

1 experienced personnel from the City who are qualified to render such services to
2 staff its activities.

3 1.4 Before disbursing any HOME Funds to the Company, the
4 HOME Regulations require that the City, as a participating jurisdiction, and the
5 Company, as a subrecipient, enter into a legally binding agreement to ensure
6 compliance by the City and the Company with the requirements of the HOME
7 Program and the HOME Regulations.

8 NOW, THEREFORE, in consideration of the terms and conditions herein, it
9 is mutually agreed by and between the parties as follows:

10 2. USE OF HOME FUNDS.

11 2.1 General. HOME Funds may be used by the Company solely
12 to pay eligible project costs, eligible administrative and planning costs, eligible
13 Community Housing Development Organization ("CHDO") operating expenses
14 and capacity building costs, eligible tenant based rental assistance costs, and pre-
15 award costs in accordance with the requirements of Subpart E of the HOME
16 Regulations (collectively, "Eligible Activities").

17 2.1.1 Disbursement of Funds. The Company may not
18 request disbursement of HOME Funds until funds are needed for the
19 payment of eligible costs and the amount of each such request shall be
20 limited to the amount required to meet the eligible cost. Program income,
21 as that term is defined in the HOME Regulations, must be disbursed by the
22 Company before the Company requests entitlement funds from the City.
23 The Company shall establish and maintain a separate account for Program
24 income.

25 2.2 Tasks To Be Performed by Company. The Company shall
26 perform all tasks included, adhere to the budget for each such task, and shall
27 complete each such task, all in accordance with the terms and provisions of the
28 City's Consolidated Plan and Annual Action Plan with respect to the HOME

1 Program.

2 2.3 Written Agreement. Whenever the Company provides HOME
3 Funds to for-profit owners or developers, non-profit owners or developers,
4 subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental
5 assistance, or contracts with any such person or firm, the Company and the
6 recipient must enter into a written agreement specifying the requirements of
7 Section 92.504 of the HOME Regulations. In addition, the Federal requirements
8 and nondiscrimination requirements established in Section 92.350 of the HOME
9 Regulations shall be specified; any displacement, relocation, and acquisition
10 requirements imposed by the City, consistent with Section 92.353 of the HOME
11 Regulations, shall be applied; the conflict of interest provisions prescribed in
12 Section 92.356(f) of the HOME Regulations shall be applied; and the labor
13 requirements in Section 92.354 of the HOME Regulations shall apply.

14 2.3.1 Affordability. Any written agreement must require that
15 housing assisted with HOME funds meet the affordability requirements of
16 Section 92.252 or Section 92.254 of the HOME Regulations, as applicable,
17 and must require repayment of the funds if the housing does not meet the
18 affordability requirements for the specified period of time.

19 2.3.2 Rental Housing. If the owner or developer is
20 undertaking rental projects, the written agreement must establish the initial
21 rents and the procedures for rent increases.

22 2.3.3 Homeownership. If the owner or developer is
23 undertaking a homeownership project for sale to homebuyers in
24 accordance with Section 92.254(a) of the HOME Regulations, the written
25 agreement must set forth the resale or recapture requirements which must
26 be imposed on the housing.

27 3. PROGRAM INCOME.

28 3.1 Matching Contributions. Under the Act, the City is required to

1 make a matching contribution to housing that qualifies as affordable housing under
2 the HOME Program. The Company shall identify eligible sources of matching
3 contributions, calculate the value of matching contributions, and determine the
4 point at which a contribution may be recognized as match, and track matching
5 obligations and contributions.

6 3.2 Program Income. Program income represents gross income
7 received by the Company directly generated from the use of HOME Funds or
8 matching contributions. The term "program income" is more particularly defined in
9 Section 92.2 of the HOME Regulations. Program income shall be retained by the
10 Company for Eligible Activities and spent for Eligible Activities on a "First-in and
11 First out" basis.

12 4. ADMINISTRATION REQUIREMENTS. Under the Act, the City is
13 responsible for managing the day to day operations of the HOME Program, ensuring that
14 HOME Funds are used in accordance with all HOME Program requirements and the
15 terms and provisions of this Agreement, and taking appropriate action when performance
16 problems arise. Nothing contained in this Agreement shall relieve the City of these
17 responsibilities under the Act. The foregoing to the contrary notwithstanding, the
18 Company shall and hereby agrees to take such steps as shall be reasonably required to
19 ensure compliance with all requirements of the HOME Regulations including, but not
20 limited to, the requirements in subpart E (Program Requirements), subpart K (Program
21 Administration), and subpart L (Performance Reviews and Sanctions). The Company
22 does not, however, assume the City's responsibilities for environmental review under
23 Section 92.352 of the HOME Regulations and the intergovernmental review process
24 under Section 92.357 of the HOME Regulations shall not apply.

25 4.1 Uniform Administrative Requirements. The Company shall
26 comply with the requirements of OMB Circular No. A-122, a copy of which is
27 attached hereto and incorporated herein by this reference, and the requirements of
28 24 CFR Part 84, Sections 84.6, 84.12, 84.20, 84.22, 84.26, 84.32-34, 84.36,

1 84.44, 84.51 and 84.92 of the HOME Regulations.

2 4.2 Compliance. The Company shall carry out each activity in
3 connection with the City's HOME Program in compliance with all Federal laws and
4 HOME Regulations described in subpart H of Part 92 of the HOME Regulations,
5 except that the Company does not assume the City's responsibilities for
6 environmental review under Section 92.352 of the HOME Regulations and the
7 intergovernmental review process described in Section 92.3257 of the HOME
8 Regulations shall not apply to the Company.

9 4.3 Monitoring. The performance of the Company shall be
10 reviewed by the City once each year during the term of this Agreement. The
11 review will focus on the extent to which the HOME Program has been
12 implemented and measurable goals achieved, effectiveness of program
13 management, and impact of the HOME Program. Authorized representatives of
14 the City and HUD shall have the right of access to all activities and facilities
15 operated by Company under this Agreement. Facilities include all files, records,
16 and other documents related to the performance of this Agreement. Activities
17 include attendance at staff, board of directors, advisory committee and advisory
18 board meetings and observation of on-going program functions. Company will
19 permit on-site inspection by City and HUD representatives, and ensure that its
20 employees and board members furnish such information, as in the judgment of
21 City and HUD representatives, may be relevant to the question of compliance with
22 contractual conditions and HUD directives, or the effectiveness, legality, and
23 achievements of the HOME Program.

24 5. OTHER PROGRAM REQUIREMENTS. The Company shall and
25 hereby agrees to carry out each project funded with HOME Funds in compliance with the
26 requirements of Part H-Other Federal Requirements of the HOME Regulations.

27 6. AFFIRMATIVE MARKETING. The Company shall develop
28 affirmative marketing procedures and requirements ("Requirements"), which may consist

1 of the adoption of the affirmative marketing plan of the City, for rental and homebuyer
2 projects containing 5 or more HOME-assisted housing units consisting of actions to
3 provide information and otherwise attract eligible persons in the housing market area to
4 the available housing without regard to race, color, national origin, sex, religion, familial
5 status or disability in accordance with the requirements of Section 92.351 of the HOME
6 Regulations. The Requirements shall be subject to the prior review and approval of the
7 City before adopted by the Company.

8 7. RECORDS AND REPORTS.

9 7.1 General. The Company shall comply with the requirements of
10 OMB Circular No. A-122 and the requirements of the 24 CFR Part 84 Sections
11 84.6, 84.12, 84.20, 84.22, 84.26, 84.32 through 84.34, 84.36, 84.44, 84.51 and
12 84.52. The records and the information or reports listed and described therein
13 shall be maintained by the Company to enable the City to meet the recordkeeping
14 and reporting requirements of the HOME Regulations. Without limiting the
15 generality of the foregoing, the Company shall maintain program records, project
16 records, CHDO records, financial records, program administration records, records
17 concerning other Federal requirements including, but not limited to, equal
18 opportunity, fair housing, affirmative marketing and MBE/WBE records.

19 7.2 Period of Record Retention. All records pertaining to each
20 fiscal year of HOME Funds shall be retained by the Company in accordance with
21 the requirements of Section 92.508 of the HOME Regulations.

22 7.3 Audit and Inspections. The Company shall ensure that its
23 activities and finances with respect to the HOME Program are audited in
24 accordance with 24 Code of Federal Regulations Parts 44 and 45 (OMB
25 Circulation A-133), as applicable.

26 8. TERM.

27 8.1 Term. This Agreement shall be deemed to have commenced
28 on October 1, 2010, and shall be for a term of one (1) year commencing on the

1 effective date (defined below). The term of this Agreement shall be automatically
2 renewed for five (5) periods of one (1) year each unless either party gives written
3 notice to the other party of a decision to not renew the term of this Agreement.

4 8.2 Termination. Notwithstanding the foregoing either party may,
5 subject to the requirements of Part 85.44 of Title 24 of the HOME Regulations,
6 terminate this Agreement on thirty (30) days written notice to the other party. On
7 the expiration or earlier termination of this Agreement, all HOME Funds held by
8 the Company and any accounts receivable attributable to the use of the HOME
9 Funds shall be transferred by the Company to the City.

10 8.3 Reversion of Assets. Upon the expiration or earlier
11 termination of this Agreement, the Company shall transfer to the City all funds on
12 hand and any account receivables attributable to the use of such funds.

13 9. ENFORCEMENT.

14 9.1 General. The Company will be given written notice of any
15 failure on its part to meet any of the requirements of this Agreement and a
16 reasonable opportunity, not to exceed 30 days, to demonstrate that it has
17 complied with the requirements of this Agreement. If the Company fails to
18 demonstrate to the City's satisfaction that it has met the requirements of this
19 Agreement, the City shall take corrective or remedial action in accordance with
20 Section 92.551 of the HOME Regulations. Corrective or remedial actions will be
21 designed to prevent a continuation of the deficiency; mitigate, to the extent
22 possible, its adverse effects or consequences; and prevent its recurrence.

23 9.2 Sanctions. If the City finds that the Company has failed to
24 comply with any requirements of this Agreement after corrective or remedial action
25 has been taken by the Company, and until the City is satisfied that there is no
26 longer any such failure to comply, the City shall reduce the funds disbursed to the
27 Company by the amount of any expenditures that were not in accordance with the
28 requirements of Part 92 of the HOME Regulations. In addition, the City may

1 prevent withdrawals from the Company's HOME account for activities affected by
2 the failure, restrict the Company's HOME Program activities to activities that
3 conform to one or more model programs which HUD has developed in accordance
4 with Section 213 of the Act, terminate this Agreement, or require the Company to
5 make the matching contributions in an amount equal to 25% of the funds drawn
6 from the City's HOME Investment Trust Fund Treasury Account in that fiscal year,
7 excluding funds drawn for administrative and planning costs, CHDO operating
8 expenses, capacity building and project specific assistance to CHDOs when the
9 City waives repayment under the provisions of Section 92.301 of the HOME
10 Regulations.

11 10. CONFLICTS OF INTEREST. The conflict of interest provisions
12 applicable to HOME funding, located at Parts 84 and 85 of the HOME Regulations,
13 include those applicable to the procurement of goods and services by participating
14 jurisdictions, State recipients and subrecipients (collectively, "recipients") and those
15 applicable to financial interest or benefit of employees or other representatives of
16 recipients and owners and developers of HOME-assisted housing and their employees
17 and other representatives.

18 10.1 Procurement. The Company shall ensure that every purchase
19 order or other contract for property or services includes any clauses required by
20 Federal statutes and executive orders and their implementing regulations. In
21 addition, the Company shall maintain a written code of standards governing the
22 performance of their employees engaged in the award and administration of
23 contracts to prevent and prohibit a conflict of interest.

24 10.2 Financial Interest or Benefit. The Company shall ensure that
25 no covered person, including any person who is an employee, agent, consultant,
26 officer or elected official of a recipient, obtains a financial interest or benefit from a
27 HOME-assisted activity, or have an interest in any contract, subcontract or
28 agreement with respect thereto, or the proceeds thereunder, either for themselves

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1 or those with whom they have family ties, during their tenure and for one year
2 thereafter including occupancy of a HOME-assisted unit in violation of the Act or
3 Regulations.

4 11. ENTIRE AGREEMENT. This Agreement represents the entire
5 agreement between the parties and may not be modified or amended except by a written
6 agreement which refers to this Agreement and is executed by both parties.

7 IN WITNESS WHEREOF, the parties hereto have caused these presents to
8 be duly executed with all the formalities required by law on the respective dates set forth
9 opposite their signatures.

10 THE LONG BEACH HOUSING
11 DEVELOPMENT COMPANY, a non-profit
12 public benefit corporation

12 July 25, 2012

12 By [Signature]
13 "Company"

14 CITY OF LONG BEACH, a municipal
15 corporation

16 8.7, 2012

16 By [Signature] **Assistant City Manager**
17 City Manager
18 "City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

19 The foregoing Subrecipient Agreement is approved as to form on
20 July 25, 2012.

21 ROBERT E. SHANNON, City Attorney
22 By [Signature]
23 Deputy