

AN ORDINANCE      2012-08-02-0561

**AUTHORIZING THE NEGOTIATION AND EXECUTION OF A  
CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM GRANT  
AGREEMENT WITH SAN ANTONIO ALTERNATIVE HOUSING  
CORPORATION IN AN AMOUNT NOT TO EXCEED \$119,000.00.**

\* \* \* \* \*

**WHEREAS**, pursuant to Chapter 380 of the Texas Local Government Code, the City of San Antonio (the “City”) is authorized to establish and provide for the administration of one or more programs, including programs for making grants of public money to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

**WHEREAS**, in accordance with City Ordinance No. 100684, the City created an Economic Development Program (the “Program”) for the purpose of making grants available for economic development projects that the City finds will accomplish the purpose and goals of Chapter 380; and

**WHEREAS**, San Antonio Alternative Housing Corporation (“SAAHC”), a 501(c)(3) non-profit entity, is proposing an economic development project consisting of the construction of eight (8) residential housing units within the City’s Inner City Reinvestment/Infill Policy boundaries that would be made available to low to moderate income purchasers (the “Project”); and

**WHEREAS**, the City finds that the goals of Chapter 380 will be met by assisting SAAHC in undertaking and completing the Project and has identified economic development funds for use in carrying out this purpose; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Council approves the terms and conditions of a Chapter 380 Economic Development Program Grant Agreement with San Antonio Alternative Housing Corporation.

**SECTION 2.** The City Manager or her designee is authorized to execute a Chapter 380 Economic Development Program Grant Agreement with SAAHC in accordance with the terms and conditions of this Ordinance. A copy of the Agreement, in substantially final form, is attached to this Ordinance as **Attachments I**. The final agreement shall be filed with this Ordinance upon execution.

**SECTION 3.** Funding in the amount of \$119,000.00 for this ordinance is available in Fund 11001000, Cost Center 3401010004 and General Ledger 5209010, as part of the Fiscal Year 2012 Budget.

**SECTION 4.** Payment not to exceed the budgeted amount is authorized to San Antonio Alternative Housing Corporation and should be encumbered with a purchase order.

**SECTION 5.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 6.** This ordinance shall become effective immediately upon its passage by eight (8) votes or more and upon ten (10) days following its passage if approved by fewer than eight (8) votes.

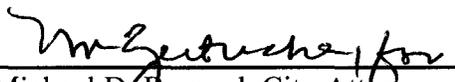
PASSED AND APPROVED this 2<sup>nd</sup> day of August, 2012.

  
M A Y O R  
Julián Castro

ATTEST:

  
Leticia M. Varek, City Clerk

APPROVED AS TO FORM:

  
Michael D. Bernard, City Attorney



Request for  
**COUNCIL**  
 ACTION

City of San Antonio



## Agenda Voting Results - 23

| <b>Name:</b>        | 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19A, 19B, 20A, 20B, 21, 22, 23, 24, 26  |             |     |     |         |        |        |
|---------------------|--|-------------|-----|-----|---------|--------|--------|
| <b>Date:</b>        | 08/02/2012   |             |     |     |         |        |        |
| <b>Time:</b>        | 09:36:50 AM  |             |     |     |         |        |        |
| <b>Vote Type:</b>   | Motion to Approve  |             |     |     |         |        |        |
| <b>Description:</b> | An Ordinance authorizing a Chapter 380 Grant Agreement between the City of San Antonio and the San Antonio Alternative Housing Corporation in an amount up to \$119,000.00 for economic development related to the construction of eight affordable homes in the Five Points area of District 1 as part of the Infill Pilot Program. [Pat DiGiovanni, Deputy City Manager; Mark Brodeur, Director, Center City Development Office] |             |     |     |         |        |        |
| <b>Result:</b>      | Passed   |             |     |     |         |        |        |
| Voter               | Group  | Not Present | Yea | Nay | Abstain | Motion | Second |
| Julián Castro       | Mayor  |             | x   |     |         |        |        |
| Diego Bernal        | District 1   |             | x   |     |         |        |        |
| Ivy R. Taylor       | District 2   |             | x   |     |         |        |        |
| Leticia Ozuna       | District 3   |             | x   |     |         |        |        |
| Rey Saldaña         | District 4   |             | x   |     |         |        |        |
| David Medina Jr.    | District 5   | x           |     |     |         |        |        |
| Ray Lopez           | District 6   |             | x   |     |         |        |        |
| Cris Medina         | District 7   |             | x   |     |         |        | x      |
| W. Reed Williams    | District 8   |             | x   |     |         |        |        |
| Elisa Chan          | District 9   |             | x   |     |         | x      |        |
| Carlton Soules      | District 10  | x           |     |     |         |        |        |

# **ATTACHMENT I**

STATE OF TEXAS           §           **CHAPTER 380 ECONOMIC DEVELOPMENT**  
  §           **PROGRAM GRANT AGREEMENT**  
COUNTY OF BEXAR       §           **OF THE CITY OF SAN ANTONIO**

This Chapter 380 Economic Development Program Grant Agreement (hereafter referred to as this "Agreement") is made and entered into by the **City of San Antonio**, a municipal corporation of the State of Texas, hereafter referred to as "CITY", by and through its City Manager or her designee, the **Urban Renewal Agency for the City of San Antonio** d/b/a the Office of Urban Renewal San Antonio, hereafter referred to as "OUR SA", a Texas body corporate and politic, under the authority of its Board of Directors, (together "CITY" and "OUR SA" are referred to as "GRANTOR") and San Antonio Alternative Housing Corporation, a non-profit corporation of the State of Texas, hereafter referred to as "GRANTEE", acting by and through its \_\_\_\_\_, (collectively, the "Parties"), and pursuant to Article III, Section 52-a, of the Texas Constitution and Chapter 380 of the Texas Local Government Code, as amended.

**RECITALS**

**WHEREAS**, the CITY and OUR SA have entered into a Memorandum of Understanding (the "MOU") that establishes OUR SA as the entity responsible for managing the CITY's land banking activities, including the identification, acquisition, maintenance, and disposition of real estate; and

**WHEREAS**, the CITY created an Infill Program to promote economic development in targeted areas of the City of San Antonio through the acquisition of vacant properties that are then sold to local home builders who agree to certain construction standards and a maximum selling price of \$110,000 for a completed residence; and

**WHEREAS**, the CITY has previously appropriated funding in the amount of \$1,500,000.00 to OUR SA to support the affordable housing initiative; and

**WHEREAS**, OUR SA is requesting that the CITY utilize a portion of these funds to provide economic development grants to GRANTEE to undertake and complete the construction of eight (8) residential homes meeting criteria as set out in this Agreement and to be sold at prices not to exceed \$110,000.00 ("the Project"); and

**WHEREAS**, pursuant to Chapter 380 of the Texas Local Government Code, the CITY is authorized to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

**WHEREAS**, in accordance with City Ordinance No. 100684, the CITY created an Economic Development Program (the "Program") for the purpose of making loans and grants available for economic development projects that the CITY finds will accomplish the purpose and goals of Chapter 380; and

**WHEREAS**, OUR SA, through a resolution of its Board of Directors, has recommended GRANTEE receive a Chapter 380 Economic Development Grant from CITY in a total amount of \$119,000.00 to undertake and complete the Project; and

**WHEREAS**, the CITY finds that the Project will meet the goals of Chapter 380 and has agreed to utilize OUR SA funds to provide a Chapter 380 economic development grant with GRANTEE; and

**WHEREAS**, the City Council has authorized the City Manager or her designee to enter into this Agreement in accordance with City Ordinance No.2012-08-02-\_\_\_\_\_, passed and approved on August 2, 2012, to provide funds to support the Project; **NOW THEREFORE**:

The Parties, by the execution of this Agreement, are bound to the mutual obligations set out herein and to the performance and accomplishment of the tasks hereafter described.

#### **SECTION 1. PURPOSE**

The purpose of this Agreement is to assist GRANTEE in defraying costs associated with the construction of the Project through the award of public funds in the form of an economic development grant. Upon completion, the Project is expected to result in added value to and investment in real property within the Inner City Reinvestment/Infill Policy Target Area. The Project is anticipated to promote local economic development and to stimulate business and commercial activity in the City of San Antonio. GRANTOR is supporting the Project through this Agreement to promote state or local economic development and to stimulate business and commercial activity in the municipality.

#### **SECTION 2. RESERVED**

#### **SECTION 3. TERM**

A. This Agreement shall commence upon its “Effective Date” as indicated herein and shall terminate twenty-four (24) months thereafter.

B. Upon mutual agreement of the Parties, this Agreement may be renewed for one (1) one-year period.

#### **SECTION 4. OBLIGATIONS OF GRANTEE**

A. GRANTEE shall expend a cumulative amount of up to ONE HUNDRED NINETEEN THOUSAND DOLLARS AND 0 CENTS (\$119,000.00) in grants from GRANTOR to undertake and complete the Project. The Project shall consist of the construction of eight (8) residential homes and the installation of common area improvement including lighting, sidewalks, fencing and landscaping of the Euclid Cottage Development within the Five Points subdivision (the “Project Site”), as further described in Exhibit A.

B. Each housing unit constructed by GRANTEE shall have a minimum investment amount of SIXTY THOUSAND DOLLARS AND 0 CENTS (\$60,000.00).

C. GRANTEE shall retain and provide documentation to GRANTOR, upon GRANTOR’s request, indicating all Project related expenditures. Such documentation shall include individual Project Site expenditures.

D. Following execution of this Agreement, GRANTEE must commence construction of the Project within sixty (60) days; provided that, Grantee is under no obligation to commence construction on a Project Site, excluding the common area improvements to the Euclid Cottage Development, prior to entering into a contract for sale with a qualified purchaser approved for an acquisition loan for such location. Once construction has commenced on a Project Site, GRANTEE shall complete construction of the Project Site within one hundred and twenty (120) days.

E. GRANTEE shall provide continuous construction status updates and compliance reports to GRANTOR in a format acceptable to GRANTOR, starting no later than thirty (30) days following the commencement of construction of the Project Site.

F. GRANTEE shall complete the Project no later than twenty-four (24) months following the Effective Date of this Agreement, as indicated on the signature page of this Agreement. Notwithstanding the foregoing, Grantee shall be under no obligation to commence work on a Project Site, excluding common area improvements to the Euclid Cottage Development, which is not under contract for sale to a qualified purchaser approved for an acquisition loan within eighteen (18) months following the Effective Date of this Agreement.

G. In its construction of the Project Site, GRANTEE shall comply with the building standards attached in Exhibit B. GRANTEE acknowledges that in addition to Exhibit B, GRANTEE shall fully comply with any and all applicable federal, state and local laws and regulations, to include the City's Unified Development Code.

H. GRANTEE shall pay all levied real property ad valorem taxes assessed for the Project Site during the Term of this Agreement. However, nothing herein shall prohibit GRANTEE from exercising its right to protest appraisals of the Property Site.

I. GRANTEE shall be in good standing with the Greater San Antonio Builders Association at the time of this Agreement and shall remain in good standing for the Term hereof.

J. GRANTEE shall promote economic development through the hiring of local subcontractors and workforce and shall pay prevailing wages as applicable to the trade being performed.

K. GRANTEE shall establish an individual purchase price for the Project Site that does not exceed ONE HUNDRED AND TEN THOUSAND DOLLARS AND 0 CENTS (\$110,000.00).

L. GRANTEE shall market the Project Site and shall diligently pursue individuals to purchase each Project Site for their homestead.

## **SECTION 5. DEPARTMENT OBLIGATIONS**

A. GRANTOR will make an Economic Development Program Grant available to GRANTEE under the terms and conditions of this Agreement.

B. GRANTOR will not be liable to GRANTEE or other entity for any costs incurred by GRANTEE other than those which GRANTOR is obligated to reimburse pursuant to the terms of this Agreement.

## **SECTION 6. RESERVED.**

## **SECTION 7. ECONOMIC DEVELOPMENT PROGRAM GRANT**

A. **Economic Development Program Grant.** In consideration of full and satisfactory performance of activities required by this Agreement, GRANTOR is making an Economic Development Program Grant available to GRANTEE in the cumulative amount of ONE HUNDRED NINETEEN THOUSAND DOLLARS AND 0 CENTS (\$119,000.00) (the "Grant Funds") for the Project. The Grant Funds shall be disbursed at a rate of up to TEN THOUSAND DOLLARS AND 0 CENTS (\$10,000.00) (the "Grant Amount") per Project Site, with the exception of the a) disbursement for the Project Site legally described as 408 Warren St., which shall not exceed a disbursement amount of TWENTY THOUSAND DOLLARS AND 0 CENTS (\$20,000.00) and b) disbursement for the Euclid Cottage Development common area improvements which shall not exceed a disbursement amount of TWENTY NINE THOUSAND AND 0 CENTS (\$29,000.00) . The disbursement shall be made at the time of closing for a subsequent purchase of each individual Project Site, except for the Euclid Cottage Development common area improvements which disbursement shall be made upon completion of the work. GRANTEE shall submit a request for a disbursement of Grant Funds no sooner than five (5) days prior to the anticipated closing date of the

subsequent purchase of a Project Site, with documentation showing the prospective subsequent purchaser and documentation indicating they have qualified for mortgage financing. The purpose of the Grant Funds is to incentivize the GRANTEE to reduce the purchase price of the Project Site by the Grant Amount.

Grant Funds shall not be used for any expenditures made on the Project by GRANTEE, but shall be used to lower the purchase price of the Project Site for the subsequent purchaser only.

## **SECTION 8. RETENTION AND ACCESSIBILITY OF RECORDS**

A. GRANTEE shall maintain all fiscal records and supporting documentation for expenditures of disbursed funds associated with this Agreement. GRANTEE shall retain such records, and any supporting documentation, for the greater of: (1) Four [4] years from the end of the Agreement Term; or (2) the period required by other applicable laws and regulations.

B. GRANTEE shall, following reasonable advance written notice from the GRANTOR, give the GRANTOR, its designee, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, audit reports, reports, files, documents, written or photographic material, videotape and other papers, things, or property belonging to or in use by GRANTEE pertaining to this Economic Development Grant (the "Records"). The GRANTOR's access to GRANTEE's books and records will be limited to information needed to verify that GRANTEE is and has been complying with the terms of this Agreement and to verify payments made by the GRANTOR and re-payments made by GRANTEE and to verify that the proceeds of the Economic Development Grant are or were used in connection with the development and operation the Project. Should any good faith dispute or question arise as to the validity of the data provided, GRANTOR reserves the right to require GRANTEE to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of GRANTEE. GRANTEE agrees to maintain the Records in an accessible location and to provide reasonable access to the Records consistent with the Texas Public Information Act. Failure to provide reasonable access to the Records to authorized GRANTOR representatives shall give GRANTOR the right to suspend or terminate this Agreement as provided for in Section 14 below, or any portion thereof, for reason of default.

## **SECTION 9. MONITORING**

GRANTOR reserves the right to confirm GRANTEE's compliance with the terms and conditions of this Agreement. GRANTOR will provide GRANTEE with a written report of the monitor's findings. If the monitoring report notes deficiencies in GRANTEE's performances under the terms of this Agreement, the monitoring report shall include a listing of requirements for the correction of such deficiencies by GRANTEE and a reasonable amount of time in which to attain compliance. Failure by GRANTEE to take action specified in the monitoring report may be cause for suspension or termination of this Agreement, in accordance with Section 14 herein.

## **SECTION 10. INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by the Parties hereto that GRANTEE is not an agent or representative of GRANTOR and that GRANTEE, its employees and subcontractors are not employees or contractors of the GRANTOR.

## **SECTION 11. CONFLICT OF INTEREST**

A. GRANTEE shall ensure that no employee, officer, or agent of GRANTEE shall participate in the selection, award or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such conflict of interest would arise when: (1) the employee, officer, or agent; (2) any member of his or her immediate family; (3) his or her partner; or, (4) any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform the subcontract. GRANTEE shall comply with Chapter 171, Tex. Local Govt. Code as well as the City of San Antonio Code of Ethics.

B. Except for eligible administrative costs, no employee, agent, consultant, officer, or elected or appointed official, of either GRANTEE or of a subcontractor, who exercises or has exercised any functions or responsibilities or is in a position to participate in decision-making or gain inside information in regard to the activities involved in the Project, shall be permitted to have or obtain a financial interest in or benefit from the Project or any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties. This prohibition shall remain in effect for the duration of the prohibited relationship plus one calendar year thereafter.

## **SECTION 12. NONDISCRIMINATION AND SECTARIAN ACTIVITY**

A. GRANTEE shall ensure that no person shall, on the ground of race, color, national origin, religion, sex, age or handicap, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied access to any program or activity funded in whole or in part with funds made available under this Agreement.

B. None of the performances rendered by GRANTEE under this Agreement shall involve, and no portion of the funds received by GRANTEE under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

C. GRANTEE shall include the substance of this Section 12 in all subgrant or contractor agreements.

## **SECTION 13. LEGAL AUTHORITY**

A. Each Party assures and guarantees to the other that they possesses the legal authority to enter into this Agreement, to receive/deliver the funds authorized by this Agreement, and to perform its obligations hereunder.

B. The person or persons signing and executing this Agreement on behalf of each Party or representing themselves as signing and executing this Agreement on behalf of a Party, do hereby guarantee that he, she or they have been duly authorized to execute this Agreement on behalf of that Party and to validly and legally bind that Party to all terms, performances and provisions herein set forth.

C. GRANTOR will have the right to suspend or terminate this Agreement in accordance with Section 14 herein if there is a dispute as to the legal authority, of either GRANTEE or the person signing this Agreement, to enter into this Agreement, any amendments hereto or failure to render performances hereunder. GRANTEE is liable to GRANTOR for any money it has received from GRANTOR for performance of the provisions of this Agreement if GRANTOR suspends or terminates this Agreement for reasons enumerated in this Section 13.

## **SECTION 14. LITIGATION AND CLAIMS**

A. GRANTEE shall give GRANTOR immediate notice in writing of any action, including any proceeding before an administrative agency, filed against GRANTEE arising out of the performance of this Agreement or any related contract or subcontract. Except as otherwise directed by GRANTOR, GRANTEE shall furnish immediately to GRANTOR copies of all pertinent papers received by GRANTEE with respect to such action or claim. GRANTEE shall notify the GRANTOR immediately of any legal action filed against the GRANTEE or any subcontractor, or of any proceeding filed under the federal bankruptcy code. GRANTEE shall submit a copy of such notice to GRANTOR within fifteen (15) calendar days after receipt. No funds provided under this Agreement may be used in the payment of any costs incurred from violations or settlements of, or failure to comply with, federal and state regulations.

B. GRANTOR and GRANTEE acknowledge that GRANTOR is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et. seq., and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.

C. This Contract shall be governed by the laws of the State of Texas. Venue and jurisdiction arising under or in connection with this Contract shall lie exclusively in Bexar County, Texas.

## **SECTION 15. DEFAULT, TERMINATION AND RECAPTURE**

A. GRANTOR shall have the right to terminate this Agreement for non-compliance, in whole or in part, at any time before the date of termination should GRANTOR determine that GRANTEE has failed to comply with any material term of any agreement between GRANTEE and GRANTOR. GRANTOR will provide GRANTEE with written notification as to the nature of the non-compliance (the "Notice of Default"), and provide GRANTEE a sixty (60) day period from the date of the GRANTOR's written notification to cure (the "Cure Period"), if possible, any issue of non-compliance under this Agreement. Should GRANTEE fail to cure any default within this period of time, the GRANTOR may, upon issuance to GRANTEE of a written Notice of Termination, terminate this Agreement in whole or in part. Such notification shall include: (1) the reasons for such termination; (2) the effective date of such termination; and, (3) in the case of partial termination, the portion of the Agreement to be terminated.

B. In the case of default for causes beyond GRANTEE's reasonable control as defined in Section 25 of this Agreement, which cannot with due diligence be cured within such sixty (60) day period, the GRANTOR may, in its sole discretion, extend the Cure Period provided that GRANTEE shall: (1) immediately upon receipt of Notice of Default advise GRANTOR of GRANTEE's intention to institute all steps necessary to cure such default and the associated time frame (the "Cure Plan"); and (2) institute and thereafter prosecute to completion, with reasonable and diligent dispatch, the Cure Plan. Should GRANTEE's Cure Plan fail to cure the default or should GRANTEE fail to institute the Cure Plan, then this Agreement shall be terminated without further action by GRANTOR.

C. Termination in the Event of Failure to Comply with Terms. If GRANTEE fails to comply with any of the material terms of this Agreement, or if any of the GRANTEE principals fail to comply with any of the material terms of any other agreement with GRANTOR, for any reason, then GRANTOR shall have the right to terminate this Agreement. Upon said termination, GRANTEE shall immediately vacate the Project Site and GRANTOR, in accordance with the rights and remedies of the Loan Agreement and Purchase and Assignment Agreement, shall commence all necessary proceedings to foreclose and take possession of the Project Site.

D. Upon receipt of Notice of Termination for non-compliance under this Section 15, GRANTEE shall, to the extent possible under its other contractual obligations, cancel, withdraw or otherwise terminate any outstanding orders or subcontracts related to the performance of this Agreement or the part of this Agreement to be terminated and shall cease to incur costs thereunder. Any other work or materials obtained with funds disbursed under or as part of this Agreement shall be terminated and GRANTOR will not be liable to GRANTEE or to GRANTEE's creditors for any costs incurred subsequent to receipt of a Notice to Terminate.

E. Notwithstanding any exercise by GRANTOR of its right of termination pursuant to this Section 15, GRANTEE shall not be relieved of any liability to GRANTOR for damages due to GRANTOR by virtue of any breach by GRANTEE of any agreement with GRANTOR.

## **SECTION 16. SPECIAL CONDITIONS AND TERMS**

GRANTEE understands and agrees that if GRANTEE is a "business" and if the GRANTOR's contribution under this Agreement is a "public subsidy" as that term is defined in Chapter 2264 of Subtitle F, Title 10, Tex. Govt. Code, as amended, then in the event of GRANTEE'S conviction of knowingly employing an undocumented worker, GRANTEE shall return all funds that GRANTEE has received from GRANTOR through this Agreement, with repayment required within SIX (6) months of final conviction. Interest shall accrue at the rate of .5% per month until the time of such repayment from the date of final conviction.

## **SECTION 17. SUBCONTRACTS**

A. GRANTEE shall ensure that the performance rendered under all subcontracts complies with all terms and provisions of this Agreement as if such performance were rendered by GRANTEE. GRANTEE shall bear full responsibility for performance by all subcontractors.

B. GRANTEE, in subcontracting any of the performances hereunder, expressly understands that in entering into such subcontracts, GRANTOR is in no way liable to GRANTEE's subcontractors.

C. GRANTEE assures and shall obtain assurances from all of its subcontractors where applicable, that no person shall, on the grounds of race, creed, color, disability, national origin, sex or religion, be excluded from, be denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part under this Agreement.

## **SECTION 18. INSURANCE**

Unless GRANTEE has secured and filed all necessary insurance waivers with the State of Texas that apply to any workers who perform services under funding provided by this Agreement, then the following shall apply:

A. GRANTEE will require that the Insurance requirements contained in this Section be included in all its contracts or agreements for Public Improvements where GRANTEE is seeking grant funds under this Agreement, unless specifically exempted in writing by the GRANTOR.

B. Prior to the commencement of any work under this Agreement, GRANTEE shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the GRANTOR's Center City Development Office (CCDO), which shall be clearly labeled "Residential 380 Program" in the description of operations block of the certificate. The original certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The GRANTOR will not accept a Memorandum of Insurance or Binders as proof of insurance. The original certificate(s)

or form must have the agent’s original signature, including the signer’s company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer’s authorized representative to the GRANTOR at the address listed in Paragraph E of this Section 18. The GRANTOR shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the GRANTOR’s CCDO. No officer or employee, other than the GRANTOR’s Risk Manager, shall have authority to waive this requirement.

C. The GRANTOR reserves the right to review the Insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by the GRANTOR’s Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will the GRANTOR allow modification whereupon the GRANTOR may incur increased risk.

D. The GRANTEE’s financial integrity is of interest to the GRANTOR, therefore, subject to the GRANTEE’s right to maintain reasonable deductibles in such amounts as are approved by the GRANTOR, the GRANTEE or the GRANTEE’s contractor, shall obtain and maintain in full force and effect during the construction of all Public Improvements undertaken by the GRANTEE or GRANTEE’s contractor and required by this Agreement, at the GRANTEE’s or the GRANTEE’s contractor’s sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best’s rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

| TYPE   | AMOUNTS   |
|--|---|
|  |   |
| 1. Workers' Compensation   | Statutory   |
| 2. Employers' Liability  | \$1,000,000/\$1,000,000/\$1,000,000   |
| 3. Broad Form Commercial General Liability Insurance to include coverage for the following:<br>a. Premises operations<br>b. Independent Contractors<br>c. Products/completed operations<br>d. Personal Injury<br>e. Contractual Liability<br>f. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability (if applicable). | For Bodily Injury and Property Damage of \$1,000,000 per occurrence;<br>\$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage |
| 4. Business Automobile Liability<br>a. Owned/leased vehicles<br>b. Non-owned vehicles<br>c. Hired Vehicles   | Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence   |

E. The GRANTOR shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the GRANTOR and may require the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties thereto or the underwriter of any such policies). GRANTEE and/or GRANTEE’s contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to the GRANTOR at the addresses provided below within ten (10) days of the requested change. GRANTEE and/or GRANTEE’s contractor shall pay any costs incurred resulting from said changes:

City of San Antonio

Center City Development Office  
P.O. Box 839966  
San Antonio, Texas 78283-3966

F. GRANTEE agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- a. Name the GRANTOR (both City of San Antonio and OUR SA) and its respective officers, officials, employees, volunteers and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed pursuant to this Agreement, with the exception of the workers' compensation and professional liability policies;
- b. Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the GRANTOR; and
- d. Provide thirty (30) calendar days advance written notice directly to GRANTOR at the same address listed in Paragraph E. of this Section regarding any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

G. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, GRANTEE and/or GRANTEE's contractor shall provide a replacement Certificate of Insurance and applicable endorsements to the GRANTOR at the address listed in Paragraph E. of this Section 18. GRANTOR shall have the option to suspend GRANTEE's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

H. In addition to any other remedies the GRANTOR may have upon GRANTEE's and/or GRANTEE's contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the GRANTOR shall have the right to order GRANTEE to stop work hereunder, and/or withhold any payment(s) which become due to the GRANTEE hereunder until GRANTEE and/or GRANTEE's contractor demonstrates compliance with the requirements hereof.

I. Nothing herein contained shall be construed as limiting in any way the extent to which GRANTEE may be held responsible for payments of damages to persons or property resulting from GRANTEE's or its contractors' performance of the work associated with this Agreement.

J. It is agreed that GRANTEE's and/or GRANTEE's contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations associated with this Agreement.

K. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

L. GRANTEE agrees to obtain all insurance coverages with minimum limits of not less than those limits delineated in Paragraph D. of this Section 18 from each contractor to GRANTEE and provide a Certificate of Insurance and Endorsement that names the GRANTEE and the GRANTOR as an additional insured.

## **SECTION 19. INDEMNIFICATION**

The GRANTEE covenants and agrees that GRANTEE shall, and agrees to contractually require each of its contractors to, **FULLY INDEMNIFY and HOLD HARMLESS**, the GRANTOR (and the elected officials, employees, officers, directors, volunteers and representatives of the GRANTOR), 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, arising out of any act or omission of GRANTEE or any of GRANTEE's employees, agents, consultants, contractors, representatives, guests, or invitees and their respective officers, agents, employees, directors and representatives, including any damage to or loss of any property belonging to: (a) GRANTEE or GRANTEE's employees, agents, consultants, contractors, representatives, guests or invitees and their respective officers, agents, employees, directors and representatives; and (b) the GRANTOR and the elected officials, employees, officers, directors, volunteers and representatives of the GRANTOR.

The indemnity provided for in the foregoing paragraph shall not apply to any liability resulting from the sole negligence of GRANTOR, its officers or employees, in instances where such negligence causes personal injury, death, or property damage, except to the extent provided below.

**IN THE EVENT GRANTEE AND GRANTOR ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE GRANTOR UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS, FEDERAL OR INTERNATIONAL LAW.**

GRANTEE shall promptly advise GRANTOR in writing of any claim or demand against GRANTOR or GRANTEE known to GRANTEE related to or arising out of GRANTEE's or GRANTOR's activities under this Agreement. Further, GRANTEE shall see to the investigation and defense of any such claim or demand against GRANTEE or CITY at GRANTEE' sole cost until such time as GRANTOR is found to be negligent by a court of competent jurisdiction. GRANTOR shall have the right, at its option, to participate in such defense without relieving GRANTEE of any of its obligations under this paragraph.

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.

## **SECTION 20. DEBARMENT**

By signing this Agreement, GRANTEE certifies that it will not award any funds provided under this Agreement to any party which is debarred, suspended or otherwise excluded from or ineligible for participation in assistance programs.

## **SECTION 21. RIGHTS UPON DEFAULT**

It is expressly understood and agreed by the Parties hereto that any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under any other agreement between GRANTEE and the GRANTOR or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

## **SECTION 22. ASSIGNMENT**

GRANTEE covenants and agrees that during the term of this Agreement, it shall notify GRANTOR in writing at least thirty (30) calendar days prior to any sale or transfer of its business or Project and/or Project location. In the event of a sale or transfer, GRANTEE may assign its rights and obligations under this Agreement to an assignee only with the consent of GRANTOR. Any purchaser or transferee requesting an assignment of this Agreement shall be bound by the terms hereof. Failure to provide the required notification of sale or transfer may subject GRANTEE to the termination provisions in Section 15 of this Agreement.

## **SECTION 23. CHANGES AND AMENDMENTS**

A. Except as specifically provided in Section 23(C) of this Agreement, any alterations, additions or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both Parties to this Agreement upon GRANTOR approval and authorization of GRANTEE.

B. It is understood and agreed by the Parties hereto that performances under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth this date, and the terms and conditions of this Agreement.

C. Any alterations, additions, or deletions to the terms of this Agreement required by changes in state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

## **SECTION 24. ORAL AND WRITTEN AGREEMENTS**

All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

## **SECTION 25. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)**

GRANTOR may grant relief from performance of the Agreement if the GRANTEE is prevented from compliance and performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributed to the fault or negligence of the GRANTEE, such relief not to be unreasonably withheld by GRANTOR. The burden of proof for the need for such relief shall rest upon the GRANTEE to the satisfaction of GRANTOR. To obtain release based upon *force majeure*, the GRANTEE must file a written request with the GRANTOR, subject to GRANTOR approval.

## **SECTION 26. SURVIVAL OF CERTAIN AGREEMENT PROVISIONS**

The following provisions of the Agreement, concerning GRANTEE's obligations, shall survive the termination of the Agreement after completion of the Project Term:

A. Section 7 (Records Retention and Accessibility of Records)

## **SECTION 27. INCORPORATION OF ATTACHMENTS**

Each of the Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the parties.

Exhibit A: Project Site Map

Exhibit B: Building Standards

Exhibit C: Agreement with San Antonio Housing Trust

**SECTION 28. ENTIRE AGREEMENT**

This Agreement, together with its authorizing ordinance and its attachments constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same is in writing, dated subsequent to the date hereto and duly executed by the parties.

**WITNESS OUR HANDS, EFFECTIVE as of \_\_\_\_\_, 2012:**

Accepted and executed in three duplicate originals on behalf of the GRANTOR, City of San Antonio, pursuant to Ordinance Number 2012-06-07-\_\_\_\_\_, dated June 7, 2012, and GRANTEE, San Antonio Alternative Housing Corporation, pursuant to the authority of its Executive Director.

**CITY OF SAN ANTONIO,**  
a Texas Municipal Corporation

**SAN ANTONIO ALTERNATIVE HOUSING CORPORATION**  
a non-profit corporation

\_\_\_\_\_  
Pat DiGiovanni  
DEPUTY CITY MANAGER

\_\_\_\_\_  
Name:  
Title:

ATTEST:

ATTEST (if required):

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**OUR SA** (for the limited purpose of approving funding)  
an Urban Renewal Agency of the City of San Antonio

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Name:

Title:

**EXHIBIT A: PROJECT SITE MAP**

## **EXHIBIT B: BUILDING STANDARDS**

These design standards are intended to supplement current Unified Development Code (UDC) requirements. Their purpose is to ensure new infill homes are of similar design character within the targeted ICRIP neighborhoods. In the event of a conflict between the standards stated in this document and the UDC, the UDC will prevail.

Unless otherwise directed, plans must be submitted to the Infill Housing Committee (IHC) composed of staff members from Department of Planning and Community Development and the Center City Development Office prior to submittal to Development Service Department. All homes shall comply with all Codes per COSA Development Services Department and other reviewing agencies. Any deviation from the standards listed below must be approved in writing by the IHC.

### **GENERAL REQUIREMENTS**

- **Home**
  - Minimum house size shall be 1050 square feet for three bedrooms homes, and 900 square feet for 2 bedroom homes.
  - Minimum 1 bath.
  - Central heating and air conditioning are required.
  - Ceiling fans with lights are required in major living areas and all bedrooms.
  - All homes shall meet the Universal Design Guidelines Ordinance #95641
  - All homes shall meet Build San Antonio Green Level 1 requirements.
  - All homes shall be equipped with a GE, Rheem or equal “hybrid” water heater/heat pump.
  - All foundations to be engineered.

### **SITE PLANNING**

- **Driveways**
  - Maximum width shall not exceed 12 feet, and be constructed of concrete.
  - Concrete strip ribbons are not allowed.
  - Driveways must not circle or cross in front of the primary house.
- **Garage**
  - A one car garage is required on all R4 and above zoned lots.
  - If a garage is not provided, a minimum of 50 square foot storage on a concrete slab separate from the primary structure is required.
  - Storage must be constructed and clad in a similar material as the primary house.
  - Minimum garage dimensions to be 12’ width by 20’ in depth.
  - Garage must be placed a minimum of 5 feet behind the front façade of the primary house.
  - Garage must be constructed and clad in a similar material as the primary house.
- **Carports**
  - Carports are not allowed.
- **Entry Sidewalk**
  - Entry walkway must connect the sidewalk to the front entrance of the primary house.
  - The entry walkway must be a minimum of 36 inches in width and constructed of concrete.

- **Fencing**
  - All fencing shall be constructed of wood, chain link, or decorative wrought iron.
  - Fencing must be installed on the rear and side lot property lines no further than the front facade of the primary house.
  - Side lot fencing which connects the street elevation of the primary house to the side property line to match adjoining property fencing if existing.
  - Maximum fence height per UDC Code.
  
- **Landscaping**
  - Minimum of solid sod must be installed in the front yard from street curb to the front façade of the primary house.
  - Minimum of 10 feet of solid sod must be installed around the perimeter of the house slab and attached patio for erosion control.
  - Solid sod must be extended to the side lot property line if less than 10 feet.
  - Minimum of two trees with a minimum of 2” caliper.
  - All plants and trees must be selected from the current City approved plant list.

## ARCHITECTURAL ELEMENTS

- **Patio**
  - Minimum of 10 feet by 10 feet concrete patio shall be constructed.
  
- **Front Porches**
  - Minimum of 6 feet in depth by 8 feet in width.
  - Front porches must be protected by roof from primary house.
  - Porch railing should be semi-transparent.
  
- **Windows**
  - Minimum single hung (1:1) windows shall meet current IECC standards.
  
- **Exterior Cladding**
  - All exterior cladding must be fiber cement, masonry or other material(s) which are similar in durability. (Hardy plank, LP Smart Siding, Brick, Stone, or Stucco)
  - Metal, exposed CMU or T-111 are not allowed.
  
- **Roofs**
  - Maximum roof slope not to exceed 6:12.
  - Minimum roof material to be 25 year - 3 tabs composite or metal V-crimp.
  - Gutters and downspouts must be installed where appropriate especially at entry and exit points.

**EXHIBIT C: AGREEMENT WITH SAN ANTONIO HOUSING TRUST**

**FUND DISBURSEMENT AGREEMENT**

This Fund Disbursement Agreement (hereafter referred to as this "Agreement") is made and entered into by the **City of San Antonio**, a municipal corporation of the State of Texas, hereafter referred to as "CITY", by and through its City Manager or her designee and the San Antonio Housing Trust ("SAHT") a \_\_\_\_\_, acting by and through its president.

**RECITALS**

**WHEREAS**, the CITY has entered into a Chapter 380 Economic Development Program Grant Agreement of the City of San Antonio (the "Grant Agreements") with San Antonio Alternative Housing Corporation, attached hereto as Exhibit A and made a part of this Agreement; and

**WHEREAS**, the Grant Agreement provides for the disbursement of certain funds under certain obligations and conditions; and

**WHEREAS**, through this Agreement, the CITY desires to utilize SAHT to undertake the responsibility and obligation of disbursing funds in accordance with the Grant Agreement; **NOW THEREFORE**:

CITY and SAHT, by the execution of this Agreement, are bound to the mutual obligations set out herein and to the performance and accomplishment of the tasks hereafter described.

**1. Depositing of Funds**

CITY may deposit certain funds with SAHT to be disbursed by SAHT in accordance with the Grant Agreements. Such funds shall be used exclusively in the manner and for the purposes further described below.

**2. Name and Future Disbursements:**

Any deposits by CITY to SAHT shall be held by SAHT in a separate, individual fund that shall be named, the "**COSA RESIDENTIAL 380 FUND**" (the "Fund"). The Fund shall be comprised of the initial disbursement and any future disbursements made to the Fund by CITY. SAHT shall have legal control over the deposits but shall have the duty to disburse funds in accordance with the Loan and Grant Agreements.

**3. Purpose:**

Any and all funds deposited by the CITY into the Fund shall be used exclusively by SAHT to meet the funding obligations as set-out in the Grant Agreements and shall only be disbursed to those authorized to receive funds under the Grant Agreements. No disbursements shall be made prior to SAHT having received a written authorization to disburse funds by the CITY.

**4. RESERVED.**

**5. Disbursement Schedule:**

Disbursements shall be made in accordance with the terms and conditions of the Grant Agreement.

**6. Management Fee:**

The Fund will be charged as follows:

(a) Annual Management Fee:

There will be no management fees charged on the Fund.

**7. Investments:**

SAHT is not authorized to invest or leverage the Fund for any purpose.

**8. Miscellaneous:**

SAHT shall insure and protect the Fund as required by all applicable laws of the State of Texas. SAHT shall protect and maintain all documents pertaining to the Fund, including disbursements and authorizations for a period of four (4) years.

**9. Receipt and Acceptance:**

By signing below, SAHT accepts the duties imposed upon it by this Agreement and the Grant Agreement.

**SAN ANTONIO HOUSING TRUST**

A \_\_\_\_\_

By: \_\_\_\_\_  
President

**ACKNOWLEDGED BY THE CITY OF SAN ANTONIO:**

\_\_\_\_\_  
Name:  
Title: