

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT**

**PUBLIC HEARING
TIME CERTAIN
ITEM NO 7
3:30PM**

TO: Mayor and City Council

FROM: Andrew W. Cameron, Director

THROUGH: Terry M. Brechtel, City Manager

COPIES: Jelynn LeBlanc Burley; File

SUBJECT: Proposed Fiscal Year 2004-2005 Consolidated Annual Plan Budget

DATE: May 27, 2004

Summary and Recommendations:

This Public Hearing and Ordinance adopts the Fiscal Year 2003-2004 HUD Consolidated Annual Plan Budget which includes the following:

a. Community Development Block Grant	\$14,772,150.00
b. HOME Entitlement Grant	\$ 7,315,294.00
c. FY 03-04 American Dream Downpayment Initiative (ADDI)	\$ 335,700.00
d. FY 04-05 American Dream Downpayment Initiative (ADDI)	\$ 396,135.00
e. HOME Reprogramming Funds	\$ 100,471.93
TOTAL	\$22,919,750.93

This Ordinance designates and appropriates the 30th Year CDBG program Funds (Attachment I) and the 13th Year HOME funds, which includes FY 2003-2004 and FY 2004-2005 American Dream Downpayment Assistance Initiatives funds (Attachment II); establishes accounts; delineates program responsibilities; authorizes personnel classifications and pay ranges (Attachment III); establishes revolving loan accounts for Neighborhood Housing Services (NHS), San Antonio Alternative Housing Corp. (SAAHC) and the Neighborhood Action Department's Rental Rehabilitation and the Owner-Occupied Rehabilitation and Reconstruction programs; authorizes the City Manager, the Deputy City Manager, the Assistant City Managers, the Assistants to the City Manager, and the Director of Housing and Community Development to execute the required contracts (Attachment IV) and other related documents for these grants.

This Ordinance:

- Authorizes the reallocation and re-appropriation of Project Numbers 25-008570 and 25-008070 Housing and Neighborhood Revitalization Fund in the amount of \$100,471.93 (Attachment II); authorizes the Director of Housing and Community Development to close-out the affected project and project budget, revise the appropriate project budgets and execute the contracts and other documents as necessary in connection with this action. Funds were awarded to the San Antonio Housing Trust in fiscal year 2001-2002 from the Housing and Neighborhood Revitalization fund. This action represents the unexpended and uncommitted portion of the Program Budget.
- Amends the Neighborhood Action Departments Lead Based Paint program description to address lead based paint hazards in housing units where children with elevated blood lead levels have been identified and referred in coordination with the Health Department. The expanded program design for Lead Based Paint will be retroactive to include FY 2004 and proposed FY 2005 funding.
- Authorizes the reallocation and reappropriation of the Neighborhood Commerical Revitalization program (NCR) Project Number 28-025086 in the amount of \$4,841.29, 28-026042 in the amount of \$40,000, and 28-07051 in the amount of \$185,343.64 to Operation Facelift in the amount of \$230,184.93 (Attachment V); authorizes the Director of Housing and Community Development to close-out the affected projects and project budgets, revise the appropriate project budgets and execute the contracts and other documents as necessary in connection with this action.
- Authorizes the expansion of the Dangerous Structures Determination Boards Historic Structures Stabilization Program to include Commercial Properties and cover the cost of professional services.

Staff recommends approval.

Background

CDBG, HOME and ADDI Programs

Prior to preparing the fiscal year 2004-2005 Consolidated Annual Plan Budget, staff conducted 20 public meetings throughout the City. Requests for funding received during the Consolidated Plan Budget process totaled more than \$153 million. The summary document of those requests was transmitted to the City Council on May 10, 2004. These citizen requests were considered prior to preparing the Proposed Fiscal Year 2004-2005 Consolidated Annual Plan Budget (Attachments I & II) being considered for adoption.

Lead Based Paint Program

The Neighborhood Action Departments Lead Based Paint program was established to test and abate residential structures. This Action will expand the scope of work of this program to include the testing of children who reside in housing containing lead based paint for elevated blood lead levels. These children will have been identified and referred in coordination with the

program design for Lead Based Paint will be retroactive to include FY 2004 CDBG and proposed FY 2005 CDBG funding.

Neighborhood Commercial Revitalization (NCR) Program

Neighborhood Commercial Revitalization program (NCR) has a budget line item that addresses façade improvements for facilities that are located within the NCR area. This Council Action will reallocate and re-appropriate the funds that are budgeted for this line item into a program entitled Operation Facelift. Operation Facelift will address façade improvements to commercial structures that are located within an area that has been expanded to be within one mile in diameter of the NCR area.

Dangerous Structures Determination Board's Historic Structures Stabilization Program

CDBG funds for this project were allocated and appropriated in fiscal year 2002-2003. The DSDB Historic Structures Stabilization Program was established to address housing repairs to historic structures deemed infeasible for rehabilitation. This Action will expand the scope of work to include Commercial Properties and cover the cost of professional services.

All Projects in the proposed Budget are expected to proceed to contract award and be substantially complete within Fiscal Year 2004-2005.

Policy Analysis:

As per the City Council approved process, all projects being recommended for FY 2004- 2005 CDBG and HOME funds were scored by a four member team which included, one CDBG Analyst, one HOME Analyst, one Budget Analyst from the Department of Management and Budget, and a staff representative from the Enterprise Foundation. The four member team worked independently to review the application and the four scores were averaged to determine if the application met the scoring threshold of 70%. Applications are reviewed to determine if:

- They are consistent with City Council Goals;
- They have the capacity to administer program;
- Sufficient funds are available from other sources to complete project;
- The project can be implemented within a reasonable time period.

Previously, the City Council approved a strategic funding process to ensure that projects are implemented quickly and program funds are expended in accordance with program guidelines. The approval policies include:

- Capital projects are funded in two phases, engineering first, construction in second year;
- Funds for Tax Credit Projects that do not receive Tax Credit awards are reprogrammed;
- Approved projects that have not advanced to contract by December 30th are cancelled and funds are reprogrammed;
- Projects that are funded must begin within the Fiscal Year.

All applications that scored 70 and above were considered for funding. This was done in an attempt to maximize the potential for an equitable geographic distribution of the Grant Resources. Attachments I and II are funding recommendations based on this criteria.

Additionally, the proposed budget includes six new housing initiatives to be funded by HOME funds; Spectrum Housing Tenant-Based Rental Assistance Program; Center on Independent Living (COIL) Tenant-Based Rental Assistance Program; American Opportunity for Housing; The American Agape Alhambra Apartments; Franklin Development Corp. Babcock Ltd. the Park at Babcock Apartments; and the Costa Biscaya Ltd. The Villas at Costa Biscaya Apartments. Housing funds are targeted to continue programs underway with the Neighborhood Action Department, Neighborhood Housing Services of San Antonio, San Antonio Alternative Housing Corporation, U.U. Housing Corporation, AGA, Beat A.I.D.S, Merced Housing and Our Casas Resident Council. These initiatives are consistent with the Goals and Objectives established by City Council during the FY 2003-04 Worksessions. Funding recommendations for these projects are included in Attachment II.

This action designates the Deputy City Manager, Assistant City Managers, Assistants to the City Manager, and the Housing and Community Development Director as official representatives of the City Manager for actions pertaining to the CDBG, HOME, and ADDI programs.

The City Manager or any of her designated representatives are also authorized to complete all documents required by HUD to officially close projects and program financial records following completion of the contracted scope-of-work.

Fiscal Analysis:

The Fiscal Year 2004-2005 Consolidated Annual Plan Budget proposes funding support for various projects, utilizing the entitlement grants expected to be received from HUD as follows:

a. Community Development Block Grant	\$14,772,150.00
b. HOME Entitlement Grant	\$ 7,315,294.00
c. FY 03-04 American Dream Downpayment Initiative	\$ 335,700.00
d. FY 04-05 American Dream Downpayment Initiative	\$ 396,135.00
e. HOME Reprogramming Funds	<u>\$ 100,471.93</u>
TOTAL	\$22,919,750.93

One challenge is to maintain adequate resources in the Administrative component of the CDBG budget to support all implementation and compliance monitoring efforts. Last year, San Antonio received a 15% reduction (\$3.8 Million) and this year our budget was reduced by an additional 3% (\$521,370). This is an issue because funding for Administration is restricted to 20% of the Entitlement. As a result, all departments receiving CDBG funding were reduced by at least 7% to be able to remain under the 20% administrative cap. Within this proposed budget, the Economic Development Department will gain one staff position, Department of Community

Initiatives will lose one staff position and the San Antonio Development Agency may lose as many as two positions.

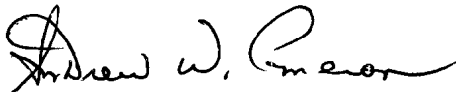
It should also be noted that the CDBG Entitlement award for FY04-05 is \$17,379,000.00. The difference between the Entitlement award (\$17,379,000.00) and the amount of this budget recommendation (\$14,772,150.00) is the 15% for Public Service. Per City Council direction, the Public Service portion totaling \$2,606,850.00 of the CDBG budget will be part of the Human Development Services Funding recommendation to City Council on June 24, 2004.

Also, the federal statute prohibits spending more than 15% of the CDBG Entitlement funds for public service and no more than 20% for planning and administrative activities during the program year. The staff proposed budget is consistent with this policy.

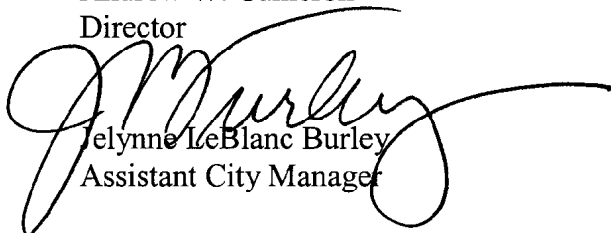
Fiscal Year 2004-2005 Consolidated Annual Plan Budget funds will be available to the City on October 1, 2004, pending the completion of all administrative procedures required for official HUD Release Of Funds.

Coordination:

This item has been coordinated with all City departments through the City Manager's Management Team Review process.




Andrew W. Cameron
Director



J. M. LeBlanc Burley
Assistant City Manager

Approved:



Terry M. Brechtel
City Manager

Attachments

CITY OF SAN ANTONIO
FY 2004-2005 CDBG PROPOSED CONSOLIDATED ANNUAL PLAN/BUDGET

<u>Project</u>	<u>Proposed Budget</u>
District 1	
<u>Neighborhood Revitalization</u>	
San Fernando Gym - HVAC System	687,000.00
San Pedro Library Improvements	495,000.00
Frank Garrett Center - HVAC System	150,000.00
San Antonio Youth Center, Inc.	105,020.00
Respite Care of San Antonio, Inc.	22,000.00
Frank Garrett Center - Lighting	<u>7,000.00</u>
Total Neighborhood Revitalization Allocation	1,466,020.00
Total District 1 CDBG Allocation	1,466,020.00
District 2	
<u>Neighborhood Revitalization</u>	
ACCD Breckenridge School	533,335.00
Barrio Comprehensive Health Care Center	400,000.00
Antioch Family Life Education and Community Center	<u>173,000.00</u>
Total Neighborhood Revitalization Allocation	1,106,335.00
Total District 2 CDBG Allocation	1,106,335.00
District 3	
<u>Neighborhood Revitalization</u>	
St. Peter - St. Joseph Children's Home	561,000.00
Kingsborough Park Playground	149,000.00
Southside Lions Park Pool Drain line Relocation	133,000.00
Kingsborough Park Walking Trail	<u>97,000.00</u>
Total Neighborhood Revitalization Allocation	940,000.00
<u>Housing</u>	
Alamo Youth City Build	<u>39,500.00</u>
Total Housing Allocation	39,500.00
Total District 3 CDBG Allocation	979,500.00

CITY OF SAN ANTONIO
FY 2004-2005 CDBG PROPOSED CONSOLIDATED ANNUAL PLAN/BUDGET

<u>Project</u>	<u>Proposed Budget</u>
District 4	
<u>Neighborhood Revitalization</u>	
Cortez Branch Library	450,000.00
Royal Gate Park Playground	150,000.00
Ramirez Community Center - Roof Replacement	140,000.00
AVANCE Early Head Start	50,000.00
YMCA - Southwestern Bell Playhouse	<u>50,000.00</u>
Total Neighborhood Revitalization Allocation	840,000.00
Total District 4 CDBG Allocation	840,000.00
District 5	
<u>Neighborhood Revitalization</u>	
Say Si Community Arts Center	500,000.00
AVANCE - National Headquarters Renovation Project	150,000.00
Our Casas Resident Council, Inc.	75,000.00
Guadalupe Cultural Arts	<u>101,000.00</u>
Total Neighborhood Revitalization Allocation	826,000.00
Total District 5 CDBG Allocation	826,000.00
District 6	
<u>Neighborhood Revitalization</u>	
Cuellar Park Basketball Court	<u>140,000.00</u>
Total Neighborhood Revitalization Allocation	140,000.00
Total District 6 CDBG Allocation	140,000.00

CITY OF SAN ANTONIO
FY 2004-2005 CDBG PROPOSED CONSOLIDATED ANNUAL PLAN/BUDGET

<u>Project</u>	<u>Proposed Budget</u>
District 7	
<u>Neighborhood Revitalization</u>	
The Children's Shelter - Perimeter Sidewalks	<u>67,770.00</u>
Total Neighborhood Revitalization Allocation	67,770.00
<u>Capital Improvements</u>	
<u>District 7 Streets and Drainage</u>	
Culebra 58F Drainage	<u>300,000.00</u>
Total Capital Improvements Allocation	300,000.00
Total District 7 CDBG Allocation	367,770.00
City-Wide	
<u>Neighborhood Revitalization</u>	
Neighborhood Commercial Revitalization Program	470,200.00
Code Compliance Enforcement	<u>86,200.00</u>
Total Neighborhood Revitalization Allocation	556,400.00
<u>Housing</u>	
Greater Alamodome/Historic Gardens Phase V	500,000.00
NAD Housing Resources Administration	812,557.00
NAD Lead Based Paint Hazard Control Program	1,000,000.00
NAD Rental Rehabilitation	1,200,000.00
NAD Owner-Occupied Rehabilitation/Reconstruction	<u>1,501,768.00</u>
Total Housing Allocation	5,014,325.00
<u>Administration</u>	
CDBG Fair Housing Administration	214,313.00
CDBG Neighborhood Planning Administration	118,441.00
CDBG Rezoning Administration	110,078.00
CDBG/HOME Grants Accounting	69,225.00
Disability Access Administration	22,134.00
Empowerment Zone Outreach & Technical Assistance	68,671.00
Legal Administration	329,527.00
Monitoring and Oversight	1,483,191.00
NAD Housing Operations Administration	467,418.00
San Antonio Development Agency Administration	<u>592,802.00</u>
Total CDBG Administration	3,475,800.00
Program Contingency	0.00
Total City-Wide Allocation	9,046,525.00
Total FY 2004-2005 Proposed CDBG Program Allocations	\$14,772,150.00

CITY OF SAN ANTONIO
FY 2004-2005 HOME PROPOSED BUDGET

<u>Project</u>	<u>Proposed Budget</u>
AMERICAN DREAM DOWNPAYMENT INITIATIVE	
Merced Housing	60,000.00
NAD District 6 DPA for Affordable Homes	260,000.00
Neighborhood Housing Services	190,000.00
SAAHC People Helping People	190,000.00
UUHAC Vista Points	<u>31,835.00</u>
ADDI Sub-total	\$731,835.00
COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS	
San Antonio Alternative Housing Corp People Helping People	508,470.60
Neighborhood Housing Services First-Time Homebuyers	440,000.00
Our Casas Resident Council, Inc First-Time Homebuyer	<u>150,000.00</u>
CHDO Set-Aside Sub-total	\$1,098,470.60
REHABILITATION/ RECONSTRUCTION	
NAD – Owner Occupied Housing Rehab.	553,294.00
NAD – Rental Rehabilitation	725,471.93
Neighborhood Housing Services Rehab. for the Disabled	297,000.00
U.U. Housing Rehab. Dist. 1&2	<u>784,228.40</u>
Rehabilitation/Reconstruction Sub-total	\$2,359,994.33
TENANT BASED RENTAL ASSISTANCE (TBRA)	
BEAT AIDS	300,000.00
Center on Independent Living (COIL)	110,000.00
Spectrum Housing	<u>140,000.00</u>
TBRA Sub-total	\$550,000.00
RENTAL HOUSING NEW CONSTRUCTION	
American Opportunity for Housing	137,500.00
The American Agape Alhambra Apts	200,000.00
FDC Babcock Ltd. The Park @ Babcock Apts	950,000.00
Costa Biscaya, Ltd. The Villas @ Costa Biscaya	<u>1,300,000.00</u>
Rental Housing New Construction Sub-total	\$2,587,500.00
CHDO OPERATING SUPPORT	
Neighborhood Housing Services Admin.	100,000.00
Our Casas Resident Council, Inc	<u>20,000.00</u>
CHDO Operating Support Sub-total	\$120,000.00

CITY OF SAN ANTONIO
FY 2004-2005 HOME PROPOSED BUDGET

<u>Project</u>	<u>Proposed Budget</u>
ADMINISTRATION	
Department of Housing and Community Development	679,801.00
Center on Independent Living	<u>20,000.00</u>
Administration Sub-Total	\$699,801.00
Total FY 2004-2005 Proposed HOME Program Allocations	\$8,147,600.93

**CDBG FUNDED PERSONNEL CLASSIFICATIONS
&
PAY RANGES**

**Monitoring & Oversight
*Housing & Community Development***

<u>Job Class</u>	<u>Job Title</u>	<u>#of Positions</u>	<u>Activity #</u>
<i>Director's Office</i>			
0046	Management Analyst	1	31-01-01
0892	Fiscal Officer	1	31-01-01
0933	Community Development Analyst	3	31-01-01
0937	Community Development Coordinator	2	31-01-01
1088	Assistant Community Development Director	1	31-01-01
1020	Community Development Director	1	31-01-01
1076	Executive Secretary	1	31-01-01
0909	Customer Service Representative	1	31-01-01
<i>Monitoring & Oversight</i>			
0014	Secretary II	1	31-01-02
0040	Administrative Assistant I	1	31-01-02
0933	Community Development Analyst	11	31-01-02
0937	Community Development Coordinator	1	31-01-02
<i>Monitoring & Oversight</i>			
0014	Secretary II	1	31-01-04
0933	Community Development Analyst	4	31-01-04
0937	Community Development Coordinator	1	31-01-04

HOUSING OPERATIONS ADMINISTRATION

Neighborhood Action

0014	Secretary II	1	61-01-03
0040	Administrative Assistant I	1	61-01-03
0041	Administrative Assistant II	2	61-01-03
0910	Sr. Customer Service Representatives	1	61-01-03
0892	Fiscal Officer	1	61-01-03
0846	Neighborhood Renewal Manager	1	61-01-03

HOUSING RESOURCES ADMINISTRATION

Neighborhood Action

0125	Sr. Real Estate Specialist	1	61-01-04
0126	Real Estate Supervisor	1	61-01-04
0151	Real Estate Specialist	1	61-01-04
0557	Construction Inspections Supervisor	1	61-01-04
0559	Construction Specialists II	2	61-01-04
0558	Construction Specialists I	3	61-01-04
0555	Sr. Construction Inspector	1	61-01-04
0910	Sr. Customer Service Representatives	1	61-01-04
0892	Housing Loan Officer	4	61-01-04
0979	Housing Loan Coordinator	1	61-01-04

<u>Job Class</u>	<u>Job Title</u>	<u>#of Positions</u>	<u>Activity #</u>
CODE COMPLIANCE			
0506	Code Enforcement Investigators	4	30-01-07
0517	Neighborhood Services Coordinator	1	30-01-07
CDBG FAIR HOUSING ADMINISTRATION			
<i>Community Initiative</i>			
0017	Secretary I	1	38-12-30
0918	Program Manager	1	38-12-30
0971	Case Worker II	4	38-12-30
CDBG NEIGHBORHOOD PLANNING ADMINISTRATION			
<i>Planning/Neighborhood</i>			
0160	Planner II	1	50-05-02
0161	Senior Planner	1	50-05-02
0120	Sr. GIS Technician	.5	50-05-02
CDBG REZONING ADMINISTRATION			
<i>Development Services</i>			
0160	Planner II	2	29-06-04
CDBG /HOME GRANTS ACCOUNTING			
<i>Finance</i>			
0927	Financial Accountant	1	07-03-01
EMPLOYERMENT ZONE OUTREACH AND TECHNICAL ASSISTANCE			
<i>Economic Development</i>			
0922	Sr. Economic Development Specialist	1	16-11-01
NEIGHBORHOOD COMMERCIAL REVITALIZATION ADMINISTRATION			
<i>Neighborhood Action</i>			
0067	Administrative Aide	1	16-03-02
0161	Senior Planner	1	16-03-02
0923	Sr. Economic Development Spec.	.5	16-03-02

<u>Job Class</u>	<u>Job Title</u>	<u>#of Positions</u>	<u>Activity #</u>
LEGAL ADMINISTRATION			
<i>City Attorney's Office</i>			
0015	Paralegal	1	06-01-08
0063	Assistant City Attorney II	1	06-01-08
0065	Assistant City Attorney III	1	06-01-08
0093	Legal Secretary	2	06-01-08

CONTRACT**PROJECT NAME: --****PROJECT NO.: --**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This CONTRACT is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, acting by and through its Director of Housing and Community Development pursuant to Ordinance No. --, dated --, and the -- (hereinafter referred to as "SUB-RECIPIENT"), a Texas non-profit organization, acting by and through its --, hereto duly authorized.

WHEREAS, CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title II of the National Affordable Housing Act of 1990, (P. L. 101-625) (hereinafter referred to as "the Act") for utilization in connection with its HOME Investment Partnerships Grant (hereinafter referred to as "HOME") Program; and

WHEREAS, the City Council has adopted a budget for such funds and has included therein the expenditure of funds for the project entitled "--" (hereinafter referred to as "Project"); and

WHEREAS, the City Council has designated the CITY's Department of Housing and Community Development as the CITY department responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, CITY wishes to engage SUB-RECIPIENT to implement and manage said Project; **NOW THEREFORE**:

The parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. TERM

1.1 Except as otherwise provided for pursuant to the provisions hereof, this CONTRACT shall commence immediately upon its execution and shall terminate on the earlier of (a) --, or (b) Project completion.

II. RESPONSIBILITIES

2.1 SUB-RECIPIENT hereby accepts responsibility for the performance, in a satisfactory and efficient manner as determined by CITY, of all services and activities set forth in this CONTRACT.

2.2 Unless written notification by SUB-RECIPIENT to the contrary is received and approved by CITY, SUB-RECIPIENT's -- shall be SUB-RECIPIENT's designated representative responsible for the management of all contractual matters pertaining to this CONTRACT.

2.3 The Housing and Community Development Director or his designate shall be CITY's representative responsible for the administration of this CONTRACT.

2.4 Communications between CITY and SUB-RECIPIENT shall be directed to the designated representatives of each as set forth in paragraphs numbered 2.2 and 2.3 hereinabove.

III. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.1 SUB-RECIPIENT understands that funds provided to it pursuant to this CONTRACT are funds which have been made available to CITY by the federal government under the Act and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. SUB-RECIPIENT, therefore, assures and certifies that it will comply with the requirements of the Act and with all regulations promulgated thereunder as codified as Title 24 of the Code of Federal Regulations. SUB-RECIPIENT understands, however, that the HOME Investments Partnership Act in no way is meant to constitute a complete compilation of all duties imposed upon SUB-RECIPIENT by law or administrative ruling, or to narrow the standards which SUB-RECIPIENT must follow. Accordingly, SUB-RECIPIENT understands and agrees that if the regulations and issuances promulgated pursuant to the Act are amended or revised, it shall comply with them or otherwise immediately notify CITY pursuant to the provisions of Article XLV of this CONTRACT.

3.2 SUB-RECIPIENT understands that summaries of certain compliance requirements mandated by applicable laws or regulations are contained in CITY's Federal Compliance Manual, and in CITY's CDBG and HOME Housing Program Policies, a copy of which is attached hereto and incorporated herein for all purposes as Exhibit "D", and that SUB-RECIPIENT must at all times remain in compliance therewith; SUB-RECIPIENT further understands that said summaries are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon SUB-RECIPIENT by law or administrative ruling, or to narrow the standards which SUB-RECIPIENT must follow.

3.3 SUB-RECIPIENT assures that all contractors and subcontractors receiving funds in connection with this Project are familiar with, and shall comply with, any and all applicable rules and regulations as contained in CITY's Federal Compliance Manual and that a copy of said Federal Compliance Manual will be included as part of every contract awarded in connection with this Project.

3.4 SUB-RECIPIENT shall observe and comply with all city, state and federal laws, regulations, ordinances and codes affecting SUB-RECIPIENT's operations pursuant to this CONTRACT.

IV. LEGAL AUTHORITY

4.1 SUB-RECIPIENT represents, warrants, assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this CONTRACT and to perform the responsibilities herein required.

4.2 The signer of this CONTRACT for SUB-RECIPIENT represents, warrants, assures and guarantees that he or she has full legal authority to execute this CONTRACT on behalf of SUB-RECIPIENT and to bind SUB-RECIPIENT to all terms, performances and provisions herein contained.

4.3 In the event that a dispute arises as to the legal authority to enter into this CONTRACT of either the SUB-RECIPIENT or the person signing on behalf of SUB-RECIPIENT, CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this CONTRACT. Should CITY suspend or permanently terminate this CONTRACT pursuant to this paragraph, however, SUB-RECIPIENT shall be liable to CITY for any money it has received from CITY for performance of any of the provisions hereof.

V. MAINTENANCE OF EFFORT

5.1 SUB-RECIPIENT agrees that the funds and resources provided to it under the terms of this CONTRACT shall in no way be substituted for funds and resources provided from other sources, nor shall such funds and resources in any way serve to reduce the funds, resources, services, or other benefits which would have been available to, or provided through, SUB-RECIPIENT had this CONTRACT not been executed.

VI. PERFORMANCE BY SUB-RECIPIENT

6.1 SUB-RECIPIENT, in accordance and compliance with the terms, provisions and requirements of this CONTRACT, shall manage, perform and provide all of the activities and services set forth in the Work Statement attached hereto and incorporated herein for all purposes as Exhibit "A", to CITY's satisfaction, utilizing only those funds remitted to SUB-RECIPIENT by CITY under the terms of this CONTRACT; the funds available for utilization hereunder shall be as described in Exhibit "C" also attached hereto and incorporated herein for all purposes.

6.2 Modifications or alterations to Exhibit "A" may be made only pursuant to the prior written approval of CITY's Department of Housing and Community Development Director or his designate.

VII. REIMBURSEMENT BY CITY

7.1 In consideration of SUB-RECIPIENT's performance, in a satisfactory and efficient manner as determined by CITY, of all services and activities set forth in this CONTRACT, CITY agrees to reimburse SUB-RECIPIENT for all eligible expenses incurred hereunder. Such reimbursement, however, shall be in accordance with the Budget Package set forth in Exhibit "C" and shall be subject to any and all limitations and provisions set forth in this Article and in Article VIII hereunder.

7.2 Notwithstanding any other provision of this CONTRACT, the total of all payments and other obligations made or incurred by CITY hereunder shall not exceed the sum of - and No/100 Dollars (\$--00).

7.3 It is expressly understood and agreed by CITY and SUB-RECIPIENT that CITY's obligations under this Article are contingent upon the actual receipt of adequate HOME funds to meet CITY's liabilities hereunder. Should CITY not receive funds to make payments pursuant to this CONTRACT or should fund awards be reduced, CITY shall notify SUB-RECIPIENT in writing within a reasonable time after such fact has been determined and may, at its option, either terminate this CONTRACT or reduce the amount of its liability accordingly.

7.4 It is expressly understood by CITY and SUB-RECIPIENT that this CONTRACT in no way obligates CITY's general fund monies or any other monies or credits of CITY.

7.5 CITY shall not be liable for any SUB-RECIPIENT cost, or portion thereof, which:

- (A) Has been paid, reimbursed or is subject to payment or reimbursement from another source;
- (B) Was incurred prior to the commencement date or subsequent to the termination date of this CONTRACT as specified in Article I hereinabove;
- (C) Is not in strict accordance with the terms of this CONTRACT, including all exhibits attached hereto;
- (D) Has not been billed to CITY within thirty (30) calendar days following billing to SUB-RECIPIENT, or termination of this CONTRACT, whichever is earlier; or
- (E) Is not an allowable cost as defined by Article IX of this CONTRACT or by the Budget Package (Exhibit "C").

7.6 CITY shall not be liable for any SUB-RECIPIENT cost, or portion thereof, which is or was incurred in connection with an activity of SUB-RECIPIENT where:

- (A) Prior written authorization from CITY is required for the activity and such authorization was not first procured; or
- (B) CITY has requested that SUB-RECIPIENT furnish data concerning an activity prior to proceeding further therewith and SUB-RECIPIENT nonetheless proceeds without first submitting the data and receiving CITY approval thereof.

7.7 CITY shall not be obligated or liable under this CONTRACT to any party, other than SUB-RECIPIENT, for payment of any monies or provision of any goods or services.

VIII. RECEIPT, DISBURSEMENT AND ACCOUNT OF FUNDS BY SUB-RECIPIENT

8.1 SUB-RECIPIENT understands and agrees that it shall maintain a separate numbered account for the receipt and disbursement of all funds received pursuant to this CONTRACT and of any program income resulting herefrom. SUB-RECIPIENT further agrees that:

- (A) Such account shall contain only those funds received pursuant to this CONTRACT and that no other funds shall be mingled therewith, except funds deemed to be program income as defined in Article X hereunder;
- (B) All checks and withdrawals from such account shall have itemized documentation in support thereof;
- (C) Such account shall be maintained, under conditions approved by CITY, in a financial institution having federal deposit insurance coverage, with any account balance exceeding the federal deposit insurance coverage likewise collaterally secured; and
- (D) Upon SUB-RECIPIENT's written request and solely within the discretion of CITY, an alternative accounting mechanism may be permitted, provided such alternative adheres at all times to generally accepted accounting principals.

8.2 Regarding method of payment, CITY and SUB-RECIPIENT agree as follows:

- (A) SUB-RECIPIENT shall deliver a Billing Package, a copy of which is attached hereto and incorporated herein for all purposes as Exhibit "E", to CITY's Department of Housing and Community Development, in accordance with the following schedule:
 - 1. Monthly billing, with the prior month's Billing Package received by CITY's Department of Housing and Community Development by no later than the fifth (5th) day of each month.

- (B) SUB-RECIPIENT shall submit to CITY such other reports as may be required by CITY to document CITY liabilities under this CONTRACT.
- (C) Upon receipt of and approval by CITY of each of SUB-RECIPIENT's Billing Packages, CITY shall pay to SUB-RECIPIENT an amount equal to CITY's liabilities not previously billed to and subsequently paid by CITY, subject to deduction for any costs questioned or not allowable. Delinquent or unacceptable billing of CITY by SUB-RECIPIENT, however, shall justify delay of payment by CITY.
- (D) Upon SUB-RECIPIENT's written request and solely within the discretion of CITY, an alternative accounting mechanism may be permitted, provided such alternative adheres at all times to generally accepted accounting principals.
- (E) SUB-RECIPIENT's financial management system shall provide for an adequate procedure to minimize the time elapsed between CITY's payment to SUB-RECIPIENT and SUB-RECIPIENT's disbursement of funds.

8.3 Within ten (10) working days of CITY's written request therefor, SUB-RECIPIENT shall refund to CITY any sum of money paid by CITY to SUB-RECIPIENT later determined to:

- (A) Have resulted in overpayment to SUB-RECIPIENT;
- (B) Have not been spent by SUB-RECIPIENT strictly in accordance with the terms of this CONTRACT; or
- (C) Not be supported by adequate documentation to fully justify the expenditure.

8.4 Upon termination of this CONTRACT, should any expense or charge for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by CITY, HUD, or any other federal agency, SUB-RECIPIENT shall refund such amount to CITY within ten (10) working days of CITY's written request therefor wherein the amount disallowed or disapproved shall be specified. Refunds of disallowed or disapproved costs, or refunds of any other nature referred to in this CONTRACT, however, shall not be made from funds received pursuant to this CONTRACT or from funds received from or through the federal government or CITY.

8.5 In the event that the actual amount expended by SUB-RECIPIENT to meet the level of performance specified in Exhibit "A", or any amendment thereto, is less than that amount provided to SUB-RECIPIENT pursuant to this CONTRACT, then CITY reserves the right to reappropriate or recapture any such underexpended funds.

8.6 Utilizing the format provided by CITY, a "Contract Close-Out Package", together with a final expenditure report, for the period commencing on the date of SUB-RECIPIENT's last invoice requesting reimbursement of funds pursuant to this CONTRACT, shall be submitted by SUB-RECIPIENT to CITY within fifteen (15) working days following the expiration of the term of this CONTRACT.

8.7 Upon termination of this CONTRACT, all unclaimed (30 days or older) salaries or wages must be returned to CITY in the following format:

- (A) A cashier's check for the net aggregate amount payable to the "City of San Antonio"; and
- (B) A listing showing each person's social security number, full name, last known complete address and amount owing.

IX. ALLOWABLE COSTS

9.1 Costs shall be considered allowable only if approved in writing and incurred directly and specifically in the performance of and in compliance with this CONTRACT and with all city, state and federal laws, regulations and ordinances affecting SUB-RECIPIENT's operations hereunder.

9.2 Approval of SUB-RECIPIENT's budget as set forth in Exhibit "C", however, shall not constitute prior written approval of the items included therein. For example, CITY's specific prior written authorization shall be required in order for the following to be considered allowable costs:

- (A) Encumbrance or expenditure during any one month period falling within the term of this CONTRACT which exceeds one-twelfth (1/12) of any budgeted line items for personnel costs as specified in Exhibit "C";
- (B) Sub-contracts, ~~to-wit~~, CITY shall not be obligated to any third parties (including any sub-contractors of SUB-RECIPIENT) nor shall CITY funds be used to pay for contract services extending beyond the expiration of this CONTRACT;
- (C) Out of town travel;
- (D) Costs or fees associated with the alteration or relocation of the facilities on and in which the activities specified in Exhibit "A" are conducted;
- (E) Costs or fees associated with alterations, deletions or additions to the Personnel Schedule incorporated within Exhibit "C";
- (F) Costs or fees for temporary employees or services;

(G) Costs or fees for consultant and/or professional services; and

(H) Costs or fees associated with attendance at meetings, seminars or conferences.

9.3 Written requests for prior approval shall be SUB-RECIPIENT's responsibility and shall be made within sufficient time to permit a thorough review by CITY. Written approval by CITY must be obtained prior to the commencement of procedures to solicit or purchase services, or real or personal property. Procurements and/or purchases which must be approved pursuant to the terms of this CONTRACT shall be conducted entirely in accordance with all applicable terms, provisions and requirements hereof.

X. PROGRAM INCOME

10.1 For purposes of this CONTRACT, "program income" shall mean earnings of SUB-RECIPIENT realized from activities resulting from this CONTRACT or from SUB-RECIPIENT's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income; usage or rental/lease fees; income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of SUB-RECIPIENT provided as a result of this CONTRACT; and payments from clients or third parties for services rendered by SUB-RECIPIENT pursuant to this CONTRACT.

10.2 On a monthly basis, SUB-RECIPIENT shall report and return to CITY all program income received or accrued during the preceding month. Alternative arrangements to this requirement may be made only upon written request to and written approval by CITY.

10.3 Records of the receipt and disposition of program income shall be maintained by SUB-RECIPIENT in the same manner as required from other CONTRACT funds and shall be submitted to CITY in the format prescribed by CITY.

10.4 SUB-RECIPIENT shall include this Article, in its entirety, in all of its subcontracts involving income-producing services or activities.

10.5 It shall be SUB-RECIPIENT's responsibility to obtain from CITY a prior determination as to whether or not income arising directly or indirectly from this CONTRACT, or from the performance thereof, constitutes program income, and unless otherwise approved in writing by CITY, SUB-RECIPIENT shall be responsible to CITY for the repayment of any and all amounts determined by CITY to be program income.

XI. OWNERSHIP OF PROPERTY

11.1 All equipment and/or non-recurring items necessary in connection with this Project shall be purchased or leased by CITY's Purchasing Department through CITY's Department of Housing and Community Development. Furthermore, during the last four (4) months of this CONTRACT, purchases or leasing of expendable items, such as but not limited to office

supplies, shall be made only upon the procurement of CITY's written consent where the cumulative cost for such items over said four-month period totals or exceeds the sum of \$200.00.

11.2 Ownership title to all capital acquisitions, supplies, materials or other property purchased with funds received pursuant to this CONTRACT and in accordance with the provisions hereof shall be vested in CITY, and possession thereof, upon termination of this CONTRACT, shall revert to CITY unless otherwise provided for by CITY in writing.

11.3 Upon delivery to SUB-RECIPIENT of non-expendable property, written notification thereof shall be provided by SUB-RECIPIENT to CITY within five (5) calendar days of the property's delivery so as to enable CITY to effect property identification and recording for inventory purposes. Regarding the property, SUB-RECIPIENT shall at all times maintain adequate records thereon and control thereof; SUB-RECIPIENT shall further perform annual physical inventories of the property.

11.4 SUB-RECIPIENT shall be fully and solely responsible for safeguarding and maintaining all property referred to in this Article. Furthermore, SUB-RECIPIENT shall be fully and solely responsible for reporting any and all lost, stolen, missing, damaged or destroyed property referred to in this Article. Inasmuch as funds provided to SUB-RECIPIENT pursuant to this CONTRACT are funds which have been made available to CITY by the federal government, all such lost, stolen, missing, damaged or destroyed property shall be reported by SUB-RECIPIENT to the local Police Department. SUB-RECIPIENT shall make such reports immediately and shall deliver a copy of the official written police report to CITY's Department of Housing and Community Development office immediately. Prior to such delivery, SUB-RECIPIENT shall ascertain that said report includes, at a minimum, the following:

- (A) An accurate and reasonable complete description of such property; and
- (B) An accurate and reasonably complete description of the circumstances surrounding the loss, theft, damage or destruction of such property.

In the event a copy of the official written police report has not been made available to SUB-RECIPIENT, a summary of said report shall be provided and delivered by SUB-RECIPIENT to CITY's Department of Housing and Community Development, including therein the date the report was made to the local Police Department and the name and badge number of the police officer who wrote such police report.

XII. FURTHER REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1 SUB-RECIPIENT further represents and warrants that:

- (A) All information, data or reports heretofore or hereafter provided to CITY is, shall be and shall remain complete and accurate as of the date shown on the information, data or report, and that since said date shown, shall not have undergone any significant change without written notice to CITY;

- (B) Any supporting financial statements heretofore or hereafter provided to CITY are, shall be and shall remain complete, accurate and fairly reflective of the financial condition of SUB-RECIPIENT on the date shown on said statements and during the period covered thereby, and that since said date shown, except as provided by written notice to CITY, there has been no material change, adverse or otherwise, in the financial condition of SUB-RECIPIENT;
- (C) No litigation or proceedings are presently pending or threatened against SUB-RECIPIENT;
- (D) None of the provisions contained herein contravene or in any way conflict with the authority under which SUB-RECIPIENT is doing business or with the provisions of any existing indenture or agreement of SUB-RECIPIENT;
- (E) SUB-RECIPIENT has the legal authority to enter into this CONTRACT and accept payments hereunder, and has taken all necessary measures to authorize such execution of contract and acceptance of payments pursuant to the terms and conditions hereof; and
- (F) None of the assets of SUB-RECIPIENT are both currently and for the duration of this CONTRACT subject to any lien or encumbrance of any character, except for current taxes not delinquent and except as shown in the financial statements provided by SUB-RECIPIENT to CITY.

12.2 During the period of time that payment may be made hereunder and so long as any payments remain unliquidated, SUB-RECIPIENT covenants that it shall not, without the prior written consent of CITY's Department of Housing and Community Development Director or his designate:

- (A) Mortgage, pledge, or otherwise encumber or cause to be encumbered any of the assets of SUB-RECIPIENT now owned or hereafter acquired by it;
- (B) Permit any pre-existing mortgages, liens, or other encumbrances to remain on or attached to any of the assets of SUB-RECIPIENT which are allocated to the performance of this CONTRACT and with respect to which CITY has ownership hereunder;
- (C) Sell, assign, pledge, transfer or otherwise dispose of accounts receivable, notes or claims for money due or to become due;
- (D) Sell, convey, or lease all or any substantial part of its assets; or
- (E) Make any advance or loan to, or incur any liability as guarantor, surety or accommodation endorser for any other firm, person, entity or corporation.

12.3 Each of the foregoing representations, warranties and covenants shall be continuing and deemed repeated each time SUB-RECIPIENT submits a new request for payment in accordance with the terms, provisions and requirements of this CONTRACT.

XIII. MAINTENANCE OF RECORDS

13.1 SUB-RECIPIENT agrees to maintain records that will provide accurate, current, separate, and complete disclosure of the status of any funds received pursuant to this CONTRACT. SUB-RECIPIENT further agrees:

- (A) That maintenance of said records shall be in compliance with all terms, provisions and requirements of this CONTRACT and with all applicable federal and state regulations establishing standards for financial management; and
- (B) That SUB-RECIPIENT's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

13.2 SUB-RECIPIENT agrees to retain, for the period of time and under the conditions specified by CITY, all books, records, documents, reports, and written accounting policies and procedures pertaining to the operation of programs and expenditures of funds under this CONTRACT.

13.3 SUB-RECIPIENT agrees to include the substance of this Article in all of its sub-contracts.

13.4 Nothing in this Article shall be construed to relieve SUB-RECIPIENT of:

- (A) Responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this CONTRACT; and
- (B) Fiscal accountability and liability pursuant to this CONTRACT and any applicable rules, regulations and laws.

XIV. ACCESSIBILITY OF RECORDS

14.1 At any reasonable time and as often as CITY may deem necessary, SUB-RECIPIENT shall make all of its records available to CITY, HUD, or any of their authorized representatives, and shall permit CITY, HUD, or any of their authorized representatives to audit, examine, and make excerpts and/or copies of same. SUB-RECIPIENT's records shall include, but shall not be limited to, the following: contracts; invoices, program income and program beneficiaries.

XV. PERFORMANCE RECORDS AND REPORTS

15.1 As often and in such form as CITY may require, SUB-RECIPIENT shall furnish CITY such performance records and reports as deemed by CITY as pertinent to matters covered by this CONTRACT.

15.2 At minimum, monthly performance records and reports shall be submitted to CITY by SUB-RECIPIENT no later than the tenth day of the month following. Records and reports shall be in accordance with the formats set forth in Exhibit "B" attached hereto and incorporated herein for all purposes.

15.3 As of the commencement date of this CONTRACT, SUB-RECIPIENT agrees to gather information and data relative to all programmatic and financial reporting.

XVI. MONITORING AND EVALUATION

16.1 CITY shall perform on-site monitoring of SUB-RECIPIENT's performance pursuant to the terms of this CONTRACT.

16.2 SUB-RECIPIENT agrees that CITY may carry out monitoring and evaluation activities so as to ensure compliance by SUB-RECIPIENT with this CONTRACT, with the National Affordable Housing Act, with the Work Statement and the Performance Goals, Objectives and Indicators set forth in Exhibit "A", with the program assurances and certifications executed by CITY, and with all other laws, regulations and ordinances related to the performance hereof.

16.3 SUB-RECIPIENT agrees to cooperate fully with CITY in the development, implementation and maintenance of record-keeping systems and to provide CITY with any data determined by CITY to be necessary for its effective fulfillment of its monitoring and evaluation responsibilities.

16.4 SUB-RECIPIENT agrees that it will cooperate with CITY in such a way so as not to obstruct or delay CITY in its monitoring of SUB-RECIPIENT's performance and that it will designate one of its staff to coordinate the monitoring process as requested by CITY staff.

16.5 After each official monitoring visit, CITY shall provide SUB-RECIPIENT with a written report of monitoring findings.

16.6 Copies of any fiscal, management, audit reports and management letters by any of SUB-RECIPIENT's funding or regulatory bodies shall be submitted to both CITY's Office of Internal Review and CITY's Department of Housing and Community Development within five (5) working days of receipt thereof by SUB-RECIPIENT.

XVII. BONDING AND INSURANCE

17.1 SUB-RECIPIENT shall observe sound business practices with respect to providing such bonding and insurance as would provide adequate coverage for activities under this CONTRACT.

17.2 The premises on, in and from which SUB-RECIPIENT's activities pursuant to this CONTRACT are conducted, and the employees conducting these activities, shall be covered by premise liability insurance, commonly referred to as "Owner/Tenant" coverage, with CITY named as an additional insured. Upon request of SUB-RECIPIENT, CITY may, at its sole discretion, approve alternate insurance coverage arrangements.

17.3 SUB-RECIPIENT shall comply with applicable workers' compensation statutes and shall obtain employers' liability insurance where available. If applicable, SUB-RECIPIENT shall also maintain liability coverage for program participants.

17.4 SUB-RECIPIENT shall adequately insure against fire, theft and loss of all nonexpendable property acquired pursuant to the provisions of this CONTRACT, with CITY as an additional named insured.

17.5 SUB-RECIPIENT shall maintain adequate and continuous liability insurance on all vehicles owned, leased or operated by SUB-RECIPIENT and/or its employees, agents, officers, contractors or subcontractors. Employees, agents, officers, contractors or subcontractors of SUB-RECIPIENT who drive a vehicle in the normal scope and course of their employment with SUB-RECIPIENT shall possess a valid Texas driver's license and proof of liability insurance, meeting the minimum requirements required under the Texas Transportation Code, evidence of which shall be maintained on a current basis in SUB-RECIPIENT's files.

17.6 Premiums chargeable for any and all insurance referred to in this Article shall be paid by SUB-RECIPIENT, at its own expense, and such insurance shall be kept in force during and throughout the term of this CONTRACT. Such insurance shall not be materially changed, canceled, terminated or otherwise allowed to expire unless sixty (60) days advance written notice to such effect is submitted to CITY, and it shall be the responsibility of SUB-RECIPIENT to ensure such submission.

17.7 SUB-RECIPIENT shall provide CITY with Certificates of Insurance evidencing the above-required insurances, prior to the commencement of this CONTRACT and therewith, certificates evidencing renewals or replacements of the policies of said insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies.

17.8 Actual losses not covered by insurance as required by this Article shall not be allowable costs under this CONTRACT, and shall therefore remain the sole responsibility of SUB-RECIPIENT.

17.9 Within ten (10) working days following execution of this CONTRACT, SUB-RECIPIENT shall obtain a fidelity bond covering all persons handling funds received or disbursed hereunder and/or signing or co-signing checks for said fund disbursement. SUB-RECIPIENT's fidelity bond shall be in an amount approved by CITY's Director of Finance, and evidence of same shall be filed with the City Clerk (copy to CITY's Department of Housing and Community Development) prior to any disbursement of funds hereunder but no later than ten (10) working days following execution of this CONTRACT. SUB-RECIPIENT shall ensure that such bond shall contain a provision that cancellation or expiration notice be sent to CITY at least sixty (60) days prior to the effective date of such cancellation or expiration.

17.10 Any and all construction, rehabilitation, or renovation type activities utilizing funds provided pursuant to this CONTRACT, shall be covered by the current and specific bonding and compliance provisions required at that time.

XVIII. SPECIAL CONDITIONS

18.1 SUB-RECIPIENT acknowledges, understands and agrees to comply with the following federal regulations as promulgated in Section 3 Clause of the Housing and Urban Development Act of 1968, as amended:

- (A) The work to be performed under this CONTRACT is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are recipients of HUD assistance for housing.
- (B) The parties to this CONTRACT agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this CONTRACT, the parties to this CONTRACT certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (C) The contractor agrees to send to each labor organization or representative of workers with which the contract has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (D) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- (E) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, where not filled to circumvent the contractor's obligations under 24 CFR part 135.
- (F) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this CONTRACT for default, and debarment or suspension from further HUD-assisted contracts.
- (G) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this CONTRACT. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this CONTRACT that are subject to the provision of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

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XIX. INDEMNIFICATION

19.1 SUB-RECIPIENT covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal injury or death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to SUB-RECIPIENT's activities under this CONTRACT, including any acts or omissions of SUB-RECIPIENT, any agent, officer, director, representative, employee, contractor or subcontractor of SUB-RECIPIENT, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this CONTRACT. all without, however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. SUB-RECIPIENT shall promptly advise the CITY in writing of any claim or demand against the CITY or SUB-RECIPIENT known to SUB-RECIPIENT related to or arising out of SUB-RECIPIENT's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at SUB-RECIPIENT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving SUB-RECIPIENT of any of its obligations under this paragraph.

19.2 It is the EXPRESS INTENT of the parties to this contract, that the INDEMNITY provided for in this article (Article XVIII), is an INDEMNITY extended by SUB-RECIPIENT to INDEMNIFY, PROTECT, and HOLD HARMLESS the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this article SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death or damage. SUB-RECIPIENT further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

19.3 It is expressly understood and agreed that SUB-RECIPIENT is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions and that CITY shall in no way be responsible therefor.

XX. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

20.1 In the event that SUB-RECIPIENT receives funding hereunder in excess of \$10,000.00, SUB-RECIPIENT shall submit for CITY approval, within thirty (30) calendar days following execution of this CONTRACT, a written plan for compliance with federal equal employment opportunity and affirmative action rules, regulations and laws.

20.2 SUB-RECIPIENT shall comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws.

20.3 So that CITY can investigate compliance with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, SUB-RECIPIENT shall furnish to CITY any and all information and reports requested by CITY, and shall permit access by CITY of any and all of its books, records and accounts.

20.4 In the event of non-compliance by SUB-RECIPIENT (or SUB-RECIPIENT's sub-contractors) with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, this CONTRACT may be canceled, terminated, or suspended by CITY, in whole or in part, and SUB-RECIPIENT may be barred from further contracts with CITY.

XXI. NONDISCRIMINATION

21.1 SUB-RECIPIENT covenants that it, or agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, handicap or familial status, in employment practices or in the use of or admission to the premises, which said discrimination SUB-RECIPIENT acknowledges is prohibited.

XXII. PERSONNEL POLICIES, PROCEDURES AND PRACTICES

22.1 Personnel policies, procedures and practices shall be established by SUB-RECIPIENT and shall be available for examination. Such policies, procedures and practices, however, shall be in writing, approved by the governing body of SUB-RECIPIENT.

XXIII. CONFLICT OF INTEREST

23.1 SUB-RECIPIENT covenants that neither it nor any member of its governing body or of its staff presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this CONTRACT. SUB-RECIPIENT further covenants that in the performance of this CONTRACT, no persons having such interest shall be employed or appointed as a member of its governing body or of its staff.

23.2 SUB-RECIPIENT further covenants that no member of its governing body or of its staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.

23.3 No member of CITY's governing body or of its staff who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this CONTRACT shall:

- (A) Participate in any decision relating to this CONTRACT which may affect his or her personal interest or the interest of any corporation, partnership, or association in which he or she has a direct or indirect interest; or
- (B) Have any direct or indirect interest in this CONTRACT or the proceeds thereof.

23.4 SUB-RECIPIENT acknowledges that it is informed that the Charter of the CITY of San Antonio and its Ethics Code prohibit a CITY officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with the CITY or any CITY Agency such as CITY owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the CITY or in the sale to the CITY of land, materials, supplies or service, if any of the following individuals(s) or entities is party to the contract or sale; a CITY officer or employee; his parent, child or spouse; a business entity in which the officer or employee or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.

23.5 SUB-RECIPIENT warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the CITY. SUB-RECIPIENT further warrants and certifies that it has tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

XXIV. NEPOTISM

24.1 SUB-RECIPIENT shall not employ in any paid capacity any person who is a member of the immediate family of any person who is currently employed by SUB-RECIPIENT or who is a member of SUB-RECIPIENT's governing body. The term "member of immediate family" shall include: wife, husband, son, daughter, mother, father, brother, sister, in-law, aunt, uncle, cousin, nephew, niece, step-parent, step-child, half-brother and half-sister.

XXV. POLITICAL ACTIVITY

25.1 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or

for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation.

XXVI. SECTARIAN ACTIVITY

26.1 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operation, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received by utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XXVII. DIRECTORS' MEETINGS

27.1 During the term of this CONTRACT, SUB-RECIPIENT shall cause to be delivered to CITY copies of all notices of meetings of its Board of Directors. Said copies of notices shall set forth the time and place of each meeting, shall be delivered to CITY in a timely manner so as to give CITY adequate notice thereof and shall include therein as agenda and a brief description of the matters to be discussed thereat.

27.2 SUB-RECIPIENT understands and agrees that CITY representatives shall be afforded access to all Board of Directors' meetings.

27.3 Minutes of all meetings of SUB-RECIPIENT's governing body shall be submitted to CITY within ten (10) working days of approval.

XXVIII. PUBLICITY

28.1 When appropriate, as determined by and upon written approval of CITY, SUB-RECIPIENT shall publicize the activities conducted by SUB-RECIPIENT pursuant to the terms of this CONTRACT. In any news release, sign, brochure, or other advertising medium disseminating information prepared or distributed by or for SUB-RECIPIENT, however, mention shall made of HUD funding CITY participation having made this Project possible.

XXIX. PUBLICATIONS

29.1 All published materials and written reports submitted pursuant to this CONTRACT shall be originally developed unless otherwise specifically provided for herein. If material not originally developed is included in a report, however, said material shall have its source identified, either in the body of the report or by footnote, regardless of whether the material is in a verbatim or extensive paraphrase format.

29.2 All published materials submitted pursuant to this Project shall include the following reference on the front cover or title page:

“This document was prepared in accordance with the City of San Antonio’s HOME Investment Partnerships Grant Program, with funding received from the United States Department of Housing and Urban Development.”

XXX. RIGHTS TO PROPOSAL AND CONTRACTUAL MATERIAL

30.1 All finished or unfinished reports, documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, and any responses, inquiries, correspondence and related material submitted by SUB-RECIPIENT, shall, upon receipt, become the property of CITY.

XXXI. FUNDING APPLICATIONS

31.1 SUB-RECIPIENT agrees to notify CITY each time SUB-RECIPIENT is preparing or submitting any application for funding. When so preparing or submitting such an application, the following procedures shall be adhered to by SUB-RECIPIENT:

- (A) When the funding application is in the planning stages, a description of the funds being applied for and of the proposed use for the funds shall be submitted by SUB-RECIPIENT to CITY;
- (B) Upon award or notice of award, whichever is sooner, SUB-RECIPIENT shall notify CITY of the award or notice thereof, and of the effect, if any, of such funding on the funds and programs agreed to hereunder. Such notice shall be submitted by SUB-RECIPIENT to CITY, in writing, within ten (10) working days of receipt of the award or notice thereof, together with copies of the applicable budget, personnel complement, program description, and contract; and
- (C) Except pursuant to prior written consent of CITY, SUB-RECIPIENT shall not use, either directly or indirectly, resources provided hereunder to prepare applications for other federal or private funds, nor shall said resources be used, directly or indirectly, as contributions

XXXII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

32.1 SUB-RECIPIENT certifies, and the CITY relies thereon in execution of this CONTRACT, that neither SUB-RECIPIENT nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department.

32.2 “Principals”, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a

business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

32.3 SUB-RECIPIENT shall provide immediate written notice to CITY, in accordance with Article XLV. Notice, if, at any time during the term of this CONTRACT, including any renewals hereof, SUB-RECIPIENT learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

32.4 SUB-RECIPIENT's certification is a material representation of fact upon which the CITY has relied in entering into this Agreement. Should CITY determine, at any time during this CONTRACT, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the CITY may terminate this CONTRACT in accordance with Article XXXVI Termination.

XXXIII. SUB-CONTRACTING

33.1 Any other clause of this CONTRACT to the contrary notwithstanding, none of the work or services covered by this CONTRACT shall be sub-contracted without the prior written approval of CITY. Any work or services approved for sub-contracting hereunder, however, shall be sub-contracted only by written contract or agreement and, unless specific waiver is granted in writing by CITY, shall be subject by its terms to each and every provision of this CONTRACT. Compliance by sub-contractors with this CONTRACT shall be the responsibility of SUB-RECIPIENT.

33.2 SUB-RECIPIENT agrees that no sub-contract approved pursuant to this CONTRACT shall provide for payment on a "cost plus a percentage of cost" basis.

33.3 Despite CITY approval of a sub-contract, CITY shall in no event be obligated to any third party, including any sub-contractor of SUB-RECIPIENT, for performance of work or services, nor shall CITY funds ever be used for payment of work or services performed prior to the date of CONTRACT execution or extending beyond the date of CONTRACT expiration.

XXXIV. CHANGES AND AMENDMENTS

34.1 Except when the terms of this CONTRACT expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and SUB-RECIPIENT.

34.2 Whenever and as often as deemed necessary by CITY, CITY may request and require changes to SUB-RECIPIENT's Work Statement (Exhibit "A"); such changes as requested or required by CITY, however, must be by written amendment hereto and may incorporate therein increases or decreases in the total monetary obligation of CITY to SUB-RECIPIENT as provided for pursuant to the terms, provisions and conditions of this CONTRACT.

34.3 Except pursuant to (a) prior submission by SUB-RECIPIENT of detailed information regarding budget and Project revisions, and (b) prior written approval thereof by CITY, SUB-RECIPIENT shall neither make transfers between or among line items approved within the budget categories set forth in the Budget Summary incorporated within Exhibit "C" nor shall SUB-RECIPIENT alter, add to or delete from the Budget Detail likewise incorporated within said Exhibit "C". Instead, SUB-RECIPIENT shall request budget revisions in writing and in a form prescribed by CITY; such request for revisions, however, shall not increase the total monetary obligation of CITY as provided for pursuant to this CONTRACT, nor shall said revisions significantly change the nature, intent, or scope of the Project funded hereunder.

34.4 In the event that the level of funding for SUB-RECIPIENT or for the Project described herein is altered, SUB-RECIPIENT shall submit, immediately upon request by CITY, revised budget and Project information so as to enable re-evaluation by CITY of the original funding levels set forth in Exhibit "C".

34.5 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this CONTRACT and that any such changes shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

34.6 SUB-RECIPIENT agrees to notify CITY in writing of any proposed change in physical location for work to be performed pursuant to the terms of this CONTRACT. Such notice shall be provided by SUB-RECIPIENT to CITY at least thirty (30) calendar days in advance of the proposed change.

34.7 SUB-RECIPIENT further agrees to notify CITY of any changes in personnel or governing board composition, such notice to be provided within five (5) working days of the change.

XXXV. SUSPENSION OF FUNDING

35.1 Upon determination by CITY of SUB-RECIPIENT's failure to timely and properly perform pursuant to the provisions of this CONTRACT, CITY, without limiting or waiving any rights it may otherwise have, may, at its discretion and upon five (5) working days written notice to SUB-RECIPIENT, withhold further payments to said SUB-RECIPIENT. CITY's notice shall specifically set forth SUB-RECIPIENT's alleged default or failure as well as the action required for cure thereof.

35.2 The period of funding suspension shall be of such duration as is appropriate to accomplish corrective action, but in no event shall it exceed thirty (30) calendar days. Upon expiration of the suspension period:

- (A) Should CITY determine that the default or deficiency has been cured, SUB-RECIPIENT may be restored to full compliance status and paid all eligible funds withheld during the suspension period; or

- (B) Should CITY determine continued non-compliance, the provisions of Article XXXVI hereunder may be effectuated.

XXXVI. TERMINATION

36.1 "Termination" of this CONTRACT shall mean termination by expiration of the CONTRACT term or earlier termination pursuant to any of the provisions hereof.

36.2 CITY may terminate this CONTRACT for any of the following reasons:

- (A) Neglect or failure by SUB-RECIPIENT to perform or observe any of the terms, conditions, covenants or guarantees of this CONTRACT or of any written contract or amendment between CITY and SUB-RECIPIENT;
- (B) Termination or reduction of funding of the Project by HUD;
- (C) Failure by SUB-RECIPIENT to cure, within the period prescribed pursuant to the above Article XXXV of this CONTRACT, any default or deficiency basis for suspension of funding hereunder;
- (D) Finding by CITY that SUB-RECIPIENT:
 - (1) is in such unsatisfactory financial condition as to endanger performance under this CONTRACT, including, but not limited to:
 - (a) The apparent inability of SUB-RECIPIENT to meet its financial obligations;
 - (b) Items that reflect detrimentally on the credit worthiness of SUB-RECIPIENT, including, but not limited to, such as liens, encumbrances, etc. on the assets of SUB-RECIPIENT;
 - (2) has allocated inventory to this CONTRACT substantially exceeding reasonable requirements; or
 - (3) is delinquent, in the ordinary course of business, in the payment of taxes or in the payment of costs of performance of this CONTRACT;
- (E) Appointment of a trustee, receiver or liquidator for all or a substantial part of SUB-RECIPIENT's property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against SUB-RECIPIENT;

- (F) The entry by a court of competent jurisdiction of a final order providing for the modification or alteration of the rights of SUB-RECIPIENT's creditors;
- (G) Inability by SUB-RECIPIENT to conform to changes in local, state and federal rules, regulations and laws as provided for in Article III and in paragraph number 34.5 of this CONTRACT; and
- (H) Violation by SUB-RECIPIENT of any rule, regulation or law to which SUB-RECIPIENT is bound or shall be bound under the terms of this CONTRACT.

36.3 Should this CONTRACT be terminated by either party hereto for any reason, including termination under paragraph number 36.4 of this CONTRACT, if the work required hereunder of SUB-RECIPIENT is not fully completed to the satisfaction of CITY in accordance with the terms of this CONTRACT, SUB-RECIPIENT shall refund any and all sums of money paid by CITY to SUB-RECIPIENT within ten (10) working days of CITY's written request therefor.

36.4 CITY may terminate this CONTRACT for convenience at any time.

36.5 SUB-RECIPIENT may terminate this CONTRACT if outside funding upon which SUB-RECIPIENT depends for performance hereunder ceases; SUB-RECIPIENT may opt, however, within the limitations of this CONTRACT and with the prior written approval of CITY, to seek an alternative funding source, provided that the termination of funding by the initial outside source was not occasioned by a breach of agreement as defined herein or as defined in a contract between SUB-RECIPIENT and the funding source in question.

36.6 Upon a decision to terminate by either CITY or SUB-RECIPIENT, written notice of such, and the effective date thereof, shall be immediately provided to the other party.

36.7 Upon receipt of notice to terminate, SUB-RECIPIENT shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this CONTRACT. To this effect, CITY shall not be liable to SUB-RECIPIENT or SUB-RECIPIENT's creditors for any expense, encumbrances or obligations whatsoever incurred after the date of termination.

36.8 Upon receipt of notice to terminate, all finished or unfinished documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, prepared by or on behalf of SUB-RECIPIENT under this CONTRACT shall, at the option of CITY, and in accordance with Article XXX hereof, become the property of CITY and shall, if requested or agreed to by CITY, be delivered by SUB-RECIPIENT to CITY in a timely and expeditious manner.

36.9 Within thirty (30) days after receipt of notice to terminate, SUB-RECIPIENT shall submit a statement to CITY, indicating in detail the services performed under this CONTRACT prior to the effective date of termination.

36.10 Any termination of this CONTRACT as herein provided shall not relieve SUB-RECIPIENT from the payment of any sum(s) that shall then be due and payable or become due and payable to CITY hereunder or as provided for at law or in equity, or any claim for damages then or theretofore accruing against SUB-RECIPIENT hereunder or by law or in equity, and any such termination shall not prevent CITY from enforcing the payment of any such sum(s) or claim for damages from SUB-RECIPIENT. Instead, all rights, options, and remedies of CITY contained in this CONTRACT shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and CITY shall have the right to pursue any one or all of such remedies or any such other remedy or relief which may be provided by law or in equity whether or not stated in this CONTRACT.

36.11 Upon termination of this CONTRACT by CITY under paragraph number 36.2(A), SUB-RECIPIENT shall be barred from future CONTRACTS with CITY absent the express written consent of the City Manager of CITY, or her designate.

XXXVII. NOTIFICATION OF ACTION BROUGHT

37.1 In the event that any claim, demand, suit, proceeding, cause of action or other action (hereinafter collectively referred to as "claim") is made or brought against SUB-RECIPIENT, SUB-RECIPIENT shall give written notice thereof to CITY within two (2) working days after itself being notified. SUB-RECIPIENT's notice to CITY shall state the date and hour of notification to SUB-RECIPIENT of the claim; the names and addresses of those instituting or threatening to institute the claim, the basis of the claim; and the name(s) of any others against whom the claim is being made or threatened. Written notice pursuant to this Article shall be delivered either personally or by mail in accordance with Article XLV of this CONTRACT.

XXXVIII. LEGAL EXPENSES

38.1 Under no circumstances will the funds received under this CONTRACT be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the CITY or any other public entity.

38.2 During the term of this CONTRACT, if SUB-RECIPIENT files and/or pursues an adversarial proceeding against the City then, at the City's option, this CONTRACT and all access to the funding provided for hereunder may terminate if SUB-RECIPIENT is in violation of paragraph 38.1.

38.3 SUB-RECIPIENT, at the CITY's option, could be ineligible for consideration to receive any future funding while any adversarial proceeding against the City remains unresolved.

38.4 For purpose of this Article, "adversarial proceeding" includes any cause of action filed by the SUB-RECIPIENT in a state or federal court, as well as any state or federal administrative hearing, but does not include Alternative Dispute Resolution proceedings.

XXXVIX. ASSIGNMENTS

39.1 SUB-RECIPIENT shall not transfer, pledge or otherwise assign this CONTRACT, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY. Any attempt at transfer, pledge or other assignment shall be void *ab initio* and shall confer no rights upon any third person.

XL. SEVERABILITY OF PROVISIONS

40.1 If any clause or provision of this CONTRACT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this CONTRACT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this CONTRACT that is invalid, illegal, or unenforceable, there be added as a part of the CONTRACT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XLI. RENEWAL NOT AUTOMATIC

41.1 Funding under this CONTRACT and any amendments or waivers that may be made or granted hereunder shall not be automatically renewed on the anniversary date of this CONTRACT. To the contrary, funding of any project requiring contract execution shall be achieved only pursuant to approval of the City Council of the City of San Antonio.

XLII. NON-WAIVER OF PERFORMANCE

42.1 No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this CONTRACT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this CONTRACT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this CONTRACT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

42.2 No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

42.3 No representative or agent of CITY may waive the effect of the provisions of this Article.

XLIII. ENTIRE AGREEMENT

43.1 This CONTRACT constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind the parties hereto unless same be in writing, dated subsequent to the date hereof, and duly executed by the parties.

XLIV. INTERPRETATION

44.1 In the event any disagreement or dispute should arise between the parties hereto pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible to HUD for matters of compliance, shall have the final authority to render or secure an interpretation.

XLV. NOTICES

45.1 For purposes of this CONTRACT, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Director

Department of Housing and Community Development

1400 S. Flores, Unit 3

San Antonio, Texas 78204

SUB-RECIPIENT:

Notice of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of such change.

XLVI. PARTIES BOUND

46.1 THIS CONTRACT shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided herein.

XLVII. GENDER

47.1 Words of gender used in this CONTRACT shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XLVIII. RELATIONSHIP OF PARTIES

48.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

XLIX. TEXAS LAW TO APPLY

49.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

XL. CAPTIONS

50.1 The captions contained in this CONTRACT are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this CONTRACT.

EXECUTED this the _____ day of _____, 2004.

CITY OF SAN ANTONIO _____

By: _____

Andrew W. Cameron

Title: Director, Department of Housing
and Community Development

By: _____

Title: _____

APPROVED AS TO FORM: _____

Assistant City Attorney

Attachments:

- Exhibit "A" Work Statement
- Exhibit "B" Performance Measures
- Exhibit "C" Budget Package
- Exhibit "D" City's Federal Compliance Manual
- Exhibit "E" Billing Package
- Exhibit "F" CDBG and HOME Housing Program Policies

INTERDEPARTMENTAL AGREEMENT

PROJECT NAME:

PROJECT NO.:

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Interdepartmental Agreement ("AGREEMENT") is hereby made and entered into by and between the DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (hereinafter referred to as "COMMUNITY DEVELOPMENT") of the CITY OF SAN ANTONIO (hereinafter referred to as "CITY") and CITY's PARKS AND RECREATION DEPARTMENT (hereinafter referred to as "DEPARTMENT").

WHEREAS, CITY has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended (hereinafter referred to as "Community Development Act") for utilization in connection with its Community Development Block Grant (CDBG) Program, HOME Program; and

WHEREAS, the City Council has adopted a budget for such funds and has included therein, pursuant to Ordinance No. --, dated --, the allocation of -- and No/100 Dollars (\$--.00) for a project entitled, "--" (hereinafter referred to as "Project"); and

WHEREAS, the City Council has designated COMMUNITY DEVELOPMENT as the CITY department responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, COMMUNITY DEVELOPMENT wishes to engage DEPARTMENT to implement and manage said Project; and

WHEREAS, in consideration for the tasks to be performed by DEPARTMENT hereunder, such allocated funds shall be available for use by DEPARTMENT, as herein authorized; **NOW THEREFORE**:

The parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. TERM

1.1 Except as otherwise provided for pursuant to the provisions hereof, this AGREEMENT shall commence immediately upon its execution and shall terminate on the earlier of (a) --, or (b) Project completion.

II. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

2.1 DEPARTMENT understands that funds provided to it pursuant to this AGREEMENT are funds which have been made available to CITY by the federal government under the Community Development Act and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. DEPARTMENT, therefore, assures and certifies that it will comply with the requirements of the Community Development Act, with all regulations promulgated thereunder as codified at Title 24 of the Code of Federal Regulations, and with any and all applicable amendments or revisions to said Act or regulations.

2.2 DEPARTMENT understands that summaries of certain compliance requirements mandated by applicable laws or regulations are contained in Federal Compliance Manual and in CITY's CDBG and HOME Housing Program Policies, that DEPARTMENT must at all times remain in compliance therewith; DEPARTMENT further understands that said summaries are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon DEPARTMENT by law or administrative ruling, or to narrow the standards which DEPARTMENT must follow.

2.3 DEPARTMENT assures that all contractors and subcontractors receiving funds in connection with this Project are familiar with, and shall comply with, any and all applicable rules and regulations as contained in CITY's Federal Compliance Manual and that a copy of said Federal Compliance Manual will be included as part of every contract awarded in connection with this Project.

2.4 DEPARTMENT shall observe and comply with all city, state and federal laws, regulations, ordinances and codes affecting DEPARTMENT's operations pursuant to the AGREEMENT.

III. MAINTENANCE OF EFFORT

3.1 DEPARTMENT agrees that the funds and resources provided to it under the terms of this AGREEMENT shall in no way be substituted for funds and resources provided from other sources, nor shall such funds and resources in any way serve to reduce the funds, resources, services, or other benefits which would have been available to, or provided through, DEPARTMENT had this AGREEMENT not been executed.

IV. PERFORMANCE

4.1 DEPARTMENT shall manage, implement, perform, provide, and carry out in a timely manner all of the tasks, activities, and services set forth in the Work Program (EXHIBIT "A") attached hereto and incorporated herein for all purposes, utilizing funds only in the manner allocated in the Project Budget (EXHIBIT "B") also attached hereto and incorporated herein for all purposes.

4.2 Modifications or alterations to the Work Program or the Project Budget may be made only pursuant to the prior written approval of COMMUNITY DEVELOPMENT.

4.3 Funds are provided for the accomplishment of this Project and its specific work tasks only, as approved by the City Council. Accordingly, when all approved work tasks are completed, DEPARTMENT shall forward to COMMUNITY DEVELOPMENT a Project completion statement in conjunction with the final invoice.

V. FISCAL

5.1 Inasmuch as the City Council has designated to COMMUNITY DEVELOPMENT the responsibility for fiscal oversight, control and monitoring of CDBG project funds, and HOME project funds, DEPARTMENT shall submit to COMMUNITY DEVELOPMENT, for written approval prior to final processing, all project matters fiscal in nature including, but not limited to, requests for payment, purchase orders, requisitions, budget adjustments and invoices. DEPARTMENT agrees and understands that funds are awarded only for the current fiscal year. DEPARTMENT is solely responsible to submit any and all invoices incurred through September of the current fiscal year by no later than October 15th of the next fiscal year.

VI. MAINTENANCE AND ACCESSIBILITY OF RECORDS

6.1 DEPARTMENT agrees to maintain records that will provide accurate, current separate, and complete disclosure of the status of any funds received pursuant to this AGREEMENT. DEPARTMENT further agrees:

- (A) That maintenance of said records shall be in compliance with all terms, provisions and requirements of this AGREEMENT and with all applicable federal and state regulations establishing standards for financial management; and
- (B) That DEPARTMENT's record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

6.2 As often, at such times, and in such form as COMMUNITY DEVELOPMENT may require, DEPARTMENT shall, upon COMMUNITY DEVELOPMENT's verbal or written request, make available and furnish to COMMUNITY DEVELOPMENT any and

all statements, reports, data and information deemed by COMMUNITY DEVELOPMENT to pertain to matters covered by this AGREEMENT.

VII. PERFORMANCE REPORTS

7.1 At minimum, DEPARTMENT shall submit project performance reports to COMMUNITY DEVELOPMENT in accordance with the following schedule:

<u>Fiscal Quarter</u>	<u>Report Due</u>
First (October-December)	January
Second (January-March)	April
Third (April-June)	July
Fourth (July-September)	October

7.2 Project performance reports shall be submitted to COMMUNITY DEVELOPMENT by DEPARTMENT no later than ten (10) working days following the end of each required reporting period.

VIII. CHANGES AND AMENDMENTS

8.1 Alterations, additions or deletions to the terms of this AGREEMENT shall be by written amendment executed by both COMMUNITY DEVELOPMENT and DEPARTMENT.

EXECUTED this _____ day of _____, 2004.

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

PARKS & RECREATION
DEPARTMENT

By: _____
ANDREW W. CAMERON
Title: Director

By: _____
MALCOLM MATTHEWS
Title: Director

APPROVED AS TO FORM:

DENISE MONDAY
Assistant City Attorney

EXHIBIT “A”

WORK PROGRAM

WORK PROGRAM

- I. DEPARTMENT: Department of Housing and Community Development
- II. PROJECT NAME:
- III. PROJECT NO.:
- IV. PROJECT LOCATION:
- V. PROJECT DESCRIPTION:
- VI. DETAILED/QUANTIFIED SCOPE OF WORK:
.
- VII. SPECIAL CONSIDERATIONS:

EXHIBIT “B”

PROJECT BUDGET

PROJECT BUDGET

DEPARTMENT: Department of Housing and Community Development

PROJECT NAME:

PROJECT NO.:

TOTAL BUDGET AMOUNT: \$

Index Code	Object Code	Description	Budget
			\$
		Total	\$

NCR Programmatic - 25th Year Available Funds (28-025086)

INDEX CODE	DESCRIPTION	ORIGINAL BUDGET	ADJUSTMENTS	REVISED BUDGET	TOTAL EXPENDITURES	BALANCE
639138	Façade Improvements	\$ 50,000.00	\$ 16,969.90	\$ 66,969.90	\$ 62,128.61	\$ 4,841.29

NCR Programmatic - 26th Year Available Funds (28-026040)

INDEX CODE	DESCRIPTION	ORIGINAL BUDGET	ADJUSTMENTS	REVISED BUDGET	TOTAL EXPENDITURES	BALANCE
292474	Façade Improvements	\$ 100,000.00	\$ (60,000.00)	\$ 40,000.00	\$ -	\$ 40,000.00

NCR Programmatic - 27th Year Available Funds (28-027051)

INDEX CODE	DESCRIPTION	ORIGINAL BUDGET	ADJUSTMENTS	REVISED BUDGET	TOTAL EXPENDITURES	BALANCE
214411	Façade Improvements	\$ 100,000.00	\$ 85,343.64	\$ 185,343.64	\$ -	\$ 185,343.64

TOTAL FAÇADE IMPROVEMENT FUNDS AVAILABLE FOR CONSOLIDATING:	\$ 230,184.93
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