

AN ORDINANCE 2011-06-23-0584

AUTHORIZING THE EXECUTION OF A CONTRACT WITH MERCED HOUSING TEXAS AND THE SAN ANTONIO CONSERVATION SOCIETY IN AN AMOUNT NOT TO EXCEED \$250,000.00 IN CONNECTION WITH THE CITY-WIDE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) HISTORIC PRESERVATION - ACQUISITION, REHABILITATION AND RESALE PROGRAM; AND PROVIDING FOR PAYMENT.

* * * * *

WHEREAS, the City Council has approved the use of 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 “the Community Development Act”) for utilization in connection with its Community Development Block Grant (CDBG) 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 “Historic Preservation – Acquisition, Rehabilitation and Resale” (the “Project”); and

WHEREAS, it is the City Council’s intention to authorize the execution of a contract with Merced Housing Texas and the San Antonio Conservation Society to implement and manage said Project; **NOW THEREFORE:**

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

SECTION 1. The City Manager or, in her stead, a Deputy City Manager, an Assistant City Manager, an Assistant to the City Manager, or the Director of the Planning and Community Development Department or his designee is hereby authorized to execute a contract with Merced Housing Texas and the San Antonio Conservation Society in an amount not to exceed \$250,000.00 in connection with the Historic Preservation – Acquisition, Rehabilitation and Resale Program (the “Project”). A template of said contract, in substantially final form, is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. The City Manager or her designee, or the Director of the Planning and Community Development Department or his designee is further authorized to execute any and all necessary documents to effectuate said agreements, execute any extensions, or terminations thereof.

SECTION 3. Fund Number 28034000 entitled “CDBG 34TH Year” and Internal Order Number 131000001867, are hereby designated for use in the accounting for the fiscal transaction in the acceptance of this bid.

SECTION 4. The sum of \$250,000.00 is hereby appropriated in the above designated fund and will be disbursed from GL 5202025 "Other Contractual Services. Payment is authorized to Merced Housing Texas and should be encumbered with a purchase order.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer, City of San Antonio. The Chief Financial Officer may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation 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.

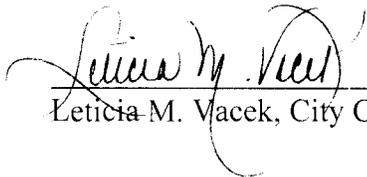
SECTION 6. This Ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 23rd day of June, 2011.



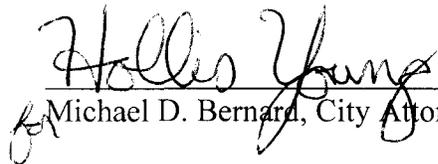
M A Y O R
Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

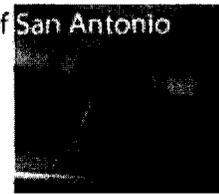


for Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 48

Name:	48						
Date:	06/23/2011						
Time:	10:27:11 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a contract with Merced Housing Texas and the San Antonio Conservation Society for the Historic Preservation Acquisition/Rehabilitation/Resale Program. [T.C. Broadnax, Assistant City Manager; Shanon Shea Peterson, Historic Preservation Officer, Office of Historic Preservation]						
Result:	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			x	
Jennifer V. Ramos	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				x
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

CONTRACT

**PROJECT NAME: HISTORIC PRESERVATION – ACQUISITION/
REHABILITATION/RESALE**

**PROJECT NO.: 28-R1003181867
CFDA 14.253**

**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 Officer of the Office of Historic Preservation pursuant to Ordinance No. 2010-03-18-0203 dated March 18, 2010, and SAN ANTONIO CONSERVATION SOCIETY AND MERCED HOUSING TEXAS (hereinafter referred to as “SUB-GRANTEES”), a Texas non-profit organization, acting by and through its duly authorized Executive Director and President.

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 “the Community Development Act”) for utilization in connection with its Community Development Block Grant (CDBG) 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 “Historic Preservation – Acquisition/Rehabilitation/Resale” (hereinafter referred to as “Project”); and

WHEREAS, the City Council has designated the Office of Historic Preservation as the CITY’s representative responsible for the administration and monitoring of the Project and all matters pertaining thereto; and

WHEREAS, CITY wishes to engage SUB-GRANTEES 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) September 30, 2011, or (b) Project completion.

II. RESPONSIBILITIES

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

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

2.3 City's Office of Historic Preservation's Officer or her designate shall be CITY's representative responsible for the administration of this CONTRACT.

2.4 Communications between CITY and SUB-GRANTEES 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-GRANTEES 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 Community Development Act and in accordance with CITY's HUD-approved Grant Application and with other specific assurances made and executed by CITY. SUB-GRANTEES, therefore, assures and certifies that it will comply with the requirements of the Community Development Act and with all regulations promulgated thereunder as codified as Title 24 of the Code of Federal Regulations. SUB-GRANTEES understands, however, that the Community Development Act in no way is meant to constitute a complete compilation of all duties imposed upon SUB-GRANTEES by law or administrative ruling, or to narrow the standards which SUB-GRANTEES must follow. Accordingly, SUB-GRANTEES understands that if the regulations and issuances promulgated pursuant to the Community Development 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-GRANTEES understands that summaries of certain compliance requirements mandated by applicable laws or regulations are contained in CITY's Federal Compliance Manual, and any amendments thereof, a copy of which is attached hereto and incorporated herein for all purposes as Attachment "III B", and that SUB-GRANTEES must at all times remain in compliance therewith. SUB-GRANTEES 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-GRANTEES by law or administrative ruling, or to narrow the standards which SUB-GRANTEES must follow.

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

IV. LEGAL AUTHORITY

4.1 SUB-GRANTEES 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-GRANTEES represents, warrants, assures, and guarantees that he or she has full legal authority to execute this CONTRACT on behalf of SUB-GRANTEES and to bind SUB-GRANTEES 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-GRANTEES or the person signing on behalf of SUB-GRANTEES, 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-GRANTEES 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-GRANTEES agree 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-GRANTEES had this CONTRACT not been executed.

VI. PERFORMANCE BY SUB-GRANTEES

6.1 SUB-GRANTEES, 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 Attachment "I," to CITY's satisfaction, utilizing only those funds remitted to SUB-

GRANTEES by CITY under the terms of this CONTRACT. The funds available for utilization hereunder shall be as described in Attachment "II" also attached hereto, and incorporated herein for all purposes.

6.2 Modifications or alterations to Attachment "I" may be made only pursuant to the prior written approval of CITY's Office of Historic Preservation's Officer or her designate.

VII. REIMBURSEMENT BY CITY

7.1 In consideration of SUB-GRANTEES' performance, in a satisfactory and efficient manner as determined by CITY, of all services and activities set forth in this CONTRACT, CITY agree to reimburse SUB-GRANTEES for all eligible expenses incurred hereunder. Such reimbursement, however, shall be in accordance with the Project Budget set forth in Attachment "II" and shall be subject to any and all limitations and provisions set forth in this Article and in Article IX 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 Two Hundred Fifty and No/100 Dollars (\$250,000.00).

7.3 It is expressly understood and agreed by CITY and SUB-GRANTEES that CITY's obligations under this Article are contingent upon the actual receipt of adequate CDBG 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-GRANTEES 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-GRANTEES 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-GRANTEES 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 Attachments attached hereto;
- (D) Has not been billed to CITY within thirty (30) calendar days following billing to SUB-GRANTEES, or termination of this CONTRACT, whichever is earlier; or

- (E) Is not an allowable cost as defined by Article X of this CONTRACT or by the Project Budget (Attachment "II").

7.6 CITY shall not be liable for any SUB-GRANTEES cost, or portion thereof, which is or was incurred in connection with an activity of SUB-GRANTEES 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-GRANTEES furnish data concerning an activity prior to proceeding further therewith and SUB-GRANTEES 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-GRANTEES, for payment of any monies or provision of any goods or services.

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

8.1 SUB-GRANTEES understand and agree 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 therefrom, if applicable. SUB-GRANTEES further agree 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-GRANTEES' 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 principles.

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

- (A) SUB-GRANTEES shall deliver a Billing Package, a copy of which is attached hereto and incorporated herein for all purposes as Attachment "VI," to CITY's Office of Historic Preservation, in accordance with one of the following schedules

as determined and agreed upon by both parties at the time of execution of this CONTRACT:

1. Monthly billing, with the prior month's Billing Package received by CITY's Office of Historic Preservation by no later than the fifth (5th) day of each month;
 2. Semi-monthly billing, with the prior month's Billing Packages received by CITY's Office of Historic Preservation by no later than the fifth (5th) and twentieth (20th) day of each month, respectively; or
 3. Weekly billing, with the prior week's Billing Package received by CITY's Office of Historic Preservation by no later than Wednesday of each week.
- (B) SUB-GRANTEES 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-GRANTEES' Billing Packages, CITY shall pay to SUB-GRANTEES 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-GRANTEES, however, shall justify delay of payment by CITY.
- (D) SUB-GRANTEES' financial management system shall provide for an adequate procedure to minimize the time elapsed between CITY's payment to SUB-GRANTEES and SUB-GRANTEES' disbursement of funds.

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

- (A) Have resulted in overpayment to SUB-GRANTEES;
- (B) Have not been spent by SUB-GRANTEES strictly in accordance with the terms of this CONTRACT; and/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-GRANTEES 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, 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-GRANTEES to meet the level of performance specified in Attachment "I," or any amendment thereto, is less than that amount provided to SUB-GRANTEES 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-GRANTEES' last invoice requesting reimbursement of funds pursuant to this CONTRACT, shall be submitted by SUB-GRANTEES 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 completed 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-GRANTEES' operations hereunder.

9.2 Approval of SUB-GRANTEES' budget as set forth in Attachment "II", however, shall not constitute prior written approval of the items included therein. For example, CITY's 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 Attachment "II";
- (B) CITY shall not be obligated to any third party sub-contracts of SUB-GRANTEES, 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 Attachment "I" are conducted;

- (E) Costs or fees associated with alterations, deletions or additions to the Personnel Schedule incorporated within Attachment "II";
- (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-GRANTEES' 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, equipment, 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-GRANTEES realized from activities resulting from this CONTRACT or from SUB-GRANTEES' 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-GRANTEES, provided as a result of this CONTRACT, and payments from clients or third parties for services rendered by SUB-GRANTEES pursuant to this CONTRACT.

10.2 On a monthly basis, SUB-GRANTEES 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-GRANTEES 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-GRANTEES shall include this Article, in its entirety, in all of its subcontracts involving income-producing services or activities.

10.5 It shall be SUB-GRANTEES' 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-GRANTEES 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 Office of Historic Preservation. 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-GRANTEES of non-expendable property, written notification thereof shall be provided by SUB-GRANTEES 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-GRANTEES shall at all times maintain adequate records thereon and control thereof; SUB-GRANTEES shall further perform annual physical inventories of the property in accordance with Attachment "VI" attached hereto and incorporated herein for all purposes.

11.4 SUB-GRANTEES shall be fully and solely responsible for safeguarding and maintaining all property referred to in this Article. Furthermore, SUB-GRANTEES 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-GRANTEES 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-GRANTEES to the local Police Department. SUB-GRANTEES shall make such reports immediately and shall deliver a copy of the official written police report to CITY's Office of Historic Preservation immediately. Prior to such delivery, SUB-GRANTEES shall ascertain that said report includes, at a minimum, the following:

- (A) An accurate and reasonably 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-GRANTEES, a summary of said report shall be provided and delivered by SUB-GRANTEES to CITY's Office of Historic Preservation, 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-GRANTEES further represents and warrants that:

- (A) All information, data or reports heretofore or hereafter provided to CITY are, 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 reflective of the financial condition of SUB-GRANTEES 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-GRANTEES;
- (C) No litigation or proceedings are presently pending or threatened against SUB-GRANTEES, and that SUB-GRANTEES has no information, or cause to believe, that litigation or proceedings, whether judicial or administrative, against SUB-GRANTEES is imminent;
- (D) None of the provisions contained herein contravene or in any way conflict with the authority under which SUB-GRANTEES is doing business or with the provisions of any existing indenture or agreement of SUB-GRANTEES;
- (E) SUB-GRANTEES 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-GRANTEES 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-GRANTEES to CITY.

12.2 During the period of time that payment may be made hereunder and so long as any payments remain unliquidated, SUB-GRANTEES covenants that it shall not, without the prior written consent of CITY's Office of Historic Preservation's Officer or her designate:

- (A) Mortgage, pledge, or otherwise encumber or cause to be encumbered any of the assets of SUB-GRANTEES 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-GRANTEES 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-GRANTEES submits a new request for payment in accordance with the terms, provisions and requirements of this CONTRACT.

XIII. MAINTENANCE OF RECORDS

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

- (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-GRANTEES' record system shall contain sufficient documentation to provide in detail full support and justification for each expenditure.

13.2 SUB-GRANTEES agree 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-GRANTEES agree 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-GRANTEES 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-GRANTEES 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-GRANTEES' records shall include, but shall not be limited to, the following: payroll, personnel and employment records, contracts, and invoices.

XV. PERFORMANCE RECORDS AND REPORTS

15.1 As often and in such form as CITY may require, SUB-GRANTEES 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-GRANTEES no later than the tenth day of the following month. Records and reports shall be in accordance with the formats set forth in Attachment "V" attached hereto and incorporated herein for all purposes.

15.3 As of the commencement date of this CONTRACT, SUB-GRANTEES agree 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-GRANTEES' performance pursuant to the terms of this CONTRACT.

16.2 SUB-GRANTEES agree that CITY may carry out monitoring and evaluation activities so as to ensure SUB-GRANTEES' compliance with this CONTRACT, with the Community Development Act, with the Work Statement and the Performance Goals, Objectives and Indicators set forth in Attachment "I", 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-GRANTEES agree 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-GRANTEES agree that it will cooperate with CITY in such a way so as not to obstruct or delay CITY in its monitoring of SUB-GRANTEES' 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-GRANTEES with a written report of monitoring findings.

16.6 Copies of any fiscal, management, or audit reports by any of SUB-GRANTEES' funding or regulatory bodies shall be submitted to CITY within five (5) working days of receipt thereof by SUB-GRANTEES.

XVII. INSURANCE

17.1 SUB-GRANTEES agree to comply with the following insurance provisions:

- (A) Prior to the commencement of any work under this CONTRACT, SUB-GRANTEES shall furnish copies of all required endorsements and a completed Certificate(s) of Insurance to the CITY's Office of Historic Preservation, which shall be clearly labeled "Historic Preservation- Acquisition/Rehabilitation/Resale" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's original signature, including the signer's phone number, and be mailed with copies of all applicable endorsements, directly from the insurer's authorized representative to the CITY. The CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by the CITY's Office of Historic Preservation. No officer or employee, other than the CITY's Risk Manager, shall have authority to waive this requirement.

- (B) The CITY reserves the right to review the insurance requirements of this Article during the effective period of this CONTRACT and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT. In no instance will CITY allow modification whereupon CITY may incur increased risk.

- (C) SUB-GRANTEES' financial integrity is of interest to the CITY; therefore, subject to SUB-GRANTEES' right to maintain reasonable deductibles in such amounts as are approved by the CITY, SUB-GRANTEES shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at SUB-GRANTEES' sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated by companies authorized 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 amount listed below:

<u>POLICY TYPE</u>	<u>AMOUNTS</u>
Broad Form Commercial General Liability Insurance to include coverage for the following:	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent

a. Premises Operations b. Independent Contractors c. Products/Completed Operations d. Personal Injury e. Contractual Liability	in Umbrella or Excess Liability Coverage
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(D) As they apply to the limits required by the City, the CITY shall be entitled upon request and without expense, to receive copies of the policies, declaration page, and all endorsements thereto, 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 hereto or the underwriter of any such policies). SUB-GRANTEES shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to CITY at the address provided below within ten (10) days of the requested change. MERCED HOUSING shall pay any costs incurred resulting from said changes.

City of San Antonio
Attn: Office of Historic Preservation
P.O. Box 839966
San Antonio, Texas 78283-3966

(E) SUB-GRANTEES agree that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the CITY and its 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 under contract with the CITY, with the exception of the workers' compensation and professional liability policies;
- 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;
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the CITY; and
- Provide advance written notice directly to CITY of 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.

- (F) Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, SUB-GRANTEES shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend SUB-GRANTEES' performance should there be a lapse in coverage at any time during this CONTRACT. Failure to provide and to maintain the required insurance shall constitute a material breach of this CONTRACT.
- (G) In addition to any other remedies the CITY may have upon SUB-GRANTEES' failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the CITY shall have the right to order SUB-GRANTEES to stop work hereunder, and/or withhold any payment(s) which become due to SUB-GRANTEES hereunder until SUB-GRANTEES demonstrates compliance with the requirements hereof.
- (H) Nothing herein contained shall be construed as limiting in any way the extent to which SUB-GRANTEES may be held responsible for payments of damages to persons or property resulting from SUB-GRANTEES' or its subcontractors' performance of the work covered under this CONTRACT.
- (I) It is agreed that SUB-GRANTEES' 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 under this CONTRACT.
- (J) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this CONTRACT and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.
- (K) SUB-GRANTEES and any subcontractors are responsible for all damage to their own equipment and/or property.

XIX. INDEMNIFICATION

18.1 SUB-GRANTEES covenants and agree 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-GRANTEES' activities under this CONTRACT, including any acts or omissions of SUB-GRANTEES, any agent, officer, director, representative, employee, contractor or subcontractor of SUB-GRANTEES, 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. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF THE CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND/OR REPRESENTATIVES OF CITY, UNDER THIS CONTRACT. 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-GRANTEES shall promptly advise the CITY in writing of any claim or demand against the CITY or SUB-GRANTEES known to SUB-GRANTEES related to or arising out of SUB-GRANTEES' activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at SUB-GRANTEES' cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving SUB-GRANTEES of any of its obligations under this paragraph.

18.2 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-GRANTEES 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-GRANTEES further AGREE 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.

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

XIX. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

19.1 In the event that SUB-GRANTEES receives funding hereunder in excess of \$10,000.00, SUB-GRANTEES 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.

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

19.3 So that CITY can investigate compliance with local, state, and federal equal employment opportunity and affirmative action rules, regulations, and laws, SUB-GRANTEES 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.

19.4 In the event of non-compliance by SUB-GRANTEES (or SUB-GRANTEES' 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-GRANTEES may be barred from further contracts with CITY.

XX. NONDISCRIMINATION

20.1 SUB-GRANTEES covenants that it, or its 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 at, in or on which the Project described herein is to be performed, which said discrimination SUB-GRANTEES acknowledges is prohibited.

XXI. PERSONNEL POLICIES, PROCEDURES AND PRACTICES

21.1 Personnel policies, procedures, and practices shall be established by SUB-GRANTEES and shall be available for examination. Such policies, procedures and practices, however, shall:

- (A) Be in writing, approved by the governing body of SUB-GRANTEES and submitted to CITY;
- (B) Be no more liberal than CITY's personnel policies, procedures, and practices including, but not limited to, those related to employment, salary and wage rates, working hours and holidays, fringe benefits, vacation and sick leave privileges, and travel; however a variance may be permitted upon SUB-GRANTEES' written request and CITY's approval and solely within the CITY's discretion which shall be decided on a case-by-case basis; and
- (C) Indicate that upon termination, for whatever reason, CITY shall not be liable nor responsible to SUB-GRANTEES for reimbursement of accrued annual leave and/or personal leave exceeding a total of two weeks [ten (10) working days] per employee. To this effect, SUB-GRANTEES shall inform its employees of this restriction and shall encourage employees to utilize leave benefits during the fiscal year for which the benefits are provided pursuant to the terms, provisions and requirements of this CONTRACT.

21.2 SUB-GRANTEES represents and warrants that it has complied with, and will continue to comply with, throughout the course of this solicitation and contract award process, the CITY's Commercial Nondiscrimination Policy, as described under Section III. C. 1. of Ordinance No. 2010-06-17-0531, passed and approved on June 17, 2010 (hereinafter referred to as "CITY's SBEDA Ordinance"). As part of such compliance, SUB-GRANTEES shall not discriminate on

the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. SUB-GRANTEES shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the CITY's Relevant Marketplace. The CITY's Relevant Marketplace is defined in the CITY's SBEDA Ordinance as the geographic market area affecting the S/M/WBE Program as determined for purposes of collecting data for the MGT Studies (disparity and availability study done by MGT of America). The San Antonio Metropolitan Statistical Area (SAMSA), currently including the counties of Atascosa, Bandera, Bexar, Comal, Guadalupe, Kendall, Medina, and Wilson, determines eligibility for participation under various programs established by the CITY's SBEDA Ordinance. SUB-GRANTEES understands and agree that a material violation of this clause shall be considered a material breach of this CONTRACT and may result in termination of this CONTRACT, disqualification of SUB-GRANTEES from participating in CITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. SUB-GRANTEES' certification of its compliance with this Commercial Nondiscrimination Policy as submitted to the CITY, pursuant to the solicitation for this CONTRACT, is hereby attached, and incorporated into the material terms of this CONTRACT. SUB-GRANTEES shall incorporate this clause into each of its subcontractor and supplier agreements entered into pursuant to this CONTRACT.

XXII. CONFLICT OF INTEREST

22.1 SUB-GRANTEES 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 Section 2-52 of 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 individual or entities is a 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 percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) 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.

22.2 Pursuant to the subsection above, SUB-GRANTEES 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-GRANTEES further warrants and certifies that it has tendered to the CITY a Discretionary Contracts Disclosure Statement in compliance with the CITY's Ethics Code.

XXIII. NEPOTISM

23.1 SUB-GRANTEES 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-GRANTEES or who is a member of SUB-GRANTEES' 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.

XXIV. POLITICAL ACTIVITY

24.1 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.

XXV. SECTARIAN ACTIVITY

25.1 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, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XXVI. DIRECTORS' MEETINGS

26.1 During the term of this CONTRACT, SUB-GRANTEES 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 an agenda and a brief description of the matters to be discussed thereat.

26.2 SUB-GRANTEES understand and agree that CITY representatives shall be afforded access to all of SUB-GRANTEES' Board of Directors' meetings.

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

XXVII. PUBLICITY

27.1 When appropriate, as determined by and upon written approval of CITY, SUB-GRANTEES shall publicize the activities conducted by SUB-GRANTEES 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-GRANTEES, however,

mention shall be made that the Project was made possible with HUD funding and CITY participation.

XXVIII. PUBLICATIONS

28.1 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.

28.2 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 Community Development Block Grant Program, with funding received from the United States Department of Housing and Urban Development.”

XXIX. RIGHTS TO PROPOSAL AND CONTRACTUAL MATERIAL

29.1 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-GRANTEES, shall, upon receipt, become the property of CITY.

XXX. FUNDING APPLICATIONS

30.1 SUB-GRANTEES agree to notify CITY each time SUB-GRANTEES 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-GRANTEES:

- (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-GRANTEES to CITY;
- (B) Upon award or notice of award, whichever is sooner, SUB-GRANTEES 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-GRANTEES 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-GRANTEES 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.

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

31.1 SUB-GRANTEES certifies, and the CITY relies thereon in execution of this CONTRACT, that neither SUB-GRANTEES 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.

31.2 "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).

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

31.4 SUB-GRANTEES' certification is a material representation of fact upon which the CITY has relied in entering into this CONTRACT. 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 XXXV relating to termination of the CONTRACT.

XXXII. SUB-CONTRACTING

32.1 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-GRANTEES.

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

32.3 Despite CITY approval of a sub-contract, CITY shall in no event be obligated to any third party, including any sub-contractor of SUB-GRANTEES, 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.

XXXIII. CHANGES AND AMENDMENTS

33.1 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-GRANTEES.

33.2 Whenever and as often as deemed necessary by CITY, CITY may request and require changes to SUB-GRANTEES' Work Statement (Attachment "I"). 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-GRANTEES as provided for pursuant to the terms, provisions and conditions of this CONTRACT.

33.3 Except pursuant to (a) prior submission by SUB-GRANTEES of detailed information regarding budget and Project revisions, and (b) prior written approval thereof by CITY, SUB-GRANTEES shall neither make transfers between or among line items approved within the budget categories set forth in the Budget Summary incorporated within Attachment "II," nor shall SUB-GRANTEES alter, add to or delete from the Budget Detail likewise incorporated within said Attachment "II." Instead, SUB-GRANTEES 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.

33.4 In the event that the level of funding for SUB-GRANTEES or for the Project described herein is altered, SUB-GRANTEES 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 Attachment "II."

33.5 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.

33.6 SUB-GRANTEES agree 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-GRANTEES to CITY at least thirty (30) calendar days in advance of the proposed change.

33.7 SUB-GRANTEES further agree 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.

XXXIV. SUSPENSION OF FUNDING

34.1 Upon determination by CITY of SUB-GRANTEES' 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-GRANTEES, withhold further payments to said SUB-GRANTEES. CITY's notice shall specifically set forth SUB-GRANTEES' alleged default or failure as well as the action required for cure thereof.

34.2 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-GRANTEES 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 XXXV hereunder may be effectuated.

XXXV. TERMINATION

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

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

- (A) Neglect or failure by SUB-GRANTEES 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-GRANTEES;
- (B) Termination or reduction of funding of the Project by HUD;
- (C) Failure by SUB-GRANTEES to cure, within the period prescribed pursuant to the above Article XXXIV of this CONTRACT, any default or deficiency basis for suspension of funding hereunder;
- (D) Finding by CITY that SUB-GRANTEES:
 - (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-GRANTEES to meet its financial obligations;

- (b) The appearance of items that reflect detrimentally on the creditworthiness of SUB-GRANTEES, including, but not limited to, liens, encumbrances, etc., on the assets of SUB-GRANTEES.
- (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-GRANTEES' property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against SUB-GRANTEES;
- (F) The entry by a court of competent jurisdiction of a final order providing for the modification or alteration of the rights of SUB-GRANTEES' creditors;
- (G) Inability by SUB-GRANTEES to conform to changes in local, state and federal rules, regulations and laws as provided for in Article III and in paragraph number 33.5 of this CONTRACT; and
- (H) Violation by SUB-GRANTEES of any rule, regulation or law to which SUB-GRANTEES is bound or shall be bound under the terms of this CONTRACT.

35.3 CITY may terminate this CONTRACT for convenience at any time after which SUB-GRANTEES shall be paid an amount not to exceed the total accrued expenditures as of the effective date of termination. In no event, however, will compensation to SUB-GRANTEES exceed an amount which bears the same ratio to the total compensation as the services actually performed by SUB-GRANTEES bears to the total services required of SUB-GRANTEES, less payments previously made.

35.4 SUB-GRANTEES may terminate this CONTRACT for any of the following reasons:

- (A) Cessation of outside funding upon which SUB-GRANTEES depends for performance hereunder; SUB-GRANTEES may opt, however, within the limitations of this CONTRACT and with the 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-GRANTEES and the funding source in question; or
- (B) Upon the dissolution of the SUB-GRANTEES organization, provided such dissolution was not occasioned by a breach of this CONTRACT.

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

35.6 Upon receipt of notice to terminate, SUB-GRANTEES 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-GRANTEES or SUB-GRANTEES' creditors for any expense, encumbrances, or obligations whatsoever incurred after the date of termination.

35.7 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-GRANTEES 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-GRANTEES to CITY in a timely and expeditious manner.

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

35.9 Any termination of this CONTRACT as herein provided shall not relieve SUB-GRANTEES 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-GRANTEES 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-GRANTEES. 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.

35.10 Should this CONTRACT be terminated by either party hereto for any reason, including termination under Section 35.3 of this CONTRACT, if the work required hereunder of SUB-GRANTEES is not fully completed to the satisfaction of CITY in accordance with the terms of this CONTRACT, SUB-GRANTEES shall refund any and all sums of money paid by CITY to SUB-GRANTEES within ten (10) working days of CITY's written request therefor.

35.11 Upon termination of this CONTRACT by CITY under paragraph number 35.2(A), SUB-GRANTEES shall be barred from future CONTRACTS with CITY absent the express written consent of the City Manager of CITY, or the City Manager's designate.

XXXVI. NOTIFICATION OF ACTION BROUGHT

36.1 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-GRANTEES,

SUB-GRANTEES shall give written notice thereof to CITY within two (2) working days after itself being notified. SUB-GRANTEES' notice to CITY shall state the date and hour of notification to SUB-GRANTEES 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.

XXXVII. ASSIGNMENTS

37.1 SUB-GRANTEES 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.

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-GRANTEES 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-GRANTEES is in violation of paragraph 38.1.

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

XIX. SEVERABILITY OF PROVISIONS

39.1 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.

XL. RENEWAL NOT AUTOMATIC

40.1 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.

XLI. NON-WAIVER OF PERFORMANCE

41.1 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.

41.2 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.

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

XLII. SPECIAL CONDITIONS

42.1 SUB-GRANTEES acknowledges, understands, and agree 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. 170(l)(u) (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 C.F.R. 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) SUB-GRANTEES agree 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 SUB-GRANTEES' commitments under the 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) SUB-GRANTEES agree to include the Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. 135, and agree to take appropriate action, as provided in an applicable provision of the subcontract or in the Section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. 135. SUB-GRANTEES will not subcontract with any subcontractor where SUB-GRANTEES has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. 135.
- (E) SUB-GRANTEES 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 C.F.R. 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. 135.
- (F) Noncompliance with HUD's regulations in 24 C.F.R. 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.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).

42.2 SUB-GRANTEES agree and understand that CITY shall make payments for property acquisition under this CONTRACT at the time of closing by wiring funds to the designated title company.

42.3 CITY shall provide SUB-GRANTEES an advance on the entire rehabilitation portion of the budget to allow SUB-GRANTEES to expedite the program. SUB-GRANTEES agree and understand that CITY shall withhold ten percent (10%) of the costs of the rehabilitation until the rehabilitation is completed.

42.4 It is understood and agreed that MERCED HOUSING TEXAS shall be the responsible party for reporting to GMA.

42.5 SUB-GRANTEES agree and understands that CITY shall make payments under this CONTRACT directly to the SUB-GRANTEES' professional contractor. SUB-GRANTEES shall authorize and submit its contractor's Request for Payment. Payments shall be made directly to the contractor within thirty (30) days of receipt of authorized invoice.

42.6 SUB-GRANTEES will hold the title to the property during the rehabilitation process.

42.7 SUB-GRANTEES shall acquire a Certificate of Appropriateness through the Office of Historic Preservation prior to commencement of work.

42.8 SUB-GRANTEES shall follow the City of San Antonio's Unified Development Code, Article VI, Historic Preservation, and Urban Design.

42.9 SUB-GRANTEES shall follow all rehabilitation standards outlined in the *Secretary of the Interior's Standards for Rehabilitation*.

42.10 SUB-GRANTEES shall submit all necessary paperwork to qualify each property for the local tax exemption that is available for designated local landmarks and properties within local historic districts that under goes a substantial rehabilitation.

42.11 SUB-GRANTEES shall ensure that all local codes and permits are met, acquired, and approved.

42.12 SUB-GRANTEES shall submit all deliverables to the Office of Historic Preservation in both hard copy and electronic format whenever possible.

42.13 Rights to all data work products, etc., revert to the City of San Antonio upon completion of contract.

42.14 SUB-GRANTEES shall provide written notification to the CITY's Office of Historic Preservation prior to the execution of any and all third-party agreements related to this Project, and/or prior to the expenditure of funding provided through this CONTRACT. Notification for approval should, at a minimum, detail the process/method of procurement utilized, selection of contract type, the contractor selection process, the price of the contract, along with a description of the work to be performed, payment terms, and activity timeline.

42.15 SUB -GRANTEES warrant that all third-party agreements shall be at arms length, and shall be submitted to the CITY's Office of Historic Preservation for review and approval prior to the execution of such agreements and expenditure of funds related to the same.

42.16 SUB-GRANTEES shall ensure and maintain evidence that all professional and contractual services in connection with Project implementation are procured in accordance with 24 C.F.R. Part 84 and 85, The Common Rule on Procurement and Competitive Standards.

42.17 SUB-GRANTEES understand and agree that all information, including, without limitation, correspondence, monthly reports, and invoices, pertaining to the Project and this contract, shall be processed, stored, and maintained at the SUB-GRANTEES' office.

42.18 SUB-GRANTEES shall be required to operate their programs in accordance with all CDBG regulations.

42.19 SUB-GRANTEES shall uphold the Good Faith Effort Plan to hire a company that is certified as a MBE, WBE, AABE, or SBE by the CITY.

XLIII. ENTIRE CONTRACT

43.1 This CONTRACT constitutes the final and entire agreement between the parties hereto and contains all of the (including all attachments hereto) 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:
Grants Administrator
Office of Historic Preservation
1400 S. Flores Street
San Antonio, Texas 78204

SUB-GRANTEES:
Executive Director
San Antonio Conservation Society
107 King William Street
San Antonio, Texas 78204

President
Merced Housing Texas
212 W. Lural Street
San Antonio, Texas 78212

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 CONTRACT 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. VENUE AND JURISDICTION ARISING UNDER OR IN CONNECTION WITH THIS CONTRACT SHALL LIE EXCLUSIVELY IN BEXAR COUNTY, TEXAS.

L. 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 _____, 2011.

CITY OF SAN ANTONIO

SAN ANTONIO CONSERVATION SOCIETY

BY: _____
Shanon Peterson Wasielewski
Title: Officer
Office of Historic Preservation

BY: _____
Bruce Macdougall
Title: Executive Director

MERCED HOUSING TEXAS

BY: _____
Susan R. Sheeran
Title: President

APPROVED AS TO FORM:



ENID M. HOWARD
Assistant City Attorney

Attachments:

Attachment "I"	Work Statement
Attachment "II"	Project Budget
Attachment "III"	Program Guidelines and Workflow
Attachment "IV"	Federal Compliance Manual
Attachment "V"	Performance Records/Reports
Attachment "VI"	Billing Package
Attachment "VII"	Part 5 Annual Income Calculation and Direct Benefit

ATTACHMENT I
WORK STATEMENT

WORK STATEMENT

- I. SUB-GRANTEES: San Antonio Conservation Society and Merced Housing Texas

- II. PROJECT NAME: Historic Acquisition Program

- III. STATEMENT OF PROJECT RESPONSIBILITY:
 - A. POLICY: Office of Historic Preservation

 - B. ADMINISTRATION: San Antonio Conservation Society and Merced Housing Texas

 - C. STAFFING: San Antonio Conservation Society and Merced Housing Texas

 - D. OPERATIONS: San Antonio Conservation Society and Merced Housing Texas

 - E. BUDGET & FISCAL MATTERS: Office of Historic Preservation

- IV. PROJECT DESCRIPTION:

This funding supports CDBG allocations in the amount of \$250,000, authorized by City Council through Ordinance Number 2010-03-18-0203, dated March 18, 2010 (Project number 28-R1003181867). This current allocation will promote and encourage the retention, preservation, and restoration of historic properties through the acquisition of historic properties through gift, bequest, donation, purchase, or option to purchase. This program provides financial assistance for the acquisition and rehabilitation of abandoned or neglected historic properties through partnerships with preservation minded non-profit organizations. The intent is to restore and rehabilitate unused, abandoned historic properties and turn them into viable, useable buildings through acquisition and rehabilitation, then make them available for purchase.

Together with the Office of Historic Preservation, the San Antonio Conservation Society and Merced Housing Texas will be responsible for providing specific services to support the program objectives, which include: identifying eligible properties to acquire, restoring and rehabilitating historic properties, and selling the properties to eligible buyers.

The objectives of the Historic Acquisition Program are to:

1. Identify eligible properties to acquire to achieve the goals of this program.
2. Restore and rehabilitate historic properties.
3. Sell the properties to eligible buyers.

V. PROGRAM GOALS, OBJECTIVES, AND PERFORMANCE INDICATORS (See attached):

VI. SERVICE AVAILABILITY: (Contact Information, i.e. location, phone and days/hours of operation)

Merced Housing Texas
212 W. Laurel Street
San Antonio, Texas 78212
210-281-0238

Hours of Operation: Monday – Friday 9a.m. to 5p.m.

San Antonio Conservation Society
107 King William
San Antonio, Texas 78205
210-224-6163

Hours of Operation: Monday – Friday 8:30a.m. to 4:30p.m.

VII. TARGET POPULATION: City-wide

VIII. ELIGIBILITY CRITERIA: low to moderate income

PROJECT PERFORMANCE MEASURES

PROJECT NAME: Historic Preservation – Acquisition/Rehabilitation/Resale
PROJECT NUMBER: 28-R1003181867
SUB-GRANTEE: San Antonio Conservation Society and Merced Housing Texas
CONTRACT PERIOD: Commencement to December 31, 2012

PROJECT MISSION:

This program provides financial assistance for the acquisition and rehabilitation of abandoned or neglected historic properties through partnerships with preservation minded non-profit organizations.

PERFORMANCE MEASURES

	GOAL/ADOPTED FY 2011
Input	
01. Total CDBG Funds	\$250,000.00
02. Total Other Project Funds	\$0.00
Output	\$250,000.00
01. Total CDBG Expenditures	\$0.00
02. Total Other Expenditures	
Efficiency	
01. Identify houses	2
02. Rehab houses	2
03. Sell houses	2
Effectiveness	
01. % of CDBG Funds Expended	100%
02. % of Other Project Funds Expended	0%

ATTACHMENT II

PROJECT BUDGET

1. BUDGET DETAIL
2. AGENCY FUNDING SOURCES

**BUDGET DETAIL
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM
CITY OF SAN ANTONIO
FY 2011**

SUB-GRANTEE: San Antonio Conservation Society and Merced Housing Texas

PROJECT NAME: Historic Preservation – Acquisition/Rehabilitation/Resale

CONTRACT PERIOD: Commencement to December 31, 2012

CONTRACTUAL ***

Type***	Service Detail	Total	Other Funding	CDBG Amount
	Acquisition Costs (\$40,000 per house)	\$80,000		\$80,000
	Rehabilitation Costs (\$65,000 per house)	\$130,000		\$130,000
	Project Delivery Costs (\$15,000 per house)	\$30,000		\$30,000
	Marketing & Signage (\$5,000 per house)	\$10,000		\$10,000
TOTAL		\$250,000		\$250,000

- * Attach Job Descriptions
- ** Indicate Formula for Determination
- *** Requires Prior City Approval

AGENCY FUNDING SOURCES

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM
CITY OF SAN ANTONIO
FY 2011**

SUB-GRANTEE: San Antonio Conservation Society and Merced Housing Texas

PROJECT NAME: Historic Preservation – Acquisition/Rehabilitation/Resale

CONTRACT PERIOD: Commencement to December 31, 2012

PROGRAM	ALL FUNDING SOURCES	AMOUNT
Acquisition/Rehab/Resale	CDBG	\$250,000.00

ATTACHMENT III

A. PROGRAM GUIDELINES

B. WORKFLOW

SIGNATURE CERTIFIES RECEIPT OF INFORMATION

HISTORIC PRESERVATION - ACQUISITION/REHABILITATION/RESALE PROGRAM GUIDELINES

- I. **DEPARTMENT/AGENCY:** San Antonio Conservation Society and Merced Housing Texas
- II. **PROJECT NAME:** Historic Acquisition Program
- III. **PROJECT NUMBER:** 28-R1003181867
- IV. **PROJECT DESCRIPTION:**

This funding supports CDBG allocations in the amount of \$250,000, authorized by City Council through Ordinance Number 2010-03-18-0203, dated March 18, 2010 (Project number 28-R1003181867). This current allocation will promote and encourage the retention, preservation, and restoration of historic properties through the acquisition of historic properties by gift, bequest, donation, purchase, or option to purchase. This program provides financial assistance for the acquisition and rehabilitation of abandoned or neglected historic properties through partnerships with preservation minded non-profit organizations. The intent is to restore and rehabilitate unused, abandoned historic properties to turn them into viable, useable buildings through acquisition and rehabilitation, and make them available for purchase.

Together with the Office of Historic Preservation, the San Antonio Conservation Society and Merced Housing Texas will be responsible for providing specific services to support the program objectives, which include: identifying eligible properties to acquire, restoring and rehabilitating historic properties, and selling the properties to eligible buyers. The objectives of the Historic Acquisition Program are to:

1. Identify eligible properties to acquire to achieve the goals of this program
2. Restore and rehabilitate historic properties
3. Sell the properties to eligible buyers

Property Search

The Office of Historic Preservation (OHP) will work with San Antonio Conservation Society (SACS) and Merced Housing Texas (MHT) to find a property within our budget and target areas to acquire for rehabilitation, with the OHP to have final approval.

The target areas will be central city historic districts with properties in need of revitalization including Dignowity Hill, Knob Hill, Government Hill, Lavaca, or Tobin Hill.

Recommendations will be taken from the Endangered Structures list kept by the Office of Historic Preservation, and generally from the City of San Antonio's Planning and Community Development and Code Enforcement Services. In addition, lists of properties on the monthly roster of tax delinquent properties to be sold in Bexar County and lists of foreclosure properties will be monitored.

Criteria for Selection

Initial investment will be for residential properties no larger than 1,600 square feet. In certain instances, larger properties may be acquired if they face an imminent threat such as demolition or collapse. All properties must be considered a highly significant property provided they meet the following requirements:

- The property must be located within the City of San Antonio
- The building must be vacant or abandoned or obtained through voluntary acquisition
- The building must exhibit historic and/or architectural significance and must be:
 - Designated as a City of San Antonio Historic Landmark (HL);
 - Designated as a contributing structure in a City of San Antonio Historic District (H); or
 - Identified as eligible for local historic designation by the Office of Historic Preservation

If the property is found to be a potential historic landmark, the property must be designated historic by the City of San Antonio's City Council after acquiring the property. The historic designation process will be initiated by SACS. OHP will assist the SACS in conducting historical research pertaining to the property, and SACS and the OHP will submit the designation form, photos and research to be considered by City Council.

The historic property will be obtainable at no or low cost and have a clear title. The property will be located on a block or in a neighborhood where building rehabilitation could spur other investment. The property should retain its historic architectural integrity, where deteriorated or missing architectural elements could be restored or replicated without undue expense. The exterior stabilization and interior rehabilitation should be feasible within the confines of the finished marketable value. The OHP and SACS will use a property Selection Checklist to assess the historic significance, endangerment, potential impact and feasibility of rehabilitation of any proposed property. The final decision on property selection will be made by the OHP.

Budget and Invoicing

The total amount available through CDBG funds is \$250,000 that at a minimum should cover the cost of the acquisition and rehabilitation of (2) two homes. The amount of each acquisition and rehabilitation should not exceed \$110,000 per unit.

Prior to the final selection and commencement of work, OHP, SACS, and MHT will prepare an overall project budget that includes acquisition, rehabilitation, and administrative costs. Eligible uses for funding include, but will not be limited to: cost of surveys to identify the property to be acquired; appraisals; and the preparation of legal documents, recordation of fees, and other costs necessary for the acquisition and rehabilitation of properties. Please see section 24 CFR 570.206 for definitions of eligible administrative costs.

Ineligible costs include:

- Publicity expenses (except project signage)
- Ceremonial expenses
- Administrative or operational costs of SACS, MHT, or their contractor

Grants Monitoring Administration (GMA) will pay directly for the cost of the acquisition of the property by wiring the funds to the title company on the date of closing. All other funds will be paid under an advance payment agreement, Grants Monitoring and Administration will deposit 90% of the project's costs into the escrow account of MHT, holding the final 10% until the project is completed. Prior to depositing the funds, MHT will prepare and submit an advance payment invoice to Grants Monitoring and Administration that will include a detailed budget of estimated costs for the duration of the project. MHT will then be responsible for dispersing funds to the San Antonio Conservation Society, third party vendors, their contractor, and themselves.

The current funding for the Historic Acquisition Project is available through December 31, 2012. All outstanding invoices should be submitted before this deadline to insure payment. In the case that the project is in mid-phase, all parties will work to expedite construction to finish critical aspects of the rehabilitation. The marketing process will also be expedited in order to sell the property "as is" to a qualified buyer.

Property Acquisition

After a closing date is set, the following items must be submitted to GMA:

- Written letter of request with a site plan
- Property description (BCAD Information)
- Property photos (interior and exterior)
- Target area information (including map)
- Complete site specific Environmental Review Record (ERR)
- Identified census tract
- Identified council district
- Acquisition price
- Post rehabilitation appraisal value (include appraisal)
- Closing date

During rehabilitation the title to the property will be held by MHT.

Development of Scope of Work and Architectural Plans

OHP, SACS, and MHT will coordinate a site visit to the selected property to create a scope of work. SACS and MHT will supply an initial scope of work for review and comment by the OHP. The OHP will have final approval of the overall scope of work

All work will be done following *The Secretary of the Interior's Standards for Rehabilitation*. SACS will provide documentation and restoration instruction on the exterior architectural components.

The UTSA College of Architecture will provide assistance in creating architectural drawings suitable for incorporation into construction documents that may be prepared by others. These architectural drawings will include: site plans, floor plans, elevations, and wall sections. Structural, mechanical, electrical, plumbing, and civil engineering drawings, if needed, will not be the responsibility of UTSA. For permit and code review, all construction documents will be stamped by a registered Architect or Engineer hired by SACS or MHT.

Before construction commences, the following information must be submitted to and approved by OHP and GMA:

- Scope of work
- Rehabilitation cost estimate
- Timeline of rehabilitation

Sub-Contractor

MHT has selected a sub-contractor to perform the rehabilitation portion of the project while following the Good Faith Effort Plan to hire a company that is certified as a Minority Business Enterprise (MBE), Women's Business Enterprise (WBE), African American Business Enterprise (AABE), or Small Business Enterprise (SBE) by the City of San Antonio.

Tax Certification

Tax Certification of the property will be the responsibility of OHP. A completed Tax Certification Form will be submitted with documents requested that are to be provided by MHT and their contractor.

Work Schedule

The work schedule will vary slightly according to the scope involved with each project. The following is a projected timeline of the amount of time allotted for each phase of the project.

- Phase I - Should bring the project to 30% completion of the project scope including permitting, lead abatement, any interior and exterior demolition, and foundation repair
- Phase II - Should bring the project to 60% completion of the project scope including the repairs of windows, roofing, exterior walls and porches
- Phase III - Should bring the project to 90% completion of the project scope including exterior detailing and painting. It should also include much of the interior rehabilitation including plumbing, electrical, flooring, HVAC, etc.
- Phase IV - Should complete the final 10% of the project scope including the completion of a final punch list

Monitoring of Work Progress

The contractor will supervise the day-to-day progress of the interior and exterior rehabilitation. Any deviation from the approved set of plans and scope of work must first be approved by the OHP. The contractor selected will be responsible for the purchase of materials and for abiding by their original cost proposal.

Due to the nature of this project, bi-weekly progress meetings will be scheduled in order to complete acquisition and rehabilitation in a timely and effective manner. The meetings are mandatory for at least one representative each from the OHP, SACS, MHT and the contractor during construction. As the project progresses into the construction phase, a portion of the bi-weekly progress meeting will be spent on site reviewing the amount and quality of work completed.

MHT will create minutes from the progress meetings to be dispersed to the OHP, SACS, and GMA.

Educational Outreach

Throughout the Historic Acquisition Project the OHP and SACS will provide educational outreach programs to the community and use each house as a teaching tool, especially for homeowners.

Marketing

At 90% completion, determined by the progress outlined in the timeline to be submitted by the contractor, the property should be advertised for sale by the OHP, SACS, and MHT by marketing to potential buyers that are 80% or below area median income. When listing the property on MLS, the listing agent should include verbiage about income restrictions. Maximum resale value for the property is \$110,000.

When the property is listed for sale, a copy of the MLS sheet or web link should be made available to all parties to include the property's information on their websites and within their newsletters.

Sale Restrictions

The Realtor will assist all parties in screening potential buyers. Potential buyers will submit an application for qualification to the department of Planning and Community Development to be considered.

When a residential property is being sold, the prospective buyer must meet the following criteria:

- Projected annual income must not exceed 80% of the HUD published median income for San Antonio, adjusted for household size, at the time of application to the program.
- Must have acceptable credit (no bankruptcy, judgments) or if no credit history has been established, a 12 month current payment history for utilities will be the standard with no more than one late payment in a year's time.
- Must be a U.S. Citizen or legal resident alien
- Home to be purchased must be primary residence of applicant
- Purchase price may not exceed the after-rehabilitation appraised value of the property.

Prior to resale of the property, the following must be submitted to GMA by OHP and MHT:

- Homebuyer information
- Income certification documentation
- Homebuyer counseling certification
- Property photos (interior and exterior)
- Financing information
- Date of Closing

Program Income

Any income generated from the sale of a property acquired in this program or from fundraising events will be retained by the OHP for the following uses only:

- Historic property acquisition and all eligible associated fees
- Rehabilitation or restoration activities and all eligible associated fees

Tax Verification

Tax Verification of the property will be the responsibility of OHP. A completed Tax Verification Form will be submitted with documents requested that are to be provided by MHT and their contractor.

V. DETAILED/QUANTIFIED SCOPE OF WORK

	Adopted 2010-11	1st Qtr Actual	2nd Qtr Actual	3rd Qtr Actual	4th Qtr Actual
Available CDBG Funds	\$250,000				
CDBG Funds for each property	\$110,000				
Property Search Start (Anticipated date)	6/2011				
Property Acquisition Start (Anticipated date)	7/2011				
Development of Scope of Work and Architectural Drawings (Anticipated date)	7/2011				
Obtain Certificate of Appropriateness through OHP (Anticipated date)	8/2011				
Phase I of Rehabilitation (Anticipated date)	9/2011				
Phase II of Rehabilitation (Anticipated date)	11/2011				
Phase III of Rehabilitation (Anticipated date)	1/2012				
Marketing of Property (Anticipated date)	1/2012				
Final Phase of Rehabilitation (Anticipated date)	2/2012				
Sale of Property(Anticipated date)	11/2012				
Total CDBG Expenditures for one rehabilitation project	\$110,000				

Work Flow

	OHP	SACS	MHT
1. Property Search/Selection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Property Acquisition	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Development of Scope of Work	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Rehabilitation Cost Estimate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Timeline for Rehabilitation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Complete Environmental Review Record	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Tax Certification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Monitoring of Work Progress	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
9. Tax Verification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Marketing of the house	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11. Qualify Applicant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12. Conduct Homeowner Orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT IV
FEDERAL COMPLIANCE MANUAL

SIGNATURE CERTIFIES RECEIPT OF INFORMATION

ATTACHMENT V

PERFORMANCE RECORDS/REPORTS

PERFORMANCE REPORT

PROJECT NUMBER: _____
 PROJECT NAME: _____
 FOR PERIOD OF: _____
 FISCAL YEAR: _____

SUB GRANTEE: _____
 PREPARED BY: _____
 APPROVED BY: _____

	GOAL	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
CDBG FUNDS: \$													
OTHER FUNDS: \$													
TOTAL FUNDS: \$													
Input													
.01 Available CDBG Funds													
.02 Total Other Project Funds													
.03													
Output													
.01 Total CDBG Expenditures													
.02 Total Other Expenditures													
.03													
.04													
Efficiency													
.01													
.02													
.03													
Effectiveness													
.01 % CDBG Funds Expended													
.02 % All Project Funds Expended													
.03													

EXPLANATORY COMMENTS:

REVIEWED & APPROVED BY: _____

DATE: _____

REVIEWED & APPROVED BY: _____

DATE: _____

ATTACHMENT VI
BILLING PACKAGE

INVOICE

SUB-GRANTEE: _____

PROJECT NO.: _____

PROJECT NAME: _____

INVOICE NO.: _____

ADDRESS: _____

BANK: _____

PERIOD COVERED: _____

PROGRAM: _____

Internal Order Number	Budget	Cost to Date	Less Payment Rec'd	Amount Due
TOTAL				

Certified Correct: _____

City Approval: _____

Title: _____

Date: _____

Date: _____

SUMMARY OF EXPENDITURES

PROGRAM: _____

PERIOD COVERED: _____

Internal Order Number	Line Item	Detail	Total Amount
		TOTAL:	\$

VOUCHER
(Attach Required Documentation)

PROGRAM: _____

AMOUNT: _____

CHECK #: _____

CHECK DATE: _____

VENDOR

NAME: _____

ADDRESS: _____

DESCRIPTION AND PURPOSE:

Approved by: _____

Title: _____

Date: _____

BUDGET ADJUSTMENT*

SUB-GRANTEE: _____

PROJECT NO.: _____

ADDRESS: _____

ADJUSTMENT NO.: _____

DATE: _____

PROGRAM: _____

Internal Order Number	Activity	Current Budget	Revisions (+) (-)	Revised Budget
TOTAL				

Submitted By: _____

Title _____

Date: _____

* Narrative justification must be attached.

PROGRAM INCOME REPORT

SUB-GRANTEE: _____

PROJECT NO.: _____

ADDRESS: _____

MONTH OF: _____

PERIOD COVERED: _____

PROGRAM INCOME RECEIVED:\$ _____

Delineate how income was generated (donation, fundraising, activity, sales, etc.):

Expenses incurred to generate income (see Note). Attach documentation/invoices.

<u>ITEM</u>	<u>COST</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

TOTAL COST: \$ _____

INCOME AVAILABLE: \$ _____

NOTE: Costs incurred solely to raise capital or obtain contributions may not be charged to the program, i.e., advertising of activity, program personnel working on activity during normal working hours, etc.

In accordance with City Council Ordinance No. 2010-03-18-0203 dated 03/18/2010, program income shall be committed and expended during the current contract period to further eligible program objectives.

Submitted By: _____

Title: _____

Date: _____

Approved / Disapproved
Grants Monitoring & Administration
Name: _____
Date: _____

ATTACHMENT VII

A. PART 5 ANNUAL INCOME CALCULATION

B. DIRECT BENEFIT DATA FORM

Part 5 Annual Income Calculation

1. Participant Name:		2. Number of Household Members:	
----------------------	--	---------------------------------	--

ASSETS			
Family Member	Asset Description	Current Cash Value of Assets	Actual Income from Assets
3. Net Cash Value of Assets.....		\$ -	
4. Total Actual Income from Assets.....			\$ -
5. If line 3 is greater than \$5,000, multiply line by 2% (Passbook Rate) and enter results here; otherwise, leave blank			

ANTICIPATED ANNUAL INCOME					
Family Members	a. Wages/ Salaries	b. Benefits/ Pensions	c. Public Assistance	d. Other Income	e. Asset Income
					Enter the greater of lines 4 or 5 from above in e.
6. Totals	\$ -	\$ -	\$ -	\$ -	
7. Enter total of items from 6a. through 6e. This is Annual Income.					\$ -

Check the line below corresponding to the household size and annual income. Only one line should be checked.

HUD SECTION 8 INCOME LIMITS (Updated May 2010)			
Household Size	Extremely Low Income (30% of Median)	Very Low Income (50% of Median)	Low Income (80% of Median)
1	_____ \$12,150 or lower	_____ \$12,151 to \$20,250	_____ \$20,251 to \$32,400
2	_____ \$13,900 or lower	_____ \$13,901 to \$23,150	_____ \$23,151 to \$37,000
3	_____ \$15,650 or lower	_____ \$15,651 to \$26,050	_____ \$26,051 to \$41,650
4	_____ \$17,350 or lower	_____ \$17,351 to \$28,900	_____ \$28,901 to \$46,250
5	_____ \$18,750 or lower	_____ \$18,751 to \$31,250	_____ \$31,251 to \$49,950
6	_____ \$20,150 or lower	_____ \$20,151 to \$33,550	_____ \$33,551 to \$53,650
7	_____ \$21,550 or lower	_____ \$21,551 to \$35,850	_____ \$35,851 to \$57,350
8	_____ \$22,950 or lower	_____ \$22,951 to \$38,150	_____ \$38,151 to \$61,050

NOTES: (Describe source(s) of Other Income, such as child support, SSI, etc. and list other notes regarding income calculation)

For each source of income or asset listed above, please provide appropriate supporting documentation (e.g. copies of payroll check stubs for the past 3 months, SSI/SS letter, divorce decree, etc.).

I do hereby certify that I have read and completed the Part 5 Income Calculation Form, indicating the total number of persons in my household, and the total anticipated annual income of my household, required to determine eligibility to participate in the _____ program on the basis of low/moderate income designation.

This certification is being made with the full knowledge and understanding that this statement and all applicable documents deemed necessary to substantiate my eligibility is subject to full disclosure and verification by authorized City of San Antonio and U. S. Department of Housing and Urban Development (HUD) officials.

**Participant
Signature**

Date

Agency Representative Signature

Date

CITY OF SAN ANTONIO
COMMUNITY DEVELOPMENT BLOCK GRANT
CDBG Direct Benefit Data

PARTICIPANT'S NAME: _____

Home Address: _____

Phone Number: _____

*Participant's age is 62 years or older. () YES Verified By: _____

Witness Signature

District: _____ Female Head of Household? () Yes () No

(*Copy of Driver's License or Identification Card with DOB must be attached.)

Participants **Ethnicity:

Check One

- () 11. White
- () 12. Black/African American
- () 13. Asian
- () 14. American Indian or Alaska Native
- () 15. Native Hawaiian or Pacific Islander
- () 16. American Indian or Alaskan Native **AND** White
- () 17. Asian **AND** White
- () 18. Black/African American **AND** White
- () 19. American Indian or Alaska Native **AND** Black/African American
- () 20. Other multi-racial

Check One

Hispanic () Yes () No

***This information is confidential and is only used for government reporting purposes. You are not required to furnish this information. The law provides that we may neither discriminate on the basis of this information, nor on whether you choose to furnish it. However, if you choose not to furnish it, under Federal regulations we are required to note race on the basis of visual observation or surname.*

- 11. White:** A person having origins in any of the peoples of Europe, North Africa, or the Middle East.
- 12. Black or African American:** A person having origins in any of the black racial groups of Africa.
- 13. Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- 14. American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintain affiliation or community attachment.
- 15. Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- 16. American Indian or Alaska Native and White:** A person having these multiple race heritages as defined above.
- 17. Asian and White:** person having these multiple race heritages as defined above.
- 18. Black or African American and White:** person having these multiple race heritages as defined above.
- 19. American Indian or Alaska Native and Black or African American:** A person having these multiple race heritages as defined above.
- 20. Other Multi-Racial:** For reporting individual responses that are not included in any of the other categories listed above. **Hispanic:** Those who are White, Black, Asian, Pacific Islander, American Indian, or Other Multi-Racial who are Hispanic.