

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the following project be designated for funding as a Community Housing Development Organization (CHDO) activity under the City's Fiscal Year 2002 HOME Grant Program:

PV Community Development Corporation 3323 Alameda Project
Construction - \$500,000.00

That the Mayor on behalf of the City, be authorized to sign a CHDO-HOME Financial Terms Contract with PV Community Development Corporation, a Community Housing Development Organization (CHDO) under the HOME Grant Program, in the amount of \$500,000.00, and that the Mayor be authorized to sign a Builder's and Mechanic's Lien Contract and Deed of Trust (with Power of Sale) between the City, PV Community Development Corporation, and Ordonez Remodeling Inc.

[Funds for this project are available in Account No. (09756/71150036/G7103HM-505201 (\$435,063.45) & 09757/71150036/G7104HM-505201 (\$64,936.55)]

ADOPTED this 17th day of August, 2004.

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lee Ann B. Koehler
Lee Ann B. Koehler
Assistant City Attorney

APPROVED AS TO CONTENT:

Nathalie Prise
Nathalie Prise, Interim Director
Community and Human Development

NOTICE OF CONFIDENTIALITY RIGHTS; IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS; YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

BUILDER'S & MECHANIC'S LIEN CONTRACT
AND DEED OF TRUST
(WITH POWER OF SALE)

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

THIS CONTRACT made and entered into on this 17th day of August, 2004, by and between the City of El Paso, hereinafter called "CITY", AND Ordonez Remodeling, Inc., a Texas Corporation, hereinafter called "CONTRACTOR", and PV Community Development Corporation, hereinafter called "OWNER(S)", all of El Paso County, Texas:

WHEREAS, OWNERS and CONTRACTOR made and entered into a Construction Contract of even date herewith for the construction of the property described hereinbelow;

WHEREAS, CITY and OWNERS made and entered into a CHDO-HOME Financial Terms Contract dated August 17, 2004, wherein such Financial Terms Contract OWNERS herein were called "BORROWER", such Financial Terms Contract specifying additional terms and conditions of the CITY'S loan and grant to OWNERS for the construction of the property described hereinbelow;

WHEREAS, OWNERS have executed and delivered to CITY their loan note dated August 17, 2004, for the sum of \$150,000.00, and their secured grant note dated August 17, 2004, for the sum of \$350,000.00, wherein such loan and secured grant notes OWNERS herein were called "MAKERS";

WITNESSETH: That CONTRACTOR, in consideration of CITY'S agreement to pay CONTRACTOR the sum of \$468,000.00, in accordance with the terms, covenants and conditions of the above referenced Construction Contract and the CHDO-HOME Financial Terms Contract hereby agrees with CITY and OWNER to furnish and pay for all labor and materials needed to construct, build, and complete in a good and workmanlike manner, according to the plans and specifications this day agreed upon by the parties hereto, the following improvements, to-wit:

According to plans and specifications agreed upon by the parties and contained in the Construction Contract of even date herewith and incorporated by reference herein, and subject to all the terms and conditions of the CHDO-HOME Financial Terms Contract dated August 17, 2004 and incorporated by reference herein; upon the following described real property belonging to OWNERS, to-wit:

Lots 10, 11, 12, 13, and the West ½ of Lot 14, Block 21, SUPPLEMENTAL MAP NO. 1 OF EAST EL PASO, an Addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 1, Page 51, Real Property Records, El Paso County, Texas; (municipally known as 3323 Alameda Avenue)

City, Two Civic Center Plaza, Eighth Floor, El Paso, Texas, 79901-1196, at the instance and request of OWNERS, having agreed to advance and pay the above-stated consideration, in cash to CONTRACTOR, upon the completion of the above-described improvements, OWNERS have executed and delivered to said CITY their loan note dated AUGUST 17, 2004 and incorporated by reference herein, for the sum of \$150,000.00 and their secured grant note dated AUGUST 17, 2004 and incorporated by reference herein, for the sum of \$350,000.00, the total of such two (2) sums represented by such loan and secured grant notes in the total amount of \$500,000.00, hereinafter to be referred to as "INDEBTEDNESS."

To insure the prompt payment of such INDEBTEDNESS, a Builder's and Mechanic's Lien Contract and Deed of Trust Lien (with Power of Sale) is hereby created and granted by OWNERS to and for the benefit of CITY, holder of the INDEBTEDNESS evidenced by such notes upon the hereinbefore described real property, and all improvements, additions, fixtures and appurtenances now thereon or hereafter to be placed thereon. CONTRACTOR assigns and conveys all liens in their favor created herein or arising by operation of law out of this contract and any of the other contracts or related documents recited herein and incorporated by reference herein to the aforesaid CITY, and payee named in said note, its successors and assigns.

To secure and enforce the payment of the INDEBTEDNESS and liens hereinabove created, OWNERS have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL, and CONVEY unto the CITY CLERK of EL PASO, Trustee of El Paso County, Texas, and his substitutes or successors in this trust, all the hereinabove described real property and all improvements, additions, fixtures and appurtenances now thereon or hereafter to be placed thereon. TO HAVE AND TO HOLD the said property and premises aforesaid, and every part thereof, unto said Trustee or his successors, against

every person whomsoever lawfully claiming or to claim the same or any part thereof, in trust, however, UPON THE FOLLOWING TRUSTS, TERMS AND CONDITIONS, TO-WIT:

Should OWNERS pay in full the INDEBTEDNESS herein secured, then this conveyance shall become null and void and of no further force and effect, and the liens hereby created shall be released by the legal owner and holder thereof.

OWNERS covenant and agree as follows:

1. To pay when due all taxes and assessments now existing or hereafter levied or assessed under the laws of the State of Texas upon said property and to keep the improvements on said property in good repair and condition and not to permit or commit any waste thereof and to keep said buildings so as not to impair the insurance carried thereon.
2. To insure and keep insured, after completion and delivery of such improvements to OWNERS, all improvements now or hereafter created upon said property, against loss or damage by fire and windstorm to the extent of the original amount of the INDEBTEDNESS hereby secured, in such form and with such Insurance Company as may be approved by CITY and to deliver to CITY the policies of such insurance having attached thereto such mortgage indemnity clause as the CITY shall direct; any sums which may become due under any such policy, or policies, may be applied at the option of the CITY to reduce said INDEBTEDNESS, or the City may permit OWNERS to use said proceeds to repair or replace all improvements damaged or destroyed and covered by said policy.
3. In the event OWNERS shall fail to keep the improvements on the property hereby conveyed in good repair and condition, or to pay promptly when due all taxes and assessments, or to keep the buildings and improvements insured, or to deliver the policy or policies of insurance or the renewal thereof to the CITY, then the CITY may at its option, but without being required to do so, make such repairs, purchase any tax title thereon, or insure and keep insured the improvements thereon and any sums which may be so used and paid out by the CITY and all sums paid for insurance premiums shall bear interest from the dates of such payments at ten percent (10%) per annum and shall be paid by OWNERS to CITY upon demand, at the place at which the above described note is payable, and shall be deemed a part of the debt hereby secured and recoverable as such in all respects.
4. That in the event of a default in payment of an installment, principal or interest of the note hereby secured, any breach

of the covenants herein contained to be performed by OWNERS, or any breach by OWNERS of the applicable terms or conditions of the CHDO-HOME Financial Terms Contract, incorporated by reference herein, and the Construction Contract, incorporated by reference herein, the CITY may elect to declare the entire principal INDEBTEDNESS hereby secured, with all interest accrued thereon and all other sums hereby secured, immediately due and payable. The OWNERS hereby expressly waive presentment and demand for payment. In the event of default in the payment of said debt when due or declared due, it shall be thereupon or any time thereafter, the duty of the trustee or his successor or substitute as hereinafter provided, at the request of the CITY to enforce this trust, and after posting such notice for twenty-one days at the court house and serving written notice by certified mail to the debtor twenty-one days preceding the sale, to sell the above-described and conveyed real property at public auction in accordance with such notices at public sale between the hours of 10:00 a.m. and 4:00 p.m. of the first Tuesday in any month. Such sale shall be to the highest bidder for cash, and the CITY or its authorized representative shall make due conveyance to the purchaser or purchasers, with general warranty binding the OWNERS, their heirs and assigns; and of the money arising from such sale the CITY or its trustees shall first pay all expenses of advertising said sale and making the conveyance, including a commission of five percent (5%) thereon, which commission shall be due and owing in addition to the attorney's fees provided for in said note, and then to the CITY the full amount of principal, interest, attorney's fees and other charges due and unpaid on said note, rendering the balance of the sales price, if any, to the OWNERS, their heirs or assigns; and the recitals in the conveyance to said purchasers, shall be full and conclusive evidence of the truth of the matter therein stated, and all prerequisites to said sale shall be presumed to have been performed and such sale and conveyance shall be conclusive against the OWNERS, their heirs and assigns.

5. It is agreed that in the event a foreclosure hereunder shall be commenced by the Trustee, or his substitute or successor, the CITY may at any time before the sale of said property direct the Trustee to abandon said sale, and may then institute suit for the collection of said note, and for foreclosure of the liens herein created; and it is further agreed that if the CITY should institute suit for the collection thereof, and for a foreclosure of the liens herein created, that it may at any time before entry of final judgment in said suit dismiss the same, and require the said Trustee, his substitute or successor, to sell the property in accordance with the power of sale herein granted.

6. The CITY shall have the right to purchase at any sale of the property being the highest bidder, and to have the amount for which said property is sold credited on the debt then owing.
7. The CITY in any event is hereby authorized to appoint a substitute Trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor Trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute Trustees successively until the INDEBTEDNESS hereby secured has been paid in full, or until said property is sold hereunder and each substitute and successor Trustee shall succeed to all of the rights and powers of the original Trustee named herein.
8. In the event of a sale of the property herein described, or any portion thereof, under the terms of the power of sale herein created, OWNERS, their heirs and assigns, shall forthwith upon making such sale surrender and deliver possession of the property so sold to the purchaser at such sale, and in the event of their failure to do so they shall thereupon from and after the making of such sale be, and continue as, the tenants at will of such purchaser, and in the event of their failure to surrender possession of said property upon demand, the purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which the said property is situated.
9. As further security for the payment of the INDEBTEDNESS herein described, OWNERS hereby transfer, assign and convey unto CITY all rents issuing or to hereafter issue from said real property, and in the event of any default in the payment of said note, or other default hereunder, CITY, its agents or representatives, are hereby authorized, at their option, to collect said rents, or if such property is vacant to rent the same and collect the rents, and apply the same to the payment of said INDEBTEDNESS.
10. In the event any portion of the INDEBTEDNESS herein described cannot be lawfully secured by the liens herein given and created upon the herein described property, it is agreed that the first payments made on said INDEBTEDNESS shall be applied to the discharge of that portion of said INDEBTEDNESS.
11. If this instrument is executed by one person or by a corporation, the plural reference to OWNERS shall be held to include the singular and all of the covenants and agreements

herein undertaken to be performed by the owners or rights conferred upon the respective OWNERS herein named, shall be binding upon and inure to the benefit of not only said parties respectively but also their respective heirs, executors, administrators, grantees, successors and assigns.

12. If all or any part of the real property and improvements secured by this Builder's and Mechanic's Lien Contract and Deed of Trust (With Power of Sale), or any interest therein, is sold or transferred without the CITY'S prior written consent, excluding the creation of a lien or encumbrance subordinate to this Builder's and Mechanic's Lien Contract and Deed of Trust (With Power of Sale), or the creation of a purchase money security interest for household appliances, the CITY may, at the CITY'S option, declare all the sums secured hereby to be immediately due and payable. The CITY may require an increase in the rate of interest payable under the Note before giving its consent.

Executed this 17th day of August, 2004, but for all purposes, this Contract shall be effective upon the date recited in paragraph One (1) of page One (1) hereinabove.

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

STATE OF TEXAS }
 }
COUNTY OF EL PASO } CHDO - HOME FINANCIAL TERMS CONTRACT

THIS CONTRACT is made this 17th day of August, 2004, by and between CITY OF EL PASO, hereinafter referred to as "City" and P.V. Community Development Corporation hereinafter referred to as "Borrower."

WHEREAS, the City of El Paso has received a formula grant for Fiscal Year 2002 in the amount of \$4,727,000. from the U.S. Department of Housing and Urban Development (HUD) under the HOME Investment Partnerships Program, hereinafter referred to as "HOME", as enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625, approved November 28, 1990);

WHEREAS, the El Paso City Council meeting in regular session on August 17, 2004, adopted a Resolution establishing a Fiscal Year 2003 HOME project which allows for use of funds by Community Housing Development Organizations, hereinafter referred to as "CHDOS" or "CHDO", and Borrower is a CHDO under the program adopted;

WHEREAS, the City's Director of Community and Human Development has recommended approval of a grant/loan to Borrower, subject to the terms specified hereinbelow, and the El Paso City Council, meeting in regular session on August 17, 2004, by sufficient vote approved such grant/loan to Borrower, subject to the terms specified hereinbelow;

WHEREAS, the HOME funds having been approved for use in Borrower's construction project, subject to the conditions and terms herein, and Borrower agrees to comply with all applicable HOME Program requirements;

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth and for value received by Borrower from City, the parties hereto do mutually agree to be bound by all terms and conditions of this Contract, and all documents incorporated by reference herein, as follows:

WITNESSETH:

I. DESCRIPTION OF PROPERTY AND PROJECT

The subject matter property is legally described as:

Lots 10, 11, 12, 13 and the West ½ of Lot 14, Block 21, SUPPLEMENTAL MAP NO. 1 OF EAST EL PASO, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 1, Page 51, Real Property Records, El Paso County, Texas, municipally known as 3323 Alameda Avenue

The City hereby agrees to lend Borrower funds not to exceed the amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00) subject to the terms hereinafter specified, to be drawn from FY 2003 HOME funds.

A. Borrower agrees to fully and completely comply with all of the applicable terms and conditions of the Community Development Construction Contract, a copy of which is to be attached hereto as Exhibit "A" upon its execution between Borrower and the selected construction contractor. Borrower further agrees to take all necessary action to perfect and protect City's lien position as specified in Section III. of this Contract for the life of the Builders and Mechanic's Lien Contract and Deed of Trust (With Power of Sale), attached as Exhibit "B" and incorporated by reference herein.

B. City hereby agrees to provide HOME financing in the amount of \$50,000.00 per unit of the eligible construction cost according to all terms and conditions as herein specified, including, but not limited to, the following terms and conditions: The City hereby agrees to provide HOME funds allocated to this project as a Grant of Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) using HOME Program Grant funds, as evidenced by a Secured Grant Note of even date herewith, attached as Exhibit "C" and incorporated by reference herein. Provided Borrower complies with the terms of this Contract, this grant shall be forgiven over a twenty (20) year period if Borrower remains in compliance with all terms and conditions as herein specified. The City hereby further agrees to provide the remainder of the financing required to fund the eligible rehabilitation cost to be financed through public financing in a loan at zero percent (0%) interest. Such loan shall be in the amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) at zero percent (0%) for twenty (20) years with a monthly payment of Six Hundred Twenty Five and No/100 Dollars (\$625.00), evidenced by Loan Note which is attached hereto as Exhibit "D" beginning on the first day of the month as specified in the Loan Note. The City will provide such public financing, as specified above, upon the following additional terms and conditions:

(1) HOME financing shall be approved and funds shall be advanced to Borrower, subject to the terms described herein, to include but not limited to those contained in Sections III. and IV. below, and any other terms and conditions specified herein.

(2)(a) Disbursement of public funds shall be made upon Receipt by City of Borrower's written request for such, the documentation as required in B (1) above has been provided and upon the approval of the Director of the Department of Community and Human Development. Such disbursement may be withheld by the Director if, in the reasonable exercise of Director's discretion, the Borrower has failed to fulfill the requirements of this Contract.

(b) Loan payments on the note in the face amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) shall be due on the first day of the month with the first payment due on the first day of the month as specified in the Loan Note. The monthly payment shall be \$625.00. Interest on the loan shall accrue at the rate of zero percent (0%) per annum from the date of disbursement. Borrower shall make 240 consecutive monthly loan payments.

(c) Borrower shall have not more than twenty (20) years from the due date of the first payment in which to repay in full all principal and interest due and owing on such loans, in accordance with the terms and conditions of the Loan Note.

(d) The purpose of this loan is to provide Borrower with funds to rehabilitate Borrower's property located at 3323 Alameda as more fully described in the Builders and Mechanic's Lien Contract and Deed of Trust (With Power of Sale) of even date herewith, attached hereto as Exhibit "B", and incorporated by reference herein. Borrower agrees that upon completion six (6) of the rental units will be occupied by tenant households with incomes that do not exceed fifty percent (50%) of the area median income and paying no more than the LOW HOME rent established by federal regulations and that four (4) of the rental units will be occupied by tenant households that do not exceed sixty percent (60%) of the area median income and paying High HOME rents. There is no other use of said funds authorized by City, and the use of the City's funds by Borrower for any other purpose shall constitute a breach of contract by Borrower for which City may pursue any and all remedies, whether at law or equity, which are available to City.

C. Borrower may prepay at any time all or part of the current balance. Such prepayment, if any is made, will be applied first to any interest due and then to the reduction of principal. In the event a prepayment is made, the rate of interest on such prepayment shall be the interest rate then in effect under the terms of this Contract. Prepayment will not release Borrower from fulfilling the HOME covenants described in Section IV of this Contract.

II. REPRESENTATIONS AND WARRANTIES

A. Borrower represents that the information furnished to City upon which City relied to make this loan is correct and true. Borrower hereby represents that each of said Borrower's representatives have the authority and capacity to commit to a financial obligation on behalf of Borrower. Specifically, but not by way of limitation, this authority includes signing a loan agreement, notes, and any security instrument related thereto in incurring financial obligations for construction and rehabilitation on the property located at 3323 Alameda, El Paso, El Paso County, Texas as more fully described in Exhibit "B" attached hereto and incorporated by reference herein. Borrower further represents that it owns any and all buildings referenced above, subject to any and all restrictions, easements, covenants, and other matters of record.

B. Borrower agrees and understands that approval of this loan has been made by consideration of and in reliance upon various data furnished by Borrower, and agrees that should any of said data prove to be false or materially misleading in any way, the City shall have the right to unilaterally terminate this Contract for unremedied breach thereof and demand repayment in full the entire principal amount of the grant, as evidenced by Exhibit "C", and all principal advanced and all accrued interest under the terms of the loan, as evidenced by Exhibit "D", plus all costs of collection.

C. This Contract is entered into in the City and County of El Paso, Texas and shall be governed and construed under the laws of the State of Texas. Venue shall be in El Paso County, Texas, for all purposes.

III. CONDITIONS PRECEDENT

Borrower agrees to fully comply with the following terms and conditions, as a condition precedent to Borrower's receipt of any and all public financing described herein:

A. Borrower will execute all documents necessary to impose the Covenants and Restrictions Running with the Land required by the HOME program described in the Code of Federal Regulations.

B. The Borrower agrees to ensure that City be named in both the performance and payment bonds, if such bonds are required under the terms of the Contract between Borrower and Contractor for the rehabilitation of the property described herein.

C. Borrower agrees to grant to City the following collateral as security for the City loan and grant as agreed thereto:

A first lien on the following described real property:

Lots 10, 11, 12, 13 and the West ½ of Lot 14, Block 21, SUPPLEMENTAL MAP NO. 1 OF EAST EL PASO, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 1, Page 51, Real Property Records, El Paso County, Texas, municipally known as 3323 Alameda Avenue

D. This lien shall be subservient only to the following described liens on the above-described property: NONE

E. Borrower agrees to take any and all necessary action to perfect such lien(s) and to protect City's first lien position in the property described above. Any loans made under future advance clauses of any previous loans, without the City's written consent hereunder, shall constitute a breach of this Contract.

F. Borrower agrees to provide sufficient documentation to satisfy all HOME loan requirements.

G. Borrower shall furnish to City acceptable evidence of liability and casualty insurance on said real estate and improvements thereon which shall be sufficient to guarantee payment of all of the Borrower's indebtedness on the aforementioned property. This insurance coverage shall name the City as an additional insured.

H. Borrower agrees to obtain all necessary permits, licenses and special privileges which may be required by City prior to conducting the construction work on the property subject

to this Contract. In the event Borrower must pay any fees for obtaining any of the above items, Borrower agrees to pay such to City. Borrower shall also comply with any County, State or Federal requirements which apply to its construction activities. This is specifically to include but not limited to the HOME "rent limitations" outlined in Exhibit "E" and affordability requirements as noted herein.

I. Borrower understands, covenants and agrees to fully and completely comply with all terms and conditions of the Community Development Construction Contract, Exhibit "A", including, but not limited to, the timelines for completion of the project as identified therein.

If Borrower breaches any term or condition of this Section III., entitled "Conditions Precedent," the entire principal amount of the grant, as evidenced by Exhibit "C", and the entire outstanding principal advanced and all accrued interest under the terms of the loan, as evidenced by Exhibit "D", shall immediately be declared due and payable, and City shall be entitled to exercise all rights and remedies reserved to it under Section V. of this Contract entitled "Events of Default."

IV. COVENANTS

The following covenants in Subparagraphs A-R of this Section IV. shall apply as long as any amounts are outstanding under the Secured Grant and Loan Notes, unless a long period is specified:

A. Borrower agrees that HOME funds shall be used only for eligible construction costs. Borrower hereby acknowledges and agrees that the HOME funds may not be used for any other purpose.

B. "Eligible construction cost(s)" as the term is used herein shall include the actual construction cost, required appraisals, title searches, insurance, attorney's fees, architectural fees, escrow charges, tax recordation costs and credit reports, all in the amounts associated directly with the construction of the HOME units on the property.

C. Borrower also agrees to comply fully with all requirements of the Tenant Assistance Policies as developed by the City, as applicable to the project. A copy of the City's Tenant Assistance Policy has been provided to Borrower during the application process. Borrower further agrees to comply with §92.353 of the Code of Federal Regulations regarding displacement, relocation and acquisition.

D. Borrower agrees that it will not discriminate against current or prospective tenants on the basis of the receipt of, or eligibility for, housing assistance under any federal, state or local housing assistance programs, or on the basis that such tenants have a minor child or minor children who reside with them. Borrower agrees to comply with §92.252 of Title 24 of the Code of Federal Regulations, specifically to include, but not limited to Paragraph (4) of said Section.

E. Borrower hereby further agrees that for a period of twenty (20) years from the date construction is completed, the property will comply with Subpart F - Project Requirements of Part 92 of Title 24 of the Code of Federal Regulations, HOME Investment Partnership Program. Borrower further agrees to comply with CFR §92.250 regarding Maximum Per Unit Subsidy; §92.251 regarding Property Standards; §92.252(a)(b)(c)(d) regarding Qualification as Affordable Housing, of Title 24 of the Code of Federal Regulations, and their subsections and amendments thereto regarding:

- a) rent limitations;
- b) rent schedules;
- c) increases in tenant income;
- d) adjustments of qualifying rent

It is the further intention of this contract that Borrower fulfill the HOME occupancy requirements by reserving 60% of the HOME units that are identified as low HOME rent units for tenants whose income is no more than 50% of the City's median income for their household size. The balance of the HOME units in the project will be rented to tenants whose income is no more than 60% of the City's median income for their household size. The City will provide Borrower with the HUD-approved median income limits for the City on an annual basis whenever the limits are revised by HUD. The City will also provide the Borrower with updated rent limits whenever the HOME rents are revised by HUD. Borrower will be allowed to make adjustments to the project rents in order to comply with rent limit revisions by HUD.

Borrower agrees to comply with §92.216 of Title 24 of the Code of Federal Regulations regarding Income Targeting:

1. Initial Occupancy - 40% of the HOME assisted rental units in this project must be occupied by tenants with annual incomes at 60% of median or less plus twenty percent (20%) of the units with tenants at fifty percent (60%) or less of median income.

2. Annual reexamination.

It is the further intention of this Contract that all applicable HOME requirements and conditions be fulfilled in order to assist low and very low income persons in obtaining suitable housing.

Borrower agrees to comply with §92.253 of Title 24 of the Code of Federal Regulations regarding Tenant and Participant Protections.

F. In order to assure compliance with the Project Requirements of the HOME Program (as defined in Subpart F of Part 92 of Title 24 of the Code of Federal Regulations),

Borrower agrees to submit the following documentation to City for review and approval:

1. A copy of the tenant application and a description of the tenant qualification process that Borrower will utilize to verify tenant incomes.

2. A copy of the lease agreement form will be utilized for the subject residential property at 3323 Alameda, El Paso, Texas 79905.

G. Borrower agrees that it will not discriminate against any class of individuals protected against discrimination under federal law in soliciting and accepting tenants for the rehabilitated structure. Borrower further agrees to participate with City in making all good faith efforts necessary to attract as tenants any and all classes of individuals protected against discrimination under federal law.

H. Furthermore, Borrower agrees for a period of twenty (20) years commencing on the date of completion of the constructed property that the property shall remain affordable to low and very low income individuals and/or families pursuant to deed restrictions without regard to term of mortgage or to transfer of ownership pursuant to §92.252(5) of Title 24 of the Code of Federal Regulations as evidenced by Covenants and Restrictions Running With the Land, attached hereto as Exhibit "E". A definition of low and very low income individuals and/or families is attached as Exhibit "F" and incorporated by reference herein.

I. Borrower agrees that within ninety (90) days after the date the City of El Paso, Office of Housing Programs, signs the Owner's Acceptance Form for the constructed property, as described herein, Borrower will furnish to City data on the demographic characteristics of tenants occupying the rehabilitated structure initially after rehabilitation. Such data must be of a quality acceptable to the Director of the Department of Community and Human Development. Borrower further agrees to comply with subpart H – "Other Federal Requirements" as noted in §92.350 et. seq. of Title 24 of the Code of Federal Regulations

J. Borrower agrees to comply with the Federal Fair Housing Act and other Federal Rules, regulations and policies applicable to the performance of this Contract.

K. Borrower hereby agrees that in all solicitations for employment applications, Borrower shall hold itself out as an equal opportunity employer. Borrower shall fully comply with all federal and state laws, regulations, and executive orders regarding equal employment and shall further comply with Davis-Bacon compensation requirements, if applicable, to Borrower. Borrower agrees to comply with §92.508, (a)(2)(iv), (a)(3)(ii), (a)(3)(iii) of Title 24 of the Code of Federal Regulations regarding recordkeeping.

L. Borrower agrees to execute any and all notes, security agreements, financing statements, Builder's and Mechanic's Lien Contracts and Deeds of Trust (With Power of Sale) and any other documents necessary for perfection of City's lien in the form submitted by the City.

M. Borrower agrees to close on the Loan advanced herein within thirty (30) consecutive calendar days from the date of approval by the City Council.

N. Upon reasonable request, City shall have the right at all times to inspect Borrower's business premises, and its books and records relating to the requirements of this Contract. Borrower agrees that it will make its premises and records available for such inspection by City.

O. Borrower is prohibited from assigning this Contract in whole or in part in any manner. Borrower hereby understands and agrees that if the constructed property, as described herein, is sold or transferred in whole or in part within twenty (20) year covenant period, as further described hereinabove, without the written approval of the City, the City, at its option, may declare the entire balance of outstanding principal advanced and all accrued interest on the Loan Note, Exhibit "D", and the entire principal amount of the Secured Grant Note, Exhibit "C", immediately due and payable.

P. Borrower hereby agrees that it shall not impair, whether by means of affirmative action or inaction, the lien status of the City in the collateral as described herein, used as security for the City loan and grant.

Q. This Contract may be executed in any number of counterparts; all such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

R. BORROWER HEREBY AGREES TO INDEMNIFY, DEFEND, AND HOLD CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY SUITS, ACTIONS, DEMANDS, LIABILITIES, TYPE OR DESCRIPTION, BROUGHT OR MADE, AND CLAIMS OF ANY CHARACTER, FOR OR ON ACCOUNT OF ANY INJURIES OR DEATH, OR ACTIONABLE TORTS, SUSTAINED BY ANY PERSON(S), AND DAMAGE OR DESTRUCTION OF ANY PROPERTY ARISING OUT OF, OCCASIONED BY, OR RELATING TO THE PERFORMANCE OF THE CONTRACT, OR THE ACTIVITIES CARRIED OUT HEREUNDER. THIS INDEMNITY SHALL COVER CITY'S ATTORNEY'S FEES, COURT COSTS, WITNESS EXPENSES, AND ALL OTHER RELATED COSTS INCLUDING JUDGMENTS, AWARDS AND SETTLEMENTS.

S. No member, officer, or employee of City, or its designees or agents, no member of the governing body of City and no other public official of City who exercises any functions or responsibilities, or who has been in a position to participate in a decision-making process or gains inside information with regard to the activities governed by this Contract during his tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the HOME Program under this Contract.

Borrower and City agree that the construction will involve ten (10) units. No units constructed under this Contract will be exempt from the requirements and conditions noted herein.

If Borrower breaches any term or condition of this Section entitled "Covenants", the entire principal amount of the grant as evidenced by Exhibit "C", and the entire outstanding principal advanced and all accrued interest under the terms of the loan as evidenced by Exhibit "D", may immediately be declared due and payable, and City shall be entitled to exercise all rights and remedies reserved to it under Section V. of this Contract, entitled "Events of Default."

V. EVENTS OF DEFAULT

A. City has the right to accelerate the payment of the grant and loan, as evidenced by Exhibits "C" and "D", respectively, upon breach of this Contract by Borrower, and City further has the right to declare that the entire principal amount of the grant, and the entire outstanding principal advanced and all accrued interest under the terms of the loan is immediately due and payable by Borrower to City at the time of the contract breach. City's right to accelerate the grant and loan shall apply to all events as specifically designated in Sections III. and IV. of this Contract, and to the following events, but shall not be limited to these events:

- (1) material errors in the representations and warranties given to City by Borrower;
- (2) Borrower's failure to perform any of the covenants or conditions precedent as stated in this Contract;
- (3) any new or unstayed judgment or unsatisfied lien against Borrower in an amount which, in the City's judgment, may impair its security or perfection of its security status regarding the collateral subject to this Contract;
- (4) failure to pay principal on time;
- (5) Borrower's timely payment of principal, interest or any other amount due by check for which insufficient funds exist;
- (6) Borrower's failure to comply with the timeliness required for completion of the units, specified in Exhibit "A"; or
- (7) Borrower's failure to comply with the Covenants and Restrictions Running with the Land.

B. City hereby expressly reserves any and all other rights and remedies available to it in the event of Borrower's breach. It is hereby understood and agreed that in the event City agrees to a settlement of any breach of contract by Borrower, this shall not preclude the City from exercising its rights for any further or additional breaches of this Contract. This shall also

apply to any instances in which the City allows a period of time to pass so that Borrower has an opportunity to remedy any breach of this Contract.

VI. BORROWER'S LIABILITY

Borrower understands and agrees that if Borrower fails to comply with any term or condition, as specified in Section III. entitled "Conditions Precedent" or Section IV. entitled "Covenants", any other term or condition of this Contract, or any other term or condition of any document incorporated by reference herein, such that City is entitled to withhold payment of funds under the terms and conditions of this Contract. Borrower will bear sole liability for all obligations in any way related to the construction of the property described herein and City shall be entitled to all rights and remedies reserved herein.

VII. NOTICES

Any communications or notices regarding this Contract shall be effective only if sent postage prepaid, certified mail, return receipt requested to the following addresses, unless either party notifies the other in writing of a change of address:

CITY: City of El Paso
Attn: Director, Department of
Community and Human Development
2 Civic Center Plaza
El Paso, TX 79901-1196

BORROWER: P.V. Community Development Corporation
Attn: Bill Schlesinger, Co-Director
3607 Rivera
El Paso, TX 79905

VIII. ENTIRE AGREEMENT

This Contract embodies all of the representations, rights, duties and obligations of the parties, and any prior oral or written agreement not embodied herein shall not be binding upon or inure to the benefit of any of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first above written.

(Signatures on following page)

CITY OF EL PASO

Joe Wardy
Mayor

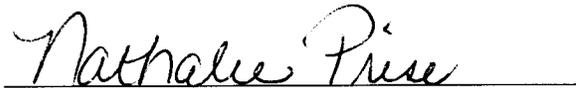
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

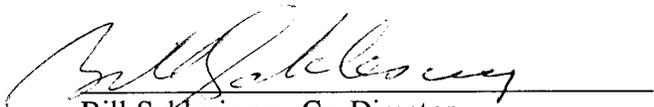

Lee Ann B. Koehler
Assistant City Attorney

APPROVED AS TO CONTENT:


Nathalie Prise, Interim Director
Community and Human Development

BORROWER(S):

P.V. Community Development Corporation


Bill Schlesinger, Co-Director

(Acknowledgments on following page)

(Acknowledgment)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2004, by _____ as _____ of THE CITY OF EL PASO.

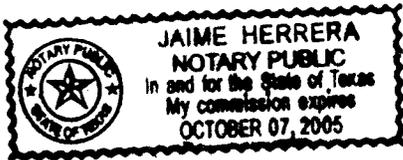
Notary Public, State of Texas
Notary's name (printed):

Notary's Commission Expires:

(Acknowledgment)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 9th day of AUGUST, 2004, by Bill Schlesinger, Co-Director of P.V. Community Development Corporation.



Notary's Commission Expires:
10-7-05

Notary Public, State of Texas
Notary's name (printed):
JAIME HERRERA