBILE LIABILITY: \$1,000,000 combined single limit per accident for bodily injury and property damage covering owned, non-owned and hired vehicles.

(3) WORKERS' COMPENSATION as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

(4) "ALL RISK" property insurance covering the full replacement value of all buildings and equipment of the Borrower. The COUNTY shall be named as an insured under a standard loss payable endorsement.

Any self-insurance program by Borrower or any self-insured retention must be separately approved by COUNTY.

Each insurance policy shall be endorsed to state that coverage shall not be canceled by either Party, reduced in coverage or in limits except after (30) days prior written notice has been given to COUNTY. Acceptable insurance coverage shall be placed with carriers admitted to write insurance in California which carriers shall have a rating of or equivalent to A: (VIII) by A.M. Best & Company. Any deviations from this rule shall require specific approval in writing.

Borrower shall furnish COUNTY with certificates of insurance and with original endorsements effecting coverage as required above. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Borrower shall be permitted to satisfy the insurance requirements set forth in this Section 9 (K) pursuant to a blanket policy of insurance maintained by Borrower so long as the coverage under such blanket policy satisfies the coverage requirements specified hereinabove.

Failure on the part of Borrower to procure or maintain the insurance coverage required above shall constitute a material breach of this Agreement by Borrower pursuant to which the COUNTY shall be entitled to all rights and remedies under this Agreement as specified in Sections 14 (B) and (C) below. No modification or waiver of the insurance requirements set forth herein shall be made without the prior written approval of the Executive Director of the COUNTY or any other officer or agent of COUNTY designated in writing by the Executive Director.

L. County Lobbyist Ordinance. Borrower and each County lobbyist or County lobbyist firm (“Lobbyist”) (as defined in Los Angeles County Code Section 2.160.010) shall fully comply with the requirements (the “County Lobbyist Requirements”) as set forth in Los Angeles County Code Chapter 2.160 (County Ordinance 93-0031).

The Borrower shall certify in writing that it is familiar with the Los Angeles County Code Chapter 2.160 and that all persons acting on behalf of the Borrower will comply with the County Lobbyist Requirements.

Failure on the part of the Borrower and/or the Lobbyist to fully comply with the County Lobbyist Requirements shall constitute a material breach of this Agreement by the Borrower upon which the COUNTY may declare immediately due and payable all outstanding principal and all accrued and unpaid interest on the Loan. In addition, the Borrower may be subject to civil action.

M. Federal Lobbyist Requirements. The Borrower is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments and HUD's 24 Code of Federal Regulations (CFR) 87 (the "Federal Lobbyist Requirements"), from using federally appropriated funds for the purpose of 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, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents.

N. Contractor's Warranty Of Adherence To County's Child Support Compliance Program. Contractor acknowledges that the County of Los Angeles, hereinafter referred to as "County", has established a goal of ensuring that all individuals who benefit financially from County or Commission through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this Agreement to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall

implement all lawfully served Wage and Earnings Withholding Orders or District Attorney Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family code Section 5246(b).

O. Termination For Breach Of Warranty To Maintain Compliance With County's Child Support Compliance Program. Failure of Contractor to maintain compliance with the requirements set forth in Paragraph N, "Contractor's Warranty of Adherence to County's Child Support Compliance Program" shall constitute a default by Contractor under this Agreement. Without limiting the rights and remedies available to County or Commission under any other provision of this Agreement, failure to cure such default within ninety (90) days of notice by the Los Angeles County District Attorney shall be grounds upon which the Board of Commissioners may terminate this Agreement as an event of default under Section 14 (A) (1).

P. Post Most Wanted Delinquent Parent List. Contractor acknowledges that the County places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is County's and Commission's policy to voluntarily post a list entitled "L.A.'s Most Wanted: delinquent Parents" poster in a prominent position at Contractor's place of business. District Attorney will supply Contractor with the poster to be used.

Q. Notice To Employees Regarding The Federal Earned Income Credit. Contractor shall notify its employees, and shall require each subcontractor to notify its

employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

R. Use Of Recycled-Content Paper Products. Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible in relation to its provision of service hereunder.

S. Other Requirements. Borrower shall, during the Term, comply with any other applicable requirements of a subrecipient of CDBG funds including without limitation compliance with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)), and any other applicable laws including any laws respecting relocation, displacement and federal labor standards requirements.

## **10. DISCRIMINATION**

Borrower and the COUNTY agree that no person shall, on the grounds of race, sex, creed, color, religion, national origin, or age be excluded from participation in, be refused the benefits of, or otherwise be subjected to discrimination in any activities, programs, or employment supported by this Agreement. Borrower shall comply, with all applicable regulations set forth in 24 CFR 570.600-602, including without limitation, the requirement that Borrower comply with Title VI of the Civil Rights Act of 1964 (Public

Law 88-352) and regulations at 24 CFR Part 1; Section 109 of the Act and the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and Executive Order 11246 and the regulations issued pursuant thereto (41 CFR Chapter 60), if applicable; and the requirements of the Americans With Disabilities Act (42 U.S.C. 12101-12213).

**11. INDEPENDENT CONTRACTOR**

In their performance of this Agreement, the Parties will be acting in an independent capacity and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the agents or employees of the other Party for any purpose whatsoever, including workers' compensation liability. Borrower shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any person for injuries arising from or connected with services performed on behalf of Borrower pursuant to this Agreement.

**12. ASSIGNMENT; ACCELERATION**

So long as there is no Event of Default outstanding and provided Borrower obtains the prior express written consent of the COUNTY in each instance, such consent not to be unreasonably withheld, this Agreement and the rights and obligations of Borrower hereunder shall be assignable by Borrower. The refusal of the COUNTY to consent to any such proposed assignment shall be deemed to be reasonable if the COUNTY, in its

sole but reasonable discretion, determines that the proposed assignee does not possess (i) adequate experience in operating a project of a nature similar to that of the Project contemplated by this Agreement, (ii) a high-quality reputation, or (iii) the financial capacity of assignee is inadequate to operate the Project. The COUNTY's consent to any such assignment of Borrower's rights and obligations under this Agreement shall be expressly conditioned upon and any such assignment shall not be effective unless and until (i) execution and delivery by the proposed assignee to the COUNTY of such documents as required by the COUNTY including, without limitation, any and all documents deemed necessary by the COUNTY to provide for said assignee's assumption of all of the obligations of Borrower hereunder, including without limitation all covenants of Borrower relating to the creation and retention of low and moderate income jobs in connection with the operation of the Project, (ii) the proposed assignee causes the issuance to the COUNTY of a Letter of Credit satisfying all of the requirements set forth in this Agreement including without limitation the requirement that the Letter of Credit be issued by a bank acceptable to the COUNTY in its sole discretion. No approved assignment by Borrower hereunder shall in any way amend or modify the terms of this Agreement including specifically but without limitation the right of the COUNTY to require prepayment of all or any portion of the Loan at any time on no less than ten (10) days written notice as provided in Section 4 above.

Notwithstanding the current execution of any assignment documentation between Borrower and Assignee, the assignment to Assignee of Borrower's rights and obligations under this Agreement shall not be effective (and not recognized by the COUNTY) unless

and until Assignee executes and delivers to the COUNTY such documents as required by the COUNTY including, without limitation, any and all documents deemed necessary by the COUNTY to provide for the Assignee's assumption of all of the obligations of Borrower hereunder, including without limitation all covenants of Borrower relating to maintenance of the Letter of Credit (with Banque Nationale de Paris or a Bank acceptable to the COUNTY in its sole discretion) and the creation and retention of low and moderate income jobs in connection with the operation of the Project. The assignment by Borrower to Assignee hereunder shall in no way constitute an amendment or modification of the terms of this Agreement or an amendment, modification, release, limitation, extension, waiver or delay of the COUNTY's rights under this Agreement including specifically but without limitation the COUNTY's rights and remedies respecting any Event of Default outstanding at the time of the effectiveness of such assignment and the right of the COUNTY to require prepayment of all or any portion of the Loan at any time or no less than ten (10) days written notice as provided in Section 4 above.

Notwithstanding anything which may be or appear to be herein to the contrary, no purported assignment of this Agreement shall be effective if such assignment would violate the terms, conditions and restrictions of the CDBG or any other Laws, Regulations and Guidelines applicable to this Agreement or such assignment.

Except as otherwise expressly permitted as provided hereinabove in this Section 12, any attempt by Borrower to assign any performance or benefit under the terms of this

Agreement, without the prior written consent of the COUNTY as provided hereinabove, shall be null and void and shall constitute a material breach of this Agreement. In the event of a sale or transfer of Project (other than an encumbrance of the Site for security purposes) without an assignment of this Agreement approved in writing by the COUNTY, the COUNTY may, at its option, declare the entire principal balance of the Loan and all accrued and unpaid interest thereon immediately due and payable.

**13. FISCAL LIMITATIONS**

The United States of America through HUD, may in the future place programmatic or fiscal limitations on CDBG funds not presently anticipated. Accordingly, the COUNTY reserves the right to revise this Agreement in order to take account of actions affecting HUD program funding. In the event of funding reduction, the COUNTY may reduce or eliminate the Loan in its entirety.

**14. EVENTS OF DEFAULT AND REMEDIES**

A. Events of Default. The occurrence of any of the following shall, after the giving of any notice described therein, constitute an event of default (“Event of Default”) hereunder:

- (1) The failure of Borrower to pay or perform any covenant or obligation hereunder or under the terms of this Agreement and/or the

Note, without curing such failure within ten (10) days after receipt of written notice of such default from the COUNTY (or from any party authorized by the COUNTY to deliver such notice as identified by the COUNTY in writing to Borrower) or the failure of the Bank to honor any attempted draw on the Letter of Credit by the COUNTY in accordance with this Agreement. Provided, however, that if any default with respect to a non-monetary obligation is such that it cannot be cured within a 10-day period, it shall be deemed cured if Borrower commences the cure within said 10-day period and diligently prosecutes such cure to completion thereafter. Further provided, that the herein described notice requirements and cure periods shall not apply to the following (hereinafter, "Non-Curable Defaults"): (i) a failure by the Bank to honor any attempted draw on the Letter of Credit by the COUNTY made in accordance with the terms of this Agreement, or (ii) any Event of Default described in Sections 14 (A) (2) through 14 (A) (7) below;

(2) Any attempted assignment or transfer by Borrower not in compliance with Section 12 above;

(3) The falsity of any material representation or breach of any material warranty made by Borrower under the terms of this Agreement, the Note or any other document executed in connection herewith;

(4) A determination by the COUNTY or HUD that use of the Loan proceeds by Borrower does not constitute an eligible activity under the Act, 24 CFR 570.200 et seq., or other applicable regulations;

(5) Unless a replacement Letter of Credit is issued within 24 hours of notification to the Borrower, any material provision of the Letter of Credit shall at any time for any reason cease to be valid and binding on the Bank, or the validity or enforceability thereof shall be contested by the Bank or any governmental agency or authority, or the Bank shall deny it has any further liability or obligation thereunder, or the then issued Letter of Credit is not renewed or a replacement Letter of Credit acceptable to the COUNTY is not issued at least thirty (30) days prior to expiration of the then issued Letter of Credit if such originally issued Letter of Credit has an expiration date which is prior to one hundred (100) days after the Maturity Date of the Note;

(6) Borrower shall either (a) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like for any of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding; or

(7) If without the application, approval or consent of Borrower, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Borrower, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like for Borrower or of

all or any substantial part of Borrower's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Borrower, in good faith, the same shall (a) result in the entry of an order for relief or any such adjudication or appointment, or (b) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days.

B. Remedies. Upon the occurrence of an Event of Default hereunder, the COUNTY may, in its sole discretion, take any one or more of the following actions:

(1) By notice to Borrower (unless an Event of Default is a Non-Curable Default as defined in Sections 14 (A) (1) through 14 (A) (7) above in which case no notice shall be required), declare the entire principal balance of the Loan then unpaid together with interest accrued thereon immediately due and payable, and the same shall become due and payable without further demand, protest or further notice of any kind, all of which are expressly waived. Upon such declaration and in the event of a failure by the Bank to honor any attempted draw on the Letter of Credit by the COUNTY made in accordance with the terms of this Agreement in connection with such declaration, outstanding principal and (to the extent permitted by law) interest shall thereafter bear interest ("Default Interest") at the annual rate of interest equal to the lesser of (i) four percent (4%) above the rate of interest announced from time to time by Wells Fargo Bank, Downtown Los Angeles Branch (or, in the event that said bank is acquired or ceases operations, then the successor bank or, if there is no successor bank, another established and financially secure institutional lender selected by the COUNTY), as its

prime or reference rate, or (ii) the maximum rate of interest permitted to be paid to the COUNTY pursuant to any applicable usury law, payable from the date of such declaration until paid in full;

(2) Take any and all actions at law or in equity as may appear necessary

or

desirable, in the sole discretion of the COUNTY, in order to collect the amounts then due and thereafter to become due hereunder and under the Note, and to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement or under any other document executed in connection herewith;

(3) Take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute to enforce and collect upon the Note;

(4) Upon the occurrence of an Event of Default which is occasioned by Borrower's failure to pay money under this Agreement, the COUNTY may, but shall not be obligated to, make such payment from Loan proceeds or other funds of the COUNTY. If such payment is made from proceeds of the Loan or other funds of the COUNTY, Borrower shall deposit with the COUNTY, upon written demand therefor, such sum plus interest at the Default Rate. In either case, the Event of Default with respect to which any such payment has been made by the COUNTY shall not be deemed cured until such

repayment (as the case may be) has been made by Borrower. Until repaid, such amounts shall have the security afforded disbursements under the Note; and/or

(5) Upon the occurrence of an Event of Default described in Section 14 (A) (6) or 14 (A) (7) hereof, the COUNTY shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for the whole amount owing and unpaid on the Loan and, in the case of commencement of any judicial proceedings, to file such proof of claim and other papers or documents as may be necessary or advisable in the judgment of the COUNTY and its counsel to protect the interests of the COUNTY and to collect and receive any monies or other property in satisfaction of its claim.

C. No Remedy Exclusive. No remedy herein conferred upon or reserved to the COUNTY is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now existing at law or in equity or by statute; and may be exercised in such number, at such times and in such order as the COUNTY may determine in its sole discretion. No delay or omission to exercise any right or power upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by the COUNTY. In order to entitle the COUNTY to exercise any right or remedy reserved to it under this Agreement, no notice shall be required except as expressly provided herein.

**15. DISBURSEMENT OF LOAN PROCEEDS**

Loan proceeds shall be disbursed by wire transfer (pursuant to wiring instructions to be provided by Borrower) or check to Borrower, within fourteen (14) days after the COUNTY's receipt of Borrower's written request therefor, and receipt of the Letter of Credit, and at such time as the COUNTY receives an installment of the required CDBG funds from HUD and the County, and provided that (i) all the other conditions set forth in Section 6 above have been satisfied, (ii) Borrower has submitted to the COUNTY, (1) an Application (s) and Certificate(s) for Payment, in the form of Exhibit "D" attached hereto (the "Borrower's Certificate"), completed by the Borrower, at least fourteen (14) days prior to the proposed date of the disbursement, and (iii) the COUNTY has not disapproved any such item or the amount indicated therefor. The COUNTY may disapprove any request for an item which it determines, in its sole and absolute discretion, violates or may violate any of the terms and conditions of this Agreement or the Laws, Regulations and Guidelines. In such case the COUNTY shall disburse the remainder of the request, subject to the terms and conditions set forth herein. Failure of the COUNTY to disapprove of any item in any request for disbursement shall not be construed as a representation, warranty, agreement or admission of the COUNTY that such disbursement complies with this Agreement or the Laws, Regulations and Guidelines, and Borrower shall remain responsible for assuring such compliance as provided elsewhere in this Agreement. Unless the proceeds of the Loan are being used to reimburse Borrower for amounts expended for CDBG eligible costs, Borrower shall

expend Loan proceeds immediately upon receipt and in no event later than seventy-two (72) hours after receipt thereof. Borrower must take the Initial Disbursement of Loan proceeds within ninety (90) days after the date of execution of this Agreement by the COUNTY.

**16. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES**

Borrower agrees to pay or reimburse the COUNTY, upon demand by the COUNTY, for all reasonable out-of-pocket costs incurred by the COUNTY in connection with the enforcement of this Agreement, the Note, including without limitation, reasonable attorneys' fees and costs (i) if the COUNTY shall determine to utilize an attorney to collect any sums due under this Agreement or any other documents executed in connection with this Agreement following any default by Borrower, or (ii) if the COUNTY becomes a party or otherwise appears in any legal proceeding relating to this Agreement or any documents issued hereunder or in connection herewith, or (iii) if there shall be filed by or against Borrower any proceedings under any federal or state bankruptcy or insolvency laws, whether the COUNTY is a creditor in such proceeding or otherwise.

**17. CONFLICT OF INTEREST; NO INDIVIDUAL LIABILITY**

No official or employee of the COUNTY shall have any personal interest, direct or indirect, in this Agreement, nor shall any official or employee of the COUNTY

participate in any decision relating to this Agreement which affects such official's or employee's pecuniary interest in any corporation, partnership or association in which such official or employee is directly or indirectly interested. No official or employee of the COUNTY shall be personally liable in the event of a breach of this Agreement by the COUNTY.

**18. RIGHT OF ACCESS AND INSPECTION**

COUNTY shall have the right at any time during normal business hours and from time to time to enter upon the Site for purposes of inspection. If the COUNTY in its reasonable discretion determines that the Site is not being operated in conformity with this Agreement, or any Applicable Governmental Restrictions, the COUNTY may at its election, after notice to and consultation with the Borrower and affording the Borrower ten (10) days after such notice to cure the matter. Inspection by the COUNTY of the Project or the Site is not to be construed as an acknowledgment, acceptance or representation by the COUNTY or the County of Los Angeles that there has been compliance with any terms or provisions of this Agreement.

**19. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS OF BORROWER.**

Borrower hereby represents, warrants and covenants to the COUNTY that:

A. Organization and Standing. Borrower is a legal entity duly formed, qualified to operate in California and validly existing and in good standing in the State of California, and has all requisite power and authority to enter into and perform its

obligations under this Agreement, the Note, the Deed of Trust, the CC&Rs, and all other documents executed in connection herewith.

B. Enforceability. This Agreement, the Note, the Deed of Trust, the CC&Rs, and all other instruments to be executed by Borrower in connection with the Loan constitute the legal, valid and binding obligation of Borrower, without joinder of any other party.

C. Authorization and Consents. The execution, delivery and performance of this Agreement and all other instruments to be executed in connection herewith is consistent with the operating agreement, partnership agreement, or articles and bylaws governing Borrower, and have been duly authorized by all necessary action of Borrower's members, partners, directors, officers and shareholders.

D. Due and Valid Execution. This Agreement and all other instruments to be executed in connection herewith, will, as of the date of their execution, have been duly and validly executed by Borrower.

E. Licenses. Borrower will obtain maintain all material licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the Project.

F. Litigation and Compliance. There are no suits, other proceedings or investigations pending or threatened against, or affecting the business or the properties of Borrower (other than those as have been previously disclosed in writing to the COUNTY) which could impair its ability to perform its obligations under this Agreement, nor is Borrower in violation of any laws or ordinances which could impair Borrower's ability to perform its obligations under this Agreement.

G. Default. There are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute an “Event of Default” hereunder, as described in Section 14.

H. No Violations. The execution and delivery of this Agreement, the Note, and all other documents executed or given hereunder, and the performances thereunder by Borrower, as applicable, will not constitute a breach of or default under any instrument or agreement to which Borrower may be a party nor will the same constitute a breach of or violate any law or governmental regulation.

I. No Affiliation with Lenders. Borrower is not under common ownership or is otherwise affiliated with any lender extending any Project Loan (as defined in the Note).

**20. AMENDMENTS, CHANGES AND MODIFICATIONS**

This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of the Parties.

**21. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same document.

**22. NOTICES**

All notices to be given under this Agreement shall be in writing and shall be delivered personally, by Federal Express or other like overnight courier or by certified or registered United States Mail, return receipt requested. Any notice shall be effective upon delivery or refusal to accept delivery, if delivered personally, one (1) day after deposit with the overnight courier, if delivered by Federal Express or other like overnight courier, and two (2) days after mailing, if delivered by certified or registered United States Mail. Notices to the Borrower shall be sent to the following address:

Housing Authority of the County of Los Angeles  
Attn: Carlos Jackson  
2 Coral Circle  
Monterey Park, CA 91755

Notices, reports and statements to the COUNTY shall be delivered or sent to the following address:

Violet Varona-Lukens, Executive Officer  
Executive Office  
County of Los Angeles  
Kenneth Hahn Hall of Administration, Room 383  
500 West Temple Street  
Los Angeles, CA 90012

With a copy to: Los Angeles County Counsel  
Hall of Administration, Room 648  
500 West Temple Street  
Los Angeles, CA 90012  
Attn: Eric Young, Esq., Principal Deputy

Each Party shall promptly notify the other Party of any change(s) of address to which notice shall be sent pursuant to this Agreement.

**23. SEVERABILITY**

The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

**24. INTERPRETATION**

Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Agreement are for convenience only and do not define or limit any terms or provisions. Time is of the essence in the performance of this Agreement.

**25. NO WAIVER; CONSENTS**

Any waiver by the COUNTY must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure by the COUNTY to take action on account of any default of Borrower. Consent by the COUNTY to any act or omission by Borrower will not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the COUNTY's consent to be obtained in any future or other instance.

**26. GOVERNING LAW**

This Agreement shall be governed by the laws of the State of California.

**27. AUTHORITY AND ENFORCEABILITY**

The Borrower warrants and represents that its execution hereof has been authorized by its organizational documents and the governing board(s) of its general partner(s), as appropriate, that the individual(s) executing this Agreement are authorized to do so, and this Agreement constitutes a legal, valid and binding obligation of Borrower. The Borrower further agrees to provide such documentation and an opinion of counsel, as requested by the COUNTY, with respect to such authority and enforceability.

**28. LITIGATION AND COMPLIANCE**

To Borrower's actual knowledge, there are no suits, other proceedings or investigations pending or threatened against, or affecting the business or the properties of Borrower (other than those as have been previously disclosed in writing to the COUNTY) which could materially impair its ability to perform its obligations under this Agreement, nor is Borrower in violation of any laws or ordinances which could materially impair Borrower's ability to perform its obligations under this Agreement.

**29. DEFAULT**

To Borrower's actual knowledge, there are no facts now in existence which would, with the giving of notice of the lapse of time, or both, constitute an "Event of Default" hereunder, as described in Section 14.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above written.

“COUNTY”

“BORROWER”

COUNTY OF LOS ANGELES

HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES.

By: \_\_\_\_\_  
Don Knabe  
Chairman

By: \_\_\_\_\_  
Carlos Jackson  
Executive Director

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO PROGRAM

County Counsel

By: \_\_\_\_\_  
Cordé Carrillo  
Director, Economic/Redevelopment

By: \_\_\_\_\_  
Principal Deputy

EXHIBIT A  
PROMISSORY NOTE

For value received, the undersigned, **the Housing Authority of the County of Los Angeles**, whose address is **2 Coral Circle, Monterey Park, CA 91755** (“Borrower”), promises to pay to the order of the County of Los Angeles (“COUNTY”), a public body corporate and politic, at 500 West Temple Street, Los Angeles, CA 90012, Attention: Executive Officer (or at such other address as the COUNTY may direct), the principal sum of Six Million Two-Hundred Thousand dollars (\$6,200,000), or so much thereof as may be advanced hereunder from time to time, or on or before \_\_\_\_\_, 200 , (the “Maturity Date”), together with interest on the outstanding principal amount hereof at the rate of one percent (1%) per annum. Interest on the outstanding principal hereof shall be payable in arrears commencing on the first day of the calendar month immediately following the calendar month during which sums are first advanced hereunder and thereafter on the 1<sup>st</sup> day of each succeeding month. Interest shall be computed on the basis of actual number of days and a 365-day year.

If a payment of interest not timely made remains overdue for a period of ten (10) days after the same becomes due and payable, Borrower, without notice or demand by the COUNTY or any other holder, shall pay a late charge in an amount equal to five percent (5%) of the delinquent interest owing (the “Late Charge”). Borrower agrees that an amount equal to the Late Charge is a reasonable estimate of the damage to the COUNTY or other holder in the event of late payment of interest under this Promissory Note.

This Promissory Note is made pursuant to the terms of the Loan Agreement dated as of \_\_\_\_\_, 200 , (the “Agreement”) entered into between Borrower and the COUNTY, and is secured by a direct pay, irrevocable, unconditional and callable upon demand letter of credit (the “Letter of Credit”) issued by Northern Trust (or another bank acceptable to the COUNTY in its sole discretion) for the account of Borrower in favor of the COUNTY.

Borrower shall, upon demand by the COUNTY, pay to the COUNTY, Mandatory Prepayments (as hereinafter defined) of principal and interest at such times and in such amounts as the COUNTY may determine from time to time in its sole discretion. As used herein, “Mandatory Prepayments” means a demand for prepayment by the COUNTY for the partial or total prepayment of the principal and/or interest due on the loan evidenced by this Promissory Note. In the event of any Mandatory Prepayment, the COUNTY shall give Borrower ten (10) days to make required payment to the COUNTY.

Borrower shall also have the right to make optional prepayments, at any time, without penalty, upon at least ten (10) days prior written notice to the COUNTY.

Borrower agrees that it will still be liable for repayment of this Promissory Note, even if the holder hereof does not follow the procedures of presentment, protest, demand, diligence, notice of dishonor and of nonpayment, which requirements are hereby waived.

In the event of a default in the timely payment of principal and/or interest on this Promissory Note, and/or upon the occurrence of an Even of Default (as defined in the Agreement), the COUNTY may, subject to any applicable notice requirements set forth in the Agreement and among other remedies, declare the unpaid balance hereof, together with accrued interest hereon, to be immediately due and payable. Upon such declaration, outstanding principal and (to the extent permitted by law) interest shall thereafter bear interest at the annual rate of interest (the "Default Rate") equal to the lesser of (i) four percent (4%) above the rate of interest announced from time to time by Wells Fargo Bank, Downtown Los Angeles Branch (or, in the even that said bank is acquired or ceases operations, then by a successor bank or, if there is no successor bank, another established and financially secure institutional lender selected by the COUNTY), as its prime or reference rate, or (ii) the maximum rate of interest permitted to be paid to the COUNTY pursuant to any applicable usury law payable from the date of such declaration until paid in full.

It is the intention of Borrower and COUNTY to conform strictly to the usury laws that are applicable to this Promissory Note. This Promissory Note and any other agreements between Borrower and the COUNTY are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid or agreed to be paid to the COUNTY or the holder hereof exceed the maximum amount permissible under applicable usury laws. If under any circumstances fulfillment of any provision of this Promissory Note, the Agreement or any other agreement between Borrower and the COUNTY shall involve exceeding the limit of validity prescribed by the law, then the obligation to be fulfilled shall be reduced to the limit of such validity. All sums paid or agreed to be paid to the COUNTY or the holder, to the extent permitted by applicable law, and to the extent necessary to preclude exceeding the Limit of validity prescribed by law, shall be amortized, prorated, and allocated and spread from the date of disbursement of the proceeds of this Promissory Note until payment in full of this Promissory Note so that the actual rate of interest on account of such indebtedness is uniform throughout the term hereof.

Borrower is responsible for reimbursement to the COUNTY for all costs incurred in connection with the enforcement of this Promissory Note, including attorneys' fees and costs, whether or not suit is filed, as is further provided in Section 16 of the Agreement.

This Promissory Note shall be construed in accordance with and governed by the laws of the State of California. Borrower hereby submits to personal jurisdiction in Los Angeles County, California, for the enforcement of Borrower's obligations hereunder, and waives any defense to such jurisdiction, including, without limitation, any defense based on venue or inconvenient forum. Failure of the COUNTY to exercise any right or remedies hereunder shall not constitute a waiver of any future or other default. Amendments to this Promissory Note shall be in writing signed by the party against whom such amendment is sought to be enforced.

DATED AS OF: \_\_\_\_\_, 200 .

HOUSING AUTHORITY OF THE COUNTY OF LOS ANGELES.

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

\_\_\_\_\_  
Its: Executive Director

APPROVED AS TO FORM:  
County Counsel

By: \_\_\_\_\_  
Principal Deputy

**EXHIBIT B**

**IRREVOCABLE LETTER OF CREDIT**

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**DATE OF ISSUE:** \_\_\_\_\_

**DATE AND PLACE OF EXPIRY**

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**LETTER OF CREDIT NO.:**

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**BENEFICIARY:**

County of Los Angeles  
500 West Temple Street  
Los Angeles, CA 90012

Dear Sirs:

At the request and for the account of \_\_\_\_\_  
\_\_\_\_\_, we hereby establish in your favor our irrevocable letter of credit in the amount of  
\_\_\_\_\_ (\$ \_\_\_\_\_, United States Dollars)  
available with ourselves by payment of your draft(s) drawn on us at sight, each accompanied by  
your signed and dated statement in the form of the Annex attached hereto.

Each draft must be marked "Drawn under \_\_\_\_\_  
Bank, Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_, 2004".

Partial drawings under this letter of credit are permitted.

Each draft presented hereunder must also be accompanied by the original of this letter of  
credit upon which we may endorse the amount of our payment.

Each draft must be presented to us, on or before \_\_\_\_\_  
\_\_\_\_\_, 2004, on which date this letter of credit expires, at our above office.

We hereby engage with you that each draft drawn and presented to us under and in  
compliance with the terms of this letter of credit will be duly honored by us at or before our close  
of business on the same banking day of our receipt of such draft provided such draft is presented  
at or prior to 12:00 noon; otherwise, any draft presented after 12:00 noon shall be honored at or  
before our close of business on the first banking day following receipt of such draft. Each  
payment made by us hereunder shall be made in immediately available United States Dollars.

This letter of credit is subject to the Uniform Customs and Practice for Documentary  
Credits (1993 Revision) International Chamber of Commerce Publication No. 500.

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

**STATEMENT**

I, an authorized officer of the County of Los Angeles, hereby certify that the County of Los Angeles (the "County") is making demand for payment under \_\_\_\_\_ Bank, Letter of Credit No. \_\_\_\_\_ in respect of amounts (i) owed as of the date of this Statement by \_\_\_\_\_ (the "Borrower") under that certain Loan Agreement dated \_\_\_\_\_ by and between the Borrower and the Commission (the "Agreement"), and/or (ii) otherwise permitted to be drawn from said Letter of Credit as provided in the Agreement.

(Insert Date)

\_\_\_\_\_

County of Los Angeles

By: \_\_\_\_\_  
Violet Varona-Lukens, Executive Officer

**EXHIBIT C**

**APPLICATION AND CERTIFICATE FOR PROGRESS PAYMENT**

Project: \_\_\_\_\_

Site Address: \_\_\_\_\_

Requisition No.: \_\_\_\_\_

Amount:       \$ \_\_\_\_\_

SEE ATTACHED APPLICATION(S) AND CERTIFICATE(S) FOR PAYMENT

**Request for Payment**

I certify that the above requested draw/progress loan payment is consistent with and in accordance with the Loan Agreement dated \_\_\_\_\_, 2002, between the Housing Authority of the County of Los Angeles and the County of Los Angeles.

Borrower Name: \_\_\_\_\_

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

Its: \_\_\_\_\_

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**Authorization for Payment**

Approved for payment in the amount of:       \$ \_\_\_\_\_

County of Los Angeles

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

## Attachment B

## Description of Housing Authority Renovations

Project	Project Number	Project Mgmt	Estimated Goals	Description	Cost Estimate
<b>First District</b>					
Nueva Maravilla Irrigation System Repair	600633	CMD	1	Replacement of the sprinkler heads throughout the site including new master controllers and new wiring	\$500,000
Nueva Maravilla Electrical	600693-03	CMD	504	This continuing project is the final phase of the completely new state of the art underground electrical distribution system in the Nueva Maravilla Development. The project will include the placement of main lines, distribution lines, conduit, trenching, repair of landscaping, new meters, new transformers, new required connections, testing and corrections, and all related and incidental work	\$1,000,000
<b>Second District</b>					
South Bay Gardens Paint and Renovation/Balconies	600692-03	CMD	100	This continued project entails substantial interior and exterior rehabilitation including replacement of deteriorated common area flooring throughout and replacement of deteriorated rooftop-mounted Heating Ventilation Air Conditioning (HVAC) system. Exterior work involves refurbishing all balconies by replacing rotted substrate and framing, waterproofing and installing new railings. Rehabilitation activities will also include removing and replacing rotted wood siding and complete exterior patching and painting stucco	\$900,000
<b>Fourth District</b>					
Carmelitos Family Parking Lot and Sidewalks	600625	CMD	15	Replacement of the deteriorated existing parking lots	\$2,500,000
<b>District Wide</b>					
Senior Units Heater Replacement	600691-03	HMD / CMD Labor Compliance	1104	Replacement of unit heaters at Harbor Hills, Foothill Villa, Orchard Arms, and Carmelitos	\$1,300,000