**AGREEMENT BETWEEN THE CITY OF NAPA**

**AND**

***SOLANO-NAPA HABITAT FOR HUMANITY***

**FOR A CAPITAL IMPROVEMENT PROJECT UNDER THE**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT, dated this 1st day of October, 2016 by and between the CITY OF NAPA, a municipal corporation (herein called the “Grantee”), and Solano-Napa Habitat for Humanity (herein called the “Subrecipient”).

**RECITALS**

A. The Grantee has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing such funds.

C. Subrecipientwill be constructing a single family home at 981 Saratoga Drive, Napa, California which will be sold to a first time homebuyerwhose household income does not exceed 80% of area median as published by the U.S. Department of Housing and Urban Development (HUD) (the “Homebuyer”) through Subrecipient’s Self Help Housing Program.

D. Subrecipient and City of Napa have determined the sewer and water line installation,along withthe associatedstreet and sidewalk reconstruction,are required for the Project (“the Capital Project”).

F. The purpose of this Agreement is to set forth the mutual understanding of the Grantee and the Subrecipientregarding the obligations of each party relating to the implementation of the Capital Project and compliance with federal CDBG regulations governing the eligibility and expenditure of funds.

NOW, THEREFORE, it is agreed between the parties as follows:

 1. National Objectives. The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet one or more of the CDBG program’s National Objectives; 1) benefit low/moderate income persons, 2) aid in the prevention or elimination of slums or blight, 3) meet community development needs having a particular urgency - as defined in 24 CFR Part 570.208.

 2. GRANT AWARD. The City of Napa awards a one-time Capital Improvement Grant in the amount not to exceed $60,000.00 to the Subrecipient (“Grant Proceeds”).Subrecipient accepts the Grant for use in accordance with the terms of this Agreement and in compliance with Federal CDBG regulations.

This Agreement is funded with Community Development Block Grant funds (CFDA 14.218).

Grantee’s DUNS Number is 17-154-6047.

4. PURPOSE OF GRANT. In consideration for the funds and services provided by the City of Napa pursuant to this Agreement, Subrecipient agrees to create affordable homeownership opportunities for persons and families of low- and moderate-income. The resulting developed unit shall be sold at an affordable housing cost to a low-income household.

5. GRANT RECOVERY. In the event that the Subrecipient fails to sellthe property to a low- or moderate-income person or family within four(4) years of the date of this contract, Subrecipient shall repay the City of Napa one hundred percent (100%) of the Grant Proceeds.

In addition, if as a result of any audit by either the City of Napa or the US Department of Housing and Urban Development (HUD), it is determined that the Subrecipient did not meet the Federal CDBG regulations governing the eligibility and expenditure of Federal funds, resulting in a repayment of funds by the City of Napa to HUD, the Subrecipient shall be responsible for full reimbursement to the City of Napa in the amount declared ineligible and out of compliance with HUD regulations.

 6. PAYMENTS. Drawdowns for the payment of allowable costs shall be made against the line item budget specified in Attachment A.

 7. EXPENDITURE DEADLINE. All drawdowns for payment under this Agreement must be submitted no later than June 30, 2017.

7. TERM. This Agreement shall be effective the last date signed below and shall continue in full force and effect for five years.

8. NOTICES. Communication and details concerning this Agreement shall be directed to the following contract representatives:

 Grantee: Subrecipient:

 City of Napa Solano-Napa Habitat for Humanity

Housing Manager Diane Agnone

 PO Box 660 5130 Fulton Drive, Suite R

 Napa, CA 94559-0660 Fairfield, CA 94534

 (707) 257-9547 (707) 422-1948

 9. SPECIAL CONDITIONS.None

 10. ADMINISTRATIVE REQUIREMENTS.

 A. Documentation and Record-Keeping.

 (1) Records to be Maintained. The Subrecipient shall maintain all documents and records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Title to and ownership of all such documents and records shall be in Grantee, which shall at all times be entitles to access to, and possession and copies of, such documents and records. Such documents and records shall include, but not be limited to:

 (a) Records providing a full description of each activity undertaken;

 (b) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

 (c) Records required to determine the eligibility of activities;

 (d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

 (e) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

 (f) Financial records as required by 24 CFR Part 570.502 and OMB Circular A-110;

 (g) Other records necessary to document compliance with Subpart K of 24 CFR 570; and

 (h) Collect, maintain, and report federal data on race and ethnicity for statistical purposes, program administrative reporting, and civil rights compliance reporting as per new OMB standards for Federal Data on Race and Ethnicity: Memorandum dated August 13, 2002. Data shall be collected on City prescribed City of Napa Sub-Recipient Data Collection Form for individual participants and shall include information on race, ethnicity, female head of household and disabled persons. Subrecipient shall retain original documents in its files and report the beneficiary data upon sale of the property.

 (2) Retention. The Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property or five (5) years after the termination of all activities funded under this Agreement, whichever occurs later. Records for any displaced person must be kept for three (3) years after s/he has received final payment or five (5) years after the termination of all activities funded under this Agreement, whichever occurs later. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

 (3) Homebuyer Eligibility Documentation. The Subrecipient shall collect and maintain documentation of the homebuyer’s household income does not exceed 80% of area median as published by HUD. Such documentation may include, but is not be limited to, household size, paycheck stubs, verifications of employment, bank statements, copies of the past two years’ federal tax returns, and source information for all other sources of household income. Such information shall be made available to Grantee or its designees for review upon request.

 (4) Disclosure. The Subrecipient understands that homebuyer information collected under this Agreement is private and the use of or disclosure of such information, when not directly connected with the administration of the Grantee’s or Subrecipient’s responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such persons receiving service and, in the case of a minor, that of responsible parent/guardian. Notwithstanding the foregoing, Subrecipient understands and agrees that such information is not private or confidential as to Grantee in Grantee’s administration and oversight of Subrecipient’s responsibilities under this Agreement, and that Subrecipient shall at all reasonable times provide Grantee with complete access to and complete copies of such information, including without limitation all documents, records and materials retained by Subrecipient, as determined to be necessary by Grantee.

 (5) Property Records. The Subrecipient shall maintain real property inventory records that clearly identify properties purchased, improved or sold with CDBG funds. Properties retained shall continue to meet eligibility criteria and shall conform to the “change in use” restrictions specified in 24 CFR Parts 570/503 (b) (8), as applicable.

 (6) Close-Outs. The Subrecipient’s obligation to the Grantee shall not end until all close-out requirements are completed. Activities during the close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records.

 (7) Audits, Access and Inspections. Notwithstanding any other provision of this Agreement, all Subrecipient documents, information , books, records and other materials with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often and as promptly as the Grantee or grantor agency deems necessary, to audit, examine, copy and make excerpts or transcripts of all relevant information and data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Subrecipient hereby agrees to comply with current Grantee policy concerning subrecipientyear end audit/financial statement requirements, as applicable, in OMB Circular A-133, Subpart (B), originated and produced on June 24, 1997.

 11. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT. The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606 (c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in Section 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

 12. PERSONNEL AND PARTICIPANT CONDITIONS.

 A. Civil Rights.

 (1) Compliance. The Subrecipient agrees to comply with all applicable local and state law, including, but not limited to, 14-S01, the California Fair Employment and Housing Act and 14-F03, the California Civil Rights Act of 1964, as amended, and with Title VI of the Civil Rights Act of 1964, as amended, Title VII of the Civil Rights Act of 1968, as amended, Section 104 (b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1976, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

(a) The Subrecipient further certifies that its physical facilities are accessible in compliance with Section 504 of the Rehablitation Act of 1973.

 (b) The Subrecipient certifies that it has made provisions in its program for communicating with hearing and speech impaired persons.

 (c) The Subrecipient certifies that its advertising and outreach materials contain the Subrecipient’s TDD/TTY number or the telephone number of the California Relay Service.

 (2) Nondiscrimination. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, gender identify, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to insure 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. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Grantee setting forth the provisions of this nondiscrimination clause.

(a) The Subrecipient will conduct an analysis of racial and ethnic participation rates, as well as the participation rates by female-headed households and persons with disabilities where applicable, for all applicants, rejected applicants, and approved applicants to determine whether any group is actually, or is projected to be, participating at levels below the representation of these groups in the City’s population, based on general population data available from the U.S. Census. Subrecipient will develop an affirmative marketing strategy to promote interest among such underrepresented groups in the Subrecipient’sprogram.Subrecipient will include information in its performance report as to the affirmative outreach methods it has employed within the past year in compliance with this provision.

 (3) Land Covenants. The Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or improvements erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

 (4) Section 504. The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall comply with that portion of the regulations in force during the term of this Agreement.

 B. Affirmative Action.

 (1) Approved Plan. The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee’s specifications an Affirmative Action Program in keeping with the principles as provided in President’s executive Order 11246 of September 24, 1965. The Subrecipient has submitted a plan for an Affirmative Action Program for approval as required by the CDBG application and by Section 3 of the Housing and Urban Development Act of 1968.

 (2) W/MBE. The Subrecipient will use its best efforts to afford minority-women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term “minority and female business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an Independent investigation.

 (3) Access to Records. The Subrecipient shall furnish and cause each of its own subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

 (4) Notifications. The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union of worker’s representative of the Subrecipient’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

 (5) EEO/AA Statement. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

 (6) Subcontract Provisions. The Subrecipient will include the provisions of Paragraphs 9.A, Civil Rights, and 9.B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

 C. Employment Restrictions.

1. Prohibited Activity. The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.
2. Labor Standards. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland “Anti-Kickback” Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documents of this part. Such documentation shall be made available to the Grantee for review upon request.
3. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the Grantee pertaining to such Agreement and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirement if this paragraph.
4. “Section 3” Clause.

 (a) Compliance. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement and binding upon Grantee, the Subrecipient and any of the Subrecipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient’ssubrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

 The Subrecipient further agrees to comply with these “Section 3” requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program provided direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

 The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funding project is located; where feasible, priority should be given to low- and very low-income persons with the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low- income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

 The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

 (b) Notifications. The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker’s representative of its commitments under the Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

 (c) Subcontracts. The Subrecipient will include the Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

1. Drug Free Workplace The Subrecipient agrees to comply with the requirements of the Secretary of the Department of Housing and Urban Development in accordance with the Drug-Free Workplace requirements and all other applicable Federal, state and local laws and regulations pertaining to drug-free workplace standards, insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain a written Drug- Free Workplace policy. Such policy shall be made available to the Grantee for review upon request.

 D. Conduct.

 (1) Assignability. The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due to become due to the Subrecipient from the Grantee under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished to the Grantee.

 (2) Subcontracts.

 (a) Approvals. The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

 (b) Monitoring. The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

 (c) Content. The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

 (d) Selection Process. The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

 (3) Hatch Act. The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

 (4) Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no persons having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

 (5) Lobbying. The Subrecipient hereby certifies 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;

 (b) If any 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;

 (c) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

 (d) Lobbying Certification - Paragraph d. This certificate is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00 and not more than $100,000.00 for each such failure.

 (6) Copyright. If this Agreement results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

 (7) Religious Organization. The Subrecipient agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200 (j).

 13. ENVIRONMENTAL CONDITIONS.

 A. Air and Water. The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

 (1) Clean Air Act, 42 U.S.C., 7401, et seq.

 (2) Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

 (3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Part 50, as amended.

 B. Flood Disaster Protection. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

 C. Lead-Based Paint. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken.

 D. Historic Preservation. The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, and Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of the Agreement.

 In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

 14. GENERAL COMPLIANCE. The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, permit conditions, mitigation measures and policies governing the funds provided under the Agreement. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

 15. INDEPENDENT CONTRACTOR. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall have control of the work and the manner of performance at all times and shall remain an “independent contractor” with respect to the services to be performed under this Agreement. The Subrecipient shall not be entitled to participate in Grantee’s employee benefits plans including without limitation Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker’s Compensation Insurance.

 16. HOLD HARMLESS. The Subrecipient shall hold harmless, defend, release and indemnify the Grantee, its officers, employees, and agents, from any and all claims, actions, demands, damages, disabilities, losses, fines, suits, charges and judgments, liabilities, penalties, and costs, including attorney’s fees and witness costs (“damages”) that may be asserted by any person or entity, including Subrecipient, from any cause whatsoever, which in whole or in part arise out of the performance or nonperformance of subrecipient, its officers, employees, and agents, of the services or subject matter called for herein, excluding the sole negligence or willful misconduct of Grantee. This indemnification obligation is not limited by any limitation on the amount or type of charges or compensation payable by or for Subrecipient under Workers Compensation disability or other employment benefit acts or the terms applicable or limitation of any insurance held or provided by Subrecipient. This indemnification shall survive the expiration or earlier termination of this Agreement.

 17. INSURANCE.Without limiting Subrecipient's indemnification provided herein, Subrecipient shall take out and maintain, throughout the period of this Agreement, the following policies of insurance placed with insurers (if other than the State Compensation Fund) with a current A.M. Best’s rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Subrecipient, its agents, employees or subcontractors:

 A. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of $1,000,000.00 per occurrence. If work involves explosive, underground or collapse risks, XCU must be included. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

 (1) Grantee, its officers, employees and agents, are covered as insureds for liability arising out of the operations performed by or on behalf of Subrecipient. The coverage shall contain no special limitations on the scope of protection afforded to the Grantee, its officers, agents and employees.

 (2) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (ten (10) days for non-payment of premium) to Grantee by certified mail.

 B. Automobile liability insurance with coverage at least as broad as ISO Form numbers CA 0001 06 92, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than $1,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (ten (10) days for non-payment of premium) to Grantee by certified mail.

 C. Worker's Compensation insurance meeting statutory limits of Labor Code, which policy shall provide for thirty (30) days prior written notice to Grantee in the event of cancellation. If Subrecipient has no employees, Subrecipient may sign and file the following certification in lieu of insurance:

 *"I am aware of the provisions of California Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with the provisions of that code before commencing with and during the performance of the work of this Agreement."*

 Subrecipient shall furnish Grantee with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by Grantee. The endorsements shall be on forms provided by Grantee or as approved by City Attorney. Any deductible or self-insured retention over $100,000.00 shall be disclosed to and approved by Grantee. If Subrecipient does not keep all required insurance policies in full force and effect, Grantee may, in addition to other remedies under this Agreement, terminate or suspend this Agreement.

 18. GRANTOR RECOGNITION. The Subrecipient shall insure recognition of the role of the Grantee and grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support herein in all publications made possible with funds made available under this Agreement.

 19. AMENDMENTS. The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee of Subrecipient from its obligations under this Agreement.

 The Grantee may in its discretion, unilaterally amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons upon written notification to Grantee. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment by both Grantee and Subrecipient.

 20. SUSPENSION OR TERMINATION.

 A. For Convenience. Either party may terminate the entire Agreement at any time for any reason or no reason by giving written notice to the other party of such termination. Partial termination of the Scope of Service in Paragraph 1.A., above, may only is undertaken with the prior approval of the Grantee. In the event of termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under or in relation to this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall provide such to Grantee forthwith. Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

 B. For Cause. The Grantee may suspend or terminate this Agreement, in whole or in part, if Grantee determines that the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, permits, regulations, or provisions referred to herein or applicable to Subrecipient, and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee’s contract, in addition to other remedies as provided by law. In the event Grantee determines that Subrecipient is in noncompliance with any applicable rules or regulations, or that Subrecipient is in material breach of this Agreement, the Grantee may withhold up to fifteen (15) percent of said contract funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

 21. COVENANT AGAINST CONTINGENT FEES. The Subrecipient warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Subrecipient, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the Grantee shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

 22. CONFLICT OF INTEREST. Subrecipient covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Subrecipient further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

 23. COMPLIANCE WITH LAW. Subrecipient agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of Subrecipient performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. Subrecipient shall make the required documentation available upon request to Grantee for inspection.

24. Federal Funding Accountability and Transparency Act of 2006 (FFATA). FFATA reporting requirements will apply to any CDBG agreement in the amount of $25,000 or greater. Grantee must provide any information needed pursuant to these requirements. This includes entity information, the unique identifier of the Grantee, and relevant executive compensation data, if applicable. See subsection 3 below regarding executive compensation data.

1. Data Universal Numbering System (DUNS) number. Pursuant to FFATA reporting requirements and in order to receive funding under this Agreement, the Grantee must have a valid Dun & Bradstreet (D&B) Data Universal Numbering System (DUNS) number that identifies the Grantee.
2. Central Contractor Registration (CCR). The Grantee shall register in the Central Contractor Registry (CCR), which is the primary registrant database for US Federal Government and shall enter any information required by FFATA in to the CCR, update the information at least annually after the initial registration and maintain its status in the CCR through the term of this Agreement. Information regarding the process to register or update information in the CCR can be obtained at [www.sam.gov](http://www.sam.gov).
3. Executive Compensation. The Grantee shall report the names and total compensation of the five (5) most highly compensated officers of the Grantee in CCR if the Grantee in the preceding fiscal year received eighty percent (80%) or more of its annual gross revenues from Federal contracts and Federal financial assistance (as defined at CFR 170.320 and $25,000,000 or more in annual gross revenues from Federal contracts and federal financial assistance (as defined at 2 CFR 170.320); and if the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of the Internal Revenue Code of 1986. The Grantee may certify that it received less than eighty percent (80%) of annual gross revenues from the federal government, received less than $25,000,000 of its annual gross revenues from the federal government, already provides executive compensation to the Securities Exchange Commission, or meets the Internal Revenue Code exemption, and will not be required to submit executive compensation data in the CCR and FFATA, provided that the Grantee shall still register and submit the other data requested.

 25. GENERAL PROVISIONS.

 A. Headings. The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

 B. Severability. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties’ intent under this Agreement.

 C. Governing Law, Jurisdiction, and Venue. The interpretation, validity, and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.

 D. Attorney’s Fees. In the event any legal action is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorney’s fees, costs, and expenses incurred, whether or not such action proceeds to judgment.

 E. Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

 F. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

 G. Time. Time is of the essence in carrying out the duties hereunder.

 H. Entire Agreement. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

 I. Each Party’s Role in Drafting the Agreement. Each party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

 J. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Subrecipient and the City.

**CITY OF NAPA: SUBRECIPIENT:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Solano-Napa Habitat for Humanity

*(Signature)*

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *(Signature)*

Rick Tooker, CommunityDevelopmentDirector

*(Type name and title)*

 *(Type name and title)*

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Signature)*

Dorothy Roberts, City Clerk

*(Type name and title)*

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *(Signature*

**COUNTERSIGNED:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 *(Type name and title)*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Signature)*

Unless corporate resolution delegates an individual to sign contracts, an agreement with a corporation shall be signed by the President or Vice President **and** the Secretary or Treasurer of the corporation. A general partner shall sign on behalf of a general partnership. The managing member, if authorized, may sign on behalf of a limited liability corporation.

Desiree Brun, City Auditor

*(Type name and title)*

**APPROVED AS TO FORM:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(Signature)*

Michael W. Barrett, City Attorney

*(Type name and title)*

Budget Code: 23123-55002

JL: H16002CIP-55002

**Attachment A**

Budget for Habitat for Humanity Saratoga Drive Project

Permit Fees (water, sewer, street) $30,000

Sewer Service 10,000

Water Service 5,000

Street and Sidewalk Improvements 15,000

**Total $60,000**