

1 CALISTOGA AFFORDABLE HOUSING, INC.
2 AGREEMENT NO. _____

3
4 FUNDING AGREEMENT

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6 THIS FUNDING AGREEMENT ("Agreement") is made and entered into as of this 19th
7 day of October 2010, by and between Calistoga Affordable Housing, Inc., hereinafter referred to
8 as "Grantee", and the City of Calistoga, hereinafter referred to as "Grantor".
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10 RECITALS
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12 WHEREAS, Grantee is proposing to re-establish a low and moderate income
13 homeowner repair program in Calistoga named "Rebuilding Calistoga"; and

14 WHEREAS, the Rebuilding Calistoga Program expects to make repairs on twenty-five
15 (25) houses through use of volunteers, with next year's event scheduled to occur April 11-17,
16 2011; and

17
18 WHEREAS, Grantor recognizes the important contribution attributable to the Rebuilding
19 Calistoga Program in providing assistance to low and moderate income households, as well as,
20 renovating existing housing stock in the City consistent with General Plan policy, specifically,
21 Housing Element Goal H-5, Objective H5.1, Action A2.

22 TERMS
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25 NOW, THEREFORE, in consideration of the mutual promises of Grantor and Grantee,
26 contained herein, Grantor and Grantee agree as follows:
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28 1. **Term of the Agreement.** The term of this Agreement shall commence on the
29 date first above written and shall expire on June 30, 2011, except that the obligations of Grantee
30 to Grantor under Paragraph 4 (Records Retention and Monitoring) and Paragraph 7 (Return of
31 Funds) shall survive the expiration date for the periods noted in such Paragraphs, and Paragraph
32 6 (Indemnification) shall continue in full force and effect after said expiration date as to any
33 liability for acts and omissions occurring during the term of this Agreement.
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35 2. **Use of Funds by Grantee.** Grantee hereby agrees to use all funds conveyed to
36 Grantee by Grantor under this Agreement for the sole purpose of offsetting expenses associated
37 with the Rebuilding Calistoga Program.
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39 3. **Payment of Funds by Grantor to Grantee.** Grantor agrees to pay to Grantee
40 within 30 days of execution of this Agreement the sum of Twenty Thousand Dollars (\$20,000),
41 to be used by Grantee to cover operating and program expenses for the Rebuilding Calistoga
42 Program. (See Exhibit A for project description) subject to conditions provided in Exhibit B.
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44 4. **Records Retention and Monitoring.** Grantee shall maintain records which fairly
45 reflect the activities of Grantee partially funded under this Agreement. Grantor shall have access
46 to any books, documents, papers and records of Grantee which are directly pertinent to the

47 subject matter of this Agreement. Except where longer retention is required by any Federal or
48 State law, Grantee shall maintain all such records for no less than five (5) years after Grantor
49 makes the grant payment called for in this Agreement.

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51 5. **Independent Grantee.** Grantee shall perform this Agreement as an independent
52 Grantee, and Grantee and its officers, agents, employees are not, and shall not be deemed,
53 Grantor employees for any purpose, including workers' compensation. Nothing in this
54 Agreement shall be construed to grant or confer on Grantor any right, title or ownership in the
55 Grantee, its operations or projects. Grantee shall, at its own risk and expense, determine the
56 method and manner by which the activities of Grantee under this Agreement shall be performed.

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58 6. **Indemnification.** Grantee shall defend, indemnify and hold harmless Grantor, its
59 officers, agents and employees from any claim, loss or liability including, without limitation,
60 those for personal injury (including death) or damage to property, arising out of or connected
61 with any aspect of the performance by Grantee, or its officers, agents, or employees, of activities
62 of Grantee funded under this Agreement.

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64 7. **Return of Funds.** If Grantee fails to fulfill in a timely and proper manner any of
65 Grantee's obligations under this Agreement or otherwise breaches this Agreement during the
66 term of this Agreement Grantee shall, upon written demand by Grantor, return to Grantor any
67 portion of the funds provided under this Agreement used in violation of Grantee's obligations
68 under this Agreement. Return of funds under this Paragraph shall occur within thirty (30) days of
69 receipt by Grantee of written demand by Grantor and shall include any interest earned thereon by
70 Grantee. Return of funds under this Paragraph shall be in addition to any other remedies
71 available to Grantor by law.

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73 8. **Non-Discrimination Clause.** During the performance of this Agreement,
74 Grantee and its officers, employees, and agents shall not deny the benefits thereof to any person
75 on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability,
76 nor shall Grantee discriminate unlawfully against any program participant because of race,
77 religion, color, national origin, ancestry, physical handicap, mental disability, medical condition,
78 marital status, age or sex. Grantor acknowledges and agrees that Grantee will be selecting
79 program participants from a pool of applicants and that such selection will necessarily require
80 discretion regarding "need", which may include factors such as age and physical or mental
81 disability in addition to other criteria.

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83 9. **Compliance with Laws.** Grantee shall observe and comply with all applicable
84 Federal, State and local laws, ordinances, and codes.

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86 10. **No Waiver.** Waiver by either party of any breach or violation of any requirement
87 of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the
88 breach of any other requirement of this Agreement.

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90 11. **Notices.** All notices required or authorized by this Agreement shall be in writing
91 and shall be delivered in person or by deposit in the United States mail, by certified mail, postage
92 prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or
93 communication that either party desires to give the other party shall be addressed to the other
94 party at the address set forth below. Either party may change its address by notifying the other
95 party of the change of address. Any notice sent by mail in the manner prescribed by this
96 paragraph shall be deemed to have been received on the date noted on the return receipt or five
97 days following the date of deposit, whichever is earlier.

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99 GRANTEE

100 Calistoga Affordable Housing, Inc.
101 1332 Lincoln Avenue
102 Calistoga, California 94515

GRANTOR

 City of Calistoga
 1232 Washington St.
 Calistoga, CA 94515

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104 12. **Amendment/Modification.** Except as specifically provided herein, this
105 Agreement may be modified or amended only in writing and with the prior written consent of
106 both parties.

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108 13. **Interpretation; Venue**

109 (a) Interpretation. The headings used herein are for reference only. The terms
110 of the Agreement are set out in the text under the headings. This Agreement shall be governed
111 by the laws of the State of California.

112 (b) Venue. This Agreement is made in Napa County, California. The venue
113 for any legal action in state court filed by either party to this Agreement for the purpose of
114 interpreting or enforcing any provision of this Agreement shall be in the Superior Court of
115 California, County of Napa, a unified court. The venue for any legal action in federal court filed
116 by either party to this Agreement for the purpose of interpreting or enforcing any provision of
117 this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of
118 California. The appropriate venue for arbitration, mediation or similar legal proceedings under
119 this Agreement shall be Napa County, California.

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121 14. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be
122 construed to create any rights in third parties and the parties do not intend to create such rights.

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124 15. **Severability.** If any provision of this Agreement, or any portion thereof, is found
125 by any court of competent jurisdiction to be unenforceable or invalid for any reason, such
126 provision shall be severable and shall not in any way impair the enforceability of any other
127 provision of this Agreement.

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129 16. **Entirety of Contract.** This Agreement constitutes the entire agreement between
130 the parties relating to the subject of this Agreement and supersedes all previous agreements,
131 promises, representations, understandings and negotiations, whether written or oral, among the
132 parties with respect to the subject matter hereof.

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IN WITNESS WHEREOF, the duly authorized representatives of the parties to this Agreement have executed it as of the date first above written.

OF CALISTOGA

By _____
WILLIAM C. NORTON, Interim City Manager

“GRANTOR”

CALISTOGA AFFORDABLE HOUSING, INC.

By _____
ERICA SKLAR, Executive Director

“GRANTEE”

APPROVED AS TO FORM:

ATTEST

Michelle Marchetta Kenyon
City Attorney

Susan Sneddon, City Clerk

Exhibit A

Rebuilding Calistoga Program

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Rebuilding Calistoga is a volunteer organization under the sponsorship of Calistoga Affordable Housing, Inc. that repairs the homes for low and moderate income households so they may live in warmth, safety and independence. Rebuilding Calistoga culminates in a one week April 11-17, 2011 repair effort. The project concludes with a volunteer appreciation celebration on April 17, 2011. Rebuilding Calistoga relies on the community for support from volunteers to repair the homes, and seeks funding from businesses, foundations, corporations and individuals. The success of Rebuilding Calistoga will be due to the cooperative efforts of City government, private businesses, civic and community organizations, churches and parishes. Rebuilding Calistoga restores tired neighborhoods and the homeowner's pride and dignity, as well as, Community wellbeing. Rebuilding Calistoga is neighbor helping neighbor...people helping people.

Exhibit B

Conditions of Approval

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1. The attached Funding Agreement be executed.
2. Applications be prescreened through the City's Building Official to identify any significant Building/Fire Code issues of concern.
3. Building permits be obtained for all work when required by the Calistoga Municipal Codes. All required City plan check fees and permit fees for required inspections shall be paid prior to issuance of a building permit.
4. After completion of each home improved, CAH, Inc. shall submit a report detailing activities provided under the program to be utilized for the City's annual housing report.
5. An accounting of the use of City funds be provided to the City prior to July 1, 2011.