

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
(CDBG)
PROGRAM INCOME (PI) REUSE PLAN
WITH
JURISDICTIONAL CERTIFICATIONS**

This Agreement provides official notification of the Jurisdiction's PI Reuse Plan's (hereinafter, "PI Reuse Plan") approval under the State's administration of the Federal Community Development Block Grant Program (hereinafter, "CDBG" or "the Program") for Non-entitlement jurisdictions pursuant to the provisions of 42 U.S. Code (U.S.C.) 5301 et seq., 24 Code of Federal Regulations (CFR) Part 570, Subpart I, and 25 California Code of Regulations (CCR), Sections 7050 et seq. The Program is listed in the Catalog of Federal Domestic Assistance as 14.228 - CDBG Community Development Block Grant Program.

By completing this PI Reuse Plan and signing the end of this document, the Authorized Representative certifies the Jurisdiction has read, understands and will adhere to the Program Income (PI) Reuse Plan detailed in the first section of this document, the PI definitions and rules in the second section of this document, and Department of Housing and Community Development (the Department herein) terms and conditions in the third section of this document.

SECTION ONE: PROGRAM INCOME (PI) REUSE PLAN

JURISDICTION: County of Monterey

GOVERNING BODY ADOPTED ON: _____

This PI Reuse plan establishes policies and procedures for the administration and utilization of PI received as a direct result of eligible activities funded under the State of California CDBG Program (Department). All revenue received from CDBG funded activities are required to be used per this adopted plan.

DISTRIBUTION OF PROGRAM INCOME

Introduction: There are six (6) methods of distribution for PI listed below. The four (4) non-Revolving Loan Account obligation methods are optional and can be used on a case-by-case basis as needed for activity funding by the Jurisdiction.

The use of one or more Revolving Loan Account (RLA) is mandatory under this adopted PI Reuse Plan.

The County of Monterey certifies that PI will only be distributed, as follows:

1. **Deposit into Revolving Loan Accounts (RLAs)**

The following RLAs are hereby established to utilize the _____ County of Monterey _____ PI. *If an RLA activity is not going to be utilized, zero percent (0%) is to be indicated in percentage area below.* One or more of the RLAs will be utilized annually. The allocation of receipted PI to each RLA is as follows:

- A. 67 (insert percentage, 0 to 100 percent (0%-100%)) of PI received will be deposited into the **Housing Rehabilitation – Single Family (1-4 Units) Revolving Loan Account (HR-RLA)**.
- B. 0 (insert percentage, 0 to 100 percent (0%-100%)) of PI received will be deposited into the **Homeownership Assistance Revolving Loan Account (HA-RLA)**.
- C. 33 (insert percentage, 0 to 100 percent (0%-100%)) of PI received will be deposited into the **Business Assistance Revolving Loan Account (BA-RLA)**.
- D. 0 (insert percentage, 0 to 100 percent (0%-100%)) of Receipted PI will be deposited into the **Microenterprise Financial Assistance Revolving Loan Account (ME-RLA)**.

2. **PI Waiver Activity**

The _____ County of Monterey _____ may utilize the Department’s PI Waiver process to commit PI to eligible activities that are not considered RLAs. The _____ County of Monterey _____ will follow all PI Waiver procedural requirements as stated in the Program Income chapter of the Grant Management Manual (GMM). The _____ County of Monterey _____ will obtain prior Department approval before expending any PI funds on a Waiver project. A PI Waiver project can only be approved if the total project/program cost for the proposed activity is on hand in the Jurisdiction’s PI account. The _____ County of Monterey _____ understands that PI Waiver activities are limited to two “active” projects and/or programs and will remain active until close out has been completed and approved by the Department.

3. **Committal to Funding Application**

The _____ County of Monterey _____ may choose to commit non-obligated RLA funds to one or more activities in an annual CDBG application for funding. Committed PI can only be expended when application and activities with committed PI are awarded, contracted, and have all special conditions cleared. PI committed to an application for grant funding must have the PI on hand at the time of application submittal and may not remove or add to the PI amount committed without prior Department approval.

4. **Augmenting Funding to An Awarded Activity/Project**

County of Monterey may request that the Department allow PI to be added to a funded activity/project due to a funding short fall. To obtain Department approval, the County of Monterey will submit justification to their CDBG Representative outlining in detail the need/reason for the augmentation of funding.

If the Department approves the augmentation (requires a Department contract amendment) the County of Monterey would need to complete a Citizen Participation process before the Department would begin a contract amendment process.

This option only applies to awarded activities/projects and the Department will not approve adding a new activity to an awarded contract.

5. **Fund Program Income General Administration (PI GA) Activities**

The County of Monterey may set aside up to seventeen percent (17%) of PI received from activities funded with CDBG funds for payment of eligible General Administration costs. The County of Monterey may choose to move the PI GA to eligible CDBG activities, as noted above, but once the funds are removed from the PI GA account they cannot be put back at a later date.

6. **Return to the Department**

The County of Monterey has the option to return PI back to the Department.

ADMINISTRATIVE PROCESS FOR DISTRIBUTION OF PROGRAM INCOME

Introduction: CDBG is a federal funding source and requires a Citizen Participation process as part of utilizing any of the six (6) methods of distribution for PI listed above.

Below is a general description of how to conduct proper Citizen Participation process for each of the six (6) distribution methods. See the Department's current Grant Management Manual (GMM) Chapter on Citizen Participation for specific information and sample documents.

County of Monterey certifies that:

1. The PI Reuse Plan will be formally adopted via public hearing and resolution of County of Monterey's Governing Body, executed by Authorized Representative and fully executed by the Department. After the PI Reuse Plan is executed, the Jurisdiction reserves the right to set aside up to seventeen percent (17%) of PI received for payment of eligible GA costs. RLA activities which have PI funds being deposited into them may be activated with written Departmental approval.

The PI Reuse Plan may be amended by the County of Monterey's Governing Body to change the distribution percentages in a RLA via public hearing and resolution, and receipt of the Department's written approval.

2. All PI Waiver requests will be submitted for the Department's written approval. After the Department's review of the activity for Eligibility and National Objective compliance, the PI Waiver will be formally adopted via public hearing and resolution of the County of Monterey's Governing Body, as part of the PI Waiver Special Condition Clearance process.
3. PI committed to an open CDBG Contract to augment funding for an activity or committed to a pending application for grant funds will be formally adopted via public hearing and approval via resolution for an annual application submittal. Department approval and PI must be on hand.
4. Once a PI Reuse Plan has been executed by the Department, it is then in effect. GA PI funds can then be expended for eligible costs. GA PI funds will not be expended once the Reuse Plan is terminated by either party or the Reuse Plan has reached the 5 year expiration.
5. PI will be returned to the Department after a public hearing and formal resolution is passed by the County of Monterey's Governing Body.
6. Each of the above administrative processes must be in compliance with the CDBG Citizen Participation process as specified in federal regulations at 24 CFR 570.486, Local Government Requirements.

ADMINISTRATION OF ELIGIBLE ACTIVITIES AFTER DISTRIBUTION

Introduction: Administration of all CDBG eligible activities conducted under the distribution methods must be conducted in compliance with all current State and federal regulations and policies.

The County of Monterey will follow the Department's guidance for administering RLA activities, PI Waiver activities, or activities funded with PI committed to an open grant contract per the Department's current GMM Chapter regarding PI.

If ineligible activities or costs are paid for with CDBG PI, those funds must be returned to the County of Monterey PI account using local jurisdiction funds.

1. RLA Administration

The County of Monterey certifies that the four RLAs under this PI Reuse Plan will be administered under the following criteria:

- A. RLAs with a balance must be "**substantially revolving**," which means on an annual basis at least 60 percent (60%) of the funds in an RLA must be used for loans which will be repaid to a PI account, based on the distribution noted in this plan. Up to the remaining 40 percent (40%) may be expended on non-revolving activities, which include Activity Delivery (AD), and grants for the same activity as the RLA.

Note: General Administration costs are not considered part of the jurisdiction's RLA Activities and should not be used in the consideration of "substantially revolving".

- B. A RLA which is the same activity as any funded open grant activity will be "substantially expended" before grant funds are requested for the grant activity.

The Department considers "substantially expended", to mean having no more than \$5,000 in a RLA.

- C. PI funds shall not be transferred between RLAs after execution of this Plan without following the proper CDBG Citizen Participation process, which includes a public hearing resulting in a certified resolution being submitted to the Department for written approval. However, the transfer of PI between RLAs each fiscal year, in the aggregate amount of \$5,000 or less, is not be subject to the Citizen Participation requirement, as stated above; but does require prior written Department approval.
- D. All PI funded activities shall be provided to project activities located within the boundaries of the County of Monterey.

If an additional jurisdiction(s) receives benefit, a Joint Power's Agreement (JPA) between Jurisdictions(s) is required. The County of Monterey must receive written approval from the Department prior to implementation and prior to parties' execution of the JPA between the parties.

- E. The County of Monterey will submit program guidelines specific to each RLA activity for written Department approval. Once approval is issued to the Jurisdiction, the RLA will then be deemed active.
- F. This PI Reuse Plan will not be executed by the Department until all RLAs have clear distribution percentages listed above, and have Department approved program guidelines.

All CDBG PI Reuse Plans are limited to a five (5) year term from the date of execution.

PI funds within an RLA cannot be expended until this PI Reuse Plan is executed.

- G. Reporting on RLAs and other PI Activities will be required per the Department's current policies, including financial accounting of PI received and expended for RLAs and other PI Activities. Additionally, PI performance (National Objective data and beneficiary demographics) reported as HUD required accomplishment information will be required to be submitted in a timely manner or the Jurisdiction understands that it will be required to repay a PI account for ineligible cost or activities.

- H. AD costs are **only eligible** if one or more projects are funded and accomplishments (such as beneficiaries), for those activity(ies), on an annual basis, are reported on.

2. **Eligible RLA Activities**

The four (4) RLA(s) listed below each have a single eligible CDBG program activity. The County of Monterey certifies that all CDBG rules pertaining to each eligible activity will be followed.

A. **Housing Rehabilitation Revolving Loan Account**

The CDBG eligible activity under this RLA is a single-family housing rehabilitation program. The program will be used for the purpose of making loans to rehabilitate residential units (1-4 units), occupied by income eligible households. The CDBG National Objective of benefit to Low/Moderate-income (Low/Mod) households will be met by limiting program participants to households that have an annual income at or below eighty percent (80%) of HUD median income limits for the County of Monterey's **county**. Households will be income qualified based on the income calculation method specified in 24 CFR Part 5, and in accord with the Department's Income Manual.

Rehabilitation of "projects" (projects with five (5) or more units on one site) is not allowed under this RLA. Projects with five or more units must be funded via the annual grant process or through the PI Waiver process.

Jurisdictions wishing to include tenant occupied projects for the Housing Rehabilitation program must submit separate (distinguishable from the Owner Occupied Housing Rehabilitation guidelines) guidelines outlining the unique tenant occupied rules and processes.

The review and funding of requests for CDBG loans or grant assistance under this RLA shall be conducted under the Housing Rehabilitation Program Guidelines that have been adopted by County of Monterey and approved in writing by the Department.

No more than 19 percent (19%) of program funds expended from this RLA shall be used for AD costs.

B. **Homeownership Assistance (Homebuyer) Revolving Loan Account**

The CDBG eligible activity under this RLA is acquisition of single family housing. The program will be used for the purpose of making loans to assist income eligible homebuyers to purchase a residential property (1-4 units). The CDBG National Objective of benefit to Low/Mod-income households will be met by limiting program participants to households that have an annual income at or below eighty percent (80%) of HUD median income limits. Households will be income qualified based on income calculation method specified in 24 CFR Part 5 and in accord with the Department's Income Manual.

The review and funding of requests for CDBG loans or grant assistance under this RLA shall be conducted under the Homeownership Assistance Program Guidelines that have been adopted by the County of Monterey and approved in writing by the Department.

No more than 8 percent (8%) of the funds expended from this RLA shall be used for AD costs.

C. Business Assistance Revolving Loan Account

The CDBG eligible activity of Special Economic Development will be conducted under this RLA. Specifically, the RLA will fund a business assistance program that provides direct financial assistance for eligible businesses that propose projects which create or retain permanent jobs. The CDBG National Objective being met by the Special Economic Development activity will typically be benefit to Low/Mod-income persons. As such, at least fifty one percent (51%) of the full time job positions created or retained will be made available to persons whose households have an annual income at or below 80 percent (80%) or less of the County of Monterey's county median income. Income eligibility is based on the income calculation method specified in 24 CFR Part 5, and in accord with the Department's Income Manual.

Business assistance projects under this RLA program may also meet the National Objective of elimination of slums and blight, but this must be approved by the Department in writing as part of the initial business's loan application.

Local review and underwriting of business assistance projects requesting a CDBG loan under this RLA shall be conducted under the Business Assistance Program Guidelines that have been adopted by County of Monterey and approved in writing by the Department.

Each individual project funding request made under this RLA program must be submitted for Department review and written approval, prior to closing the loan.

No more than 15 percent (15%) of the total funds expended for business assistance activities shall be used for AD costs.

D. Microenterprise Assistance Revolving Loan Account

The CDBG eligible activity of direct financial assistance to eligible microenterprise businesses will be conducted under this RLA. Specifically, the RLA will fund a microenterprise direct financial assistance program that provides financial assistance to start up or existing microenterprise businesses. Eligible businesses must meet the HUD definition of microenterprise. A microenterprise is defined as a business that has five (5) or fewer employees including the owner(s). The only CDBG National Objective which will be used for this activity is benefit to Low/Mod-income households. As such, micro business owners assisted

under this program must be documented as having an annual household income at or below 80 percent (80%) of the Jurisdiction's **county** median income, based on income calculation method specified in 24 CFR Part 5, and in accord with the Department's Income Manual.

Local review and underwriting of microenterprise business assistance projects requesting a CDBG loan or grant under this RLA shall be conducted under the Microenterprise Financial Assistance Program Guidelines that have been adopted by the County of Monterey and approved in writing by the Department.

Each individual project funding request made under this RLA program must be submitted for Department review and written approval, prior to closing the loan.

No more than 15 percent (15%) of the total funds expended for business assistance activities shall be used for AD costs.

3. Administration of Non-RLA Program Income Expenditures

A. Program Income Waiver Eligible Activities

County of Monterey certifies that the PI Waiver Submission Process below will be followed if a PI Waiver is to be requested:

- 1) This process will involve discussion at a properly noticed public hearing, held in front of the County of Monterey's Governing Body, and submission of a Certified Resolution as part of a PI Waiver Request to the Department, in accordance with current Department policy, and any subsequent policy, regulation, or statutory-guidance, in writing, from The Department.
- 2) Final commitment and expenditure of PI Waiver funds will not commence until clearance of all required Special Conditions have been met, and written Department approval has been issued to the County of Monterey.
- 3) Reporting on PI Waiver activities will take place per current Departmental policies and include financial accounting of PI received and expended for PI Waivers and PI Waiver activity performance.
- 4) PI Waiver activities must be fully funded with program income already on hand. Therefore, future PI may not be pledged to the PI Waiver activity.
- 5) Only two (2) PI Waiver agreements may be open and active at any one time.

B. Program Income Committed in an Annual Grant Application and Included in an Open Grant Agreement

County of Monterey certifies that the PI Committed to a funded Annual CDBG Application will be:

- 1) Funded with PI currently on hand;
Future PI may not be pledged to an open grant activity.
- 2) Expended first and prior to requesting grant funds;
- 3) Administered in accordance with terms and conditions of the grant contract with the Department; and,
- 4) Reported using the Department's current PI and fiscal reporting forms. All PI activity performance data will be reported using grant and fiscal reports.

C. Program Income Added to an Existing Open Grant

County of Monterey certifies that the PI committed to an existing CDBG Grant will be:

- 1) Approved by the Department, with a Grant Amendment fully executed before PI can be committed to a grant activity.
- 2) Funded with PI currently on hand.
Future PI may not be pledged to an open grant activity.
- 3) Expended first and prior to requesting grant funds.
- 4) Administered in accordance with terms and conditions of the grant contract with the Department.
- 5) Reported using the Department's current PI and fiscal reporting forms. All PI activity performance data will be reported using grant and fiscal reports.

4. Program Income General Administration (PI GA) Cost Limitation and Activities

County of Monterey certifies that no more than 17 percent (17%) of the total amount of PI received annually will be expended for PI GA costs. These funds will accumulate annually and be carried from one fiscal year to the next if unexpended.

If more funds are expended than what is available in PI GA, the Jurisdiction will be required to return the over-expended GA amount back into their PI Account. *Additionally, any ineligible PI GA costs will also be required to be returned to their PI Account.*

GA eligible costs for PI are the same as open grant agreements with the Department. See the current CDBG Grant Management Manual (GMM) for list of eligible activities and allowable costs.

PI GA activity costs will be reflected on fiscal reports submitted to the Department as per current reporting forms and policies.

A. Planning Activities

The County of Monterey reserves the option of utilizing PI, within the 17 percent (17%) PI GA annual cap to fund planning studies for CDBG eligible activities.

All proposed planning activities must receive written Department approval prior to expending PI on the activity.

Eligible planning activities funded with PI are the same as open grant agreements with the Department. See current NOFA for a list of eligible planning studies.

All planning activities must have a final product (report or study) resulting from the expenditure of PI.

Upon completion of the planning activity, the study must be formally accepted by the Jurisdiction and submitted to the Department for review.

The planning activity costs will be reflected on fiscal reports submitted to the Department.

B. Loan Portfolio and Asset Management Policies and Costs

The County of Monterey certifies that it has asset management policies and loan portfolio servicing policies that are in compliance with HUD standards per 24 CFR Part 570. The use of CDBG funds creates public financial assets. The public financial assets created can be in the form of loans or other repayment instruments which result in PI. Financial assets may also be in the form of real property or chattel (equipment and fixtures). All assets created from the use of CDBG funds must be administered in compliance with OMB Circulars A-87, A-122 A-133, 24 CFR Part 85.

Loan payment tracking and collection systems must be put in place for collection purposes of all loans funded with CDBG. In addition, loan servicing policies and procedures must be in place to service the loan assets, ensuring repayment.

Costs of managing the portfolio of CDBG funded loans may be charged to PI under GA within the allowable limits set by the Department.

SECTION TWO: JURISDICTION ASSERTIONS AND CERTIFICATIONS

1. Requirements of Program Income

The PI Reuse Plan is intended to satisfy the requirements specified in federal statute and regulation at Section 104(j) of the Housing and Community Development Act ("the Act"), as amended in 1992 and 24 CFR 570.489(e) and (f). These statutory and regulatory sections permit a unit of local government to retain PI for CDBG-eligible community development activities. Under federal guidelines adopted by the State of California's CDBG Program, local governments are permitted to retain PI as long as the local government has received advance approval from the State of a local plan that will govern the expenditure of the PI. This plan has been developed to meet that requirement.

County of Monterey certifies that their PI will be used to fund eligible CDBG activities that meet a National Objective and any public benefit requirements. Eligible activities, National Objective and public benefit requirements are specified in Federal Statute at Sections 104(b), 105(a) of The Housing and Community Development Act of 1974, and in Federal Regulations at 24 CFR 570.482 and 24 CFR 570.483. The Jurisdiction understands, if it is determined that an activity/project funded with PI that does not meet a National Objective and/or meet the public benefit requirement, the Jurisdiction will be required to use its own local funds to repay the PI Account.

2. Definition of Program Income

"Program Income" means gross income earned by the Jurisdiction from grant-funded activities and is subject to CDBG regulatory requirements pursuant to 24 CFR, Part 570.489(e) - Program Administrative Requirements as amended in the CDBG Final Rule, 24 CFR, Part 570.504 - Program Income, 24 CFR Part 85 - Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments, and OMB Circulars A-87 and A-122 as applicable. These regulations include the requirement that the Jurisdiction record the receipt and expenditure of PI as part of the financial transactions of the grant activity(ies).

For activities generating PI that are only partially funded with CDBG funds, such income is prorated to reflect the actual percentage of CDBG participation. Examples of PI include but are not limited to: payments of principal and interest on housing rehabilitation or business loans made using CDBG funds; interest earned on PI pending its disposition; interest earned on funds that have been placed in a revolving loan account; net proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds; and, income (net of costs that are incidental to the generation of the income) from the use or rental of real property that has been acquired, constructed or improved with CDBG funds and that is owned (in whole or in part) by the participating jurisdiction or sub-recipient.

3. Federal Nature of Program Income

County of Monterey certifies that per 24 CFR 570.489(e)(2)(i), as amended in the CDBG Final Rule May 23, 2012, all PI received through a RLA, will be counted as PI regardless of the amount, and all PI generated through an open grant that is \$35,000 or less may either be:

- A. Counted and reported as PI, allowing the Jurisdiction to include that amount in its PI GA (17%) calculation; or,
- B. Not counted as PI and reported as such, which “de-federalizes” the funds, and allows them to be deposited into the Jurisdiction’s General Fund. Supporting accounting records and documentation must be in the Jurisdiction’s file to substantiate the calculations reported.

If PI is generated from a loan that is made partially from a RLA and partially from another source, then the PI accounting and reporting must reflect the correct amounts and proportions of PI from the RLA (counted and reported as PI Income) versus the amount generated from the other source, which may be accounted for and reported using either of the methods above.

4. Definition of Excessive Program Income

County of Monterey certifies that if there is excessive PI (\$500,000 or more), which includes GA, at the end of the fiscal year they will be required to submit a plan (included in the Reporting form) for expending the funds to the Department for review and approval. The County of Monterey understands that if no plan is submitted, or the plan is not approved by the Department, it risks having to return the PI to the Department. The County of Monterey agrees to use the Semi Annual PI Report forms to describe the reason(s) for the excessive amount and the method(s)/plan(s)/reason(s) the County of Monterey will use to reduce the amount over the coming year.

Should the Jurisdiction choose to ‘accumulate’ PI to fund a project that will cost more than \$500,000, the Jurisdiction must identify the project in their Semi Annual PI Report form with a detailed narrative about the project and the expected timing for the project to start and complete, with completion including the meeting of a national objective. Approval of a PI balance above \$500,000 will be made on a case-by-case basis.

5. Reporting of Program Income

County of Monterey certifies that CDBG PI will be accounted for using the Department’s fiscal year (July 1 to June 30). All receipts and expenditures of PI in accordance with this PI Reuse Plan will be monitored and reported per the Department’s fiscal year cycle. County of Monterey certifies that they will report using the Department’s reports/forms and will submit them in a timely manner.

6. **Duration of This Program Income Reuse Plan**

County of Monterey and the Jurisdiction's Governing Body understand that this document is effective for five (5) years from the execution date by the authorized CDBG representative listed in this Agreement unless otherwise notified by the Department. The Department has the Authority to void the Agreement with notice for cause.

7. **Status of Program Income Upon Leaving State Non-Entitlement CDBG Program and Entering the CDBG Entitlement Program**

County of Monterey certifies that the Jurisdiction's Governing Body may move the PI earned under the State program to the Entitlement Program if/when the Jurisdiction is authorized and chooses to participate in the CDBG Entitlement Program provided the Jurisdiction's Governing Body certifies that the County of Monterey has:

- A. Officially elected to participate in the Entitlement Grant Program;
- B. Agrees to use such PI in accordance with Entitlement Program requirements; and,
- C. Sets up Integrated Disbursement Information System (IDIS) access and agrees to enter receipt of PI into IDIS.
- D. The County of Monterey submits the above to the State and receives the Department's approval to no longer report State CDBG PI to the Department.

8. **Status of Program Income Upon Entering the State Non-Entitlement CDBG Program from the Entitlement CDBG Program**

County of Monterey certifies that the Jurisdiction's Governing Body will inform the Department in writing of the Jurisdiction's decision to either:

- A. Retain program income generated under Entitlement grants and continue to comply with Entitlement program requirements for program income; or
- B. Retain the program income and transfer it to the State CDBG program, in which case the Jurisdiction will certify that it will comply with the state's rules for program income and the requirements of 24 CFR 570.489(e) and (f).

9. **Amendment of PI Reuse Plan**

County of Monterey certifies that it will adopt and submit for Department written approval a new version of this plan as updates are released by the Department.

SECTION THREE: DEPARTMENT TERMS, CONDITIONS AND AUTHORIZATION

TERMS AND CONDITIONS: County of Monterey certifies that all terms and conditions listed below have been read and understood, and will be implemented and followed:

1. **Authority & Purpose**

This Agreement provides official notification of the Jurisdiction's PI Reuse Plan's (hereinafter, "PI Reuse Plan") approval under the State's administration of the Federal Community Development Block Grant Program (hereinafter, "CDBG" or "the Program") for Non-entitlement jurisdictions pursuant to the provisions of 42 U.S. Code (U.S.C.) 5301 et seq., 24 Code of Federal Regulations (CFR) Part 570, Subpart I, and 25 California Code of Regulations (CCR), Sections 7050 et seq. The Program is listed in the Catalog of Federal Domestic Assistance as 14.228 - CDBG Community Development Block Grant Program.

In accepting the PI Reuse Plan Approval, the Jurisdiction agrees to comply with the terms and conditions of this Agreement, all exhibits hereto and the representations contained in the Jurisdiction's PI Reuse Plan. Any changes made to the PI Reuse Plan after this Agreement is accepted must receive prior written approval from the Department of Housing and Community Development (Department).

2. **Distribution for Reuse of PI**

- A. The Jurisdiction shall perform PI funded activities as described in the Distribution for Reuse in the PI Reuse Plan. All written materials or alterations submitted as addenda to the original PI Reuse Plan and which are approved in writing by the Department are hereby incorporated as part of the PI Reuse Plan.

The Department reserves the right to require the Jurisdiction to modify any or all parts of the PI Reuse Plan in order to comply with CDBG requirements. The Department reserves the right to review and approve all Work to be performed by the Jurisdiction in relation to this Agreement. Any proposed revision to the Work must be submitted in writing for review and approval by the Department and may require an amendment to this Agreement. Approval shall not be presumed unless such approval is made in writing by the Department.

- B. The PI funded activities shall principally benefit Low/Mod-income persons or households (Low/Mod) whose income is no more than 80 percent (80%) of the median area income.

3. Sufficiency of Funds and Termination

The Department may terminate this Agreement at any time for cause by giving at least 14 days written notice to the Jurisdiction. Termination shall consist of violations of any terms and/or special conditions of this Agreement, upon the request of HUD, or withdrawal of the Department's expenditure authority.

4. Meeting National Objectives

All activities performed under this Agreement must meet one of the National Objectives determined by the HUD regulations as included in the Application authorized under Title I of the Housing and Community Development Act of 1974, as amended.

- A. Benefit to HUD defined Low/Mod-income person or household (LMI). The term Low/Mod-income is defined under CDBG as no more than 80 percent (80%) of the median area income, as determined by HUD, per Federal Regulation 24 CFR, Part 570.483(b); and/or;
- B. Prevention or elimination of slums or blight. In order for an activity to meet the National Objective of elimination of slums and blight, the activity must take place in an area that meets the definition of a blighted area and the project must be shown to eliminate blight or prevent further blight per Federal Regulation 24 CFR, Part 570.483(c).
- C. For Microenterprise Assistance activities, the Jurisdiction must only meet the benefit to Low/Mod-income person or household (LMI) National Objective.

5. Inspections of Activities

- A. The Department reserves the right to inspect any activity(ies) performed hereunder to verify that the activity(ies) is in accordance with the applicable federal, State and/or local requirements and this Agreement.
- B. The Jurisdiction shall inspect any activity performed by contractors and subrecipients hereunder to ensure that the activity(ies) is in accordance with the applicable federal, State and/or local requirements and this Agreement.

The Jurisdiction agrees to require that all activity(ies) found by such inspections not to conform to the applicable requirements be corrected, and to withhold payment to its contractor or subcontractor, respectively, until it is so corrected.

6. Insurance

The Jurisdiction shall have and maintain in full force and effect during the term of this Agreement such forms of insurance, at such levels as may be determined by the Jurisdiction and the Department to be necessary for specific components of the activity(ies) described in this Reuse Plan.

7. Contractors and Subrecipients

- A. The Jurisdiction shall not enter into any agreement, written or oral, with any contractor or subrecipient without the prior determination that the contractor or subrecipient is eligible to receive CDBG funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
- 1) Contractors are defined as program operators or construction contractors who are procured competitively.
 - 2) Subrecipients are defined as public or private non-profit agencies or organizations and certain (limited) private for-profit entities who receive CDBG funds from an awarded jurisdiction to undertake eligible activities.
- B. An agreement between the Jurisdiction and any contractor or subrecipient shall require:
- 1) Compliance with the applicable State and federal requirements of this Agreement, which pertain to, among other things, labor standards, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace; and, Compliance with the applicable provisions relating to Labor Standards/Prevailing Wages. In addition to these requirements, all contractors and subcontractors shall comply with the applicable provisions of the California Labor Code.
 - 2) Maintenance of, at minimum, the State-required Workers' Compensation Insurance for those employees who will perform the activity(ies) or any part of it.
 - 3) Maintenance of, if so required by law, unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the activity(ies) or any part of it.
 - 4) Compliance with the applicable Equal Opportunity Requirements described in this Agreement.
- C. Contractors shall:
- 1) Perform the activity(ies) in accordance with federal, State and local housing and building codes, as are applicable.
 - 2) Provide security to assure completion of the project by furnishing the borrower and construction lenders with Performance and Payment Bonds, or other security approved in advance in writing by the Department.

D. Subrecipients shall:

- 1) Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of five (5) years from date of termination of this Agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement, and any amendments, whichever is later.
- 2) Permit the State, federal government, the Bureau of State Audits, the Department and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to the agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

8. **Obligations of the Jurisdiction with Respect to Certain Third Party Relationships**

The Jurisdiction shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Activities funded under this agreement with respect to which assistance is being provided under this Agreement to the Jurisdiction.

The Jurisdiction shall comply with all lawful requirements of the Department necessary to ensure that the Program, with respect to which assistance is being provided under this Agreement to the Jurisdiction, is carried out in accordance with the Department's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the Department under Section 104(g) of the Housing and Community Development Act of 1974.

9. **Periodic Reporting Requirements**

During the term of this Agreement, the Jurisdiction must submit the following reports by the dates identified, respectively, or as otherwise required at the discretion of the Department. The Jurisdiction's performance under this Agreement will be based, in part, on whether it has submitted the reports on a timely basis.

- A. **Semi-Annual PI Expenditure/Performance Report:** Submit by January 31 and July 31 of each year regardless of whether or not the Jurisdiction has any unspent PI. PI Waivers or open Grants with no accomplishment are not excluded to the reporting requirement.
- B. **Annual Federal Overlay Reporting:** Submit by July 31 starting from the contract effective date to subsequent June 30, and for each State Fiscal Year. Annual Reporting includes but is not limited to: Section 3, and Minority Owned Business/Women Owned Business (MBE/WBE).

- C. Wage Compliance Reports: Semi-annual Wage Compliance Reports are to be submitted by October 7 and April 7 during the entire construction period. The final Wage Compliance Report is to be submitted thirty (30) days after construction is completed.
- D. Any other reports that may be required as a Special Condition of this Agreement.

10. Monitoring Requirements

The Department shall perform a program and/or fiscal monitoring of the activity(ies). The Jurisdiction shall be required to resolve any monitoring findings to the Department's satisfaction by the deadlines set by the Department. If findings are not adequately resolved in a timely manner, the Department may deduct points from the Jurisdiction's performance score on future applications.

Additionally, the Department reserve the right to suspend a jurisdiction's authority to expend PI (Waiver, RLA and/or PI attached to an open grant) based on significant compliance issues, reporting concerns or serious lack of cooperation in clearing PI monitoring findings.

11. Signs

If the Jurisdiction places signs stating that the Department is providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the project that the Department is a source of financing through the CDBG Program.

12. Audit/Retention and Inspection of Records

- A. The Jurisdiction must have intact, auditable fiscal records at all times. If the Jurisdiction is found to have missing audit reports from the SCO during the term of this Agreement, the Jurisdiction will be required to submit a plan to the State, with task deadlines, for submitting the audit to the SCO. If the deadlines are not met, the Jurisdiction will be subject to termination of this Agreement and disencumbrance of the funds awarded. The Jurisdiction's audit completion plan is subject to prior review and approval by the Department.
- B. The Jurisdiction agrees that the Department or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Jurisdiction agrees to provide the Department or its designee with any relevant information requested and shall permit the Department or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60 et seq. The Jurisdiction further agrees to maintain such records for a period of five (5) years after final

payment under this Agreement. The Jurisdiction shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC 10115.10.

- C. An expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Jurisdiction.
- D. Absent fraud or mistake on the part of the Department, the determination by the Department of the allowability of any expenditure shall be final.
- E. For the purposes of annual audits under OMB Circular A-133 (The United States Office of Management and Budget Circular for Audits of States and Local Governments), Jurisdiction shall use the Federal Catalog Number 14.228 for the State CDBG Program.
- F. Notwithstanding the foregoing, the Department will not reimburse the Jurisdiction for any audit cost incurred after the expenditure deadline of this Agreement.
- G. The jurisdiction understands that the expenditure of PI is covered under the OMB A-133 Single Audit Requirements and will meet all these requirements and report said PI Expenditure along with grant funds each fiscal year.

13. Conflict of Interest of Members, Officers, or Employees of Contractors, Members of Local Governing Body, or other Public Officials

Pursuant to 24 CFR 570.611, no member, officer, or employee of the Jurisdiction, or its designees or agents, no member of the Governing Body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter. The Jurisdiction shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this Section.

14. Waivers

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement or to require at any time performance by the Jurisdiction of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

15. Litigation

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Jurisdiction shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

16. Lead-Based Paint Hazards

Activity(ies) performed with assistance provided under this Agreement are subject to lead-based paint hazard regulations contained in Title 8 (Industrial Relations) and Title 17 (Public Health) of the CCR and 24 CFR, Part 35 (Lead Disclosure). Any grants or loans made by the Jurisdiction with assistance provided under this Agreement shall be made subject to the provisions for the elimination or mitigation of lead-based paint hazards under these Regulations. The Jurisdiction shall be responsible for the notifications, inspections, and clearance certifications required under these Regulations.

17. Prevailing Wages

- A. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Jurisdiction shall ensure that the requirements of California Labor Code (LC), Chapter 1, commencing with Section 1720, Part 7 (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Jurisdiction and a licensed building contractor, the Jurisdiction shall serve as the "awarding body" as that term is defined in the LC. Where the Jurisdiction will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

18. Compliance with State and Federal Laws and Regulations

- A. The Jurisdiction agrees to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Jurisdiction, its subcontractors, contractors or subcontractors, and the Reuse activity(ies), and any other State provisions as set forth in this Agreement.
- B. The Jurisdiction agrees to comply with all federal laws and regulations applicable to the CDBG Program and to the activity(ies), and with any other federal provisions as set forth in this Agreement.

19. Anti-Lobbying Certification

The Jurisdiction shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this activity(ies) and that all subrecipients shall certify and disclose accordingly.

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 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

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

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and,
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions."

20. Bonus or Commission, Prohibition Against Payments of

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- A. Obtaining the Department's approval of the Application for such assistance; or,
- B. The Department's approval of the Applications for additional assistance; or,
- C. Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

21. Citizen Participation

The Jurisdiction is subject to the requirements concerning citizen participation contained in Federal Regulations at 24 CFR, Part 570.486, Local Government Requirements, Part 91.105 and 91.115.

22. Clean Air and Water Acts

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, Part 15, as amended from time to time.

23. Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. The Jurisdiction shall report all perceived or actual conflicts of interest cases to the State for review before financial benefits are given.

24. Environmental Requirements

The Jurisdiction shall comply with the provisions of the National Environmental Policy Act (NEPA) by following the procedures contained in 24 CFR, Part 58. The Jurisdiction shall not undertake any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives under 24 CFR, Part 58.22 until HUD or the Department has issued an environmental clearance.

25. Equal Opportunity

A. The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances

During the performance of this agreement, the Jurisdiction assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

B. Rehabilitation Act of 1973 and the "504 Coordinator"

The Jurisdiction further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR, Part 8, including, but not limited to, for Jurisdiction's with fifteen (15) or more permanent full or part time employees, the local designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator."

C. The Training, Employment, and Contracting Opportunities for Business and Lower-Income Persons Assurance of Compliance

- 1) The activity(ies) to be performed under this Agreement are subject to the requirements of Section 3 of the HUD Act of 1968, as amended, 12 U.S.C. 1701u. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in 24 CFR, Part 135.34(a)(2).
- 2) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- 3) The Jurisdiction will include these Section 3 clauses in every contract and subcontract for Work in connection with the activity(ies) and will, at the direction of the Department, take appropriate action pursuant to the contract or subcontract upon a finding that the Jurisdiction or any contractor or subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR, Part 135 and, will not let any contract unless the Jurisdiction or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- 4) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Agreement shall be a condition of the federal financial assistance provided to the activity(ies), binding upon the Jurisdiction, its successors, and assigns. Failure to fulfill these requirements shall subject the Jurisdiction, its contractors and subcontractors and its successors, to such sanctions as are specified by 24 CFR, Part 135 and those sanctions specified by this Agreement.

D. Assurance of Compliance with Requirements Placed on Construction Contracts of \$10,000 or More

The Jurisdiction hereby agrees to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246), the Standard Equal Employment Opportunity, and the Construction Contract Specifications. The Jurisdiction furthermore agrees to insert the appropriate Goals and Timetables issued by the U.S. Department of Labor in such contracts and subcontracts.

26. Flood Disaster Protection

- A. This Agreement is subject to the requirements of the Flood Disaster Protection Act (FDPA) of 1973 (Public Law 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under FDPA, Section 3 (a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to FDPA, Section 102(d) of said Act.
- B. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of FDPA, Section 102(a) of said Act.
- C. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain certain provisions. These provisions will apply if such land is located in an area identified by the Secretary of HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq.
- D. These provisions shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under FDPA, Section 102(s) of the Flood Disaster Protection Act of 1973. Such provisions shall be required

notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

27. Federal Labor Standards Provisions

The Jurisdiction shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

- A. Davis-Bacon Act (40 U.S.C. 3141-3148) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.
- B. "Anti-Kickback Act of 1986" (41 U.S.C. 51-58) prohibits any person from (1) providing, attempting to provide, or offering to provide any kickback; (2) soliciting, accepting; or attempting to accept any kickback; or (3) including directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.
- C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. 3702) requires that workers receive "overtime" compensation at a rate of one to one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- D. Title 29, Code of Federal Regulations CFR, Subtitle A, Parts I, 3 and 5) are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

The Jurisdiction shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request.

28. Procurement

The Jurisdiction shall comply with the procurement provisions in 24 CFR, Part 85.36: Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments.

29. Non-Performance

The Department shall review the actual National Objective and/or Public Benefit achievements of the Jurisdiction. In the event that the National Objective and/or Public Benefit requirements are not met, the Department will require the recapture of the entire PI expended on that project/activity. Additional remedies may include suspending the Jurisdiction's authority to use PI funds until the Jurisdiction has developed capacity to ensure future PI funds will be used for eligible activities that will meet a National Objective.

30. Relocation, Displacement, and Acquisition

The provisions of the Uniform Relocation Act, as amended, 49 CFR, Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 shall be followed where any acquisition of real property is carried out by the Jurisdiction and assisted in whole or in part by funds allocated by CDBG.

31. Uniform Administrative Requirements

The Jurisdiction shall comply with applicable Uniform Administrative Requirements as described in 24 CFR, Section 570.502, including cited Sections of 24 CFR, Part 85.

32. Section 3

The Jurisdiction will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing Regulations at 24 CFR, Part 135.

33. Affirmatively Furthering Fair Housing

The Jurisdiction will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the Jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

34. General Contract Conditions

The following conditions apply to all activities, including set aside activities. The Jurisdiction must meet the conditions within ninety (90) days of this Agreement's execution. Failure to meet the following Special Conditions may result in termination of this Agreement.

A. Environmental Compliance

The Jurisdiction shall have satisfied all National Environmental Policy Act (NEPA) requirements and California Environmental Quality Act (CEQA) requirements. CEQA shall be approved by the Jurisdiction. The level of compliance varies by activity. NEPA review must be completed by the Jurisdiction for each activity and approved in writing by Department staff prior to incurring costs on the activity(ies).

B. Acquisition/Relocation Compliance

The Jurisdiction must document its compliance with the Uniform Relocation Act, Section 104(d) before release of funds by the Department. The Jurisdiction must submit a specific relocation assistance plan for each activity which may result in temporary or permanent displacement. For projects where there will be temporary or permanent displacement, the Jurisdiction must submit signed General Information Notices (GINs) from

each tenant who was residing in the project at the time of Application submittal. If the Jurisdiction believes that there will be no displacement as a result of their activities, they must submit a letter explaining why no displacement or relocation will occur, which will be subject to written approval by the Department.

C. Site Control

The Jurisdiction shall demonstrate site control of the proposed project property by submitting evidence of one or more of the following to the Department:

- 1) Fee title;
- 2) A leasehold interest on the project property with provisions that enable the lessee to make improvements on and encumber the property provided that the terms and conditions of any proposed lease shall permit compliance with all Program requirements;
- 3) An option to purchase or lease;
- 4) A disposition and development agreement with a public agency;
- 5) A land sale contract, or other enforceable agreement for the acquisition of the property; or,
- 6) All easements and right-of-ways (required for completion of the CDBG project) must be obtained.

D. Funding Commitments and Project Cost Estimates

All funding required for project completion must be documented and committed. If all funding is not committed, the Department shall terminate this Agreement. If the Jurisdiction has applied for other funding prior to the execution of this Agreement, the Jurisdiction must notify the Department as soon as that application is approved or denied. If the Jurisdiction must apply for other funding after the execution date of this Agreement, the Jurisdiction must apply at the earliest possible opportunity offered by the other funding source(s) and notify the Department as soon as that application is approved or denied.

A current third-party cost estimate must be provided by the engineer or architect for the project.

E. Activity Administration Documentation

There are four methods of administering and/or completing RLA activities:

- 1) Use of in-house staff only;
- 2) Subrecipient agreement(s) with qualified non-profit(s);

- 3) Consultants/contractors/others obtained through federal procurement procedures; and,
- 4) Any combination of the above methods.

The Jurisdiction must provide the following documentation demonstrating that one or more of these methods were used for the GA of the RLA and for all activities carried out under this Agreement.

- 1) Use of in-house staff only: If not previously provided in the Application, submit staff resumes and duty statements that clearly identify that Jurisdiction staff has capacity and experience to complete administration of the proposed activities in the Application.
- 2) Subrecipient agreement(s) with qualified non-profit(s): Sub-recipients, and their respective agreements with the Jurisdiction must adhere to all Program requirements. Submit the subrecipient agreement that was executed between the non-profit and the County of Monterey. (Submitting draft documents for review prior to execution is recommended.) The scope of work in the subrecipient agreement must match the description of activity in this Agreement. Any parts of the activity description in this Agreement not covered by the subrecipient agreement must have separate procurement information. If the subrecipient is using CDBG funds to hire other consultants or subrecipients to do part or all of the Work then the procurement documentation or additional subrecipient agreements must be provided to the Department for review and approval.
- 3) Consultants: Submit procurement documentation that all third-party consultants are procured in accordance with Federal Procurement Procedures and the Grant Management Manual, as follows:

A copy of the document used to notify prospective consultants, such as a Request for Proposal or similar document.

A list of all bid respondents, showing respondents' contact information and the dollar amount of each proposal.

A brief description of the process used to select the consultant/contractor/other, including the rationale for the selection.

Additional information may be found in the Grant Management Manual, Program Operators.

F. Compliance With All Loans and/or Grant Agreements

Pursuant to this Agreement, the Jurisdiction must comply with State and Federal Laws and Regulations that pertain to matters applicable to the Jurisdiction. Prior to disbursement of any funds under this Agreement, the

Jurisdiction shall be in compliance with all loan and/or grant agreements to which it is a party, which are administered by the Department.

G. Easements and Rights-of-Way

If required for the completion of a CDBG project, the Jurisdiction must obtain all easements and rights-of-ways required for completion of the CDBG project within twelve (12) months of execution of this Agreement. Failure to obtain these may result in termination of this Agreement.

H. Section 504 Accessibility Requirements

- 1) Section 504 Regulations apply when CDBG funds are used on a new construction housing or public facility project or when an existing public facility or housing project with fifteen (15) or more units is being purchased and/or "substantially" rehabilitated. Qualified CDBG assisted housing projects are required to have a certain percentage of the units designed for and accessible to persons with mobility and sensory impairments.
- 2) For a federally assisted new construction housing project, Section 504 requires five percent (5%) of the dwelling units, or at least one unit, whichever is greater, to meet Uniform Federal Accessibility Standards or a standard that is equivalent or stricter, for persons with mobility disabilities. An additional two percent (2%) of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities.
- 3) Under Section 504, alterations are substantial (i.e. substantially rehabilitated) if they are undertaken to a housing project that has 15 or more units and the cost of the alterations is seventy-five percent (75%) or more of the replacement cost of the completed facility; and require that a minimum of five percent (5%) of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with mobility disabilities and an additional two percent (2%) of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with hearing or visual disabilities.
- 4) The Jurisdiction shall provide documentation satisfactory to the Department verifying that the required housing units or public facility described in the project comply with the accessibility standards. CDBG funds will not be released until the necessary documentation is provided. All CDBG funded programs must, to the greatest degree possible, be conducted in buildings which meet Section 504 accessibility standards.

I. Grantee's Data Universal Numbering System (DUNS)

The Jurisdiction shall provide the Department with a DUNS number for any contractor or subcontractor prior to release of any funds under this Agreement.

35. Community Development Activity Conditions

A. Homeownership Assistance

If the Work to be performed under this Agreement involves Homeownership Assistance, the following additional special conditions apply:

- 1) Program Guidelines: The Jurisdiction must submit a copy of its Homeownership Assistance Program Guidelines and its PI Re-Use Plan to the Department for review and approval within ninety (90) days of the execution date of this Agreement.
- 2) If the Jurisdiction proposed to assist homebuyers to purchase newly constructed units in its CDBG application under the Homeownership Assistance activity, the following requirements must be met:
 - a) The units must have been available for sale to the general public;
 - b) Development of the new subdivision must not be dependent upon the funding of the homebuyer loan;
 - c) CDBG funds shall not be used for construction; and,
 - d) Homeownership Assistance loans will not be approved prior to the foundation of the housing being in place.

B. Housing Rehabilitation

If the Work to be performed under this Agreement involves Housing Rehabilitation, the following additional special conditions apply:

- 1) Program Guidelines: The Jurisdiction must submit a copy of its Housing Rehabilitation Program Guidelines and its PI Re-Use Plan to the Department for review and approval.
- 2) Affordable Rent: If the Jurisdiction's Housing Rehabilitation Program provides for rehabilitating rental properties, the Jurisdiction must submit to the Department its provisions for assuring affordable rent for the LMI occupants. Jurisdiction may include this information as part of the Housing Rehabilitation Program Guidelines.

36. Economic Development Activity-Specific Conditions

A. Restrictions on CDBG-Assisted Public Property

CDBG funds can be used by the Jurisdiction to purchase or rehabilitate public property. The change of use of real property provisions contained in 24 CFR 570.489(i) apply to real property within the unit of general local government's control (including activities undertaken by subrecipients), which was acquired or improved in whole or in part using CDBG funds in excess of the threshold for small purchase procurement (currently \$100,000). The restrictions shall apply from the date CDBG funds are first spent for the property until five (5) years after completion of the project. See the Federal Regulations for the full text of this regulation. The Jurisdiction must provide documentation of proper restriction on assisted property.

B. Business Assistance Activity

- 1) Jurisdictions implementing Business Assistance (BA) Loans, shall submit program guidelines that ensure compliance with CDBG underwriting requirements as described in 24 CFR 570, Appendix A, "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements" and with public benefit requirements contained in 24 CFR 570.482(f).
- 2) Jurisdictions implementing a BA loan shall provide a written Employment Agreement required to be executed between the Jurisdiction and the business owner [requirements of the Employment Agreement are described in 24 CFR 570.506 (b), (5), and (6)]. The written Employment Agreement must include a commitment by the business that the jobs are to be created or retained by the termination date of this Agreement and that at least fifty-one percent (51%) of all jobs created or retained (on a FTE basis) will be held by LMI persons. The Employment Agreement shall specify that, prior to receiving assistance, the business shall agree to:
 - a) Provide a listing, by job title, of the permanent jobs projected to be created;
 - b) Identify which jobs, if any, are part-time and the annual hours of work for each position;
 - c) Identify which jobs are projected to be filled by LMI; and,
 - d) Provide periodic reporting (semi-annual) not limited to: listing jobs, by job title, of all the permanent jobs actually filled, and which of those jobs are held by members of the LMI.

C. Microenterprise Assistance Activities

- 1) Jurisdictions implementing a Microenterprise Assistance activity for technical assistance and/or microenterprise loans, shall submit program guidelines that ensure compliance with CDBG requirements. Specifically, guidelines must ensure that all beneficiaries of the program are eligible micro enterprises, per HUD definitions. A microenterprise must:
 - a) Have all owners of the business documented as meeting HUD family income eligibility standards; and,
 - b) Have documentation that the business's owners and employees are five (5) or fewer in number.
- 2) When implementing a Microenterprise Program, the program guidelines shall include the proposed benefits, eligible activities and ongoing evaluation of program services. The guidelines will include a Beneficiary Tracking Plan, which defines the goals; identifies the roles and responsibilities of the service providers; identifies the market and focuses the outreach; defines the screening and referral process; and, tracks the beneficiaries through the program's level of service. The Beneficiary Tracking Plan shall also describe the roles and responsibilities of the Jurisdiction and/or program operator for meeting the reporting requirements of the State CDBG Program.
- 3) When implementing a Microenterprise Program that is part of an integrally-related component of a larger project where non-LMI persons will be extended training and supportive services, shall submit guidelines including the methodology describing how CDBG funds will only be used towards the assistance of LMI to LMI persons under the Jurisdiction's activity.
- 4) Jurisdictions implementing a Microenterprise activity for loans to microenterprises made with Grant funds or PI funds, shall submit guidelines that ensure compliance with CDBG underwriting requirements as described in 24 CFR, Part 570, Appendix A, "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements."
- 5) If under this Agreement, a Microenterprise Façade Improvement activity is being implemented, the Jurisdiction shall submit program guidelines that ensure compliance with CDBG National Objective requirements, as described in 24 CFR 570, Appendix A, "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements."

D. Required Agreements for Assisted Businesses

The Jurisdiction shall execute a written agreement between the Jurisdiction and the business receiving CDBG funds (loans or grants) under this Agreement to ensure compliance with CDBG State and federal regulations. The written agreement shall contain language to ensure each business complies with the terms of this Agreement, Exhibit A, as well as each of the criteria as set forth in 24 CFR 570.506 (b)(4) and (c).

- 1) Each agreement between the Jurisdiction and the business(es) shall be submitted to the Department for review and written approval, prior to execution by the business and County of Monterey.
- 2) Each agreement shall require the business to report employee information periodically (semi-annual) to the Jurisdiction. The report shall list each job position by job title and number of annual hours worked and LMI status. The report shall list all the permanent jobs actually created or retained, and identify which of those job positions are held by members of the LMI. Additionally, the report shall include the demographics of job holders (ethnicity/race, disability, status, gender, and head of household status).
- 3) Each agreement shall require the business(es) submit a Data Universal Numbering System (DUNS) number and be verified as not being on the current federal debarred list, prior to receiving any CDBG financial assistance. The agreement shall require proof of proper insurance for secured collateral and protecting the Jurisdiction. The agreement shall reference this Agreement between the Department and the Jurisdiction. The agreement shall contain all other special conditions as directed by the Department or local loan committee. The agreement shall include but is not limited to the following conditions:
 - a) Maintaining a specific annual debt service level; and,
 - b) Requiring a quarterly review of the businesses financial statements with the owner and accounting staff.

37. Community and Economic Development Planning Activities

A. Non-Implementation Activity

In some cases, the Department may allow a Jurisdiction to first complete a Household Income Survey and/or a Market Study in order to document low-income benefit for the proposed study. In such cases, the Jurisdiction must conduct the survey according to CDBG standards and submit the survey for review and written approval by the Department, prior to initiating any further study activities. All Non-Implementing/Planning Activities pursuant to this Agreement must be funded with PI General Administration (PI GA).

B. Implementation Activity

Implementation Activities are not permitted under this Agreement using PI GA funds.

Certified Approving Resolution Is Attached

I certify that the foregoing is true and correct, and will follow all requirements of this agreement. I understand that my certification also acknowledges that serious compliance issue with the above requirements could result in the State suspending County of Monterey authority to expend PI or may require County of Monterey to return unused PI to the State until the County of Monterey clears the serious compliance issues.

Signature of Authorized Representative

Date Signed

Dave Spaur, Director of Economic Development
Name and Title of Authorized Representative

Signature of CDBG Section Chief

Date Signed

Thomas Brandeberry
Name of CDBG Section Chief