

AGREEMENT
BY AND BETWEEN THE
CITY OF CHULA VISTA
AND

FOR MANAGEMENT AND IMPLEMENTATION OF
HOME INVESTMENT PARTNERSHIP ACT PROGRAM
COMMUNITY HOUSING DEVELOPMENT ORGANIZATION SET ASIDE FUNDS

This Contract Number _____ by and between _____
(hereinafter referred to as ("Community Housing Development Organization")) and the
City of Chula Vista (hereinafter referred to as "City") is effective on
_____ ("Effective Date").

WITNESSETH:

WHEREAS, the City of Chula Vista has received federal funding pursuant to the
HOME Investment Partnership Program; hereinafter referred to as "HOME" to expand
the supply of decent, safe, sanitary, and affordable housing; and

WHEREAS, the financial assistance to Community Housing Development
Organizations (CHDOs) is a permitted use of HOME funds; and

WHEREAS, the City, is authorized to apply for and accept HOME funds; and

WHEREAS, City incorporated the use of HOME funds described in Attachment
"A" hereof (hereinafter referred to as the "Project") into the City's Community
Development Block Grant/HOME Investment Partnership/Emergency Shelter Grant
Annual Funding Plan Amendment that was submitted to the U.S. Department of
Housing and Urban Development (HUD); and

WHEREAS, HUD has approved the City Annual Funding Plan Amendment for the
Home Investment Partnership Act Program; and

WHEREAS, it is the desire of the CHDO and the City that the Project be
implemented by the Developer; and

WHEREAS, the CHDO shall undertake the same obligations to the City with
respect to the Project in the City's aforesaid Amendment to the Annual Funding Plan
for participation in the HOME Investment Partnership Act Program;

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. WORK TO BE PERFORMED: CHDO shall implement the scope of work ("Scope of
Work") described in Attachment A, hereof fully and in accordance with the

terms of the Annual Funding Plan Amendment approved by the City and submitted to HUD in application for HOME funds to carry out the Project and the Certifications which were submitted concurrently with the Annual Funding Plan Amendment. The Annual Funding Plan and Certifications form is hereby incorporated by reference into this contract fully as if set forth herein.

CHDO shall also undertake the same obligations to the City that the City has undertaken to HUD pursuant to said Annual Funding Plan Amendment and Certifications. The obligations undertaken by Developer include, but are not limited to, the obligation as applicable comply with each of the following as may be amended from time to time and be amended for specific HOME funded activities described in 2013 HOME Final Rule (24 CFR Part 92.300-92.303):

- a. HUD regulations relating to Home Investment Partnership Act program (24 CFR 92);
- b. The regulations in 24 CFR Part 58 specifying other provisions of the law that further the purposes of the National Environmental Policy Act of 1969 and the procedures by which grantees must fulfill their environmental responsibilities;
- c. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d); Title VII of the Civil Rights Act of 1964 (Public Law 88-352); Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, 42 USC § 3601, *et seq.*); Section 109 of the Housing and Community Development Act of 1974; Executive Order 11246, as amended (equal employment opportunity); Executive Order 11063 (non-discrimination), as amended by Executive Order 12259; and any HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights;
- d. Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u.

All section 3 covered contracts shall include the following clause (referred to as the "section 3 clause"):

- i. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- ii. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they

- are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- iii. CHDO agrees to send to each labor organization or representative of workers with which the (CHDO has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Developer's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - iv. The CHDO agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The CHDO will not subcontract with any sub-contractor where the Developer has notice or knowledge that the sub contractor has been found in violation of the regulations in 24 CFR part 135.
 - v. The CHDO will certify that any vacant employment positions, including training positions, that are filled (1) after the CHDO is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the CHDO's obligations under 24 CFR part 135.
 - vi. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
 - vii. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- e. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1979, 42 USC § 4601, *et seq.*, and regulations adopted to implement that Act in 49 CFR Part 24; except as those provisions are modified by the Notice for the NSP Program published by HUD.

- f. Office of Management and Budget ("OMB") Cost Principles have been established for non-profits through 2 CFR part 200, subpart E, entitled "Cost Principles for Non-Profit Organizations"; 2 CFR part 230 entitled "Cost Principles for Non-Profit Organizations" (Circular A-122);
- g. 24 CFR 221(d) Limits;
- h. The following laws and regulations relating to preservation of historic places: National Historic Preservation Act of 1966 (Public Law 89-665); the Historical and Archaeological Preservation Act of 1974 (Public Law 93-291); and Executive Order 11593;
- i. Labor standards provisions apply to any contract for the construction of 12 or more HOME-assisted units. (Section 286, National Affordable Housing Act of 1990, as amended.)
- j. Labor Code section 1771 concerning prevailing wages; if applicable
- k. The Hatch Act relating to the conduct of political activities (5 U.S.C. § 1501, *et seq.*);
- l. The Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001, *et seq.*, and the implementing regulations in 44 CFR Parts 59-78);
- m. The Rehabilitation Act of 1973 (Public Law 93-112) as amended, including Section 504 which relates to nondiscrimination in federal programs and HUD 24 CFR Part 8;
- n. The Clean Air Act (42 U.S.C. § 7401, *et seq.*) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, *et seq.*) and the regulations adopted pursuant thereto (40 CFR Part 6);
- o. The Drug-Free Workplace Act of 1988 (Public Law 100-690);
- p. The Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and implementing regulations at 24 CFR Part 35;
- q. No member, officer or employee of the CHDO, or its designee or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct, or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the program assisted under the Grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification.

- r. The CHDO certifies, that in accordance with Section 319 of Public Law 101-121, to the best of his or her knowledge and belief that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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, 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 contract, and the extension, continuation, renewals, amendment, or modifications of any federal contract, grant loan, or cooperative contract.
 - ii. If any funds 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, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
 - s. The Architectural Barriers Act of 1968 (42 U.S.C. § 4151, *et seq.*);
 - t. The Americans with Disabilities Act (42 U.S.C. § 12101); and
 - u. The bonding requirements described in 24 CFR Part 85.36 required for construction or facility improvement contracts or subcontracts that exceed the simplified acquisition threshold (defined at 41 U.S.C. 403(11)). These requirements are further described in Attachment A, which is attached hereto and incorporated by reference.
 - v. CHDO shall hold City harmless and indemnify City against any harm that it may suffer with respect to HUD on account of any failure on the part of the CHDO to comply with the requirements of any such obligation.
2. COMPLIANCE WITH LAWS: CHDO shall comply with all applicable local, state, and federal laws, regulations, ordinances, and City Policies when performing the work required by this Contract.
 3. COMPENSATION: City shall reimburse CHDO up to 10% for a CHDO (Developer) fee for the portfolio of projects (rental units) assistance and with reasonable gap financing expenses it incurs for work performed under this Contract. Total reimbursement (developer fee and gap financing) shall not exceed **\$_____**. CHDO shall not submit claims to the City nor shall City reimburse Developer CHDO for costs for which Developer CHDO is reimbursed from a source other than the funds allocated for work under this Contract.
 4. COMPENSATION SCHEDULE: City shall pay CHDO monthly progress payments

- upon submittal by CHDO of a certified statement of actual expenditures incurred, provided, however, that not more than 90% of the total agreed compensation will be paid during the performance of this Contract. The balance due shall be paid upon certification by CHDO that all of the required services have been completed. Payment by City is not to be construed as final in the event HUD disallows reimbursement for the project or any portion thereof. The 10% retention will not apply to acquisition or service contracts.
5. INDIRECT COSTS: If indirect costs are charged, the CHDO will develop an indirect cost allocation plan for determining the appropriate CHDO's share of administrative costs and shall submit such plan to the City for approval.
 6. EXPENDITURE STANDARD: To insure effective administration and performance of approved Neighborhood Stabilization Program projects and to meet HUD performance standards, CHDO shall demonstrate reasonable progress on implementation of the project, expending all contracted funds within the term of the contract. In the event all funds are not expended within the term period, the City shall notify the Developer (CHDO) of the expenditure deficiency. CHDO will have a total of 30 days from the date of the City's written notification to correct the deficiency. If the deficiency is not corrected within that time, Developer (CHDO) agrees that the City may reallocate the amount of the expenditure deficiency.
 7. TERM: This contract shall commence when executed by the parties and shall continue in effect until terminated as provided herein or until Developer has carried out all its obligations under the contract. Services of the Developer shall start on the **1st day of July 2017 and end on the 30th day of June of 2018**. With City approval, the term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Developer remains in control of HOME CHDO Set Aside funds.
 8. TERMINATION FOR CONVENIENCE: The City may permit the agreement to be terminated for convenience in accordance with 24 CFR 85.44.
 9. AUTOMATIC TERMINATION: This Contract shall terminate at the discretion of the City if the United States Government terminates or recaptures the Home Investment Partnership Act Program or terminates the Project that is the subject of this Contract.
 10. TERMINATION OF CONTRACT FOR CAUSE: Developer and City recognize that the City is the governmental entity which executed the grant agreement received pursuant to the City's application and that City is responsible for the proper performance of the Project. If Developer fails to fulfill in a timely and proper manner its obligations under this Contract to undertake, conduct or perform the Project identified in this Contract, or if Developer violates any state laws or regulations or local ordinances or regulations applicable to implementation of the Project, or if Developer violates any provisions of this contract, City shall have the right to terminate this contract by giving at least

five days written notice to Developer of the effective date of termination.

Even if City terminates the Contract, Developer shall remain liable to City for all damages sustained by City due to Developer's failure to fulfill any provisions of this Contract, and City may withhold any reimbursement payments from Developer for the purpose of set-off until the exact amount of damages due to City from Developer is determined. Developer hereby expressly waives any and all claims for damages for compensation arising under this contract except as set forth in this section in the event of such termination. The City may also, in lieu of termination and at its discretion, take any action, as stated in 24 CFR 85.43, subdivision (a), sections 1 to 5, to enforce this Agreement.

11. CONTRACT ADMINISTRATION: The Housing Manager of the City of Chula Vista shall administer this Contract on behalf of the City. _____ shall administer this contract on behalf of the Developer. Within a reasonable time after the City makes a request, Developer shall give the City progress reports or other documentation as required by the City's Administrator to audit Developer's performance of this Contract.

12. RECORDS AND REPORTS: The Developer shall maintain records and make such reports as required by the City of Chula Vista to, but not limited to, enable the City to analyze Developer's project. All records of the Developer related to this Contract or work performed under the Contract shall be open and available for inspection by HUD and/or City monitors and auditors during normal business hours.

13. RETENTION: The Developer shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. 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.

14. DATA: The Developer shall maintain data demonstrating eligibility (low-moderate locations) for services provided. Such data shall include, but not be limited to exact location of the work performed, and a description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

15. DISCLOSURE: The Developer understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Developer's responsibilities with respect to services provided under this contract, is prohibited by the state of Federal law privacy laws unless written

consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

16. QUARTERLY REPORTS/ANNUAL REPORT: Developer shall provide the City with a quarterly report, submitted no later than 15 days after the last day of the previous quarter, which includes a narrative of the services provided, progress towards meeting the timeline goals stated in the contract, and an itemized accounting of the expenditures of HOME funds during the previous quarter. Failure to submit quarterly reports in a timely manner will result in withholding of HOME funds until the report has been submitted. Quarterly Performance Reports are due **October 15** (1st Quarter), **January 15** (2nd Quarter), **April 15**, (3rd Quarter) and **July 15** (4th Quarter). The Annual Performance Report will also be due **July 15**.

17. INDEMNIFICATION: City shall not be liable for, and Developer shall defend, indemnify, and hold the City, its officers, agents, employees and volunteers harmless from and against any and all claims, deductibles, self-insured retentions, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs by this Contract arising either directly or indirectly from any act, error, omission or negligence of Developer or its officers, employees, agents, Developers, licensees or servants, contractors or subcontractors, including without limitation, claims caused by the concurrent act, error, omission or negligence, whether active or passive, of City, and/or its agents, officers, employees or volunteers. However, Developer shall have no obligation to defend or indemnify City from a claim if it is determined by a court of competent jurisdiction that such claim was caused by the sole negligence or willful misconduct of City or its agents or employees.

Developer and its successors, assigns, and guarantors, if any, jointly and severally agree to indemnify, defend (with counsel selected by City) reimburse and hold City and its officers, employees and agents harmless from any claims, judgments, damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims) or loss, including attorneys' fees, consultant's fees, and experts' fees which arise during or after the contract term for any losses incurred in connection with investigation of site conditions, or any cleanup, remedial, removal or restoration work required by any hazardous materials laws because of the presence of hazardous materials, in the soil, ground water or soil vapors on the premises, and the release or discharge of hazardous materials by Developer during the course of any alteration or improvements of the Premises by Developer, unless hazardous materials are present solely as a result of the gross negligence or willful misconduct of City, its officers, employees or agents. The indemnification provided by this section shall also specifically cover costs incurred in responding to:

- a. Hazardous materials present or suspected to be present in the soil, ground water to or under the Property before the commencement date;

- b. Hazardous materials that migrate, flow, percolate, diffuse, or in any way move on to or under the Property following the commencement date;
- c. Hazardous materials present on or under the Property as a result of any discharge, release, dumping, spilling (accidental or otherwise), onto the Property during or after the term of this Contract by any person, corporation, partnership or entity other than City.

Funding from this program is a result of a Federal Grant, should Federal funding be terminated for any reason, City is not liable for any consequence of any type resulting directly or indirectly from the termination of federal funding and Developer agrees, in addition to any other indemnification provision set forth in this agreement, to indemnify, hold harmless, and defend the City against any claim, cause of action, or any form of liability as a result of, directly or indirectly, funding termination.

The foregoing indemnities shall survive the expiration or termination of the contract any or any transfer of all or any portion of the Premises, or of any interest in this Contract and shall be governed by the laws of the State of California.

- 18. AUDIT COSTS: Developer shall reimburse City for all costs incurred to investigate and audit Developer's performance of its duties under the Contract if Developer is subsequently found to have violated the terms of the Contract. Reimbursement shall include all direct and indirect expenditures incurred to conduct the investigation or audit. City may deduct all such costs from any amount due Developer under this Contract.
- 19. ENTIRE AGREEMENT: This Contract and referenced Attachments and Exhibits constitutes the entire agreement of the parties and supersedes any previous oral or written understandings or contracts related to the matters covered herein.
- 20. MODIFICATION. This Contract may not be modified except by written amendment executed by each party.
- 21. ACKNOWLEDGEMENT OF FUNDING: Developer shall identify the City of Chula Vista as the source of funding, or, if applicable, one of the sources of funding in public announcements that are made regarding the Project. Acknowledgement of the City's funding roles, for example, should be included in publicity materials related to the Project. In addition, Developer agrees that the City shall be apprised of any special events linked to the Project so that a review can be made on what role, if any, the City would assume.
- 22. INSURANCE: Developer agrees to comply with the insurance requirement set forth in Attachment "B" and/or any additional insurance requirements requested by the City, as the City deems appropriate. Failure to acquire and maintain the required insurance is a basis to take an enforcement action, or

terminate this agreement.

23. NO WAIVER: No failure, inaction, neglect or delay by City in exercising any of its rights under this Contract shall operate as a waiver, forfeiture or abandonment of such rights or any other rights under this Contract.

24. NOTICE: Any notice or notices required or permitted to be given pursuant to this Contract shall be personally served by the party giving notice or shall be served by certified mail. Notices shall be sufficient if personally served on or if sent by certified mail, postage prepaid, addressed to:

**Developer/Community
Development Organization:**

Housing

City:

City of Chula Vista
Housing Manager
276 Fourth Avenue
Chula Vista, CA 91910

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF CHULA VISTA

Gary Halbert
City Manager, City of Chula Vista

APPROVED AS TO FORM

Glen Goggins
City Attorney

ATTEST

City Clerk

DEVELOPER/CHDO

Attachment A: Scope of Work
Attachment B: Insurance Requirements
Attachment C: Income Limits
Attachment D: Disclosure Form

Exhibit 1: Deed of Trust
Exhibit 2: Note Secured by Deed of Trust
Exhibit 3: Declaration of Covenants, Conditions, and Restrictions (HOME Program)

_____ (DEVELOPER/CHDO) has a certain project to be implemented with HOME Investment Partnership Act Program Funds (HOME). The work to be accomplished includes the following:

Developer/CHDO:

- Shall utilize HOME Investment Partnership Act Program (HOME) CHDO Set Aside funds for purchase and rehabilitation of CHDO Set Aside funds foreclosed and abandoned properties for use of permanent rental housing and provide project management and oversight of services for certain aspects of the HOME, including management and maintenance of affordable rental properties, hereinafter referred to as "Project(s)."
- Shall perform a subsidy layering analysis to determine financial feasibility of the project factoring in affordability period and rent levels as described in the City Amended Annual Funding Plan.
- If available and timely, obtain additional financing to finance the acquisition and/or rehabilitation.
- HOME funds will be available for financial assistance up to the 221 (d)(3) limit.
- Submit information of each proposed property to be acquired with HOME funds for City review and approval prior to acquisition.
- Shall negotiate a purchase price in accordance with HOME guidelines and the Uniform Relocation Act (49 CFR Part 24), and shall perform due diligence to ensure that all properties acquired have clear marketable title.
- Properties purchased, rehabilitated under this agreement may only be used to benefit eligible households earning less than fifty 50% (percent) or 60% of the Area Median Income (AMI) and at Home Investment Partnerships Program rent levels as defined in 24 CFR Part 92.252.
- The cost of acquisition and/or rehabilitation of properties purchased under the HOME are eligible expenses under this agreement.
- Shall carry out the Project under this Agreement in accordance with the guidelines and regulations of the HOME Program and use of CHDO Set Aside funds.
- Shall use the City of Chula Rehabilitation Standards and at a minimum comply with applicable laws, codes, and other requirements relating to health and safety, quality, and habitability in order to rent such homes and properties.
- Shall obtain any needed permits from the City of Chula Vista.
- Shall ensure that all rehabilitation costs meet HUD's reasonable costs standards.
- Check the Excluded Parties List to ensure Contractors are not debarred or suspended.
- Developer shall incur the title to the HOME eligible affordable housing project(s) using the City's Deed of Trust (Exhibit 1), Note Secured By Deed of Trust (Exhibit 2), and Declarations of Covenants, Conditions and Restrictions (Exhibit 3) to be recorded at time of escrow securing the City's financial and property interest in the project(s) and affordability period (minimum 55 years, 15 year minimum HOME Affordability Period).
- With regard to the HOME eligible affordable housing project(s), Developer shall execute and use, be bound by and abide by the terms of, and cause to be encumbered the title of property acquired under the Project(s) as stated in the attached City's Deed of Trust (Exhibit 1), Note Secured By Deed of Trust (Exhibit 2), and Declarations of Covenants, Conditions and Restrictions (Exhibit 3) to be recorded at time of escrow securing the City's financial interest in the project(s)

and affordability period (minimum 55 years, 15 year minimum HOME Affordability Period). Exhibits 1 to 3 are hereby incorporated by reference into this agreement.

City:

- The City will provide Developer with a reasonable developer fee (not to exceed 10% of total portfolio of assisted projects), related to HOME-assisted housing rehabilitation or construction activities, at a level approved by the City.
- The City shall provide Developer with Deed of Trust (Exhibit 1), Promissory Note (Exhibit 2), and Covenant Agreement (Exhibit 3) to be recorded at time of escrow securing the City's financial interest in the project(s) and affordability period (minimum 55 years, 15 Year Minimum HOME Affordability Period).
- The City shall provide the Voluntary Acquisition form to acquire properties using HOME funds.
- City shall provide technical assistance to Developer to ensure HOME program is carried out successfully and in compliance with HUD regulations.

The Scope of Services outlined above shall not be altered without written approval of the City.

Performance Measurement: Create a minimum of 1 rental unit serving households earning less than 60% of the Area Median Income for the City of Chula Vista.

HOME Income Requirements: **Very Low Income Residents at or below 50 (%) or 60(%) of the Area Median Income**

- A. TIME SCHEDULE: DEVELOPER will make all good faith and reasonable efforts to fulfill the project by **June 30, 2018**, or earlier.
- B. BUDGET: DEVELOPER shall make all good faith and reasonable efforts to complete the work under this Contract within the following budget. In no case shall DEVELOPER be entitled to, nor shall City reimburse DEVELOPER, more than 10% developer fee and not more than \$_____ for work performed under this Contract.

In addition to the required quarterly reports identified in Section 12 of this **CONTRACT**, the Developer shall document all clients served to ensure that at least 51 percent of those served are at or below 50 percent of the Area Median Income as established by the U.S. Department of Housing and Urban Development (HUD). This information is to be collected and compiled semi-annually and submitted to the City each January 15 and July 15 during the affordability period and shall be submitted to the City of Chula Vista Development Services Department – Housing Division upon receipt of a written request and at the time of any monitoring of project records.

Developer shall also submit to the City in a timely manner other reports as requested/required by HUD and/or the City including, but not limited to Contractor/Subcontractor: Semi-Annual Labor Standards Enforcement Reports (HUD-

4710), Annual Minority Business Enterprise Activity Reports (HUD-2516), Section 3 Reports (HUD-60002) and provide, as requested by HUD and/or the City, information necessary to prepare the Grantee Consolidated Annual Performance and Evaluation Report (CAPER), Consolidated Plan, Annual Plan and other such reports and/or plans.

ATTACHMENT "B" INSURANCE REQUIREMENTS

Contractor/Developer must procure insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the contract and the results of that work by the Developer/Contractor, his agents, representatives, employees or subcontractors and provide documentation of same prior to commencement or work. The insurance must be maintained for the duration of the contract.

Minimum Scope of Insurance

Coverage must be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001)
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, code1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance

Developer/Contractor must maintain limits no less than:

- | | |
|--|---|
| 1. General Liability: (Including operations, products and completed operations, as applicable.) | \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily injury and property damage. |
| 3. Workers' Compensation Employer's Liability: | Statutory \$1,000,000 each accident \$1,000,000 disease-policy limit \$1,000,000 disease-each employee |

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the City, its officers, officials, employees and volunteers; or the Developer/Contractor will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Other Insurance Provisions

The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:

1. ***The City of Chula Vista, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to liability arising out of automobiles*** owned, leased, hired or borrowed by or on behalf of the Developer/contractor, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the Developer/contractor including providing materials, parts or equipment furnished in connection with such work or operations. The ***general liability additional insured coverage must be provided in the form of an endorsement to the***

Developer's/contractor's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products / Completed Operations coverage.

2. The Developer's/**contractor's insurance coverage must be primary insurance as it pertains to the City**, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance of the Developer/contractor and in no way relieves the Developer/contractor from its responsibility to provide insurance.
3. Each insurance policy required by this clause must be endorsed to state that **coverage will not be canceled by either party, except after thirty (30) days' prior written notice to the City** by certified mail, return receipt requested.
4. **Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured** in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
5. Developers/Contractor's insurer will provide a **Waiver of Subrogation** in favor of the City for each required policy providing coverage during the life of this contract.

Acceptability of Insurers

Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.

Verification of Coverage

Developer/Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on insurance industry forms, provided those endorsements conform to the contract requirements.

All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

Subcontractors

Developer/Contractor must include all subcontractors as insureds under its policies or furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors are subject to all of the requirements included in these specifications.

Bonding Requirements

Prior to commencement of rehabilitation, Developer shall file with the City on the approved forms, the surety bonds in the amounts and for the purposes noted below. The surety must possess a minimum rating from A.M. Best Company of A-VII. and be listed as an acceptable surety on federal bonds by the United States Department of the Treasury. Developer shall pay all premiums and costs thereof and incidental thereto, as security for payment of persons named in California Civil Code Section 3181 or amounts due under Unemployment Insurance Code with respect to Work or Labor performed by any such claimant. All alterations, time extensions, extra and additional work, and other changes authorized by the Specifications, or any part of the Contract, may be made without securing consent of the surety or sureties on the contract bonds. Each bond shall be signed by both Developer and the sureties. Should any surety or sureties be deemed unsatisfactory at any time by the City, notice will be given Developer to that effect, and Developer shall forthwith substitute a new surety or sureties satisfactory to the Developer. No further payment shall be deemed due or will be made under the Contract until the new sureties qualify and are accepted by the City.

- i. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- ii. A performance bond on the part of the developer for 100 percent of the contract price, as determined from the prices in the bid form, and shall insure the faithful performance by developer of all work under the Contract. It shall also insure the replacing of, or making acceptable, any defective materials or faulty workmanship.
- iii. A payment bond on the part of the contractor for 100 percent of the contract price, as determined from the prices in the bid form, and shall inure to the benefit of persons performing labor or furnishing materials in connection with the work of the proposed Contract. This bond shall be maintained in full force and effect until all work under the Contract is completed and accepted by the City, and until all claims for materials and labor have been paid.

ATTACHMENT "C"
2017 San Diego Income Limits

| Household Size | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|----------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| 30% LIMITS | 19100 | 21800 | 24550 | 27250 | 29450 | 31650 | 33800 | 36000 |
| 50% VERY LOW INCOME | 31850 | 36400 | 40950 | 45450 | 49100 | 52750 | 56400 | 60000 |
| 60% LIMITS | 38220 | 43680 | 49140 | 54540 | 58920 | 63300 | 67680 | 72000 |
| LOW INCOME | 50950 | 58200 | 65500 | 72750 | 78600 | 84400 | 90250 | 96050 |

ATTACHMENT "D"
Disclosure Statement

Pursuant to Council Policy 101-01, prior to any action upon matters that will require discretionary action by the Council, Planning Commission and all other official bodies of the City, a statement of disclosure of certain ownership of financial interests, payments, or campaign contributions for a City of Chula Vista election must be filed. The following information must be disclosed:

1. List the names of all persons having a financial interest in the project that is the subject of the application or the contract. e.g., owner, applicant, contractor, subcontractor, material supplier.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. If any person* identified pursuant to (1) above is a corporation or partnership, list the names of all individuals with a \$2000 investment in the business (corporation/partnership) entity.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

3. If any person* identified pursuant to (1) above is a non-profit organization or trust, list the names of any person serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

4. Please identify every person, including any agents, employees, consultants, or independent contractors you have assigned to represent you before the City in this matter.

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

5. Has any person* associated with this contract had any financial dealings with an official** of the City of Chula Vista as it relates to this contract within the past 12 months? Yes ___ No ___

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |

If Yes, briefly describe the nature of the financial interest the official** may have in this contract.

6. Have you made a contribution of more than \$250 within the past twelve (12) months to a current member of the Chula Vista City Council? No___ Yes___ If yes, which Council member?

7. Have you provided more than \$340 (or an item of equivalent) to an official** of the City of Chula Vista in the past twelve (12) months? (This includes being a source of income, money to retire a legal debt, gift, loan, etc.)
Yes_____ No_____

If Yes, which official** and what was the nature of item provided?

Date:_____

Signature of Developer

Print or type name of Developer

* Person is defined as: any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, any other county, city, municipality, district, or other political subdivision, -or any other group or combination acting as a unit.

** Official includes, but is not limited to: Mayor, Council member, Planning Commissioner, Member of a board, commission, or committee of the City, employee, or staff members.