

**GRANT AGREEMENT BETWEEN THE COUNTY OF ORANGE AND
THE ORANGE COUNTY HOUSING FINANCE TRUST FOR THE PROVISION OF
ADMINISTRATIVE COSTS**

This Grant Agreement (the “**Agreement**”) entered into as of _____, 2020 is made by and between the County of Orange, a political subdivision of the State of California (the “**County**”) and the Orange County Housing Finance Trust, a California joint powers public entity formed pursuant to California Government Code section 6500 *et. seq.* (the “**Trust**” or “**Grantee**”), with the County and Trust sometimes referred to as “**Party**,” or collectively as “**Parties**.”

WHEREAS, the Trust was created pursuant to California Government Code section 6539.5 for the purpose of: (1) funding the planning and construction of housing of all types and tenures for the homeless population and persons and families of extremely low, very low, and low income, as defined in Section 50093 of the Health and Safety Code, including, but not limited to, permanent supportive housing; and (2) receiving public and private financing and funds; and

WHEREAS, the County approved and executed the Joint Exercise of Powers Agreement for the Trust, and became a member of the Trust, on or about March 12, 2019; and

WHEREAS, the Joint Exercise of Powers Agreement required the County to pay for the Trust’s administrative costs for the year following its creation and thereafter requires other Parties to the Trust to make annual contributions towards budgeted administrative costs pursuant to a cost allocation formula adopted by the Board of Directors; and

WHEREAS, the Board of Directors adopted a cost allocation formula (“**Formula**”) on January 15, 2020 under which City members pay five ninths (5/9ths) of the administrative costs (“**City Contribution**”) and the County contributing four ninths (4/9ths) of the total administrative costs (“**County Contribution**”); and

WHEREAS, the City Contribution actual amount is subject to change based on the Trust’s receipt of outside funding towards administrative costs; and

WHEREAS, in its effort to support the Trust’s efforts toward the development of affordable housing in Orange County, the County has agreed to a set County Contribution amount for the next five fiscal years regardless of any receipt of outside funding toward administrative costs by the Trust.

NOW, THEREFORE, the Parties mutually agree as follows:

1. COUNTY ADMINISTRATIVE COSTS GRANT. The County hereby grants the Trust the following Grant amount:
 - a. \$1,000,000 towards the Trust’s administrative costs (“**Administrative Costs Grant**”).
2. DISBURSEMENT OF COUNTY ADMINISTRATIVE COSTS GRANT. The County shall transfer the grant amount set forth in Section 1.a., above, to the Trust as follows:

- a. By July 15, 2020: \$200,000; and
 - b. On July 15, 2021, and annually on July 15th of each subsequent year, with the last payment being made on July 15, 2024, until the total Administrative Costs Grant amount is exhausted: \$200,000.
3. **TERM OF GRANT AGREEMENT.** The term of this Agreement begins on the date when fully executed by the parties, and terminates on July 31, 2025.
 4. **TERMINATION.** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Agreement without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Grantee. Exercise by County of its right to terminate the Agreement shall relieve County of all further obligation. The Grantee shall return all unexpended funds remaining of the Grant amounts within (30) thirty days of the date of termination of this Agreement under this Paragraph 4.
 5. **ELIGIBLE COSTS.** The Grantee shall utilize the Administrative Costs Grant amounts toward the Trust's administrative costs, including any expenses incurred by the Trust in planning, organizing, and managing the Trust.
 6. **SUBMISSION OF REPORTS.** The submittal and approval of all reports is a requirement for the successful completion of this Agreement. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the County. All reports shall be submitted to the County's Director of OC Community Resources. Reports shall be presented in the formats described in the applicable portion of **Exhibit A**.

1) **Progress Reports:** The Grantee shall submit progress reports on an annual basis no later than July 31 of each year. The progress reports shall be sent to the County's Director of OC Community Resources. The progress reports shall provide a schedule of monthly and year to date expenses that are chargeable against the Administrative Costs Grant and contain all of the information required under 25 CCR § 7160.

2) **Grant Completion Report:** The Grantee shall prepare and submit to the County a grant projects completion report ("**Grant Completion Report**") upon the earlier of (a) ninety (90) calendar days of the termination of this Agreement or (b) the exhaustion of the Grant amounts. The Grant Completion Report shall include, in part, a summary of the expenses that were charged against the County Administrative Costs Grant, all of the information required under 25 CCR § 7160, and a summary spreadsheet listing Eligible Projects assisted during the reporting period by unit, including the project name, type of housing, number of units, income levels restricted in each unit, bedroom count of each unit, and amount of Trust Funds expended per unit.

7. **GRANT RECORDS.** The Grantee is required to maintain all financial records associated with the expenditure of the Administrative Cost Grant in accordance with **Exhibit B** Audit Document Requirements. These records shall be stored in Orange County for a period of three (3) years after the termination of this Agreement.
8. **AUDITS.** At any time during Grantee's business hours and upon reasonable notice by the County, the Grantee shall allow County staff or contractors to evaluate, audit, inspect and monitor its program operations, and records maintained in connection with this Agreement. The inspection methods that may be used include:
- 1) On-site visits
 - 2) Interviews of Grantee's staff and program participants
 - 3) Review, examination or audit of case files/records, receipts, client/user complaints, monthly/quarterly reports, and fiscal records including employee timesheets
 - 4) Inspection of Grantee's internal monitoring and evaluation system

With respect to inspection of Grantee's records, the County may require that Grantee provide supporting documentation to substantiate Grantee expenses with respect to the Grantee's use or expenditure of the Grant amounts.

9. **INDEPENDENT CONTRACTOR.** The Grantee shall be considered an independent contractor and neither the Grantee, its employees, nor anyone working under the Grantee shall be considered an agent or an employee of County. Neither the Grantee, its employees nor anyone working under the Grantee shall qualify for workers' compensation or other fringe benefits of any kind through County.
10. **CONTINGENCY OF FUNDS:** Trust acknowledges that funding or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Agreement without penalty.
11. **BREACH OF CONTRACT:**
- a. **Breach by the Trust.** The failure of the Trust to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the County may, and in addition to any other remedies specified in this Agreement:
 - i. Terminate the Agreement immediately, pursuant to Section 4 herein;

- ii. Afford the Grantee written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach;
- iii. Discontinue payment to the Grantee for and during the period in which the Grantee is in breach; and
- iv. Offset against any monies billed by the Grantee but yet unpaid by the County those monies disallowed pursuant to the above.

b. Breach by the County. The failure of the County to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event the Trust may, and in addition to any other remedies specified in this Agreement:

- i. Afford the County written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach.

Parties agree that failure of the Board of Supervisors to approve, fund or appropriate as provided in Section 10 herein shall not constitute a breach of contract under this Agreement.

12. **REMEDIES NOT EXCLUSIVE:** The remedies for breach set forth in this Agreement are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Agreement does not preclude resort by either party to any other remedies provided by law.
13. **INDEMNITY.** The Grantee agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the Grantee's receipt of the Grant amounts or performance under this Agreement.
14. **CONFLICT OF INTEREST – TRUST PERSONNEL.** The Grantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Grantee; the Grantee's employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Grantee's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.

15. **CONFLICT OF INTEREST – COUNTY PERSONNEL.** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Grantee shall not, during the period of this Agreement, employ any County employee for any purpose.
16. **NOTICES.** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to parties' contacts identified under this Paragraph 16. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.
- Trust:
- Orange County Housing Finance Trust
Attn: Housing Trust Manager
1501 E. St. Andrew Place, 1st Floor
Santa Ana, CA 92705
- County:
- Orange County Community Resources
Attn: Director, Housing & Community Development
1501 E. St. Andrew Place, 1st Floor
Santa Ana, CA 92705
17. **ATTORNEY FEES.** In any action or proceeding to enforce or interpret any provision of this Agreement, each party shall bear their own attorney's fees, costs and expenses.
18. **ENTIRE CONTRACT:** This Agreement contains the entire contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Agreements by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County Executive Officer.
19. **AMENDMENTS.** No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year dated below.

-Signature Pages Follow-

COUNTY OF ORANGE
A political subdivision of the State of California

By: _____

APPROVED AS FORM:

By:  _____
Deputy County Counsel

**ORANGE COUNTY HOUSING FINANCE
TRUST**
a California joint powers public entity formed
pursuant to California Government Code section
6500 *et. seq.*

By: _____
Adam Eliason
Housing Trust Manager

APPROVED AS FORM:

By: _____
Trust Counsel

EXHIBIT A

REPORT FORMATS AND REQUIREMENTS

The following reporting formats should be utilized. Please obtain County approval prior to submitting a report in an alternative format.

PROGRESS REPORTS

Progress reports shall generally use the following format. This format may be modified as necessary to effectively communicate information. The report shall contain the following:

- (a) A description of program expenses and the use the Grant amounts.
- (b) A narrative summary of Trust activities including:
 - (1) Work undertaken or completed in the reporting period, including the number, type and size unit count of projects receiving the proceeds of Trust Funds.
 - (2) Activities planned to be undertaken in the next reporting period.
 - (3) Description of problems encountered in Trust program implementation; and a description of the solution and when it will be implemented.
 - (4) Description of how problems may impact the ability to complete or fulfill obligations under any applications or agreements for the receipt for Local Housing Trust Fund matching fund programs.
 - (5) Photo documentation, as appropriate.
- (c) Financial summary including:
 - (1) Amount of Trust funds (by Eligible Project and by activity type) available at the beginning of the reporting period, the amount drawn down to date, amount expended on Eligible Projects restricted to Extremely Low-Income households, amount expended on Eligible Projects restricted to Moderate-Income households, and the remaining balance.
 - (2) Documentation of matching funds received from the State, including the amount by source, expended on each Eligible Project during the reporting period.
 - (3) If requested by the County, the Trust shall obtain a report from a qualified, licensed third party that certifies to the amounts of disbursement and identifies the specific Eligible Projects for which the disbursements were made.
 - (4) "Eligible Project" shall have the same meaning as "Eligible Project" as defined in 25 CCR § 7151, subdivision (e), and any subsequent guidelines issued by the Department of Housing and Community Development regarding the Local Housing Trust Fund programs.

GRANT COMPLETION REPORT

The Grant Completion Report shall generally use the following format. This format may be modified as necessary to effectively communicate information on the activities funded by this Agreement, and includes the following:

Executive Summary

Reports and/or products

- A summary of the work completed.
- The information specified above with respect to Progress Reports.
- An estimate of the population of eligible individuals served by the project.

- A summary of the clients who received services through the use of the Grant amounts.
- A description of the housing facilities used to provide housing for eligible individuals.

Cost & Disposition of Funds Information

- A summary of final funds disbursement for the project.

EXHIBIT B**AUDIT DOCUMENT REQUIREMENTS****Audit Document Requirements**

The list below details the documents/records that County Auditors may review in the event the Agreement is audited. The Grantee should ensure that such records are maintained.

Internal Controls:

1. Organization chart (e.g., Grantee's overall organization chart and organization chart for this Agreement's funded project).
2. Written internal procedures and flowcharts for the following:
 - a) Receipts and deposits
 - b) Disbursements
 - c) Guidelines, policy(ies), and procedures on the Grant funded program.
3. Audit reports of the Grantee's internal control structure and/or financial statements within the last two years.

Agreements:

1. All subcontractor and consultant contracts and related agreements, if applicable.
2. Agreements between the Grantee, and project partners as related to the County funded Program/Project.

Invoices:

1. Invoices from vendors and subcontractors for expenditures under the Agreement, if applicable.
2. Documentation linking subcontractor invoices to the Agreement, as applicable.

Cash Documents (as applicable):

1. Receipts (copies of warrants) showing payments received from the County.
2. Deposit slips or bank statements showing deposit of the payments received from the County.
3. Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the Agreement.

Accounting Records:

1. Ledgers showing receipts and cash disbursement entries of County funding.
2. Ledgers showing receipts and cash disbursement entries of other funding sources.
3. Bridging documents that tie the general ledger to the expenditure of the Grant amounts.

Administration Costs:

1. Supporting documents showing the calculation of administration costs.

Personnel:

1. List of all contractors and Grantee staff that worked on the County funded program.
2. Payroll records including timesheets for Grantee and contractor staff.

Project Files:

1. All supporting documentation maintained in the Grant funded program files.
2. All Agreement related correspondence.