

SALT LAKE COUNTY
Contract No. _____

Program Year: _____
Project No(s): _____

**SUBGRANT AGREEMENT FOR THE CONDUCT OF A
HOME INVESTMENT PARTNERSHIPS PROGRAM**

Between
SALT LAKE COUNTY

and

PART I - GENERAL PROVISIONS

THIS SUBGRANT AGREEMENT is entered into and shall be effective as of the ____ day of _____, 20____, by and between SALT LAKE COUNTY, a body corporate and politic of the State of Utah, (the "COUNTY"), and _____, a _____ of the State of Utah, _____, Salt Lake City, Utah, _____, (the "GRANTEE").

RECITALS:

A. The COUNTY has entered into a grant agreement (the "Grant Agreement") with the United States Department of Housing and Urban Development ("HUD") for financial assistance to conduct a HOME Investment Partnership Program (the "HOME Program") pursuant to the HOME Investment Partnerships Act, located at Title II of the Cranston-Gonzales National Affordable Housing Act, 42 U.S.C. 12701-12839 (the "Act"), as amended, and subject to the Rules and Regulations, promulgated by HUD governing the conduct of HOME Investment Partnership Programs including, but not limited to, Title 24, Part 92 of the Code of Federal Regulations ("CFR") (the "Rules and Regulations"); and the applicable Circulars published by the U.S. Office of Management and Budget (the "OMB Circulars");

B. Based on recommendations made by the Salt Lake County Consortium Housing Committee, the Mayor of Salt Lake County approved the sub-grant of the funds described in this Agreement to be used for the purposes described herein on _____.

C. Under this Agreement the GRANTEE will receive HOME program funds from the COUNTY under the COUNTY's HOME Program and, therefore, this Agreement is a subgranting arrangement arrived at between the COUNTY and the GRANTEE.

THEREFORE, in consideration of the mutual promises, payments and other provisions hereof, the COUNTY and the GRANTEE agree as follows:

1. Content of this Agreement. This Agreement consists of this Part I - General Provisions and the following listed contract Parts and Attachments, together with all of the HOME Program requisites referred to in Paragraph 14 below whether or not they are attached:

(a) Attachment I Statement of Work (including all Sub-attachments if this Agreement covers more than one activity or project).

(b) Attachment II Budget (including all Sub-attachments if this Agreement covers more than one activity or project).

(c) Attachment III Project Schedule (including all Sub-attachments if this Agreement covers more than one activity or project).

2. Project Responsibility. The Community Resources and Development Division of the COUNTY ("CRD") is hereby designated as the representative of the COUNTY regarding all HOME Program matters and shall be responsible for the overall administration and management of that program and the manner in which the activities or projects described herein are conducted. In the administration of this Agreement, CRD shall coordinate with all COUNTY's agencies, as appropriate.

3. Statement of Work. The activities or projects to be conducted are listed in the COUNTY's Program Description as submitted to HUD for the HOME Program Year specified on Page 1 above, and are generally described in the Statement of Work, which is Attachment I hereto, and referred to hereinafter as the "Project(s)." The GRANTEE shall perform or cause to be performed all work required for the Project(s), and, in that performance, shall conduct all personnel staffing and contracting, provide all services, and furnish all related real and personal property required to successfully complete the Project(s), which shall be completed in a manner satisfactory to COUNTY and in accordance with this Agreement and its attachments.

4. Reporting Requirements.

(a) The GRANTEE shall file all reports and other information necessary to comply with applicable federal laws and regulations as required by the COUNTY and HUD. This shall include providing to the COUNTY information necessary to complete any required reports in a timely fashion.

(b) Status Reports. The GRANTEE shall prepare and submit to COUNTY every

month, or as otherwise specifically requested by COUNTY during the actual conduct of the Project(s), a detailed project status report on each Project. The report format shall be as approved by COUNTY and must show, at a minimum, the current performance status of the Project being reported, the costs and contractual commitments incurred to date on the Project and any HOME Program Income received to date on the Project. All other contents of the report shall meet the requirements of this Agreement and provide all data and information that COUNTY may need or require for coordinating, monitoring and evaluating the Project(s) through completion and for fulfilling COUNTY's reporting requirements to HUD in the overall administration of the HOME Program. Failure to submit said report may constitute grounds for the COUNTY to withhold program funds.

(c) The GRANTEE shall submit to the COUNTY an audit report or a year-end financial statement in a form acceptable to the COUNTY no later than six months after the end of the GRANTEE's fiscal year for every year in which funds for this Project are used. If GRANTEE is a local governmental entity or non-profit organization, it shall comply with the auditing requirements set forth in OMB Circular A-133, in addition to any auditing requirements imposed by COUNTY.

(d) The GRANTEE shall also submit in a timely fashion any additional reports required by the COUNTY.

5. Right To Audit. Notwithstanding any other provision of this Agreement, GRANTEE agrees the COUNTY may at its discretion audit or inspect GRANTEE at any time with or without prior notice. GRANTEE, as a condition of entering into this Agreement, agrees to make available for inspection and copying, without reservation, all documents which reflect GRANTEE's financial condition or operations, or which reflect GRANTEE's actions in connection with this Agreement. Such documents shall include, but not be limited to, all accounting records, books, ledgers, journals, financial statements, correspondence, memoranda, invoices, vouchers, checks, deposit slips, bank statements, contract leases, minutes, notes, and the like, and all project related information.

6. Recordkeeping.

(a) Records to be Maintained. The GRANTEE shall maintain all records required by the COUNTY that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- (i) Records providing a full description of each activity undertaken;
- (ii) Records demonstrating that the activity undertaken meets the requirements of the HOME Program;

- (iii) Records required to determine the eligibility of activities;
- (iv) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance, including but not limited to, records clearly identifying properties purchased, improved or sold;
- (v) Records documenting compliance with the federal housing and equal opportunity components of the HOME program;
- (vi) Financial records as required by 24 CFR Section 92.508 (a)(5) and by COUNTY;
- (vii) Records required, as applicable, by 24 CFR Section 92.508; and
- (viii) Reports as required by the COUNTY.

(b) Retention. The GRANTEE shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all affordability periods for activities funded with HOME funds under this Agreement, or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records regarding any displaced persons must be kept for five (5) years after he/she has received final payment. If any litigation or other action has been started before the end of the applicable retention period, records must be maintained until completion of the action and resolution of all issues which arise from it.

7. Period of Performance.

(a) The period of performance of this Agreement shall be _____ months which period shall begin on _____, and end on _____ or the until the completion of the required affordability period as set forth in 24 CFR Sections 92.252 and 92.254, and any other applicable provisions, whichever is the later date. In the event the date on which this Agreement is fully signed is more recent than the above beginning date, then this Agreement shall be considered to be retroactive and to have taken effect on the above beginning date. Subject to the provisions of Paragraph 15 below, entitled Notice to Proceed, all costs which are incurred on any of the Project(s) by the GRANTEE after the effective date of this Agreement and which have been determined by COUNTY to be appropriate and allowable costs of the Project(s) shall be eligible for reimbursement and payment.

(b) Performance of this Agreement shall be undertaken and completed by the GRANTEE in compliance with the Project Schedule specified in Attachment III and shall not extend beyond the end of the Period of Performance specified above unless this Agreement is

amended authorizing an extension of that period. All amendments of this Agreement, including extensions of time and termination, shall be accomplished in writing and in accordance with all requirements of Paragraph 10, entitled Changes, and shall comply with the requirements of 24 CFR Part 92.

8. Funding Amount; Allowable Costs.

(a) Subject to the requirements of this paragraph and of Paragraph 15, Notice to Proceed, the COUNTY will fund to the GRANTEE for the full performance of this Agreement and the actual conduct of the Project(s) up to a total amount of _____ Dollars, (\$ _____) for all Projects. This amount is a fixed ceiling amount and will be paid to reimburse the GRANTEE for its costs actually expended to perform the activities and/or provide the services required hereunder and to acquire the real and/or personal property required and used in or for the conduct of the Project(s); subject, however, to a determination by COUNTY, before payment, that the Notice to Proceed requirements contained in Paragraph 15 below have been satisfied and that all costs submitted for reimbursement or payment are allowable and eligible for payment under the HOME Program as legitimate Project costs as provided in 24 CFR Sections 92.206-92.209 and 92.214 and other applicable provisions within the Rules and Regulations, the applicable OMB Circulars and this Agreement. The above stated fixed ceiling amount may be considered as a “not-to-exceed” amount but shall not be considered as an “estimate-of-cost,” “percentage-of-cost” or any kind of “cost-plus” sum, price or amount. Also, as used in this Agreement, unless the context indicates otherwise, the words “expend,” “expended,” and “expenditure” shall include all amounts obligated or committed by the GRANTEE by written Agreement (including unilateral purchase orders) for expenditure on the Project(s).

(b) The GRANTEE must make a concerted, good-faith effort to expend the total funded amount specified above within the Period of Performance stated in Paragraph 7. The GRANTEE's costs and expenditures, however, shall not exceed that amount without a prior written Agreement to that effect and the COUNTY shall not be liable for or pay the GRANTEE for any extra costs or overruns on the Project(s) or any additional funding in excess of the total amount stated above; provided, however, this provision shall not prevent the total funded amount from being increased or decreased in accordance with Paragraph 10 of this Agreement entitled Changes.

(c) In the event the total funded amount to be disbursed by the COUNTY is not expended by the GRANTEE for eligible project costs by the end of the Period of Performance, as that period may have been extended or otherwise changed, the GRANTEE shall refund, release or transfer any unexpended amount back to the COUNTY unless a fully executed, written amendment to this Agreement shall provide otherwise.

9. Disbursement Procedures.

(a) The GRANTEE may request disbursement from the COUNTY of that part of the amount stated in Paragraph 8, relating to a particular Project, either on the basis of a lump sum reimbursement of the Project costs upon completion of the Project or on the basis of periodic reimbursement payments for eligible costs during the course of a Project as the funds for that Project are expended.

(b) A request by the GRANTEE for either a lump sum or for periodic reimbursement payments on a Project shall be in a form and content as prescribed by COUNTY and shall be submitted to COUNTY for review and for a determination of eligibility for payment. Requests for periodic payments shall not be submitted more frequently than once per month and shall be supported and documented as required by COUNTY on the basis of costs actually incurred by the GRANTEE on a Project during the period for which payment is requested.

(c) No requests for payments under this Agreement which are due to cost overruns of any kind on the Project(s) shall be approved, allowed or paid by the COUNTY unless the amount requested has been approved by a written amendment and authorized in accordance with the provisions of Paragraph 10 below.

(d) The GRANTEE shall not request disbursement of funds under the Agreement until the funds are needed for payment of eligible costs. The amount of each request shall be limited to the amount needed.

10. Changes.

(a) Either the COUNTY or the GRANTEE may request amendments to any of the provisions of this Agreement other than substantial changes in scope, purpose, location, or beneficiary, but no amendment shall be made or performed until it has been mutually agreed to by the parties or is required to be made pursuant to or because of changes in the federal, state or local laws, rules or regulations governing the conduct of the Project(s). All amendments shall be authorized by a duly executed modification of this Agreement prior to any work being done; except that amendments extending the Period of Performance, specified in Paragraph 7 of this Agreement, and adjustments to the Project Budget(s), specified in Paragraph 12 of this Agreement, only, may be authorized and given by COUNTY as provided below in Subparagraphs 10(b) and 12(b).

(b) All adjustments to the budget or extensions of time proposed for the performance of this Agreement shall be requested in writing by the GRANTEE and be submitted to COUNTY for approval and processing. Upon its approval, COUNTY shall add a signed, written endorsement to the GRANTEE's letter of request granting the adjustment or extension and that letter shall be attached hereto and shall be numbered and identified as a duly authorized written

amendment of this Agreement.

11. Assignment and Contracting. The responsibility for the performance of this Agreement shall not be assigned, transferred or contracted out by the GRANTEE without the prior, written consent of the COUNTY. Contracts or purchase orders by the GRANTEE for the acquisition of equipment, materials, supplies or services for the Project(s) do not require the consent of the COUNTY but shall be done in accordance with the competitive bidding requirements of the Rules and Regulations; the procurement requirements of 24 CFR Section 85.36 and any other applicable provisions; the procurement standards found in OMB Circular A-102, as applicable; and any applicable state laws and local government ordinances.

12. Project Budget.

(a) A budget must be prepared for each of the Project(s) and submitted to COUNTY for review and approval prior to the start of each of the Project(s), and the approved budget(s) must be attached to this Agreement as Attachment II, with a sub-attachment number for each Project, if appropriate, at the time of the execution. All budget(s) shall be prepared in a format that is acceptable to COUNTY and, in general, shall list the major cost elements of the Project.

(b) The GRANTEE shall adhere to the requirements of the budget(s) as approved by COUNTY but is not precluded from making changes in the amounts budgeted for the major cost elements within the budget(s) as such changes become necessary. All changes, within the budget(s), however, shall be reported to COUNTY in a timely manner for acceptance and approval. All proposed changes in the total amount of any "Fixed Total Project Costs" in any of the budgets(s) under this Agreement, or which would increase or decrease the total amount of funding specified in Paragraph 8(a) above shall be submitted to COUNTY for prior approval and must be formally authorized by a written amendment to this Agreement in accordance with the provisions of Sub-paragraphs 10(a) and (b) above.

13. Laws and Regulations. The GRANTEE shall administer this Agreement in compliance with all applicable federal, state, and local laws, ordinances, and regulations, including but not limited to the following:

(a) The requirements of 24 CFR Part 92, Subpart H and all other applicable provisions of the Rules and Regulations.

(b) No funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87); GRANTEE, if a public entity, shall also comply with the provisions of the Hatch Act (5 USC 1501-1508) and the Intergovernmental Personnel Act of 1970 as Amended by Title VI of the Civil Service Reform Act (Pub. L. 95-454 Section 4728), which limit political activities of public employees.

14. HOME Program Requirements. The GRANTEE shall administer this Agreement in compliance with 24 CFR Part 92, which is incorporated by reference, including, but not limited to the following:

(a) Affordability. The GRANTEE assures the COUNTY that housing assisted with HOME program and matching funds will meet the affordability requirements of 24 CFR Section 92.252 for rental housing or 24 CFR Section 92.254 for home ownership, as applicable, and guarantees repayment of funds if the housing does not meet said affordability requirements. Failure by the GRANTEE to maintain the affordability requirements, as applicable, shall be considered a breach of this Agreement, and, if the affordability requirements are not met, GRANTEE shall repay such funds regardless of any subordination or other agreement entered into by the COUNTY with other lenders of the Project(s).

(i) Enforcement. The parties specifically agree that for rental housing the COUNTY shall require means of enforcement which may include, but are not limited to, liens on real property, deed restrictions as required by 24 CFR Section 92.252, other deed restrictions, or covenants that run with the land as a means of ensuring compliance with affordability restrictions set forth above. For home ownership projects, the COUNTY shall impose either resale or recapture requirements as set forth in 24 CFR Section 92.254, as appropriate, based on the type of assistance provided. In addition to enforcement mechanisms that run with the land, the COUNTY may, in its discretion, choose to enforce the affordability requirements through a breach of contract action.

(ii) Remedies. GRANTEE acknowledges that the development of affordable housing provides significant intangible benefits to the COUNTY related to its obligation to provide for the health and safety of the community. GRANTEE further acknowledges that under HUD regulations, failure by GRANTEE to fulfill its obligations to maintain affordability as set forth above, could result in HUD, at any time in the future and at its sole discretion, requiring COUNTY to reimburse HUD, with non-federal funds, up to the full amount funded to GRANTEE under this Agreement. For these reasons, the damages to the COUNTY in the event GRANTEE breaches its obligation to maintain affordability would be extremely difficult to quantify; therefore, in addition to all rights and remedies afforded to the COUNTY under Paragraph 14(a)(i) above, should the COUNTY, in the event of breach, elect to enforce the affordability requirements through a contract action, the GRANTEE, shall pay to COUNTY liquidated damages equal to the total funding amount specified in Paragraph 8(a) of this Agreement and any amendments thereto.

(iii) Commencement of Affordability Period. The applicable affordability period shall commence upon the date of the Notice of Project Close Out, which shall be issued to GRANTEE upon determination by the COUNTY that the HOME Assisted Units are occupied and rents are structured as specified by the HOME program

requirements and this Agreement. The Notice of Project Close Out shall be recorded by the COUNTY, or in lieu thereof, GRANTEE shall record an Amended Deed Restriction which provides the specific affordability commencement date.

(iv) Deed Restriction Will Not Be Subordinated. GRANTEE acknowledges that the COUNTY will not agree, under any circumstances, to subordinate the deed restriction, or other mechanism by which the COUNTY enforces the affordability requirements, to any lender and that by entering into this Agreement, GRANTEE agrees to be bound by this provision without exception; however, notwithstanding the above provision, if the funds provided under this Agreement are in the form of a loan, COUNTY agrees to consider requests by other lenders to subordinate any lien it may hold against the GRANTEE's real property as security for said loan. By agreeing to consider such subordination requests, COUNTY does not promise, guarantee, or in any way obligate itself to approve such requests. Approval will be made on a case-by-case basis at COUNTY's sole discretion.

(b) Uniform Administrative Requirements. The GRANTEE shall comply with applicable uniform administrative requirements, as described in 24 CFR Section 92.505.

(c) Project Requirements. The GRANTEE shall comply with project requirements in 24 CFR Part 92, Subpart F as applicable in accordance with the type of project.

(d) Housing Quality Standard. The GRANTEE, if an owner of rental housing assisted with HOME funds, shall maintain the housing in compliance with applicable Housing Quality Standards, as set forth in 24 CFR Section 92.251 and as provided by the COUNTY, and with local housing code requirements for the duration of the Agreement.

(e) Community Housing Development Organization Provisions. If the GRANTEE is a non-profit community housing development organization and is using set-aside funds under 24 CFR Section 92.300, the GRANTEE shall comply with the provisions of 24 CFR Part 92, Subpart C.

(f) Affirmative Marketing. The GRANTEE shall be responsible for affirmative marketing in accordance with procedures developed by the COUNTY pursuant to 24 CFR Section 92.351.

(g) Conditions for Religious Organizations. Pursuant to 24 CFR Section 92.257, the GRANTEE warrants that it is not a primarily religious organization. The GRANTEE also warrants that it will not use HOME funds to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. If the GRANTEE uses Project funds to purchase housing from a primarily religious organization, it shall use the housing project solely for secular purposes and make housing available to all

persons regardless of religion.

(h) Homebuyer, Homeowner, and Tenant-Based Assistance. If the Project(s) involve homebuyer, homeowner, or tenant-based assistance as provided in the Rules and Regulations, the GRANTEE shall comply with the provisions of 24 CFR Sections 92.209, 92.252, and 92.254, as applicable.

(i) Program Income, Repayments, and Recaptured Funds. Any program income, repayments, or recaptured funds obtained by GRANTEE from use of HOME funds provided under this Agreement are to be returned immediately to the COUNTY, as set forth at 24 CFR Section 92.503. If program income is generated by housing that is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. The GRANTEE must report monthly all program income received under this Agreement. Any program income, repayments, or recaptured funds the GRANTEE has on hand when this Agreement expires or is terminated, or that are received by the GRANTEE after this Agreement expires or is terminated, shall be transferred or paid to the COUNTY in accordance with the provisions of Paragraph 14(j) below mentioned entitled Reversion of Assets.

(j) Reversion of Assets. The GRANTEE, upon expiration of this Agreement, shall transfer to the COUNTY any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds. Also, any real property under the control of GRANTEE that was acquired or improved in whole or in part with HOME funds shall be either:

(i) used for an eligible HOME Program activity, as set forth in the Scope of Services of this Agreement, for the applicable affordability period, or

(ii) disposed of in a manner that results in COUNTY's being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-HOME funds for acquisition of, or improvement to, the property.

15. Notice to Proceed. The GRANTEE must notify COUNTY in writing when it is ready to actually start work on the Project(s) and must give that notice before incurring any Project costs for which it will request payment or reimbursement from the COUNTY under this Agreement. When this notice is received from the GRANTEE, COUNTY will determine whether the environmental protection procedures, the release of funds procedures and any other procedures or processes that must be accomplished prior to the start of the Project(s) have been satisfied and/or completed. If they have, COUNTY will then give the GRANTEE a "Notice to Proceed" with the Project(s). If the GRANTEE does not comply with the requirements of this paragraph and fails to obtain this Notice to Proceed from COUNTY at the time and in the manner provided above, the COUNTY shall not be obligated or required to implement this Agreement or to fund or reimburse the GRANTEE for any costs incurred on or for the Project(s).

Under appropriate circumstances and in its sole discretion, COUNTY may waive the provisions of this paragraph.

16. Violations and Breaches of Contract.

(a) Restriction on Disbursement. Notwithstanding any other provisions of this Agreement, the COUNTY may withhold disbursements made under this Agreement to the GRANTEE where the GRANTEE fails to comply with all applicable provisions found in this Agreement and with all other HUD requirements applicable to this Project.

(b) Setoff. Notwithstanding any other provision of this Agreement, the GRANTEE shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of this Agreement by GRANTEE. The COUNTY may withhold disbursement of funds to GRANTEE for the purpose of setoff until such time as the exact amount of damage incurred by the COUNTY is determined and paid. Such damages may include HUD's disqualification of activities because of the GRANTEE's failure to properly administer the same.

(c) No Limitation of Remedies. The various rights and remedies herein contained, except as otherwise provided in this Agreement, shall not be considered as exclusive of any other right or remedy not mentioned herein, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law or equity. No delay or omission by COUNTY to exercise any power or remedy it may have in the event of GRANTEE's breach shall impair any such right, power or remedy or be construed as a waiver of any other breach or nonperformance or as acquiescence therein. GRANTEE and its successors and assigns, shall be jointly and severally liable for any default under this Agreement; any action with regard to such breach may be instituted against all or any one of them.

17. Employee Status Verification System. The contractor shall register and participate in the Status Verification System before entering into a contract with the county as required by Utah Code Section 63G-11-103(3). The Status Verification System is an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision. The contractor is individually responsible for verifying the employment status of only new employees who work under the contractor's supervision or direction and not those who work for another contractor or subcontractor, except each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified, through the Status Verification System, the employment status of each new employee of the respective contractor or subcontractor. The contractor shall comply in all respects with the provisions of Utah Code Section 63G-11 – 103 (3). Contractors failure to so comply may result in the immediate

termination of its contract with Salt Lake County.

18. Monitoring. The COUNTY will monitor GRANTEE's performance in providing services and facilities in accordance with the purposes of this Agreement, and may conduct one or more site visits during the contract period to inspect said performance. Criteria to be used in monitoring performance includes but is not limited to compliance with the provisions of this Agreement and the degree to which GRANTEE meets the federal and COUNTY objectives established for and outlined in the HOME Program Description for the applicable Program Year.

19. Suspension or Termination of this Agreement. This Agreement may be suspended or terminated by the COUNTY, pursuant to 24 CFR Section 85.43, as applicable, if the GRANTEE fails materially to comply with any of the provisions, requirements, conditions, standards or other terms of this Agreement. This Agreement may also be terminated in whole or in part for convenience of the COUNTY or the GRANTEE, subject to the provisions of 24 CFR Section 85.44, as applicable.

20. Integrated Document. This Agreement, including all Attachments, as set forth in Paragraph 1, embodies the entire understanding between the COUNTY and the GRANTEE regarding the Project(s). No verbal agreements or conversation with any officer, agent or employee of the COUNTY prior to or subsequent to the execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement.

21. Survival of Provisions. The parties to this Agreement specifically agree that all the paragraphs, terms, conditions and other provisions of this Agreement that requires some action to be taken by either or both of the parties upon or after the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and shall be completed, taken or performed as provided or as may be required under the circumstances at that time.

22. Independent Contractor Status. In performing the Work, the GRANTEE acts as an independent contractor responsible for calculating, withholding, and paying all federal and state taxes and for obtaining necessary and adequate workers' compensation insurance, general liability insurance and any other insurance required under this Agreement. GRANTEE's employees are not and shall not become employees, agents or servants of the COUNTY hereunder. The GRANTEE and its employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the GRANTEE or some other entity. The GRANTEE is obligated to pay federal and state income tax on any monies paid pursuant to this Agreement, as applicable.

23. Incorporation by Reference. All applicable federal, state, and local laws, ordinances, rules, regulations, circulars, Executive Orders pertaining to the HOME Program, and the funding approvals executed by HUD and the COUNTY are incorporated herein by this reference.

24. Severability Clause. The declaration by any court or other binding legal source that any provision of the Agreement is illegal and void shall not affect the legality and enforceability of any other provision of this Agreement unless said provisions are mutually dependent.

25. Conflict of Interest. The COUNTY and GRANTEE agree to abide by the Conflict of Interest provisions set forth in 24 CFR Section 92.356. If a potential conflict of interest arises pursuant to that section, or pursuant to the Utah Public Officers' and Employees' Ethics Act, Utah Code Ann. Section 67-16-1 et seq. (2003), the parties agree to seek an exception from HUD pursuant to 24 CFR 92. Section 356(d) and to follow all the necessary steps in seeking such exception.

26. Ethical Standards. GRANTEE represents that it has not: (a) provided an illegal gift or payoff to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or Salt Lake County's Ethics, Gifts and Honoraria ordinance (Chapter 2.07, Salt Lake County Code of Ordinances, 2001); or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

27. Campaign Contributions. GRANTEE acknowledges the limits on campaign contributions by contractors to County candidates, pursuant to Chapter 2.72A, Salt Lake County Code of Ordinances (2001). GRANTEE further acknowledges that violating campaign contribution limitations may result in criminal sanctions as well as termination of this Agreement. GRANTEE represents, by executing this Agreement, that GRANTEE has not made or caused others to make any campaign contribution to any County candidate in violation of the above-referenced County ordinance.

28. Public Funds and Public Monies.

(a) Definitions: "Public funds" and "public monies" mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of "public funds" while in GRANTEE's possession.

(b) GRANTEE's Obligation: GRANTEE, as recipient of "public funds" and "public monies" pursuant to this and other contracts related hereto, expressly understands that it, its officers, and employees are obligated to receive, keep safe, transfer, disburse and use these "public funds" and "public monies" as authorized by law and this Agreement for the provision of services to Salt Lake County. GRANTEE understands that it, its officers, and employees may be criminally liable under §76-8-402, Utah Code Ann. (2004) for misuse of public funds or monies. GRANTEE expressly understands that County may monitor the expenditure of public funds by GRANTEE. GRANTEE expressly understands that County may withhold funds or require repayment of funds from GRANTEE for contract noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

29. Insurance. GRANTEE shall, at its sole cost and expense, secure and maintain during the term of this agreement, including all renewal or additional terms, the following minimum insurance coverage:

(a) General Insurance Requirements for All Policies.

(i) Any insurance coverage required herein that is written on a "claims made" form rather than on an "occurrence" form shall (a) provide full prior acts coverage or have a retroactive date effective before the date of this agreement, and (b) be maintained for a period of at least three (3) years following the end of the term of this agreement or contain a comparable "extended discovery" clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the County.

(ii) All policies of insurance shall be issued by insurance companies licensed to do business in the State of Utah and either:

(a) Currently rated A- or better by A.M. Best Company;

—OR—

(b) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570)*, as amended.

(iii) GRANTEE shall furnish certificates of insurance, acceptable to the County, verifying the foregoing matters concurrent with the execution hereof and thereafter as required.

(iv) In the event any work is subcontracted, GRANTEE shall require its subcontractor, at no cost to the County, to secure and maintain all minimum

insurance coverages required of the GRANTEE hereunder.

(v) In the event that governmental immunity limits are subsequently altered by legislation or judicial opinion, GRANTEE shall provide a new certificate of insurance within thirty (30) days after being notified thereof in writing by the County, certifying coverage in compliance with the modified limits or, if no new limits are specified, in an amount acceptable to the County.

(vi) All required certificates and policies shall provide that coverage thereunder shall not be canceled or modified without providing (30) days prior written notice to the County in a manner approved by the County District Attorney.

(vii) In the event GRANTEE fails to maintain and keep in force any insurance policies as required herein, County shall have the right at its sole discretion to obtain such coverage and reduce payments to GRANTEE for the costs of said insurance.

(b) Required Insurance Policies. GRANTEE agrees to secure and maintain the following required policies of insurance in accordance with the general insurance requirements set forth in the preceding subsection:

(i) Workers' compensation and employer's liability insurance sufficient to cover all of GRANTEE's employees unless a waiver of coverage is allowed and acquired pursuant to Utah law. This requirement includes contractors who are doing business as an individual and/or as a sole proprietor as well as corporations, limited liability companies, joint ventures and partnerships. In the event any work is subcontracted, GRANTEE shall require its subcontractor(s) similarly to provide workers' compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law. (The County is not to be an additional insured under the GRANTEE's worker's compensation insurance.)

(ii) Commercial general liability insurance with the County as an additional insured, in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate and \$2,000,000 products completed operations policy aggregate. The policy shall protect the County, GRANTEE, and any subcontractor from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from GRANTEE's operations under this Agreement, whether performed by GRANTEE itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations,

acts of independent contractors, and completed operations.

(iii) If GRANTEE shall operate a motor vehicle in connection with any services funded by this agreement, commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, with the County as an additional insured, in the minimum amount of \$1,000,000 per occurrence.

(iv) If the Project(s) will result in the COUNTY holding a lien interest in real property, the GRANTEE shall maintain all-risk property insurance in an amount equaling at least ninety (90) percent of the fair market value of the lien property, with the COUNTY named as an additional insured.

30. Bond Requirements. If the Project involves construction or rehabilitation costing \$25,000 or more, the GRANTEE shall ensure that contractors furnish, at the contractors' expense, a separate performance bond and a labor and materials bond, each for an amount not less than 100% of the contract price, or such other assurances as approved in writing by the COUNTY. The bonds shall be issued by a qualified corporate surety licensed to transact business in Utah. If at any time during performance of the work, the surety on the bonds shall be disqualified from doing business in Utah, or shall become insolvent or otherwise impaired, contractors shall furnish bonds from an alternate surety acceptable to the COUNTY and the GRANTEE. The bonds shall remain in effect until completion of the Project(s) including completion of all warranty and guaranty work and shall be delivered to the COUNTY prior to the commencement of any work. The contractors shall secure an increase in the bonds in an amount equal to the cost of any additional work authorized pursuant to a duly executed change order or amendment to this Agreement.

31. Indemnification.

(a) If GRANTEE is not a governmental entity, then it agrees that it shall indemnify, defend, and hold harmless the COUNTY, its employees, officers, and agents (all in their representative and individual capacities) for any claims, causes of action, costs, defenses or judgments, for the wrongful or negligent acts or omissions, of the GRANTEE, its officers, employees, agents or subcontractors which give rise to potential or actual liability.

(b) If GRANTEE is a governmental entity under the Governmental Immunity Act, Section 63-30d-101 et seq., Utah Code Annotated (2004), then, consistent with the terms of the Act, the parties agree that each party is responsible and liable for any wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses or limits of liability otherwise available under the Governmental Immunity Act.

32. Appropriation. Financial obligations of the COUNTY are contingent upon funds for such purposes being appropriated, budgeted and otherwise made available. If the funds are not so appropriated, budgeted and made available, the COUNTY may terminate this Agreement by notice to the GRANTEE. The GRANTEE agrees that it will include in every contract into which it enters that it relies on HOME monies for funding the Project(s) and will include a non-appropriations clause that will protect itself and the COUNTY from any liability or responsibility or any suit which might result from the discontinuance of HOME funding for any reason.

33. Jurisdiction; Venue; Interpretation. This Agreement and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Utah. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Salt Lake, State of Utah. This Agreement is the result of arms-length negotiations between the parties, accordingly, each of the Parties affirms its desire that this Agreement be interpreted in an absolutely neutral fashion with no regard to any rule of interpretation (or the like) requiring that the provisions of this agreement be construed to favor one party (such as, for example, the party that did not draft this agreement) over the other.

34. Notice. Any notice or communication given pursuant to this Agreement shall be given in writing, either in person or by certified mail, return receipt requested to the addresses specified below or such other address as the GRANTEE or COUNTY may from time to time designate. If given in person, notice shall be deemed given when actually given. If given by certified mail, notice shall be deemed given at the time indicated on the duly completed return receipt.

Notice to the GRANTEE shall be delivered or mailed to:

Notice to the COUNTY shall be delivered or mailed to:

Attn: HOME Program Coordinator
Salt Lake County
Division of Community Resources and Development
2001 South State Street, S2100
Salt Lake City, Utah 84190

35. Non-Discrimination. The GRANTEE, and all persons acting on its behalf, agree to comply with the non-discrimination and equal opportunity requirements set forth in 24 CFR Section 5.105 and with all federal, state and county laws governing discrimination, and they

shall not discriminate in the application, screening, employment, participation, or any other involvement of any person in relation to any phase of the Project(s). The GRANTEE will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The GRANTEE will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be approved and to be duly executed the _____ day of _____, 20_____.

SALT LAKE COUNTY

By: _____
Mayor or Designee

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this ____ day of _____, 20____, personally appeared before me _____, who being duly sworn, did say that (s)he is the _____ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC
Residing in Salt Lake County

[SEAL]

Administrative Approval:
Community Resources and Development

By _____
Michael Gallegos, Director
Date: _____

[NAME OF GRANTEE IN CAPS]

Its: _____

STATE OF _____)
:ss.
COUNTY OF _____)

On the _____ day of _____, 20__ personally appeared before me
_____ being duly sworn, did say that she/he is the
_____ of _____ and that the within and foregoing
instrument was signed for and in behalf of such entity.

[SEAL]

NOTARY PUBLIC
Residing in _____ County

ATTACHMENT I

to

SALT LAKE COUNTY CONTRACT NUMBER

GRANTEE:

PROJECT:

PROJECT NUMBER:

PROJECT STATEMENT OF WORK

ATTACHMENT II

to

SALT LAKE COUNTY CONTRACT NUMBER

GRANTEE:

PROJECT:

PROJECT NUMBER:

PROJECT BUDGET

- I. Estimated Total Project Cost
- II. Budgeted Expenditures by Cost Elements:

Total

ATTACHMENT III

to

SALT LAKE COUNTY CONTRACT NUMBER

GRANTEE:

PROJECT:

PROJECT NUMBER:

PROJECT SCHEDULE