

Attachment #4

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AGREEMENT
BY AND BETWEEN
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO
AND
COMMUNITY HOUSING WORKS
FOR CONSULTANT SERVICES

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**AGREEMENT
BY AND BETWEEN
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO
AND
COMMUNITY HOUSING WORKS
FOR CONSULTANT SERVICES**

THIS AGREEMENT FOR CONSULTANT SERVICES [Agreement] is entered into as of this _____ day of _____, 2008, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic [Agency] and COMMUNITY HOUSING WORKS, a California corporation [Consultant], for Consultant to provide services to the Agency required for the administration and management of the Home in the Heights Homebuyer Assistance Program within the City Heights Redevelopment Project Area and the City Heights Community Planning Area, in consideration of the mutual covenants and promises set forth below, with reference to the following:

RECITALS

WHEREAS, the Agency established the “Home in the Heights Homebuyer Assistance Program”, which allows for the Agency to provide financial assistance to eligible first-time homebuyers within the City Heights Redevelopment Project Area and the City Heights Community Planning Area for the purpose of increasing and improving the supply of affordable housing to residents of low and moderate income [Program]; and

WHEREAS, the Agency’s financial assistance pursuant to this Program is made available from the 20% portion of tax increment funds generated in the City Heights Redevelopment Project and designated for the purpose of increasing and improving the supply of housing affordable to residents of low and moderate income, as defined in the California Community Redevelopment Law (See, California Health and Safety Code Section 33000 et seq.); and

WHEREAS, when the Agency established the Program, the Agency issued a request for proposals for administration and management services of the Program and, upon review of the proposals submitted, the Agency retained Neighborhood Housing Services [NHS] to provide the services required for the administration and management of the Program; and

WHEREAS, NHS merged with North County Housing in late 2002 to early 2003 and the new entity changed its name to Community Housing Works, Consultant herein; and

WHEREAS, through a series of agreements between the Agency and Consultant, the Agency has continued to retain the services of Consultant to administer and manage the Program; and

WHEREAS, the most recent agreement between the Agency and Consultant for professional services was amended by a Second Amendment dated July 11, 2007, which extended the term of Consultant’s services through December 31, 2007; and

WHEREAS, the Agency continues to require the services of an organization to provide for the administration and management of the Program and the Agency finds that Consultant has the expertise, experience and personnel necessary to provide the consultant services required for the administration and management of the Program; and

WHEREAS, in light of the above, the Agency and Consultant desire to enter into this Agreement whereby the Agency agrees to retain Consultant to provide, and Consultant agrees to provide, the services required for the administration and management of the Program.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

ARTICLE I

CONSULTANT SERVICES

1.1 Scope of Services.

Consultant shall perform all services required for the administration and management of the Program as set forth in the written Scope of Services, attached hereto as Exhibit "A" and incorporated herein by this reference, at the direction of the Agency [Services].

1.2 Contract Administrator.

The Agency is the contract administrator [Contract Administrator] for this Agreement. Consultant shall provide the Services under the direction of a representative of the Agency, who shall be designated by the Agency's Executive Director or designee.

The Agency's designated representative will communicate with Consultant on all matters related to the administration of this Agreement and to Consultant's performance of the Services rendered hereunder. When this Agreement refers to communications to or with the Agency or the City of San Diego [City], those communications shall be made to or with the designated representative, unless the designated representative or this Agreement specifies otherwise. When this Agreement refers to an act or approval to be performed by the Agency, that act or approval shall be performed by the Agency's Executive Director or designee, unless the Agreement specifies otherwise.

1.3 Agency Modification of Scope of Services.

The Agency may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to, or deducting from the Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in Consultant's cost of, or the time required for, the performance of any of the Services, Consultant shall immediately notify the Agency. If the Agency deems it appropriate, an equitable adjustment to Consultant's

compensation or time for performance may be made, provided that any adjustment must be approved by both Parties in writing in accordance with Section 9.1 of this Agreement.

1.4 Written Authorization to Proceed.

Prior to performing any Services, Consultant shall obtain from the Contract Administrator a written authorization to proceed. Throughout the term of this Agreement, Consultant shall immediately advise the Agency in writing of any anticipated change in the Scope of Services (See, Exhibit "A"), Compensation and Fee Schedule, attached hereto as Exhibit "B" and incorporated herein by this reference, or the Time Schedule, attached hereto as Exhibit "C" and incorporated herein by this reference, and shall obtain the Agency's written consent to any such change prior to making any changes. In no event shall the Agency's consent be construed to relieve Consultant from its duty to render all Services in accordance with applicable laws and accepted industry standards.

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are determined by the Agency to be in addition to or outside of those Services set forth in this Agreement or in the Scope of Services, unless such additional services are authorized in advance and in writing by the Agency.

1.5 Confidentiality of Services.

All Services performed by Consultant including, but not limited to, all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by Consultant pursuant to this Agreement, are for the sole use of the Agency, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the Agency. This provision does not apply to information that (a) was publicly known, or otherwise known to Consultant at the time that it was disclosed to Consultant by the Agency, (b) subsequently becomes publicly known through no act or omission of Consultant, or (c) otherwise becomes known to Consultant other than through disclosure by the Agency. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the Agency.

1.6 Acceptability of Work.

The Agency shall decide any and all questions which may arise as to the quality or acceptability of the Services performed and the manner of performance, the acceptable completion of this Agreement, and the amount of compensation due. In the event Consultant and the Agency cannot agree to the quality or acceptability of the services performed, the manner of performance and/or the compensation payable to Consultant in this Agreement, the Agency or Consultant shall give written notice to the other Party. Within ten (10) business days, Consultant and the Agency shall each prepare a report which supports their position and file the same with the Agency and the other party. The Agency shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance, and/or the compensation payable to Consultant.

ARTICLE II

DURATION OF AGREEMENT

2.1 Term of Agreement.

The term of this Agreement shall commence on January 1, 2008 [Commencement Date], and shall expire on June 30, 2009, unless said Agreement is terminated earlier in accordance with the terms of this Agreement.

2.2 Time of Essence.

Time is of the essence for each provision of this Agreement.

2.3 Notification of Delay.

Consultant shall immediately notify the Agency in writing if Consultant experiences or anticipates experiencing any delay in performing the Services within the time frames set forth in the Time Schedule (See, Exhibit "C"). The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of, the delay. If, in the opinion of the Agency, the delay affects a material part of the Agency's requirements for the Services, the Agency may exercise its rights under Sections 2.5 - 2.7 of this Agreement.

2.4 Delay.

If delays in the performance of the Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle Consultant to a reasonable extension of time, but such delay shall not entitle Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the Agency. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of Consultant's work; inability to obtain materials, equipment, or labor; required additional Services; or other specific reasons agreed to between the Agency and Consultant; provided, however, that (a) this provision shall not apply to, and Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of Consultant; and, (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle Consultant to an extension of time unless Consultant furnishes the Agency, in a timely manner, with documentary proof satisfactory to the Agency of Consultant's inability to obtain materials, equipment, or labor.

2.5 Agency's Right to Suspend for Convenience.

The Agency may, at its sole option and for its convenience and without cause, suspend all or any portion of Consultant's performance of the Services, for a reasonable period of time not to exceed six (6) months. In accordance with the provisions of this Agreement, the Agency will give written notice to Consultant of such suspension. In the event of such suspension, in accordance with the provisions of Article III of this Agreement, the Agency shall pay to Consultant a sum equivalent to the reasonable value of Services that Consultant has satisfactorily

performed up to the date of suspension. Thereafter, the Agency may rescind such suspension by giving written notice of rescission to Consultant. The Agency may then require Consultant to resume performance of the Services in compliance with the terms and conditions of this Agreement; provided, however, that Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 Agency's Right to Terminate for Convenience.

The Agency may, at its sole option and for its convenience and without cause, terminate all or any portion of the Services agreed to pursuant to this Agreement by giving written notice of such termination to Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the Agency. The termination of the Services shall be effective upon receipt of the notice by Consultant. After termination of this Agreement, Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of Consultant's Services under this Agreement. For services satisfactorily rendered in completing the work, Consultant shall be entitled to fair and reasonable compensation for the Services performed by Consultant before the effective date of termination. After filing of documents and completion of performance, Consultant shall deliver to the Agency all documents and records related to Consultant's Services. By accepting payment for completion, filing and delivering documents as called for in this paragraph, Consultant discharges the Agency of all of the Agency's payment obligations and liabilities under this Agreement.

2.7 Agency's Right to Terminate for Default.

If Consultant fails to satisfactorily perform any obligation required by this Agreement, Consultant's failure constitutes a Default. A Default includes Consultant's failure to adhere to the Time Schedule. If Consultant fails to satisfactorily cure a Default within ten (10) calendar days of receiving written notice from the Agency specifying the nature of the Default, the Agency may immediately cancel and/or terminate this Agreement, and terminate each and every right of Consultant, and any person claiming any rights by or through Consultant under this Agreement. The rights and remedies of the Agency enumerated in this Section are cumulative and shall not limit, waive, or deny any of the Agency's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the Agency against Consultant.

ARTICLE III

COMPENSATION

3.1 Amount of Compensation.

The Agency will pay Consultant for performance of the Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed Seventy Five Thousand Dollars (\$75,000), as set forth in the Compensation and Fee Schedule (See, Exhibit "B").

3.2 Additional Services.

The Agency may require that Consultant perform additional services beyond those Services described in the Scope of Services [Additional Services]. Prior to Consultant's performance of Additional Services, the Agency and Consultant must agree in writing upon a fee for the Additional services, including reasonably related expenses. The Agency will pay Consultant for the performance of Additional Services in the manner provided by Section 3.3.

3.3 Manner of Payment.

The Agency will pay Consultant for the Services rendered in accordance with the Compensation and Fee Schedule (See, Exhibit "B"). For the duration of this Agreement, Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule.

Consultant shall submit to the Agency one (1) invoice per calendar month on or before the fifteenth (15th) day of each month for the Services rendered during the immediately preceding month, in a form acceptable to the Agency and in accordance with the Compensation and Fee Schedule. Consultant shall include with each invoice: (a) a detailed description of the Services completed during the preceding month; (b) all reasonably related expenses, if any; and (c) all other pertinent information including, but not limited to, (i) the date that Services were rendered; (ii) the name of Consultant's employee or agent who performed the Services; (iii) the amount of Consultant's time devoted to the Services; (iv) Consultant's billing rate; (v) the total amount billed for each Service; and (vi) a breakdown of all disbursements by category of expense. In addition, Consultant shall include with each invoice copies of all supporting receipts, invoices, checks, payroll statements, bank statements, and other records evidencing the Services performed for which reimbursement or payment is sought. Consultant shall ensure that each invoice states: "Consultant certifies that the staff time expended and expenses submitted are for services performed in accordance with the provisions of the Consultant Agreement with the Agency," and that the invoice is signed by an officer of Consultant.

Invoices submitted to the Agency must be consistent with the Scope of Services and the Compensation and Fee Schedule. The Agency will pay undisputed portions of invoices within thirty (30) calendar days of receipt. Invoices shall be mailed to the following address:

The Redevelopment Agency of the City of San Diego
Attn: Affordable Housing Project Manager
1200 Third Avenue; Suite 1400
San Diego, California 92101-4106

In the event any portion of an invoice is disputed by the Agency, the original invoice shall be returned by the Agency to Consultant for correction and resubmission.

3.4 Additional Costs.

Additional Costs are those costs that can be reasonably determined to be related to Consultant's errors or omissions, and may include Consultant, the Agency, or Subcontractor

overhead and related costs. Consultant shall not be paid for the Services required due to Consultant's errors or omissions, and Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, to Consultant. Whether or not there are any monies due, or becoming due, Consultant shall reimburse the Agency for Additional Costs due to Consultant's errors or omissions.

ARTICLE IV

CONSULTANT'S OBLIGATIONS

4.1 Industry Standards.

Consultant agrees that the Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent organization specializing in the administration and management of homebuyer incentive programs, using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the Agency, the Mayor, or other representatives of the Agency or the City is required, it is understood to be general approval only and does not relieve Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Right to Audit.

4.2.1 Access.

The Agency retains the right to review and audit, and the right to reasonable access to Consultant's and any Subcontractor's premises to review and audit, Consultant's or Subcontractor's compliance with the provisions of this Agreement [Agency's Right]. The Agency's Right includes the right to inspect and photocopy same, and to retain copies, outside of Consultant's premises, of any and all records related to the Services provided hereunder with appropriate safeguards, if such retention is deemed necessary by the Agency in its sole discretion. This information shall be kept by the Agency in the strictest confidence allowed by law.

4.2.2 Audit.

The Agency's Right includes the right to examine any and all books, records, and documents and any other evidence of procedures and practices that the Agency determines are necessary to discover and verify that Consultant or Subcontractor is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit.

If there is a claim for additional compensation or for Additional Services, the Agency's Right includes the right to examine books, records, and documents and any and all other evidence and accounting procedures and practices that the Agency determines are

necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

4.2.2.1.1 Accounting Records.

Consultant and all Subcontractors shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. Consultant and Subcontractors shall make available to the Agency for review and audit all Service related accounting records and documents and any other financial data. Upon the Agency's request, Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the Agency.

4.2.3 Agency's Right Binding on Subcontractors.

Consultant shall include the Agency's Right as described in Section 4.2, in any and all of its subcontracts, and shall ensure that these Sections are binding on all Subcontractors.

4.2.4 Compliance Required before Mediation or Litigation.

A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is Consultant's and Subcontractors' full compliance with the provisions of this Section 4.2 within sixty (60) calendar days of the date on which the Agency mailed a written request to review and audit compliance.

4.3 Insurance.

Consultant shall not begin the Services under this Agreement until it has: (a) obtained, and provided to the Agency, insurance certificates reflecting evidence of all insurance as set forth in Exhibit "D", attached hereto and incorporated herein by this reference; however, the Agency reserves the right to request, and Consultant shall submit, copies of any policy upon reasonable request by the Agency; (b) obtained Agency approval of each company or companies as described in Exhibit "D"; and (c) confirmed that all policies contain the specific provisions required in Exhibit "D". Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the Agency is entitled to thirty (30) calendar days' prior written notice (ten (10) calendar days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the Agency.

Further, Consultant shall not modify any policy or endorsement thereto which increases the Agency's exposure to loss for the duration of this Agreement.

4.4 Subcontractors.

Consultant's hiring of or retaining any third parties ("Subcontractors") to perform Services [Subcontractor Services] is subject to prior approval by the Agency. Consultant shall list on the Subcontractor List (See, Exhibit "E") all Subcontractors known to Consultant at the time this Agreement is executed. If at any time after this Agreement is entered into, Consultant identifies a need for additional Subcontractor Services, Consultant shall give written notice to the Agency of the need at least forty-five (45) calendar days before entering into any contract for such Subcontractor Services. Consultant's notice shall include a justification, a description of the scope of work, and an estimate of all costs for the Subcontractor Services. Consultant may request that the Agency reduce the forty-five (45) calendar day notice period. The Agency agrees to consider such requests in good faith.

4.4.1 Subcontractor Contract.

All contracts entered into between Consultant and any Subcontractor shall contain the information as described in Sections 4.6, 4.7, 4.10.2, and 4.18, and shall also provide as follows:

4.4.1.1 Each Subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Agreement. Each Subcontractor shall obtain, and Consultant shall require the Subcontractor to obtain, all policies described in Exhibit "D" in the amounts required by the Agency, which shall not be greater than the amounts required of Consultant.

4.4.1.2 Consultant is obligated to pay the Subcontractor, for Consultant- and Agency-approved invoice amounts, out of amounts paid by the Agency to Consultant, not later than fourteen (14) calendar days from Consultant's receipt of payment from the Agency. Nothing in this paragraph shall be construed to impair the right of Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

4.4.1.3 In the case of a deficiency in the performance of Subcontractor Services, Consultant shall notify the Agency in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, Consultant shall pay the Subcontractor the amount withheld within fourteen (14) calendar days of Consultant's receipt of the Agency's next payment.

4.4.1.4 In any dispute between Consultant and Subcontractor, the Agency shall not be made a party to any judicial or administrative proceeding to resolve the dispute. Consultant agrees to defend and indemnify the Agency as described in Article VI of this Agreement in any dispute between Consultant and Subcontractor should the Agency be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

4.4.1.5 The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.7 and Exhibit "E" of this Agreement.

4.4.1.6 The Agency is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the Agency.

4.5 ADA Certification.

Consultant hereby certifies that it agrees to comply with the City's American with Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

4.6 Contract Activity Report.

Consultant shall submit statistical information to the Agency as requested in the Agency's Contract Activity Report (See, Exhibit "E"). The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, Consultant shall provide an invoice from each Subcontractor listed in the Report. Consultant agrees to issue payment to each firm listed in the Report within fourteen (14) calendar days of receiving payment from the Agency for Subcontractor Services as described in Section 4.4.1.

4.7 Non-Discrimination Requirements.

4.7.1 Compliance with the City's Equal Opportunity Contracting Program.

Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements, attached hereto as Exhibit "E" and incorporated herein by this reference. Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Consultant shall provide equal opportunity in all employment practices. Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold Consultant liable for any discriminatory practice of its Subcontractors.

4.7.2 Non-Discrimination Ordinance.

Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between Consultant and any Subcontractors, vendors and suppliers.

4.7.3 Compliance Investigations.

Upon the Agency's request, Consultant agrees to provide to the Agency, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the Agency or the City pursuant to the City's *Nondiscrimination in Contracting Ordinance* (San Diego Municipal Code Sections 22.3501-22.3517). Consultant understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in remedies being ordered against Consultant up to and including termination of this Agreement, debarment, and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Nondiscrimination in Contracting Ordinance*.

4.7.4 Form of Non-discrimination and Non-segregation Clauses.

Consultant shall refrain and shall ensure that participants of the Program are obligated to refrain from restricting the rental, sale or lease of any property involved in the Program on the basis of sex, sexual orientation, marital status, race, color, creed, religion, ancestry or national origin of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of

the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land.”

4.8 Drug-Free Workplace.

Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. Consultant shall certify to the Agency that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form, attached hereto as Exhibit “F” and incorporated herein by this reference.

4.8.1 Consultant's Notice to Employees.

Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

4.8.2 Drug-Free Awareness Program.

Consultant shall establish a drug-free awareness program to inform employees about all of the following:

4.8.2.1 The dangers of drug abuse in the work place.

4.8.2.2 The policy of maintaining a drug-free work place.

4.8.2.3 Available drug counseling, rehabilitation, and employee assistance programs.

4.8.2.4 The penalties that may be imposed upon employees for drug abuse violations.

4.8.3 Posting the Statement.

In addition to Section 4.8.1 above, Consultant shall post the drug-free policy in a prominent place.

4.8.4 Subcontractor's Agreements.

Consultant further certifies that each contract for Subcontractor Services for this Agreement shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.8 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subcontractors shall be individually responsible for their own drug-free work place program.

4.9 Product Endorsement.

Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the Agency or the City as the user of a product or service requires the prior written approval of the Agency.

4.10 Conflict of Interest.

Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.10.1 If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the conflict of interest code, Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing Consultant's relevant financial interests.

4.10.1.1 Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. Consultant shall file a Form 700 (Assuming Office Statement) within thirty (30) calendar days of the City's determination that Consultant is subject to a conflict of interest code. Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which Consultant was subject to a conflict of interest code.

4.10.1.2 If the Agency or the City requires Consultant to file a statement of economic interests as a result of the Services performed, Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.10.2 Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

4.10.3 Consultant's personnel employed for the Services shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. Consultant shall not recommend or specify any product, supplier, or contractor with whom Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.10.4 If Consultant violates any conflict of interest law or any of the provisions in this Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects Consultant to liability to the Agency and the City for attorney's fees and all damages sustained as a result of the violation.

4.11 Mandatory Assistance.

If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the Agency's request, Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

4.12 Compensation for Mandatory Assistance.

The Agency will compensate Consultant for fees incurred for providing Mandatory Assistance as Additional Services under Sections 3.2 and 3.3. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Consultant, its agents, officers, and employees, Consultant shall reimburse the Agency. The Agency is then entitled to reimbursement of all fees paid to Consultant, its agents, officers, and employees for Mandatory Assistance.

4.13 Attorney Fees related to Mandatory Assistance.

In providing the Agency with dispute or litigation assistance, Consultant or its agents, officers, and employees may incur expenses and/or costs. Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

4.14 Maintenance of Records.

In addition to Section 4.2 herein, Consultant shall maintain books, records, logs, invoices, cancelled checks, or other documents and evidence sufficient to record all actions taken with respect to the rendering of Services for the Program, throughout the performance of the Services and for a period of ten (10) years following completion of the Services for the Program. Any and all such documents and records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Consultant agrees to allow the Agency to inspect, copy, and audit such books, records, documents and other evidence at all reasonable times.

4.15 Audited Financial Records of Consultant.

Consultant shall provide, as soon as available, and in any event within ninety (90) days after the end of each fiscal year, the audited financial statements and consolidated balance sheets of Consultant and any subsidiaries and a report thereon of independent certified public accountants of recognized national standing selected by Consultant and reasonably satisfactory to the Agency, which report shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Consultant as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards.

Consultant shall also provide within ninety (90) days after the end of the Consultant's fiscal year, an audited financial statement reflecting its expenditures and activities under this Agreement. This statement may be included as part of the Consultant's overall audit requirements, so as long as it is prepared in accordance with Generally Accepted Accounting Principles and audited by an independent Certified Public Accountant in accordance with Generally Accepted Accounting Standards. The statements must include a Statement of Expenditure of City or Agency funds, by program to be identified in the same expenditure classifications as contained in the Project Budget and compared to budgeted amounts; and a Statement of Compliance with the Terms of this Agreement, signed by Consultant's treasurer and other designated representative. Failure to comply with these requirements may result in suspension of any current funding or possible future funding.

4.16 Lobbying and Political Activities.

Consultant shall not use any of the funds, personnel, or materials received in connection with this Agreement to influence or attempt to influence any governmental decision in any manner whatsoever. This prohibition shall apply to any decision of any kind to be made by any electorate, legislative body, agency, bureau, board, commission, district, or any other instrument of Federal, State, or local government. The term "influence or attempt to influence" means the making, with the intent to influence, any communication to or appearance before any officer,

employee, or appointee of any governmental entity, as well as any communication made to any electorate regarding any ballot measure or candidate election.

ARTICLE V

RESERVED

ARTICLE VI

INDEMNIFICATION, HOLD HARMLESS, AND DUTY TO DEFEND

6.1 Indemnification and Hold Harmless Agreement.

With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of Consultant, or Consultant's employees, agents, officers, or subcontractors, arising out of any services performed under this Agreement, Consultant agrees to defend, indemnify, protect, and hold harmless the Agency, the City, and their agents, officers, and employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the Agency, the City, or their agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of Consultant, its employees, agents or officers, or any third party. Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the Agency, the City, or their agents, officers or employees.

6.2 Duty to Defend.

Consultant further agrees that the indemnification agreements provided in Section 6.1 and Section 8.7 and the duty to defend the Agency and the City require Consultant to pay any costs the Agency and/or the City incur that are associated with enforcing either of the indemnification provisions, and defending any claims arising from Consultant's activities pursuant to this Agreement. If the Agency and/or the City choose at their own election to conduct their own defense, participate in their own defense, or obtain independent legal counsel in defense of any claim arising from Consultant's activities pursuant to this Agreement, Consultant agrees to pay the reasonable value of attorney's fees of the Agency and the City, and all of the costs.

ARTICLE VII

MEDIATION

7.1 Mandatory Non-binding Mediation.

With the exception of Sections 2.5-2.7 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction

Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

7.2 Mandatory Mediation Costs.

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

7.3 Selection of Mediator.

A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three (3) requested Mediators marked in preference order, and a preference for available dates.

7.3.1 If AAA is selected to coordinate the mediation [Administrator], within ten (10) working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three (3) preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

7.3.2 The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

7.3.3 If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

7.4 Conduct of Mediation Sessions.

Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

7.4.1 Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

7.4.2 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be “non-binding” and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VIII

INTELLECTUAL PROPERTY RIGHTS

8.1 Work For Hire.

All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the Agency pursuant to this Agreement [Deliverable Materials] is “work for hire” under the United States Copyright law and shall become the sole property of the Agency. Consultant, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the Agency to the Deliverable Materials.

8.2 Rights in Data.

All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s)) in the Deliverable Materials, developed by Consultant, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the Agency. Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Deliverable Materials for purposes unrelated to Consultant’s work on behalf of the Agency without prior written consent of the Agency.

8.3 Intellectual Property Rights Assignment.

Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by Agency or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the Agency, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

8.4 Moral Rights.

Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waive, and agree never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)’ benefit under United States or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now

in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Deliverable Materials and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

8.5 Subcontracting.

In the event that Consultant utilizes a Subcontractor(s) for any portion of the work that is in whole or in part of the specified Deliverable Materials to the Agency, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable Materials work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable Materials work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the Agency. Further, the Subcontractor Contract shall require that the Subcontractor, if necessary, shall grant, transfer, sell, and assign, free of charge, exclusively to the Agency, all titles, rights and interests in and to any such Deliverable Materials work product, including all copyrights and other intellectual property rights. The Agency shall have the right to review any Subcontractor Contract for compliance with this provision.

8.6 Publication.

Consultant may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the Agency without prior written consent of the Agency.

8.7 Intellectual Property Warranty and Indemnification.

Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Agreement are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, the Agency shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, Deliverable Materials or work product as a means of remedying any claim of infringement in addition to any other remedy available to the Agency under law or equity. Consultant further agrees to indemnify and hold harmless the Agency, the City and their officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Deliverable Materials work product provided under this Agreement infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this Agreement, the Agency shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

8.8 Enforcement Costs.

Consultant agrees to pay any and all costs the Agency incurs from enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

ARTICLE IX

MISCELLANEOUS

9.1 Notices.

In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice shall be addressed to the Parties as follows:

To the Agency/City:

The Redevelopment Agency of the City of San Diego
Attn: Affordable Housing Project Manager
1200 Third Avenue, Suite 1400, MS 56D
San Diego, California 92101-4106

with a copy to:

General Counsel for
Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1100, MS 59
San Diego, California 92101-4106

To Consultant:

Community Housing Works
Attn: Sue Reynolds
4305 University Ave., Ste. 550
San Diego, California 92105

9.2 Headings.

All article headings are for convenience only and shall not affect the interpretation of this Agreement.

9.3 Non-Assignment.

Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the

Agency's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the Agency. In no event shall any putative assignment create a contractual relationship between the Agency and any putative assignee.

9.4 Independent Contractors.

Consultant and any Subcontractors employed by Consultant shall be independent contractors and not agents of the Agency. Any provisions of this Agreement that may appear to give the Agency any right to direct Consultant concerning the details of performing the Services, or to exercise any control over such performance, shall mean only that Consultant shall follow the direction of the Agency concerning the end results of the performance.

9.5 Consultant and Subcontractor Principals for Consultant Services.

It is understood that this Agreement is for unique Services. Retention of Consultant's Services is based on the particular professional expertise of Consultant's organization including Sue Reynolds [Project Team]. Accordingly, performance of Services on the Program may not be delegated to other members of Consultant's organization or to Subcontractors without the prior written consent of the Agency. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Services and may not be removed from assisting with the Program without the Agency's prior written approval. Removal of any member of the Project Team without notice and approval by the Agency may be considered a Default of the terms and conditions of this Agreement by Consultant. In the event any member of the Project Team becomes unavailable for any reason, the Agency must be consulted as to any replacement. If the Agency does not approve of a proposed replacement, the Agency may terminate this Agreement pursuant to section 2.6 of this Agreement. Further, the Agency reserves the right, after consultation with Consultant, to require any of Consultant's employees or agents to be removed from assisting with the Program.

9.6 Covenants and Conditions.

All provisions of this Agreement expressed as either covenants or conditions on the part of the Agency or Consultant shall be deemed to be both covenants and conditions.

9.7 Compliance with Controlling Law.

Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, Consultant shall comply immediately with all directives issued by the Agency, the City, or their authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

9.8 Jurisdiction, Venue, and Attorney Fees.

The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The venue for any suit or proceeding

concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

9.9 Successors in Interest.

This Agreement and all rights and obligations created by this Agreement shall be in full force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

9.10 Integration.

This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

9.11 Counterparts.

This Agreement may be executed in counterparts which, when taken together, shall constitute a single signed original as though all Parties had executed the same page.

9.12 No Waiver.

No failure of either the Agency or Consultant to insist upon the strict performance by the other of any covenant, term, or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term, or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, term, or condition hereof shall continue in full force and effect to any existing or subsequent breach.

9.13 Severability.

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

9.14 Additional Consultants or Contractors.

The Agency reserves the right to employ, at its own expense, such additional Consultants or contractors as the Agency deems necessary to perform work or to provide the Services.

9.15 Employment of Agency or City Staff.

This Agreement may be unilaterally and immediately terminated by the Agency, at its sole discretion, if Consultant employs an individual who, within the last twelve (12) months immediately preceding such employment did, in the individual's capacity as an officer or employee of the Agency or the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the Agency Board or Executive Director of the Agency, or the City Council or Mayor if applicable, in connection with the selection of Consultant.

9.16 Powers.

Nothing contained in this Agreement shall be construed as a limitation upon the powers of the Agency under the California Community Redevelopment Law or the City as a chartered city of the State of California.

9.17 Drafting Ambiguities.

The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

9.18 Conflicts Between Terms.

If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

9.19 Exhibits Incorporated.

All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

9.20 Survival of Obligations.

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Services and termination or completion of the Agreement.

9.21 Approvals and Amendment, Modification or Implementation of Agreement.

Except as otherwise expressly provided in this Agreement, approvals required of Agency or Consultant in this Agreement, including the attachments hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing. Failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval.

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Any amendments, modifications, or implementations of this Agreement, or to any provisions hereof, shall be approved by the governing body of the Agency [Board] and Consultant. Except as otherwise expressly provided in this Agreement, approvals required of the Agency that do not result in an amendment, modification, implementation of this Agreement, or to any provisions hereof, may be granted by the written approval of the Agency's Executive Director or designee. In this regard, however, the Executive Director or designee, in his/her sole discretion, may refer any approvals required of the Agency that may be approved by the Executive Director or designee to the Agency Board for consideration and action.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first written above.

Dated this _____ day of _____, 2008.

THE REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

By: _____
William Anderson
Assistant Executive Director

APPROVED the form and legality of this Agreement
this ____ day of _____, 2008.

MICHAEL J. AGUIRRE, Redevelopment Agency General Counsel

By: _____
Kendall D. Berkey
Deputy General Counsel

I HEREBY CERTIFY that I can legally bind Community Housing Works and that I
have read and agree to all of this Agreement this _____ day
of _____, 2008.

COMMUNITY HOUSING WORKS

By: _____
Sue Reynolds
President/Chief Executive Officer

EXHIBITS

CONSULTANT SERVICES AGREEMENT

Exhibit "A" - Scope of Services

Exhibit "B" - Compensation and Fee Schedule

Exhibit "C" - Time Schedule

Exhibit "D" - Insurance

Exhibit "E" - City's Equal Opportunity Contracting Program Consultant Requirements

Exhibit "F" - Consultant Certification for a Drug-Free Workplace

Exhibit "A"
Scope of Services

Community Housing Works Agreement

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall provide all Services that are necessary and required to administer and manage the "Home in the Heights Homebuyer Assistance Program" [Program]. In addition, said Services include all marketing, processing and monitoring services required to implement and operate said Program. All Services provided by Consultant pursuant to the Agreement shall be in compliance with, consistent with, and pursuant to the Program Guidelines, attached hereto as Attachment "1" and incorporated herein by this reference.

As detailed in the Program Guidelines, the Program allows for financial assistance to be provided by the Agency to eligible first-time homebuyers for the purpose of enabling these homebuyers to purchase and occupy homes within the City Heights Redevelopment Project Area and the City Heights Community Planning Area [Project and Planning Area], as defined in the map of the "Project and Planning Area" attached hereto as Attachment "2" and incorporated herein by this reference. Priority will be given to any residents who are displaced by redevelopment projects within the City Heights Redevelopment Project Area.

Consultant shall organize and implement a comprehensive marketing and outreach program(s) that educates residents of the Project and Planning Area and raises the public's awareness of the existence and details of this Program and the availability of other homebuyer assistance programs including, but not limited to, programs offered by the Community Housing Works' HOOP Program, the San Diego Housing Commission and Price Charities.

Consultant shall provide home ownership education classes to the eligible first-time homebuyers and their households. The home ownership classes shall include instruction on the financial responsibilities and considerations of home ownership and economic stability and on their readiness to take on the responsibilities of mortgage debt service.

Consultant shall assist the eligible first-time homebuyers with the loan application process and provide direction on how to apply for and receive silent second mortgages and other available financial assistance from the available programs. In addition, Consultant shall process all applications for, and the funding of, all loans provided by the Agency pursuant to this Program and shall monitor the loans for ongoing mortgage loan contract compliance by the homebuyer.

In addition to Consultant's obligations to provide all Services required for the administration and management of the Program, Consultant shall provide the following specific services in accordance with the Agreement:

- (1) Develop specific outreach plans in coordination with the Agency to market the Program.
- (2) Identify special client needs such as any language, cultural and disability barriers, and develop specific programs to address the needs and facilitate effective communication with the clients.

- (3) Employ staff and special outreach workers, at Consultant's sole cost and expense, to communicate with the eligible first-time homebuyers.
- (4) Prepare outreach materials in appropriate languages necessary to communicate with the clients.
- (5) Train all outreach workers.
- (6) Provide at least three (3) home ownership orientation meetings in the local area at a location convenient for the clients (e.g. local school). It is anticipated that at least one (1) of the meetings will be conducted primarily in Spanish. Consultant shall provide individual orientation meetings and special accommodations for persons with special language or other special needs, as needed.
- (7) Provide special home ownership classes at no cost to attendees or other third persons.
- (8) Track each first-time homebuyer and their household through the loan process and provide appropriate counseling and follow-up assistance, as needed.
- (9) Educate each household on opportunities available with the Housing Commission, Price Charities, the Agency's Program, and other financial assistance programs and how these programs can be used in conjunction with relocation assistance.
- (10) Maintain accurate records on each first-time homebuyer and household processed through the Program.
- (11) Manage for the Agency the coordination of Program silent second loans, provide any necessary processing to prepare the loans for funding, and provide any necessary processing for refinancing or subordination of the combined loans, such as Program and HOOP loans.
- (12) Ensure that the Agency is provided with all necessary escrow and financing information to enable the Agency to process the Program silent second mortgage payments directly to escrow in a timely manner; or ensure that the Agency is provided with all necessary backup information to enable the Agency to process loan reimbursements to Consultant on a monthly basis, including complete and accurate copies of the promissory note, deed of trust, and subordination agreement relevant to each Agency loan.
- (13) Prepare the promissory note and deed of trust, and subordination agreement if applicable, relevant to each Agency loan for the Agency's review and approval. The promissory note and deed of trust, and subordination agreement if applicable, relevant to each Agency loan shall be substantially in the form as the template form promissory note, deed of trust, and subordination agreement attached hereto as Attachment "3" and incorporated herein by this reference. The Agency Executive Director or designee, upon approval by the City Attorney, may amend from time to time the template form promissory note, deed

of trust, and subordination agreement attached hereto for use with respect to any Agency loan provided pursuant to this Program.

- (14) Monitor the first-time homebuyer's compliance with the Program Guidelines and the Program mortgage contract requirements including, but not limited to, those pertaining to ownership, occupancy, and financing, and notify the Agency and each client of any breaches of said client's contractual obligations. Such monitoring may include, without limitation, conducting inspections of the subject property and obtaining accurate copies of documents or other information to ensure compliance with the Program Guidelines and contract requirements and all applicable laws and regulations.
- (15) Report semi-annually to the Agency and to the City Heights Redevelopment Project Area Committee on the progress of the Program.

Attachments: "1" Program Guidelines
"2" Map of Project and Planning Area
"3" Template Forms of:
Promissory Note, Deed of Trust, and Subordination Agreement

Exhibit A
Attachment 1

CITY HEIGHTS REDEVELOPMENT PROJECT

HOME IN THE HEIGHTS HOMEBUYER ASSISTANCE PROGRAM

PROGRAM GUIDELINES

PROGRAM DESCRIPTION AND GOALS:

In an effort to make home ownership more accessible and affordable to families, the Redevelopment Agency of the City of San Diego [Agency] has established the "Home in the Heights Homebuyer Assistance Program" [Program]. The Program allows for financial assistance to be provided by the Agency to eligible first-time homebuyers for the purpose of enabling these homebuyers to purchase and occupy homes within the City Heights Redevelopment Project Area and the City Heights Community Planning Area [Project and Planning Area], as defined in the map of the "Project and Planning Area" attached hereto as Exhibit "A" and incorporated herein by this reference.

The financial assistance consists of a loan from the Agency evidenced by a promissory note and secured by a deed of trust that will be second in priority, subordinate only to a lending institution's first trust deed loan. The Agency's loan and accrued interest will be forgiven in its entirety over a twenty (20) year period upon the homebuyer's compliance with the terms and conditions of the loan.

Increased homeowner occupancy has been identified as an important factor for improving neighborhood stability, encouraging private investment and improving the local housing stock. The homeowner occupancy rate within the Project and Planning Area is substantially below the average rate for the San Diego region. In order to address the needs of the community, the City Heights Redevelopment Plan and the City Heights Redevelopment Project Third Five-Year Implementation Plan include goals of encouraging a larger degree of homeowner occupancy within the Project and Planning Area, stabilizing declining neighborhoods, improving the existing housing stock and assisting low and moderate income families obtain affordable housing. The Program is a mechanism to implement and achieve these goals. Further, the Program provides for education to the first-time homebuyer participants on the financial responsibilities and considerations of home ownership and economic stability.

METHOD OF ASSISTANCE:

The Agency's financial assistance to Program participants is in the form of a subordinate loan (silent second mortgage) evidenced by a promissory note and secured by a deed of trust recorded against the subject property. The Agency loan will be a lien on the property second in priority and subordinate only to a lending institution's promissory note and deed of trust first in priority. The Agency's loan and accrued interest will be forgiven over a twenty (20) year period provided that the participant maintains and occupies the property as

his/her principal place of residence, does not sell or transfer the subject property, and does not refinance any mortgage debt on the property without the permission of the Agency.

ELIGIBILITY REQUIREMENTS FOR PARTICIPANTS:

The Program is open to all first-time homebuyers seeking to reside within the Project and Planning Area who meet the eligibility requirements. A first-time homebuyer shall mean any person who is a purchaser, including any co-purchaser, of an owner-occupied housing unit who does not own any real property and who neither has, nor has had, any ownership interest in a principal residence at any time during the three (3) year period immediately prior to the date on which the Agency mortgage for the Program is executed.

Priority will be given to any residents who are displaced by redevelopment projects within the Project Area. It is intended that assistance from this Program supplement any relocation payments made by the Agency. Therefore, recipients of relocation assistance payments may devote their monies toward a down payment for a home purchase within the Project and Planning Area.

Owner occupancy is a condition of eligibility for the Program benefits. Co-borrowers or co-owners, other than owner occupants, are not permitted.

A participant's gross household income may not exceed one hundred percent (100%) of the area median family income for San Diego County as annually estimated by the U.S. Department of Housing and Urban Development and published by the California Department of Housing and Community Development. [See, California Health & Safety Code §50093(c)] "Gross household income" shall mean the combined anticipated or projected gross income for the next twelve (12) month period as annual income of all members of a household. Participants are required to provide all pertinent information requested by the Agency and the first trust deed lender to establish household income.

Participants are required to participate in home ownership classes to ensure their readiness to take on the responsibilities of mortgage debt service and home ownership.

ELIGIBILITY REQUIREMENTS FOR PROPERTIES:

A home for purposes of this Program means any new or resale single-family residence, attached or unattached home, condominium unit, or townhouse located within the Project and Planning Area. There is no minimum household size.

The "Affordable Housing Cost" for an eligible property shall not be less than twenty eight percent (28%) of the gross household income and shall not exceed thirty-five percent (35%) times 110 percent of area median income adjusted for family size appropriate for the unit. [California Health & Safety Code §33411.2 and §50052.5(b)(4)]

Subject to any pertinent federal statutes applicable to other homebuyer assistance program benefit payments to a participant, "adjusted for family size appropriate for the unit" shall mean for a household of one person in the case of a studio unit, two persons in the case of a

one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit. [California Health & Safety Code §50052.5(h)]

“Housing cost” includes the following: principal and interest on a mortgage, property taxes and assessments, fire and casualty insurance, reasonable allowance for property maintenance and repairs, reasonable allowance for utilities (excluding telephone service), and if applicable mortgage insurance and homeowner association fees. [Title 25, California Code of Regulations §6920]

DOWN PAYMENT:

The participant is required to provide a minimum down payment of three percent (3%) of the total purchase price for the home and to pay all closing costs.

AGENCY LOAN AMOUNT:

The Agency loan will be in an amount as determined by the Agency Executive Director or his/her designee and will be a minimum of five thousand dollars (\$5,000) to a maximum of thirty thousand dollars (\$30,000).

In no event may the Agency loan amount exceed thirty percent (30%) of the total purchase price of the home. In addition, the amount of the Agency loan shall not exceed that amount necessary to make an eligible property affordable to the particular household after first applying the equivalent of all of the participant’s relocation assistance payments, if any, as a down payment on the property and combining any other homebuyer assistance program benefit payments. Affordability is defined as not requiring the participant to pay more than thirty percent (30%) of the gross household income for housing costs.

Other homebuyer assistance programs referenced above include, but are not limited to, programs offered by the Community Housing Works’ HOOP Program, the San Diego Housing Commission and Price Charities.

AGENCY LOAN TERMS:

The Program benefits and financial assistance are available on a first-come, first-served basis and subject to availability.

Participants shall provide the Agency with an executed purchase contract, an appraisal of the subject property and pre-approval from a participating first trust deed lender.

Except as otherwise authorized herein, in no event shall the first trust deed loan exceed a loan-to-value ratio of eighty percent (80%) and in no event shall the Agency loan, together with the first trust deed loan, exceed a loan-to-value ratio of ninety percent (90%).

Notwithstanding the above, in such case where a Participant is unable to obtain additional financing from other assistance programs after making a reasonably good faith effort to do so and where the Participant provides to the Agency Executive Director or his/her designee

such proof of the Participant's good faith effort to obtain additional financing as is reasonably required by the Agency Executive Director or his/her designee, the Agency Executive Director or his/her designee may allow, in his/her sole discretion and upon satisfaction of such proof, that the Agency loan, together with the first trust deed loan, shall not exceed a loan-to-value ratio of ninety-seven percent (97%).

The Agency loan is not assumable.

If the amount of the Agency loan needed to attain affordability is less than five thousand dollars (\$5,000), the remainder shall be used for rehabilitation purposes. No Agency loan funds may be used to improve a property so that the property would conform to the physical standards required as a condition of receipt of the relocation assistance payments. Additionally, no Agency loan funds may be used in any way, directly or indirectly, toward the cost of luxury improvements, such as a spa, or for items of personal property, such as a refrigerator.

As long as the participant maintains and occupies the property as his/her principal place of residence and does not refinance any mortgage debt on the property without the permission of the Agency, no monthly payments on the Agency loan will be due and payable to the Agency. However, annual simple interest of six percent (6%) shall accrue on the principal amount of the Agency loan and shall commence accruing on the date on which the Agency mortgage for this Program is executed. After seventy-two (72) months from said date, the amount of total interest accruing on the Agency loan will decrease fourteen and three tenths percent (14.3%) per year, so that after one hundred fifty-six (156) months from the date on which the Agency mortgage for this Program is executed, the entire interest will be forgiven. After ten (10) years from the date on which the Agency mortgage for this Program is executed, the principal balance on the Agency loan shall decrease at a rate of ten percent (10%) per year so that, after twenty (20) years from the date on which the Agency mortgage for this Program is executed, the entire principal of the Agency loan is forgiven.

At any time prior to the forgiveness of the entire Agency loan principal and all accrued interest, the Agency loan principal and all accrued interest shall be immediately due and payable to the Agency upon the occurrence of any one of the following events, as determined in the sole discretion of the Agency Executive Director or his/her designee: (1) the sale or transfer of the subject property, except with Agency approval in the circumstance described below; (2) the vacation or abandonment of the subject property by the participant, or any co-participant; (3) the participant, or any co-participant, no longer occupies the subject property as his/her principal residence; (4) an uncured default by participant on the first trust deed loan or any other senior or junior lien or encumbrance on the subject property; or (5) any mortgage secured by the property is refinanced and results in an increase in the total original loan amount, except with Agency approval in the circumstance described below. The original loan amount is defined as the cumulative amount of the first trust deed loan, the Agency loan, and any payments made pursuant to any other home buyer assistance program.

The Agency loan principal and any accrued interest will be immediately due and payable upon the sale of the property unless the participant purchases another home located in the Project and Planning Area, uses the new home as his/her principal residence, and the transaction is approved by the Agency Executive Director or his/her designee. In such a case, the outstanding Agency loan principal balance and accrued interest shall be carried over to and secured by the new property.

When a refinance of a mortgage loan increases the original loan amount, the Agency loan principal and any accrued interest will be immediately due and payable unless the refinance is first approved by the Agency Executive Director or his/her designee. A refinance may be approved by the Agency Executive or his/her designee if the increased mortgage resulting from the refinance is used solely to rehabilitate the subject home and no portion of the increased mortgage is used in any way, directly or indirectly, toward the cost of luxury improvements, such as a spa, or for items of personal property, such as a refrigerator. In no event shall the first trust deed loan exceed a loan-to-value ratio of eighty percent (80%) and in no event shall the Agency loan, together with the first trust deed loan, exceed a loan-to-value ratio of ninety percent (90%). However, if the Agency Executive Director or his/her designee approved in writing at the time of the initial purchase that the Agency loan, together with the first trust deed loan, shall not exceed a loan-to-value ratio of ninety-seven percent (97%), then upon a refinance, the Agency loan, together with the first trust deed loan, shall not exceed a loan-to-value ratio of ninety-seven percent (97%). Further, in no event shall the Agency's proportional share of the total encumbrances to the fair market value of the property increase as a result of any refinancing or partial refinancing.

The first trust deed loan made to the participant shall be a fixed interest rate loan for a thirty (30) year term and under the most favorable terms available. Temporary buy-downs of an interest rate are prohibited. Property taxes and homeowner insurance premiums must be impounded and incorporated in the monthly payments on the first trust deed loan. Prior to any funding by the Agency, all properties must be inspected for termites and related damage by an approved inspector. In addition, prior to any funding by the Agency, a valid and effective termite clearance must be obtained and submitted to the Agency. Further, prior to any funding by the Agency, each subject property must be inspected by an approved licensed residential property inspector. The Program participant shall meet with the Agency or the Agency's designated agent to discuss the inspection report. The Agency or designated agent may advise the participant on any recommended improvements or repairs described in the report.

The participant must obtain and submit to the Agency a valid and effective one year home protection policy applicable to the subject property.

The participant shall submit to the Agency an annual re-certification assuring that the home continues to be owned and occupied by the participant and any co-participant.

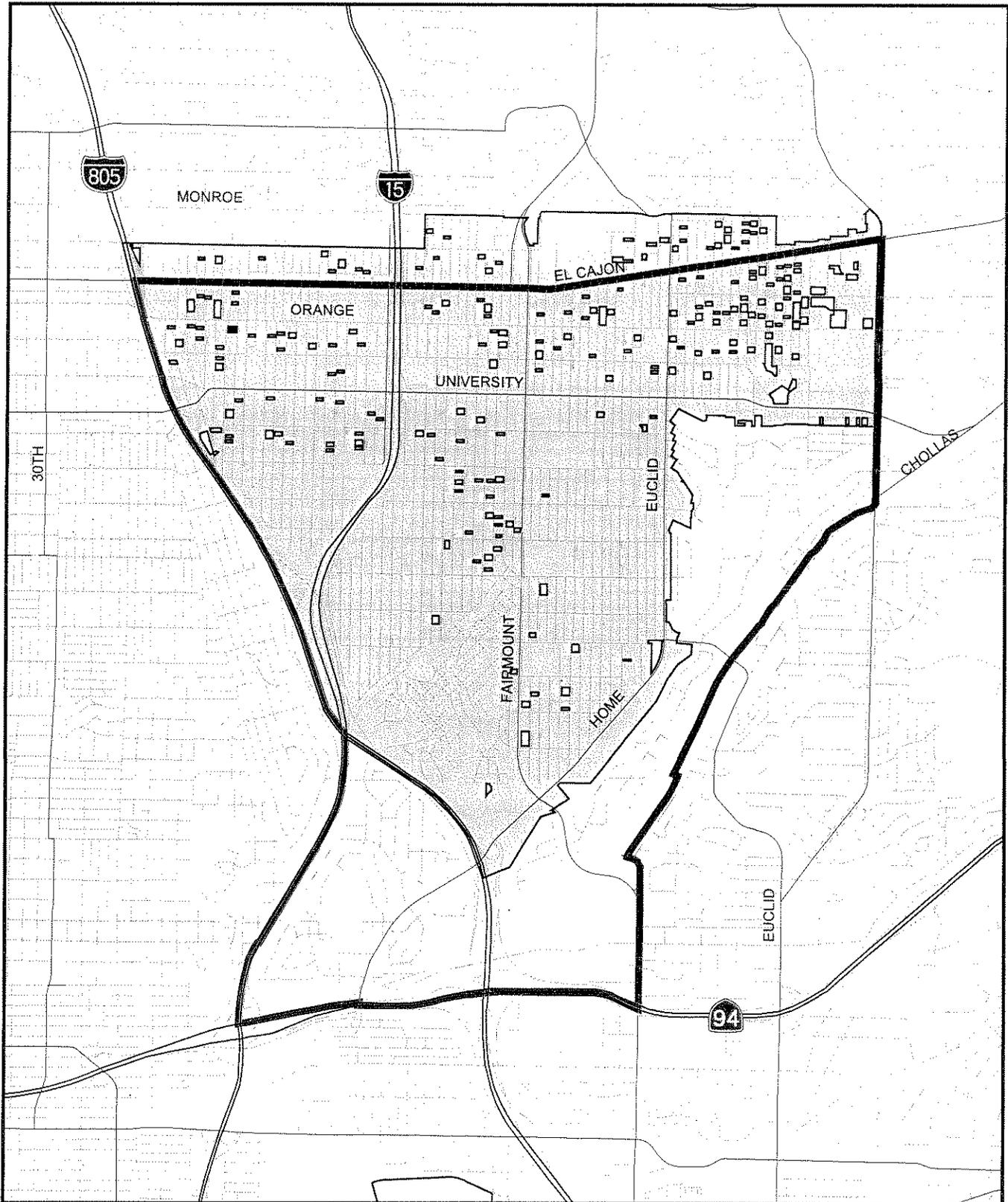
Each participant shall cooperate with the Agency and/or the Agency's designated agent to monitor and ensure the participant's compliance with the Program Guidelines and all applicable laws and regulations. Such cooperation may include, but not be limited to,

allowing for inspections of the subject property upon reasonable notice by the Agency or the Agency's designated agent and providing accurate copies of documents or other information requested by the Agency or the Agency's designated agent.

Home in the Heights Program Guidelines

**Exhibit "A"
Map**

CITY HEIGHTS



City of San Diego
City Planning &
Community Investment

Legend

-  City Heights Redevelopment Area
-  City Heights Community Planning Area

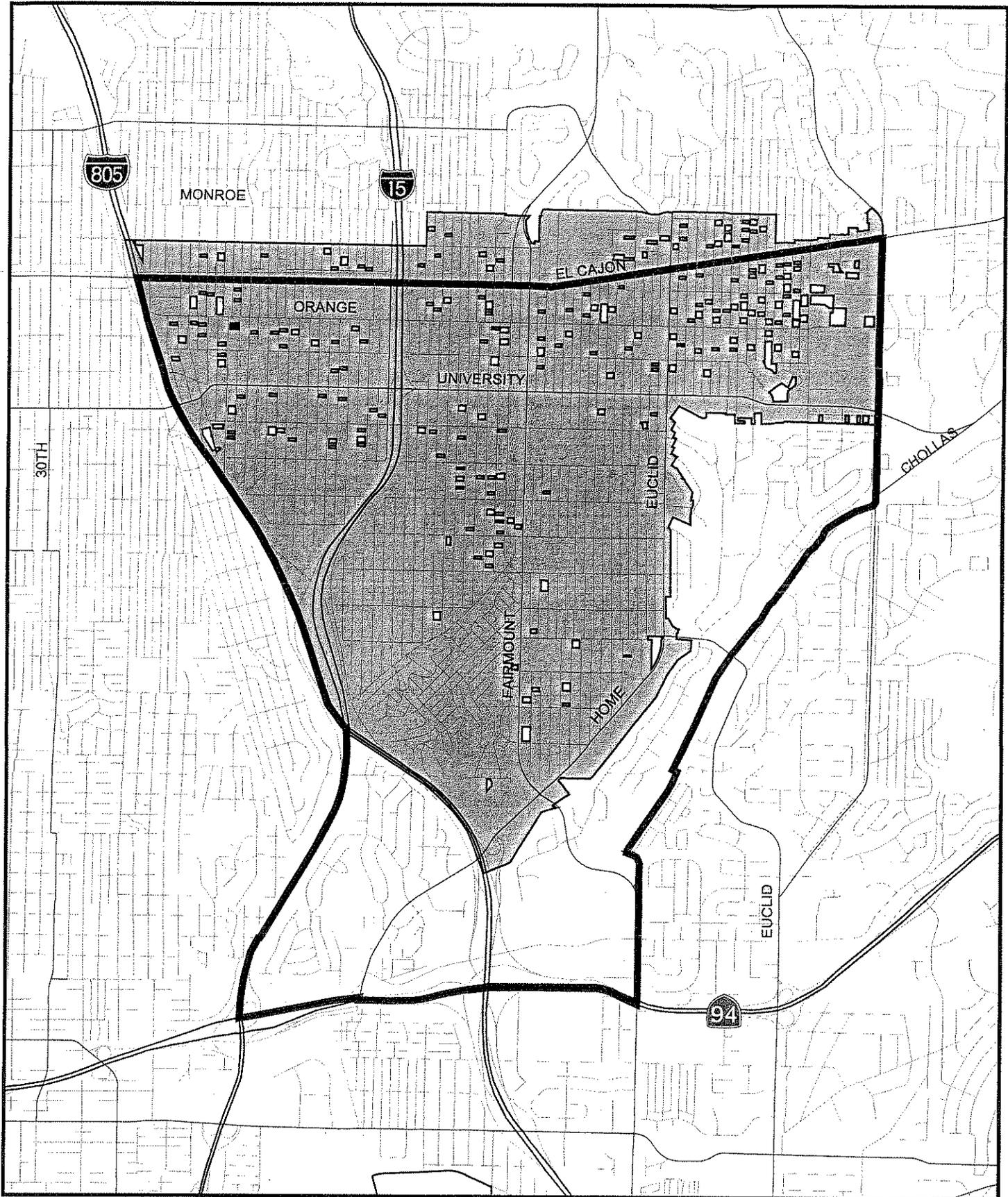


H:\redevelopment\cityheights/
CityHtsredevandcompplan.mxd
Plot Date: 01/23/08

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Exhibit A
Attachment 2

CITY HEIGHTS



Legend

-  City Heights Redevelopment Area
-  City Heights Community Planning Area



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Exhibit A
Attachment 3

**PROMISSORY NOTE
TO THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN DIEGO**

6% Interest

\$ _____

San Diego, California

Date of Closing: _____

Loan #: _____

FOR VALUE RECEIVED, _____, an individual residing in the City of San Diego, State of California, [Borrower], hereby promises to pay to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO [Agency], a public body, corporate and politic, or order, a principal amount of _____ DOLLARS and ___/100 Cents (\$ _____) [Agency Loan]. This Promissory Note [Note] evidences the Agency Loan to Borrower, which provides a portion of the financing for the purchase of that certain real property in the City of San Diego legally described in the Agency Deed of Trust securing this Note [Property]. The obligation of Borrower to Agency hereunder is subject to the terms of the Program Guidelines for the "Home in the Heights Homebuyer Assistance Program" [Program] in effect on the date of this Note, the terms of this Note, and the terms of a Deed of Trust [Agency Deed of Trust], dated on or about the date hereof, and executed by Borrower [Trustor therein] for the purpose of securing this Note. Said documents are public records on file in the offices of the Agency, and the provisions of said documents are incorporated herein by this reference. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided. The Note shall be paid in accordance with the provisions contained herein, and in any event shall be paid in full by that date which is twenty (20) years after the execution hereof.

1. Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Program Guidelines. In addition, the following terms shall have the following meanings:

"Adjusted for Family Size Appropriate for the Unit" shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

"Affordable Housing Cost" shall not be less than twenty eight percent (28%) of the gross household income and shall not exceed thirty-five percent (35%) times 110 percent of area median income adjusted for family size appropriate for the unit.

"Agency Deed of Trust" shall mean the Deed of Trust executed by Borrower in favor of the Agency and recorded in the Official Records of the San Diego County Recorder's Office on or about the date hereof, which secures this Note and the Agency Loan evidenced hereby.

“Agency Loan” shall mean the loan made by the Agency to Borrower pursuant to the Program Guidelines in the maximum amount of _____ Dollars (\$ _____), which is evidenced by this Note.

“Deed of Trust” shall mean the Agency Deed of Trust.

“First Trust Deed Loan” shall mean a loan in the approximate original principal amount of _____ Dollars (\$ _____) made to Borrower by the maker of such loan to be referred to as the Senior Lender, to be secured by a deed of trust [First Trust Deed] that is senior and superior to the Agency Deed of Trust.

“Gross Household Income” shall mean the combined anticipated or projected gross income for the next twelve (12) month period as annual income of all members of Borrower’s household.

“Housing Cost” shall include the following: principal and interest on a mortgage, property taxes and assessments, fire and casualty insurance, reasonable allowance for property maintenance and repairs, reasonable allowance for utilities (excluding telephone service), and if applicable mortgage insurance and homeowner association fees.

“Original Loan Amount” shall mean the cumulative amount of the First Trust Deed Loan, the Agency Loan, and any payments made pursuant to any other home buyer assistance program at the time of Borrower’s purchase of the Property.

“Program” shall mean the “Home in the Heights Homebuyer Assistance Program” established by the Agency which allows for financial assistance to be provided by the Agency to eligible first-time homebuyers for the purpose of enabling these homebuyers to purchase and occupy homes within the City Heights Redevelopment Project Area and the City Heights Community Planning Area.

“Program Guidelines” shall mean the Guidelines approved by the Agency which govern and provide the terms and conditions of the “Home in the Heights Homebuyer Assistance Program”.

“Property” shall mean the real property described as the “Property” in and legally described as set forth in Exhibit “A” of the Agency Deed of Trust.

“Purchase Price” shall mean the total cost of acquiring the Property by the Borrower.

“Senior Lender” shall mean the maker of the First Trust Deed Loan or beneficiary of the First Trust Deed.

“Senior Loan” shall mean the First Trust Deed Loan secured by a deed of trust [First Trust Deed] or other instrument to which the Agency agrees to subordinate the lien of the Agency Deed of Trust.

“Term” of this Note shall mean twenty (20) years from the date hereof.

“Transfer” shall have the meaning set forth in Section 9 of this Note.

2. This Note evidences the obligation of the Borrower to the Agency for the repayment of the Agency Loan.

3. This Note is payable at the principal office of the Agency, 1200 Third Avenue; Suite 1400, San Diego, California 92101-4106, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

4. This Note shall be secured by the Agency Deed of Trust (also referred to herein as the Deed of Trust).

5. This Note shall bear interest at the rate of six percent (6%) per annum simple interest which shall begin to accrue upon disbursement.

6. Except in the event of a default described in Section 7 hereof, no payments shall be due and payable under this Note.

7. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be immediately due and payable to the Agency in the event, prior to the end of the twenty (20) year term hereof, any one or more of the following events shall occur:

(a) The Property or any portion thereof or interest therein is sold, transferred, conveyed or assigned, without the prior written approval of the Agency pursuant to Section 9 hereof; or

(b) The Property is rented, vacated or abandoned by the Borrower; or

(c) The Property is not continuously occupied by the Borrower, as the record owner of the Property, as his/her principal residence; or

(d) Any mortgage secured by the Property is refinanced or partially refinanced and results in an increase in the total Original Loan Amount, without the prior written approval of the Agency pursuant to Section 9 hereof; or

(e) There is a default by the Borrower under the terms of this Note, the Agency Deed of Trust, the Program Guidelines, or any deed of trust or other instrument securing the First Trust Deed Loan, or any other obligations secured by a deed of trust on the Property, which is not cured within the respective time period provided herein and therein.

8. Prior to the expiration of the twenty (20) year term hereof, Borrower shall be obligated to repay the principal amount of the Agency Loan and all accrued interest as follows:

(a) Interest: Between months one (1) through seventy two (72) from the date of this Note and the Agency Deed of Trust, the annual simple interest rate at payback will be six

percent (6%). The interest shall be on the principal only. Except in the event of a default described in Section 7 hereof, the interest will not be paid, but will accumulate. Starting at month seventy three (73), the accumulated interest will be decreased at a rate of fourteen and three tenths percent (14.3%) per year through month one hundred fifty six (156). In the event of a default described in Section 7 hereof during the time between month one (1) and month one hundred fifty six (156), all the interest not forgiven will be due and payable in one lump sum. After one hundred fifty six (156) months of continuous occupancy by the Borrower, no further interest shall be due.

(b) Principal: Starting at the end of the tenth (10th) year, the principal amount of the Agency Loan due shall decrease ten percent (10%) per year, through year twenty (20), at which time, after twenty (20) years of continuous occupancy of the Property by the Borrower as owner and full compliance with this Note and the Program Guidelines, no principal amount shall be due. In the event of a default described in Section 7 hereof prior to the expiration of the twenty (20) year term hereof, the principal amount of the Agency Loan not forgiven will be due and payable in one lump sum.

9. (a) Notwithstanding Section 7 (a) and (d) hereof, the unpaid principal balance of this Note and any accrued but unpaid interest shall not be immediately due and payable in the event, prior to the end of the twenty (20) year term hereof, either of the following occurs:

(1) The Property or any portion thereof or interest therein is sold, transferred, conveyed or assigned, provided the prior written approval of the Agency is first obtained as permitted by law. The Agency's written approval shall be provided in the following limited cases:

(i) Where the Borrower purchases another home located in the Project and Planning Area, uses the new home as his/her principal residence, and the transaction is approved by the Agency Executive Director or his/her designee. In such a case, the outstanding Agency Loan principal balance and accrued interest shall be carried over to and secured by the new property. Further, in such case, all of Borrower's obligations under this Note and the Agency Deed of Trust shall remain in effect for the same period of time secured by the Property and that a new Deed of Trust shall be executed by the Borrower and recorded with the San Diego County Recorder's Office against the new property as a condition to the Borrower being permitted to carry over the outstanding Agency Loan principal balance and accrued interest to the new property; or

(ii) Where the Borrower's spouse is also a Co-Borrower and the Property transfers to the surviving spouse Borrower upon the death of the Co-Borrower; or

(iii) A transfer by a Borrower to his or her spouse when the spouse, by such transfer, becomes both a co-owner of the Property and a Co-Borrower on the Agency Loan; or

(iv) Where the Borrower's spouse is also a Co-Borrower and the Property transfers as the result of an official decree of dissolution of marriage or legal separation or from a property settlement agreement incidental to such a decree which requires the

transferor Borrower to continue to make payments on the Note and by which the transferee Borrower becomes the sole owner of Property; or

(v) A transfer by a Borrower to an inter vivos trust in which the Borrower is the sole beneficiary of the trust; or

(vi) A transfer by means of encumbering the Property with a lien which is a junior to the lien securing the Agency Loan to Borrower evidenced by the Agency Deed of Trust.

(2) Any mortgage secured by the Property is refinanced or partially refinanced and results in an increase in the total Original Loan Amount, provided the prior written approval of the Agency is first obtained. The Agency's written approval shall only be provided in such cases where the refinance or partial refinance is first approved by the Agency Executive Director or his/her designee and the increased mortgage resulting from the refinance is used solely to rehabilitate the subject home on the Property and no portion of the increased mortgage is used in any way, directly or indirectly, toward the cost of luxury improvements, such as a spa, or for items of personal property, such as a refrigerator. In no event shall the First Trust Deed Loan exceed a loan-to-value ratio of eighty percent (80%) and in no event shall the Agency Loan, together with the First Trust Deed Loan, exceed a loan-to-value ratio of ninety percent (90%). In no event shall the Agency's proportional share of the total encumbrances to the fair market value of the Property increase as a result of any refinancing or partial refinancing.

(b) With regard to this Section 9 hereof, the Agency's approval of one such transaction shall not be deemed to be a waiver of the right to require approval to future or successive transactions. In the absence of specific written agreement by the Agency, no unauthorized sale, transfer, conveyance, assignment, or refinance transfer, and no approval by the Agency of any sale, transfer, conveyance, assignment, or refinance transfer, shall be deemed to relieve the Borrower from any obligations under this Note or the Agency Deed of Trust.

(c) In the event of a sale, transfer, conveyance, assignment, or refinance transfer prior to the expiration of the twenty (20) year term hereof, without the prior written approval of the Agency as described in this Section 9 hereof and as permitted by law, the remaining principal balance of the Agency Loan and all accrued but unpaid interest shall be immediately due and payable.

(d) (i) As used herein, "transfer" includes the sale, transfer, conveyance or assignment of the Property, the Improvements, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, or any agreement to do so; or the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or the Improvements.

(ii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Borrower, or any conversion of Borrower to an entity form other than that of Borrower at the time of execution of this Note.

10. The Agency Loan is funded by the Agency's Low and Moderate Income Housing Fund. Accordingly, Borrower agrees for itself, its successors and assigns, that the use of the Property shall be subject to the restrictions on occupancy and Gross Household Income set forth in the Program Guidelines in effect on the date on which this Note is executed, and as permitted by law.

11. Nothing herein shall: (a) constitute a waiver of any obligation evidenced by this Note or the Agency Deed of Trust; (b) limit the right of the Agency to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Agency Deed of Trust or any action or proceeding hereunder; (c) prevent or in any way hinder the Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (d) prevent or in any way hinder the Agency from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (e) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to Agency; or (f) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Agency Deed of Trust. Further, the Agency may recover directly from Borrower or from any other party:

(a) Any damages, costs and expenses incurred by Agency as a result of fraud or any criminal act or acts of Borrower or its successors and assigns;

(b) Any damages, costs and expenses incurred by Agency as a result of any misappropriation of funds provided as payment toward the Purchase Price or proceeds of insurance policies or condemnation proceeds; and

(c) All court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing (provided that Agency shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

12. Borrower and its assigns and successors and any guarantor, surety, and endorser of this Note, hereby waive presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof, in the enforcement of this Note, the Agency Deed of Trust or any term or provision of either thereof.

13. Upon the failure of Borrower to perform or observe any other term or provision of this Note, upon any event of acceleration described in Section 7 hereof, or upon the occurrence of any other event of default under the terms of the Agency Deed of Trust, the Program Guidelines, any deed of trust securing the First Trust Deed Loan, or other obligations secured by

a deed of trust on the Property, the holder may exercise its rights or remedies hereunder or thereunder.

14. (a) Subject to the further provisions of this Section 14, failure or delay by Borrower to perform any term or provision respectively required to be performed under the Program Guidelines, this Note, or the Deed of Trust, or any deed of trust securing the First Trust Deed Loan, or other obligations secured by a deed of trust on the Property, constitutes a default under this Deed of Trust.

(b) The Agency shall give written notice of default to Borrower, specifying the default complained of by the Agency. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by the Agency in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by the Agency in asserting any of its rights and remedies shall not deprive the Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of either this Note, the Deed of Trust, or the Program Guidelines, prior to exercising any remedies hereunder or thereunder, the Agency shall give Borrower written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by the Agency under this Note and/or the Deed of Trust. In no event shall the Agency be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or if the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of either this Note, the Deed of Trust, or the Program Guidelines, prior to exercising any remedies hereunder or thereunder, the Agency shall give Borrower notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the Agency under this Note, the Deed of Trust, or the Program Guidelines. If the default is such that it is not reasonably capable of being cured within thirty (30) calendar days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the Agency. In no event shall the Agency be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or if the default is not cured within ninety (90) calendar days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by

Borrower; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

15. Except as provided in Paragraph 18 hereof, upon Borrower's default of any covenant or agreement of Borrower in the Deed of Trust, this Note, or the Program Guidelines, including the covenants to pay when due any sums secured by the Deed of Trust, the Agency, prior to acceleration of the amount due under this Note and secured by the Deed of Trust, shall give notice to Borrower as provided in the Deed of Trust specifying: (a) the default; (b) the action required to cure such default; (c) a date by which such default must be cured; and (d) that failure to cure such default on or before the date specified in the notice may result in acceleration of the sums secured by the Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration of sale. If the default is not cured on or before the date specified in the notice, the Agency, at the Agency's option, may declare all of the sums secured by the Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. The Agency shall be entitled to collect all reasonable costs and fees associated with pursuing the remedies provided in the Deed of Trust, including, but not limited to, reasonable attorney's fees.

16. Notwithstanding the Agency's acceleration of the sums secured by the Deed of Trust due to Borrower's default, Borrower shall have the right to have any proceedings begun by the Agency to enforce the Deed of Trust discontinued at any time prior to five (5) days before sale of the Property pursuant to the power of sale contained in the Deed of Trust or at any time prior to entry of judgment enforcing the Deed of Trust if: (a) Borrower pays the Agency all sums which would be then due under the Deed of Trust and this Note had no acceleration occurred; (b) Borrower cures all defaults of any other covenants or agreement of Borrower contained in the Deed of Trust; (c) Borrower pays all reasonable expenses incurred by the Agency and the trustee of the Deed of Trust in enforcing the covenants and agreements of Borrower contained in the Deed of Trust, and in enforcing the Agency's and trustee's remedies, including, but not limited to reasonable attorney's fees; and (d) Borrower takes such action as the Agency may reasonably require to assure that the lien of the Deed of Trust, the Agency's interest in the Property, and Borrower's obligation to pay all sums secured by the Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, the Deed of Trust and the obligations secured thereby shall remain in full force and effect as if no acceleration had occurred.

17. Upon default by Borrower in making any payments provided for in the Deed of Trust, or upon default by Borrower in making any payment(s) required in this Note secured thereby, or if Borrower shall fail to perform any covenant or agreement in the Deed of Trust or the Program Guidelines after written demand therefor by the Agency, and after the giving of notice and the expiration of any applicable cure period as provided for in the Deed of Trust, and in accordance with applicable law, the Agency may declare all sums secured hereby immediately due and payable by delivery to trustee of the Deed of Trust a written declaration of default and demand for sale, and a written notice of default and of election to cause the Property to be sold,

which notice trustee shall cause to be duly filed for record and the Agency may foreclose the Deed of Trust.

18. Borrower agrees that, except as otherwise provided in this Note, upon sale, transfer, conveyance, assignment or refinancing of the Property, the entire indebtedness secured by the Deed of Trust shall at the option of the Agency be immediately due and payable. However, this option shall not be exercised by the Agency if exercise is prohibited by law as of the date of the Deed of Trust, or if the Agency has executed a separate written waiver of this option. If the Agency exercises this option, the Agency shall give Borrower notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Borrower must pay all sums evidenced by this Note and secured by the Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, the Agency may invoke any remedies permitted by the Deed of Trust without further notice or demand on Borrower. Upon such upon sale, transfer, conveyance, assignment or refinancing of the Property, Borrower will also be required to pay simple interest as described in this Note.

19. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

20. The Agency Deed of Trust securing this Note, the lien of which shall be subordinate and junior to the First Trust Deed Loan.

21. The Agency shall have the right in its sole discretion to transfer or assign all of its rights and remedies under this Note. Any transferee or assignee of the Agency under this Note shall be entitled to receive all payments made under this Note and to assert any and all rights and remedies of the Agency provided herein.

22. Borrower shall have the right to prepay the obligation evidenced by this Note and the accrued but unpaid interest, or any part thereof, without penalty. If Borrower chooses to prepay the obligation evidenced by this Note and the accrued but unpaid interest, or any part thereof, Borrower shall notify the Agency in writing of the prepayment. If Borrower chooses to prepay on the outstanding balance of the Agency Loan, Borrower shall also be required to pay all accrued but unpaid interest on the amount of the prepayment.

23. If more than one person executes this Note, each person shall be deemed a Borrower under the terms of this Note and the Agency Deed of Trust [Trustor therein] and each Borrower or successors or assigns, and any guarantor, surety, or endorser of this Note, is obligated to pay the obligation evidenced by this Note and the accrued interest owed and to keep all promises made by Borrower(s) herein. The Agency shall have the right to enforce its rights under this Note and the Agency Deed of Trust against each of said parties individually or jointly.

24. Except for any notice required under applicable law to be given in another manner, and unless otherwise specifically provided herein, (a) any notice to the Borrower provided for in this Note will be given by certified mail, addressed to the Borrower at the property address shown below of this Note or such other address as the Borrower may designate

by notice to the Agency as provided herein, and (b) any notice to the Agency will be given by express delivery, return receipt requested, to the Redevelopment Agency of the City of San Diego, 1200 Third Avenue; Suite 1400, San Diego, California 92101, or to such other address as the Agency may designate by notice to Borrower as provided above. Notice shall be effective as of the date received by the Agency as shown on the return receipt.

25. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provision of this Note which can be given effect without the conflicting provisions, and to this end the provisions of this Note are declared to be severable.

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year set forth above.

BORROWER

An individual residing at _____

Dated: _____

By: _____

Name: _____

Title: _____

OFFICIAL BUSINESS.
Document entitled to free
recording per Government
Code Section 6103.

Recording Requested by and
When Recorded Mail to:

THE REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO
1200 Third Avenue; Suite 1400
San Diego, California 92101

Attn: Affordable Housing Project Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST

This Deed of Trust is made as of _____, 20____, by _____,
an individual residing in the City of San Diego, State of California, [Trustor], whose address is
_____, San Diego, California _____, to
_____, a California corporation [Trustee], for the benefit
of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body
corporate and politic [Beneficiary], whose address is 1200 Third Avenue, Suite 1400, San Diego,
California 92101.

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS
to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH
RIGHT OF ENTRY AND POSSESSION the following property [Trust Estate]:

1. That certain real property in the City of San Diego, County of San Diego, State of
California, more particularly described in Exhibit "A" attached hereto and by this reference made
a part hereof [such interest in real property is hereafter referred to as the Subject Property];
2. All buildings, structures, articles of personal property or fixtures attached to or
used in and about the buildings or structures, and other improvements now or in the future
located or to be constructed on the Subject Property [Improvements];
3. All tenements, hereditaments, appurtenances, privileges, franchises and other
rights and interests now or in the future benefiting or otherwise relating to the Subject Property
or the Improvements, including easements, rights-of-way and development rights
[Appurtenances]. [The Appurtenances, together with the Subject Property and the
Improvements, are hereafter referred to as the Real Property];
4. Subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents,
issues, income, revenues, royalties and profits now or in the future payable with respect to or

otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid [Rents].

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

1. Due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

- (a) that certain Agency Loan Promissory Note executed by Trustor [Borrower therein] of even date herewith [Promissory Note or Note]; and
- (b) the Program Guidelines for the "Home in the Heights Homebuyer Assistance Program" [Program] in effect on the date of the Note.

2. Payment of indebtedness of the Trustor to the Beneficiary not to exceed _____ Dollars (\$ _____) according to the terms of the Note.

Said Note and Program Guidelines [collectively referred to as the Secured Obligations] and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the Note at the respective times and in the manner provided therein, and perform the obligations of the Trustor as set forth in the Note and the Program Guidelines at the time and in the manner respectively provided therein.

2. That Trustor shall not permit or suffer the use of any of the Property for any purpose other than the use set forth in the Note and the Program Guidelines.

3. That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.

4. That all rents, profits and income from the Property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use subject to the provisions of the Note and Program Guidelines.

5. That upon default hereunder, and after the giving of notice and the expiration of any applicable cure period, Beneficiary, at its option, shall be entitled to sell the Property or to

the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the Property described herein and operate same and collect the rents, profits and income therefrom.

6. That Trustor will keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended hazards", and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by the Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. The insurance carrier(s) providing the insurance shall be chosen by Trustor subject to the approval of the Beneficiary, provided that such approval will not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to the Beneficiary. In no event shall the amounts of coverage be less than one hundred percent (100%) of the insurable value of the Real Property, and in no event less than the amount necessary to prevent the Trustor from becoming a co-insurer under the terms of the policy. Such policies shall be endorsed with a standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies shall be deposited with the Beneficiary. In the event of loss, Trustor shall give prompt notice to the insurance carrier(s) and the Beneficiary. The Beneficiary may, but is not obligated to, make proof of loss if not made promptly by Trustor.

7. To pay, at least ten (10) calendar days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7.

8. To keep said Property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said Property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said Property in violation of law and/or covenants, conditions and/or restrictions affecting said Property; not to permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon said Property without the consent of the Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said Property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his/her reasonable fees.

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due, should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the indebtedness and obligations secured hereby.

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the highest non-usurious rate of interest permitted by law.

13. That upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of the Note and Program Guidelines, the entire indebtedness evidenced by the Note shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the Property subject to this Deed of Trust any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the Property free from the claims of all persons supplying labor or materials in the demolition or construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within thirty (30) calendar days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of San Diego County, a surety bond in an amount one-and-one-half times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.

15. That any and all construction work and improvements made or about to be made upon the premises covered by the Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, subject to the rights of any beneficiary of a deed of trust senior in priority to this Deed of Trust [Senior Lender], Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any actions or proceedings, or to make any compromise or settlement, in connection with such taking or damage. Subject to the rights of any Senior Lender, all such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said Property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the Property or part thereof that was taken or damaged, shall be applied to the amount due under the Note secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making regular payments as required by the Note secured hereby. If the Property is abandoned by Trustor, or if Trustor fails to respond to the Beneficiary within thirty (30) calendar days from the date notice is mailed by the Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, the Beneficiary is authorized to collect and apply the insurance proceeds at the Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

18. Except as provided in Paragraph 31 hereof, upon Trustor's default of any covenant or agreement of Trustor in this Deed of Trust or the Program Guidelines, including the covenants to pay when due any sums secured by this Deed of Trust, the Beneficiary, prior to acceleration of the amount due under the Note and secured by this Deed of Trust, shall give notice to Trustor as provided herein specifying: (a) the default; (b) the action required to cure such default; (c) a date by which such default must be cured; and (d) that failure to cure such default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration of sale. If the default is not cured on or before the date specified in the notice, the Beneficiary, at the Beneficiary's option, may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. The Beneficiary shall be entitled to collect all reasonable costs and fees associated with pursuing the remedies provided in this Paragraph 18, including, but not limited to, reasonable attorney's fees.

19. Notwithstanding the Beneficiary's acceleration of the sums secured by the Deed of Trust due to Trustor's default, Trustor shall have the right to have any proceedings begun by the Beneficiary to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of judgment enforcing this Deed of Trust if: (a) Trustor pays the Beneficiary all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (b) Trustor cures all defaults of any other covenants or agreement of Trustor contained in the Deed of Trust; (c) Trustor pays all reasonable expenses incurred by the Beneficiary and the Trustee in enforcing the covenants and agreements of Trustor contained in this Deed of Trust, and in enforcing the Beneficiary's and Trustee's remedies, including, but not limited to reasonable attorney's fees; and (d) Trustor takes such action as the Beneficiary may reasonably require to assure that the lien of this Deed of Trust, the Beneficiary's interest in the Property, and Trustor's obligation to pay all sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Trustor, this Deed of Trust and the Obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. Upon default by Trustor in making any payments provided for herein, or upon default by Trustor in making any payment(s) required in the Note secured hereby, or if Trustor shall fail to perform any covenant or agreement in this Deed of Trust or the Program Guidelines after written demand therefor by Beneficiary, and after the giving of notice and the expiration of any applicable cure period as provided for herein and in Section 33 hereof, and in accordance with applicable law, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee a written declaration of default and demand for sale, and a written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note, and all documents evidencing expenditures secured hereby.

21. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its Deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this Trust including therein reasonable Trustee's fees or attorney's fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued

interest at the rate specified in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

22. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

23. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

24. Upon payment or the forgiveness of all sums secured by this Deed of Trust, and upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto" and shall pay all costs of recordation, if any, and any reconveyance fee to the Trustee.

25. The Trust created hereby is irrevocable by Trustor.

26. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

27. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

28. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth in the first paragraph of this Deed of Trust.

29. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits, and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases or tenancies and full information regarding all rental and occupancy agreements, if any, and the rents provided for by such leases

and rental and occupancy agreements, if any, and such other information regarding the premises and their use as may be requested by Beneficiary.

30. Trustor agrees that the indebtedness secured by this Deed of Trust is made expressly for the purpose of financing a portion of the Purchase Price of the Property, as provided in the Program Guidelines, to be used and occupied as provided in the Program Guidelines.

31. Trustor agrees that, except as otherwise provided in the Note, upon sale, transfer, conveyance, assignment or refinancing of the Property, the entire indebtedness secured by this Deed of Trust shall at the option of Beneficiary be immediately due and payable. However, this option shall not be exercised by the Beneficiary if exercise is prohibited by applicable law as of the date of this Deed of Trust, or if the Beneficiary has executed a separate written waiver of this option. If the Beneficiary exercises this option, the Beneficiary shall give Trustor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Deed of Trust. If Trustor fails to pay these sums prior to the expiration of this period, the Beneficiary may invoke any remedies permitted by this Deed of Trust without further notice or demand on Trustor. Upon such sale, transfer, conveyance, assignment or refinancing of the Property, Trustor will also be required to pay simple interest as described in the Note.

32. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

33. (a) Subject to the further provisions of this Section 33, failure or delay by Trustor to perform any term or provision respectively required to be performed under the Program Guidelines, the Note, or this Deed of Trust, constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of either the Note, this Deed of Trust, or the Program Guidelines, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to

exercise of remedies by Beneficiary under the Note and/or this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or if the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of either the Note, this Deed of Trust, or the Program Guidelines, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the Note, this Deed of Trust, or the Program Guidelines. If the default is such that it is not reasonably capable of being cured within thirty (30) calendar days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or if the default is not cured within ninety (90) calendar days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Trustor; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

34. Nothing herein shall: (a) constitute a waiver of any obligation evidenced by this Note or the Agency Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the Agency Deed of Trust or any action or proceeding hereunder; (c) prevent, or in any way hinder, the Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Note or as prescribed by law or in equity in case of default; (d) prevent or in any way hinder the Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (e) relieve Trustor of any of its obligations under any indemnity delivered by Trustor to the Beneficiary; or (f) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by this Note and the Agency Deed of Trust. Further, the Beneficiary may recover directly from Trustor or from any other party:

(a) Any damages, costs and expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or its successors and assigns;

(b) Any damages, costs and expenses incurred by the Beneficiary as a result of any misappropriation of funds provided as payment toward the Purchase Price or proceeds of insurance policies or condemnation proceeds; and

(c) All court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing (provided that the Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

35. The lien of this Deed of Trust shall be subordinate and junior to the First Trust Deed recorded concurrently herewith securing the First Trust Deed Loan. The Executive Director of the Beneficiary or his/her designee shall execute such instruments as may be necessary to subordinate the lien of this Deed of Trust to the deed of trust described in this Section 35. In the event of a default or breach by Trustor of any security instrument securing a senior obligation described in this Section 35, Beneficiary shall have the right, but is not obligated, to cure the default prior to completion of any foreclosure. In such event, Beneficiary shall be entitled to reimbursement by Trustor of all costs and expenses incurred by Beneficiary in curing the default. The amount of any such disbursements shall be a lien against the Subject Property and added to the obligation secured by this Deed of Trust until repaid, with interest at the highest rate permitted by law.

36. Subject to the rights of any Senior Lender, in the event of any fire or other casualty to the Real Property or eminent domain proceedings resulting in condemnation of the Real Property or any part thereof, Trustor shall have the right to rebuild the Real Property, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the Agency Loan in balance and rebuild the Real Property in a manner that provides adequate security to Beneficiary for repayment of the Agency Loan or if such proceeds are insufficient then Trustor shall have funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the Agency Loan documents. If the casualty or condemnation affects only part of the Real Property and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Agency Loan in a manner that provides adequate security to Beneficiary for repayment of the remaining balance of the Agency Loan.

37. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently, or successively.

38. This Deed of Trust shall be governed by the laws of the State of California.

39. The Beneficiary may make, or cause to be made, reasonable entries upon and inspections of the Real Property, provided that the Beneficiary will give the Trustor reasonable notice of inspection.

40. Except for any notice required under applicable law to be given in another manner, and unless otherwise specifically provided herein, (a) any notice to the Trustor provided for in this Deed of Trust will be given by certified mail, addressed to the Trustor at the address shown in the first paragraph of this Deed of Trust or such other address as the Trustor may designate by notice to the Beneficiary as provided herein, and (b) any notice to the Beneficiary will be given by express delivery, return receipt requested, to the Redevelopment Agency of the City of San Diego, 1200 Third Avenue, Suite 1400, San Diego, California 92101, or to such other address as the Beneficiary may designate by notice to Trustor as provided above. Notice shall be effective as of the date received by the Beneficiary as shown on the return receipt.

41. In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict will not affect other provision of this Deed of Trust which can be given effect without the conflicting provisions, and to this end the provisions of this Deed of Trust are declared to be severable.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

An individual residing at _____.

Dated: _____

By: _____

Name: _____

Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On ____ before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"
LEGAL DESCRIPTION
[TO BE ADDED]

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 6103

Recording requested by
and when recorded return to:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
Attention: Affordable Housing Project Manager
1200 Third Avenue; Suite 1400
San Diego, California 92101-4106

Assessor's Parcel No. _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT [Agreement] is made as of this _____ day of _____, _____, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic [Agency], _____, an individual residing in the City of San Diego, State of California, [Borrower] and _____, a California corporation, [Lender].

RECITALS

WHEREAS, Borrower is the owner and occupant of that certain real property located at _____, San Diego, California, referenced by Assessor's Parcel Number _____, and legally described as "_____", as shown in Exhibit "A" attached hereto and incorporated herein by this reference [Property]; the term Property in this Agreement means the real property, together with all improvements located or constructed thereon; and

WHEREAS, pursuant to the California Community Redevelopment Law, the Agency has established a Low and Moderate Income Housing Fund and has deposited therein certain tax revenues made available to the Agency exclusively for the purpose of increasing, improving, and preserving the community's supply of affordable low and moderate income housing [referred to in this Agreement as the "Housing Funds"]; and

WHEREAS, for the purpose of increasing the supply of housing in the City of San Diego that will be affordable to low and moderate income households, the Agency established the "Home in the Heights Homebuyer Assistance Program" [Program]; and

WHEREAS, the Program allows for financial assistance to be provided by the Agency to eligible first-time homebuyers for the purpose of enabling these homebuyers to purchase and occupy homes within the City Heights Redevelopment Project Area and the City Heights Community Planning Area [Project and Planning Area]; and

WHEREAS, in furtherance of the purposes of the Program, the Agency has made a loan of Housing Funds to Borrower in the amount of _____ Dollars (\$_____) [Agency Loan] to provide a portion of the financing for the purchase of the Property; and

WHEREAS, the Agency Loan is evidenced by a promissory note in the principal amount of the Agency Loan, dated on or about the date hereof [Agency Note], which is secured by a Deed of Trust, dated on or about the date hereof [Agency Deed of Trust], [referred to individually as an "Agency Loan Document" and collectively as the "Agency Loan Documents"]; and

WHEREAS, the Lender will originate a first mortgage loan in the approximate principal amount of _____ Dollars (\$_____) [First Trust Deed Loan], consistent with the Program Guidelines approved by the Agency; and

WHEREAS, the First Trust Deed Loan is evidenced by a promissory note in the amount of the First Trust Deed Loan [First Loan Note] and is secured by, among other things, a Deed of Trust [First Trust Deed]. The First Loan Note and the First Trust Deed and any other documents and instruments executed by Borrower in connection with the First Trust Deed Loan are referred to collectively as the "First Trust Deed Loan Documents"; and

WHEREAS, the First Trust Deed Loan Documents are being or have been executed, delivered and recorded, as the case may be, prior to or concurrently with this Agreement; and

WHEREAS, the Agency and Lender have agreed and required as a condition of making their respective Loans that the order of priority of their respective liens be as follows: (1) the First Trust Deed Loan Documents; and (2) the Agency Loan Documents; and

WHEREAS, the Agency is willing to specifically and unconditionally subordinate the Agency Loan Documents to achieve and maintain the order of priority listed in the immediately preceding Recital.

THEREFORE, in consideration of the mutual benefits accruing to the Agency and the Lender and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agency and the Lender hereby agree as follows:

(1) The First Trust Deed Loan and the First Trust Deed Loan Documents, and any renewals or extensions thereof (without any increase to the stated secured loan amount), shall at all times be prior and superior to the liens or charges of the Agency Loan and the Agency Loan Documents.

(2) The Agency Loan and the Agency Loan Documents, and any renewals or extensions thereof, shall at all times be junior and are hereby subordinated to the First Trust Deed Loan and the First Trust Deed Loan Documents.

(3) The Lender would not originate the First Trust Deed Loan without this Subordination Agreement.

(4) This Agreement shall be the whole and only agreement with regard to the priority and subordination of the First Trust Deed Loan, the First Trust Deed Loan Documents and the Agency Loan and the Agency Loan Documents and shall supersede and cancel, but only insofar as would affect the priority among the loans and documents referred to hereinabove, any prior agreements as to such subordination including, but not limited to, those provisions, if any, contained in any of such loans and documents which provide for the subordination of the lien or charge thereof to another loan or loans, document or documents, deed or deeds of trust or to a mortgage or mortgages.

(5) The Agency and Lender declare, agree and acknowledge that:

(a) The Agency consents to and approves (i) all provisions of the First Loan Note and the First Trust Deed; (ii) all agreements, including but not limited to reserve agreements, loan agreements, development or escrow agreements, between Borrower and Lender for the origination, disbursement and servicing of the First Trust Deed Loan, which prior to or concurrently herewith have been submitted to Agency; and

(b) The Lender consents to and approves all provisions of the Agency Loan Documents described in the Recitals, above; and

(c) The Agency intentionally and unconditionally waives, relinquishes and subordinates the lien, charge or encumbrance of the Agency Loan Documents in favor of the prior lien, charge or encumbrance upon the Property and Improvements as referred to in this Agreement in favor of the Lender in the order of priority specified in this Agreement and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made, and specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

(6) Notwithstanding anything to the contrary contained in the Subordination Agreement, the Parties hereto hereby acknowledge that California Health and Safety Code Section 33334.2 et seq., which is the applicable State Law governing the Program pursuant to which the Agency is authorized to make the Agency Loan, permits the Agency to subordinate the requirements contained in the Agency Loan Documents to the Lender's lien only if the Agency obtains commitments from the Lender designed to provide the Agency with an opportunity to protect its interests in the event of Borrower's default, as hereinafter set forth. Therefore, the Lender hereby agrees as follows:

(a) Upon the occurrence of an event of default under the First Trust Deed and other First Trust Deed Loan Documents, the Lender shall promptly notify the Agency at the address set forth in the Agency Deed of Trust of the occurrence of such event of default, which notification shall be provided to the Agency within the time provided pursuant to California Civil Code Section 2924b.(b)(1);

(b) The Agency shall have the right, during the cure periods which apply to the Borrower pursuant to the First Trust Deed Loan Documents to cure Borrower's default relative to the First Trust Deed Loan; and

(c) After a default on the First Trust Deed Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Property and/or the Improvements, the Agency shall have the right to take title to the Property and/or the Improvements and cure the default relative to the First Trust Deed Loan Documents, without the Lender exercising any right it might otherwise have to accelerate the First Trust Deed Loan by reason of such title transfer; and

(d) After a default on the First Trust Deed Loan Documents, but prior to a foreclosure sale or deed in lieu assignment of the Property and/or the Improvements, the Agency shall have the right to purchase the Property and the Improvements from the Borrower and pay all amounts due and owing under the First Trust Deed Loan Documents.

(7) This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original Agreement.

(8) That this Agreement may not be amended or modified orally but may be amended or modified only in writing, signed by all Parties hereto.

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NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS PROVISIONS WHICH ALLOW THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN LOANS WHICH MAY BE OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT AND WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

IN WITNESS WHEREOF, the parties executed this Agreement as of the day and year set forth above.

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____
Name: _____
Title: _____

APPROVED the form and legality of this Agreement
this ____ day of _____, _____.

Michael J. Aguirre
Agency General Counsel

By: _____
Name: _____
Title: _____

BORROWER/OWNER

By: _____
Name: _____
Title: _____

LENDER

By: _____
Name: _____
Title: _____

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT "A"

Property Description

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On _____ before me, _____, a Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

Exhibit "B"
Compensation and Fee Schedule
Community Housing Works Agreement

EXHIBIT "B"

COMPENSATION AND FEE SCHEDULE

The Agency will pay Consultant for performance of the Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed Seventy Five Thousand Dollars (\$75,000), in accordance with the terms set forth herein.

Part 1: Outreach and Education Services:

The Agency will pay Consultant approximately Two Thousand Five Hundred Dollars (\$2,500) per month, totaling an amount not to exceed Forty Five Thousand Dollars (\$45,000) during the Term of the Agreement, representing the costs for Consultant's performance of the Outreach and Education Services on a monthly basis for the Term of the Agreement.

Consultant shall invoice the Agency, in accordance with the Agreement and in the amounts budgeted below in Part 1 divided on a monthly basis, for the costs of those Outreach and Education Services that were actually and satisfactorily performed by Consultant during the immediately preceding month.

Part 2: Loan Origination Services:

The Agency will pay Consultant a total amount of One Thousand Dollars (\$1,000) for each Agency loan closed pursuant to the Program, up to a total amount not to exceed Thirty Thousand Dollars (\$30,000) during the Term of the Agreement.

Consultant shall invoice the Agency, in accordance with the Agreement and in the amount budgeted below per closed loan up to the maximum allowed, for the costs of those loans that were actually and satisfactorily closed by Consultant during the immediately preceding month.

<u>Description of Services</u>	<u>Budget</u>
Part 1: Outreach and Education	
Salaries & Wages	\$20,500
Payroll Taxes	\$1,750
Health & Dental Insurance	\$2,150
Other Employee Benefits	\$1,500
Office Supplies	\$800
Postage	\$250
Printing/Photocopying	\$800
Legal & Accounting	\$1,550
Advertising	\$1,000
Local Transportation	\$225
Rent - Office Space	\$3,450
Utilities	\$600

Telephone	\$900
Insurance - Workers Compensation	\$2,125
Board & Staff Training	\$650
Administration/Indirect Costs (15%)	\$6,750
Sub-Total Part 1	\$45,000

Part 2: Loan Origination

Service Fee (\$1,000 per Program loan closed)	<u>\$30,000</u>
-----------------------------------------------	-----------------

TOTAL **\$75,000**

Exhibit "C"
Time Schedule

Community Housing Works Agreement

EXHIBIT "C"

TIME SCHEDULE

Contractor shall commence performance of the Services immediately upon the effective date of the Agreement, after approval of the Agreement by the Agency Board and the City Attorney and execution of the Agreement by the Parties.

In accordance with the budget set forth in the Compensation and Fee Schedule (Exhibit "B" to the Agreement), Consultant shall perform on a monthly basis the Outreach and Education Services for the Program which include, without limitation, organizing and implementing a comprehensive marketing and outreach program(s), providing home ownership education classes, developing special outreach plans, educating as many residents as possible on the Program and other financial assistance programs, identifying special client needs such as any language, cultural and disability barriers, and developing specific programs to address the needs and facilitate effective communication with the clients, employ and train staff and special outreach workers to communicate with the eligible first-time homebuyers, and prepare outreach materials in appropriate languages.

In accordance with the budget set forth in the Compensation and Fee Schedule (Exhibit "B" to the Agreement), Consultant shall use good faith efforts throughout the Term of this Agreement to satisfactorily close on Agency sponsored loans up to a maximum number of thirty (30) Agency loans pursuant to the Program, provided that the Agency has available the necessary amount of funds to fund each such loan.

With regard to each closed Agency loan, Consultant shall monitor on at least a quarterly basis the first-time homebuyer's compliance with the Program Guidelines and the Program mortgage contract requirements including, but not limited to, those pertaining to ownership, occupancy, and financing, and notify the Agency and each client of any breaches of said client's contractual obligations. Such monitoring may include, without limitation, conducting inspections of the subject property and obtaining accurate copies of documents or other information to ensure compliance with the Program Guidelines and contract requirements and all applicable laws and regulations.

Exhibit "D"
Insurance

Community Housing Works Agreement

EXHIBIT "D"

INSURANCE

1. **Types of Insurance.** At all times during the term of this Agreement, Consultant shall maintain insurance coverage as follows:

- 1.1 **Commercial General Liability.** Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of Two Million Dollars (\$2,000,000) per occurrence and subject to an annual aggregate of Two Million Dollars (\$2,000,000). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

- 1.2 **Commercial Automobile Liability.** For all of Consultant's automobiles including owned, hired and non-owned automobiles, Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of Two Million Dollars (\$2,000,000) per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

- 1.3 **Workers' Compensation.** For all of Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of Two Million Dollars (\$2,000,000) of employers' liability coverage, and Consultant shall provide an endorsement that the insurer waives the right of subrogation against the Agency and the City and their respective elected officials, officers, employees, agents and representatives.

- 1.4 **Professional Liability.** For all of Consultant's employees who are subject to this Agreement, Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of Five Million Dollars (\$5,000,000) per claim and Ten Million (\$10,000,000) annual aggregate. Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the term of this Agreement; and (2) the policy will be maintained in force for a period of three years after termination of this Agreement. Consultant agrees that for the time period defined above, there will be no changes or

endorsements to the policy that increase the Agency's exposure to loss. All defense costs shall be outside the limits of the policy.

2. **Deductibles.** All deductibles on any policy shall be the responsibility of Consultant and shall be disclosed to the Agency at the time the evidence of insurance is provided.

3. **Acceptability of Insurers.**

3.1 Except for the State Compensation Insurance Fund, all insurance required by this Agreement or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the Agency.

3.2 The Agency will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

4. **Required Endorsements**

The following endorsements to the policies of insurance are required to be provided to the Agency before any work is initiated under this Agreement.

4.1 **Commercial General Liability Insurance Endorsements**

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the Redevelopment Agency of the City of San Diego, the City of San Diego, and their respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the Redevelopment Agency of the City of San Diego, the City of San Diego, and their elected officials, officers, employees, agents and representatives as respects operations of the Named

Insured. Any insurance maintained by the Redevelopment Agency of the City of San Diego, the City of San Diego, and their elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

CANCELLATION. Except as provided for under California Law, the policy or policies must be endorsed to provide that the Agency is entitled to thirty (30) calendar days prior written notice (ten (10) calendar days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the Agency at the address specified in Section 9.1 "Notices."

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

4.2 Automobile Liability Insurance Endorsements.

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the Redevelopment Agency of the City of San Diego, the City of San Diego, and their respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Consultant.

CANCELLATION. Except as provided for under California Law, the policy or policies must be endorsed to provide that the Agency is entitled to thirty (30) calendar days prior written notice (ten (10) calendar days for cancellation due to non-payments of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the Agency at the address specified in Section 9.1 "Notices."

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

4.3 Worker's Compensation and Employer's Liability Insurance Endorsements.

CANCELLATION. Except as provided for under California law, the policy or policies must be endorsed to provide that the Agency is entitled

to thirty (30) calendar days prior written notice (ten (10) calendar days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the Agency at the address specified in Section 9.1 "Notices."

WAIVER OF SUBROGATION. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the Agency, the City, and their respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the Agency.

4.4 Professional Liability

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Professional Liability policy or policies is primary to any insurance or self-insurance of the Redevelopment Agency of the City of San Diego, the City of San Diego, and their elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the Redevelopment Agency of the City of San Diego, the City of San Diego, and their elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

CANCELLATION. Except as provided for under California Law, the policy or policies must be endorsed to provide that the Agency is entitled to thirty (30) calendar days prior written notice (ten (10) calendar days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the Agency at the address specified in Section 9.1 "Notices."

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

- 5. Reservation of Rights.** The Agency reserves the right, from time to time, to review Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the Agency. The Agency will reimburse Consultant for the cost of the additional premium for any coverage requested by the Agency in excess of that required by this Agreement without overhead, profit, or any other markup.

6. **Additional Insurance.** Consultant may obtain additional insurance not required by this Agreement.
7. **Excess Insurance.** All policies providing excess coverage to the Agency and the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

Exhibit "E"
**City's Equal Opportunity Contracting Program Consultant
Requirements**

Community Housing Works Agreement

EXHIBIT "E"

**EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)
CONTRACTOR REQUIREMENTS**

Consultant's hiring or retaining of any Subcontractors to perform services is subject to prior written approval by the Agency. Should Consultant retain Subcontractors with the Agency's written approval, Consultant shall comply with all Equal Opportunity Contracting (EOC) requirements attached hereto. For more information on the applicable rules and forms see: <http://www.sandiego.gov/eoc/index.shtml>.

Exhibit "F"
Consultant Certification for a Drug-Free Workplace
Community Housing Works Agreement

EXHIBIT "F"

CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE

PROJECT TITLE: _____

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Name under which business is conducted

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subcontractors agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed _____
Printed Name _____
Title _____
Date _____