

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE

Emergency Housing and Assistance Program Capital Development
 1800 Third Street, 390-4
 P. O. Box 952054
 Sacramento, CA 94252-2054
 (916) 445-0845
 FAX (916) 323-6016



Emergency Housing and Assistance Program Capital Development (EHAPCD)
Loan Escrow Instructions

Name of Escrow Officer Date
 Name of Escrow/Title Company
 Address of Escrow Company
 City, CA Zip code

RE: **Project:** «Project_Shelter»
Borrower: «Applicant_Name»
Escrow Number:
Contract No.: «Loan_No»
Escrow Officer Phone Number:
Escrow Officer Email:

Dear **Ms./Mr. Last Name of Escrow Officer:**

This letter constitutes the initial escrow instructions of the Emergency Housing and Assistance Program Capital Development ("EHAPCD") by the State of California, Department of Housing and Community Development an agency of the State of California (the "Department") in connection with financing to be provided by the Department under EHAPCD to «Applicant_Name», «Organization_Status» (the "Borrower") for the purpose of providing the permanent financing for that certain real property located at «Shelter_Address», «Shelter_City», CA «Shelter_Zip_Code», (Insert APN #) , and described in Exhibit A, attached hereto (the "Property").

Please indicate your receipt and acceptance of these instructions, execute the Acknowledgement of Receipt and Acceptance attached to these instructions on page **INSERT PAGE NUMBER**, and return the enclosed form to «EHAPCD_Representative», Contract Representative, via facsimile to the following number: (916) 323-6016. You may e-mail an executed copy of the document to the above named Contract Representative at: «EHAPCD_Rep_Email» You are not authorized to transfer funds or record documents until you have complied with all requirements of these instructions as may be amended from time to time.

A. CLOSING FUNDS AND DOCUMENTS:

From the Department, in connection with the closing of the above-referenced loan, enclosed are the following:

1. A warrant in the sum of \$**INSERT AMOUNT OF PAYMENT AUTHORIZED** to be deposited into an interest bearing, federally insured escrow account

for disbursement per Section D.2.a.i. Page **INSERT PAGE NUMBER** of these escrow instructions.

2. A Promissory Note Secured by a Deed of Trust in favor of the Department to be executed without further modification or amendment by the Borrower in the principal sum of «Loan_Amount» (the "Department Note").
3. A Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing Permanent Financing) on the Property securing the Department Note to be executed without further modification or amendment and acknowledged by the Borrower (the "Department Deed of Trust").
4. A Regulatory Agreement regarding the Property, executed by the Department, and to be executed without further modification or amendment by the Borrower (the "Regulatory Agreement").
5. When major construction is being funded with EHAPCD monies, a Development Agreement regarding the Property, executed by the Department, to be executed without further modification or amendment by the Borrower (the "Development Agreement").
6. Notice of Default and Sale relating to the <name of lender> to be completed and signed by you in escrow, and acknowledged for recording purposes.
7. A Corporate Certificate to be executed by the Borrower's Authorized Representative. **(NOT NEEDED IF BORROWER IS A CITY OR COUNTY AGENCY)**
8. A Lease Rider regarding the lease hold interest in the Property, executed by the Department, and to be executed and filed on behalf of the Department without further modification or amendment by the Borrower (the "Lease Rider").
9. A Subordination Agreement regarding the Property, executed by the Department, be executed without further modification or amendment by the Borrower (the "Subordination Agreement").

B. CONDITIONS OF CLOSING:

All of the following conditions must be satisfied prior to close of escrow:

1. In the event there are new defects in or liens or encumbrances on the title since the last Preliminary Title Report dated, **DATE OF CURRENT PRELIM.**, these escrow instructions shall become null and void.

2. You have received evidence of Builder's Risk Insurance and/or Hazard Insurance for the Property being encumbered and have faxed or e-mailed said evidence to the Department for review and acceptance.
3. A certified copy of the recorded Grant Deed conveying the Seller's (INSERT SELLER(S) NAME(S)) interest in the Property to the Borrower.
4. From, INSERT THE NAME(S) OF OTHER LENDER OR FINANCE SOURCE the sum of \$AMOUNT which has been deposited into escrow for distribution to be authorized by name of representative from other lender or finance source.
5. From INSERT THE NAME OF OTHER LENDER OR FINANCE SOURCE a certified copy of the Promissory Note in favor of the INSERT NAME OF OTHER LENDER OR FINANCE SOURCE in the principal sum of \$TOTAL LOAN AMOUNT OF OTHER LOAN and a certified copy of the Deed of Trust securing this Promissory Note.

C. CLOSING MAY OCCUR WHEN:

1. You have received the funds and documents described in Items A.1-9 and B.1-5 above;
2. You are prepared and irrevocably committed to issue an A.L.T.A. Extended Coverage Policy - 2006 with A.L.T.A. Endorsement Form 1 Coverage and C.L.T.A. Forms 100, 103.9, 110.9 and 116 Endorsements, in the amount of «Loan_Amount», insuring the Department Deed of Trust in first-lien position, showing FEE/LEASEHOLD title to the Property vested in the Borrower, subject only to taxes and assessments paid current and Exceptions numbered INSERT NOS. OF EXCEPTIONS ACCEPTABLE TO HCD FROM PRELIMINARY TITLE REPORT as set forth in the Preliminary Title Report dated, INSERT DATE OF CURRENT PRELIM;
3. All of the above-referenced documents are fully executed, and the Department Deed of Trust and the Regulatory Agreement are sufficient in form for recordation and to encumber the Property as security for the Department's loan;
4. You have received a copy of Exhibit B, Escrow Agent Disbursement Agreement, attached, which constitutes a separate agreement, the terms of which are independent of this escrow, which has been fully executed by you as the Authorized Representative of the above named escrow company;
5. You have received the Department's acceptance of the proof of Builder's Risk Insurance (or binder) naming the Department as an insured. For projects not presently under construction, you have received the Department's acceptance of the proof of a one-year prepaid Hazard

Insurance policy covering the subject Property in an amount and with an insurer acceptable to the Department and naming the Department as additional insured and loss payee; and

6. You have requested and received faxed, electronic or oral confirmation from «EHAPCD_Representative» at «EHAPCD_Rep_Phone_No» that all other considerations of closing required by the Department to be fulfilled outside of this escrow have been fulfilled to the satisfaction of the Department.

D. THEN AND ONLY THEN, YOU ARE INSTRUCTED TO:

1. Record in the Official Records of the County of «Shelter_County», the following executed Department documents, in the order below, without intervening documents:

- | | |
|--------|--|
| First | The Grant Deed as described in Item B.3. above, when applicable; |
| Second | Site Lease and Lease Rider and Estoppel Agreement, when applicable; |
| Third | The Department's Regulatory Agreement; |
| Fourth | The Department's Deed of Trust; |
| Fifth | The Department's Request(s) for Notice of Default and Sale, when applicable; |
| Sixth | The Subordination Agreement, when applicable |

(PLEASE NOTE: If you record any of the documents out of sequence, you maybe required to re-record all documents in the correct order.)

(NOTE: Section 27383 of the Government Code provides that, with respect to recordation, "no fee shall be charged by the Recorder for services rendered to the State... except for making a copy...")

2. From the loan proceeds described in Section A.1., on Page 1 of these escrow instructions:

- a. Establish and credit «Loan_Amount» to a federally insured interest-bearing escrow account for controlled disbursement of project-related expenses.
 - i. From this account you are authorized to disburse to the Borrower/Seller the sum of \$Amount authorized for initial release for Acquisition, New Construction, Rehabilitation, and Administration expenses.
 - ii. Any and all interest accrued from the Department's funds shall accrue and be payable to the Department.

- b. Further disbursements from the above-mentioned account are to be made as per Exhibit B (Escrow Agent Disbursement Agreement).
3. Deliver to the Department, at the address shown below, and immediately following recordation of the documents identified in Item D.1. of these escrow instructions, the following items:
- a. A conformed copy of the Grant Deed;
 - b. A certified copy of the recorded Site Lease and certified copy of the Department's fully-executed and recorded Lease Rider and Estoppel Agreement;
 - c. A certified copy of the Department's fully-executed and recorded Regulatory Agreement;
 - d. A certified copy of the original fully-executed and recorded Department Deed of Trust;
 - e. A certified copy of the executed and recorded Request(s) for Notice of Default and Sale;
 - f. The original, fully-executed Department Note;
 - g. The original, fully-executed Development Agreement;
 - h. A.L.T.A. Policy as required in Section C.2. on page 2 of these escrow instructions;
 - i. A certified copy of the escrow closing statement;
 - j. The original executed Corporate Certificate, and
 - k. A copy of one-year prepaid Builder's Risk and/or Hazard insurance policy required in Section C.5. Page 2 of these escrow instructions.

Deliver items D.3. ~~a.-k.~~ to the following address:

«EHAPCD_Representative», EHAPCD Contract Representative
Department of Housing and Community Development
P. O. Box 952054, (1800 Third Street MS 390-4)
Sacramento, CA 94252-2054 (95811)

If this escrow does not close on or within 30 working days from date of letter, prior to 5:00 p.m., you are instructed to hold all funds and documents delivered to you pursuant to these instructions pending further instructions from the Department. Time is of the essence.

«Applicant_Name»

«Loan_No»

Escrow Instructions

Page 6 of 14

(Rev. 2/12)

For purposes of these instructions, escrow closing shall be deemed the date upon which the documents contemplated for recordation are recorded in the Official Records of the County of «Shelter_County» in accordance with the terms hereof.

The documents and monies herein described are delivered to you as escrow holder subject to compliance with these instructions. Acceptance by you of this escrow shall constitute a contractual obligation with the Department for complete compliance with these instructions.

The Department reserves the right to revoke or amend in writing these instructions and recall documents at any time prior to recordation and disbursement of funds.

All costs and expenses for the photocopying, property taxes, delinquent assessments, delivery fees, transfer taxes and any other unauthorized charges with respect to the closing of the transactions contemplated by this letter shall be paid by either the Seller or the «Applicant_Name». The Department shall have no responsibility or liability for any such costs or expenses.

Sincerely,

<Program Manager>, Program Manager
Emergency Housing and Assistance Program Capital Development

Enclosures:

Warrant No.: _____

Acknowledgement of Receipt and Acceptance

As the authorized escrow officer, I hereby acknowledge receipt and acceptance of the above instructions and enclosures regarding Escrow No. **escrow number** for «Applicant_Name», «Organization_Status» and hereby agree to be bound by them.

By: _____
(Print name)

By: _____
(Co-executor, print name)

Signature: _____

Signature: _____
(Co-executor)

Title: _____

Title: _____

Date: _____

Date: _____

This document either (A) must be co-executed by both the escrow officer and either an officer of the company or the branch manager; or (B) must be executed by the escrow officer and returned to the Department with satisfactory written proof of authorization of the escrow officer to sign on behalf of the company.

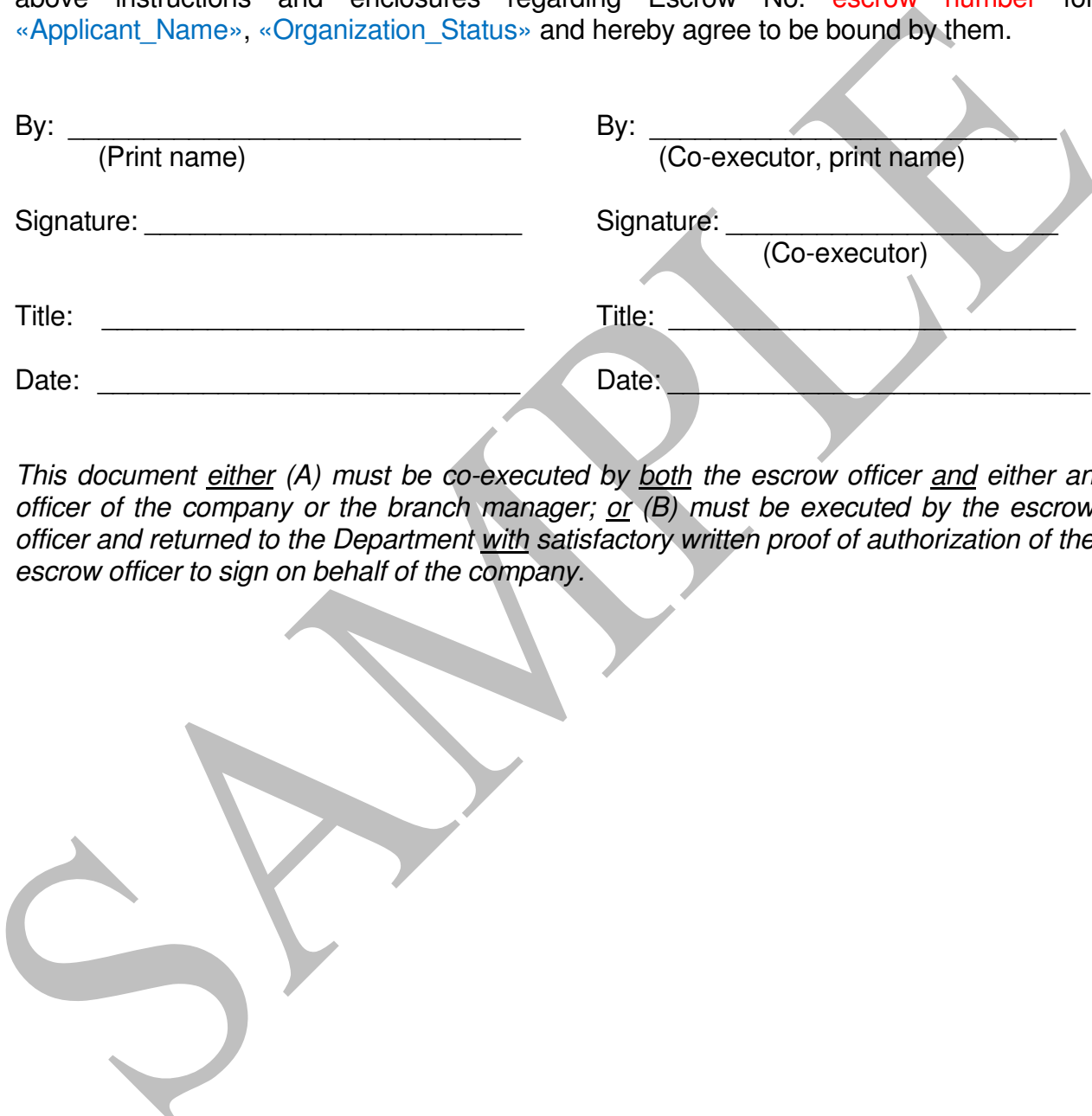


Exhibit A
Legal Property Description

Insert legal description of project site

Assessor's Parcel Number: Insert project site's parcel number

SAMPLE

Exhibit B
Escrow Agent Disbursement Agreement

Capital Development Disbursements from the Disbursement Account relating to rehabilitation and /or new construction development costs shall occur as specified in the Development Agreement, which must be executed before funds can be released for either or both of these types of costs. Authorized escrow agents shall perform the following disbursement procedures:

1. Promptly deposit the State funds into the federally insured, interest-bearing Disbursement Account. Any and all interest accrued from the Department's funds shall accrue and be remitted to the Department.
2. Additional draws will be authorized by the contract representative of the Department upon completion of each construction stage pursuant to Exhibit C of the Development Agreement to be executed. Borrower shall submit to the Department a Request for Disbursement form properly endorsed by the following parties:
 - a. Borrower or Borrower's Authorized Representative;
 - b. Contractor or Contractor's Representative; and
 - c. Borrower's Architect certifying completion of applicable construction stage(s).
3. Upon receipt of written authorization from the Department and confirmation to proper endorsements pursuant to Section C. 2. on **Page 2** of this document, when applicable you shall:
 - a. Certify clear title one day prior to each disbursement and send "date down" Endorsement (standard 122) to the Department.
 - b. Release check drawn in the name of the Borrower. Check is to be released only to the Borrower's representative.
4. Upon completion of the capital development work, you shall promptly:
 - a. Record a valid Notice of Completion executed and submitted for recording by the Borrower or its general contractor and issue a 101.2 Endorsement to the Department.
 - b. Rewrite an A.L.T.A. lender's policy and issue to the Department.

The Escrow Agent by signing in the space provided below, hereby acknowledges receipt and acceptance of the above terms of disbursement and hereby agrees to be bound by them.

By: _____
Escrow Officer

Date: _____

Printed name of the Title Company

Exhibit C
INSURANCE REQUIREMENTS

At close of escrow, the Department must receive a one-year prepaid Certificate of Insurance policy (or a binder followed by a certificate within thirty (30) days of loan closing) evidencing the following coverage:

1. GENERAL REQUIREMENTS:

Property and liability insurance policies, a separate flood insurance policy (if applicable) and all renewals must be with a company that rates A- or better, and has a Financial Size of Class VIII or better in Best's Key Rating Guide. The Department must approve exceptions in writing.

All policies must name the Department as loss payee. All liability policies must name the Department as an additional named insured. All policies must have EHAPCD loan number.

2. HAZARD (PROPERTY):

A. Perils to be insured:

Special perils for direct physical loss or damage to property, subject to policy exclusions, definitions, and limitations. Include coverage for the following perils:

- (1) Special form
- (2) Ordinance or law, including:
 - (a) Loss to undamaged portion of the building
 - (b) Demolition cost
 - (c) Increased cost of construction
 - (d) Increased period of restoration
- (3) Back up of sewers and drains
- (4) Flood special form

B. Covered Property: Real property improvements; and contents coverage.

- (1) Property Covered: All real and personal property owned by the insured or in which the insured has an interest, or for which the insured may be legally liable or which the insured has agreed in writing to insure, including:
 - (a) Insurance also applies to all temporary structures on premises specified or within 100' thereof
 - (b) Accounts receivable
 - (c) Valuable papers and records

- (d) Fine arts
- (e) Property in transit
- (f) Fire damage legal liability – real property
- (g) Trees, plants and shrubs

(2) Additional Coverage/Extensions (detail what items will not be included, if any):

- (a) Business income, including:
 - (i) Extended period of indemnity
 - (ii) Contingent business interruption
 - (iii) Off-premise power
 - (iv) Extra expense, including from dependent properties
 - (v) Interruption by civil authority
 - (vi) Neighboring property
 - (vii) Loss of rents/maintenance fees
 - (viii) Expending expenses
 - (ix) Increased period of restoration
- (b) Soft costs
- (c) Debris removal
- (d) Pollutant clean-up and removal, including mold (sub-limit acceptable)
- (e) Unnamed locations
- (f) Newly acquired locations
- (g) Waiver of subrogation

C. Limit of Insurance:

Blanket limit covering buildings, structures, and personal property with a separate blanket limit for business income.

D. Valuation:

In the event of loss or damage to the insured property, the basis of adjustment shall be:

- (1) All real property improvement and personal property replacement cost (unless a lesser amount is approved by the Department)
- (2) Valuable papers and records – value: the cost of reproducing or reconstructing
- (3) Fine arts – the lesser of market value, replacing or restoring the property
- (4) Loss of rents/extra expense – actual loss sustained or 90% coinsurance
- (5) EDP equipment – functional replacement cost

E. Deductibles:

\$2,500 maximum deductible per occurrence; or
\$1,000 maximum deductible per occurrence if the completed project value
is less than \$300,000.
Flood may have alternative deductibles.

F. Co-Insurance:

90% coinsurance clause on policy: Preauthorized Agreed Amount
endorsement Loss payee: Lenders Loss Payable Endorsement is required
naming the Department as Loss Payee.

3. OTHER PROPERTY INSURANCE (WHEN APPLICABLE):

Flood Insurance: Coverage required to 80% of replacement cost if the property is
located in a FEMA flood plain designation.
Boiler and Related (When applicable) 100% of Machinery: replacement cost
coverage is required.

4. COMPREHENSIVE GENERAL LIABILITY FOR BODILY INJURY, PROPERTY
DAMAGE AND PERSONAL INJURY ON A STANDARD ISO FORM:

Minimum amount: \$1,000,000 per occurrence; \$2,000,000 aggregate;
\$2,000,000 per occurrence for buildings with elevators;
\$4,000,000 aggregate.

Minimum amount: \$5,000,000 per occurrence; \$10,000,000 aggregate. May be
provided by an umbrella or excess liability.

For buildings valued at more than \$10,000,000:

Minimum amount for \$2,000,000 for first story.

Buildings over five stories: \$1,000,000 per each additional story.

Medical payments: \$25,000 per person optimum; \$5,000 per person minimum.

5. OTHER COVERAGE:

Workers Compensation: Required by state law if employees are involved. Employer liability shall be \$1,000,000.

Employers non-owned

Auto liability: Same limit as General liability.

6. SPECIAL COVERAGE:

SRO: Disclose central kitchens as separate personal property by square footage and value of the kitchen service equipment (disclose receipts if applicable).

Recreation/Community: Special coverage required if not included in the building and Rooms: business personal property limits.

Day Care Facilities: Special coverage required if run separately. The day care center will be required to have separate insurance with limits not less than the limits applicable above and said policy shall name the owner and the Department as an insured.

7. CERTIFICATES AND EVIDENCES:

All Certificates and Evidences must include the name of the project, the name of the borrower as named insured, the HCD standard agreement number and the address of the project. The Department, its officers, agents, employees, directors, and appointees shall be named as insured as their interests may appear.

ALL POLICIES MUST INCLUDE THE FOLLOWING LANGUAGE:

Named Insured: Borrower and EHAPCD Loan Number

Additional Named: The Department of Housing and Community Development and its officers, agents, employees, and

Insured: Servants must be named as an insured.

Endorsement: Lender's Loss Payable Endorsement naming the Department as Loss Payee.

Cancellation/Change Clause: The Department must be notified 30 days prior to any change, non-renewal or cancellation of the insurance policy.

«Applicant_Name»

«Loan_No»

Escrow Instructions

Page 14 of 14

(Rev. 2/12)

The Department shall be identified on all insurance documents as follows:

**The Department of Housing and Community Development
P. O. Box 952054
Sacramento, CA 94252-2054**

Attach agent's signed certification of coverage on agent's letterhead.

SAMPLE