

**HOME-Funded Project Written Agreement
City of Chico/Habitat for Humanity of Butte County
Habitat 20th Street Project**

22nd This HOME-Funded Project Written Agreement (“Agreement”) is entered into as of this day of September, 2016, by and between Habitat for Humanity of Butte County (hereinafter referred to as “Developer”) and the City of Chico, a municipal corporation (hereinafter referred to as “City”), with reference to the following facts:

WHEREAS, City is the owner of the vacant real property (“Property”) located at 856 and 874 E. 20th Street in the City of Chico, County of Butte, State of California, legally described in Exhibit “A” attached hereto; and

WHEREAS, City intends to sell Property to Developer for the development of six (6) new-construction Self-Help, single-family affordable housing units (“Project”), the construction of which is to be financed in part by a City administered Department of Housing and Urban Development (“HUD”) HOME Investment Partnerships Program loan (“HOME Loan”); and

WHEREAS, Developer’s purchase of the Property will be financed by a deferred loan agreement between City and Developer for the appraised value of the Property, with the portion of such loan attributable to each individual housing unit to be assumed by the buyer thereof;

WHEREAS, the specific terms, conditions, and uses of the HOME Loan proceeds shall be memorialized in a HOME Loan Agreement to be entered into by the Parties as a condition precedent to the Developer’s receipt of the HOME Loan proceeds; and

WHEREAS, City has recorded Certificates of Compliance with the Office of the Butte County Recorder to recognize the six (6) individual legal lots comprising the Property, one lot for each housing unit; and

WHEREAS, an environmental review pursuant to the National Environmental Policy Act (“NEPA”) and the California Environmental Quality Act (“CEQA”), has been completed and the project has a Finding of No Significant Impact; and

WHEREAS, Developer will facilitate the construction of the six (6) self-help single-family homes and sell each to income-eligible buyer households; and

WHEREAS, each housing unit in the Project will be affordable to low-income households, with “low-income households” meaning a household earning no more than eighty percent (80%) of Chico Metropolitan Statistical Area median income adjusted for household size as determined by HUD from time to time, for the HOME Program and as set forth in 24 CFR Part 92.2 as it exists as of the date of this Agreement; and

WHEREAS, pursuant to applicable HOME Program Regulations, City and Developer (jointly hereinafter referred to as the “Parties”) desire to enter into a HOME Program Written Agreement setting forth the parties respective responsibilities for the Project.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE TO THE HOME REQUIREMENTS AS DEFINED HEREIN:

1. Use of HOME Funds. The Developer shall receive a HOME Loan from the City in an amount not-to-exceed Three Hundred Sixty Thousand Dollars (\$360,000) to support the development of six (6) 3-bedroom, new-construction HOME-assisted affordable single-family homes as part of the Project. The actual amount of the Home Loan will be set forth in the HOME Loan Agreement to be entered into by the Parties. The HOME Loan funds shall be used toward eligible Project costs in accordance with 24 CFR 92.206, with such eligible Project costs including acquisition, related soft costs, demolition, grading, utility connection, construction/rehabilitation costs, etc., as supported by the pro-forma and development budget documents submitted, analyzed and approved by the City and incorporated in the Home Loan Agreement(s). It is anticipated that Developer will construct two (2) housing units each year following the execution of this HOME Loan Agreement, such that the Project and all six (6) housing units shall be constructed over a period of time not to exceed four (4) years from the date of execution of the HOME Loan Agreement. See Proposed Budget at Exhibit “B” and Proposed Schedule at Exhibit “C”.

2. Project-specific Requirements. The HOME-assisted Project will comply with the provisions of the HOME Program regulations contained under 24 CFR Part 92, Subpart F, Project Requirements, including 24 CFR 92.250-251 and 254, maximum per-unit subsidy amount, subsidy layering requirements as determined by the City, applicable property standards, affordability requirements, period of affordability and resale and recapture provisions.

3. Homebuyer Eligibility Requirements.

A. Each of the Project’s housing units shall be acquired by an eligible homebuyer whose total household income does not exceed eighty (80%) of area median income for the Chico Metropolitan Statistical Area, as adjusted for family size and as determined by HUD.

1. Income eligibility shall be determined at the time homebuyer enters into a Family Participation Agreement with Developer, and household income will be re-evaluated if the housing unit does not transfer to the homebuyer within six (6) months of the date of the Participation Agreement. Participation Agreements shall be submitted to City for review and approval prior to start of construction of the applicable housing unit.
2. The Internal Revenue Service (“IRS”) definition of adjusted gross income as defined for reporting on IRS Form 1040 shall be used to determine eligibility. Income is to be determined based upon anticipated income and source documentation including, but not limited to, at least three (3) months of current household income. Documentation of income shall be provided to City.

- B. The homebuyer must occupy the unit as their principal residence.
- C. Homebuyer must receive Homeownership Counseling prior to taking title to a housing unit. Documentation of counseling must be submitted to City prior to loan assumption by homebuyer.

4. Period of Affordability and Requirements. Pursuant to 24 CFR 92.254, the HOME-assisted units must meet the affordability requirements for not less than the term specified in the HOME Program regulations, or a longer period stipulated by the City in the HOME Loan Agreement and/or Regulatory Agreement. The HOME period of affordability applicable to each housing unit in the Project shall be fifteen (15) years and commence at the time that all of the following actions have been completed:

- A. All necessary title transfer requirements and construction work have been performed;
- B. The Project complies with the requirements of 24 CFR Part 92 (including property standards under 24 CFR 92.251);
- C. The final drawdown on HOME Loan funds has been disbursed for the Project; and
- D. The Project completion information has been entered in HUD's Integrated Disbursement and Information System (IDIS).
- E. The affordability requirements set forth in this section shall apply without regard to the term or repayment of the HOME Loan or the transfer of ownership of a housing unit, and shall be imposed by deed restrictions or covenants running with the land; except that the affordability requirements may terminate upon foreclosure or transfer in lieu of foreclosure. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the Developer of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former Developer or those with whom the former Developer has or had family or business ties, obtains an ownership interest in the Project or any housing unit.

5. Resale Provisions and Terms. Upon sale of a housing unit an eligible buyer, the buyer will enter into a Loan Agreement and Covenant with the City. If the buyer sells the housing unit within the HOME Affordability period, the housing unit is subject to the following "Resale Provision": If the housing unit is sold during the HOME affordability period, the unit must be sold to an income eligible buyer (<80% AMI). Developer will finance the mortgage for the new buyer and the HOME Loan may be assumed by the new buyer. The fair return on investment to the seller, after a five (5) year vesting period, will be a pro-rata share based upon the appreciation of the housing unit, the length of time the seller remains in the home, and equity investment in the housing unit. In the event of a declining market, a seller's return may be zero. In the event of a short sale or foreclosure during the HOME Affordability Period, the HOME Loan may be forgiven.

6. Property Standards for New Construction Projects:

A. Housing that is newly constructed with HOME funds must meet all applicable State and local residential and building codes, ordinances, and zoning requirements.

B. The housing design shall comply with Universal Design Standards.

C. Any single family units constructed or rehabilitated in a program or activity receiving Federal financial assistance shall be made accessible upon request of the prospective buyer if the nature of the handicap of an expected occupant so requires. In such case, the buyer shall consult with the Developer regarding specific design features to be provided in accordance with 24 CFR 8.29.

7. Repayment of HOME Funds. All interest and other return on the investment of HOME funds in the form of the Loan are to be remitted to City as set forth in the HOME Loan Agreement. In order for the City to comply with the HOME Program regulations described in 24 CFR 92.503, Developer shall repay to the City the remaining principal balance of the HOME Loan if, after Project completion, the HOME-assisted Project fails to comply with the affordability requirements described under Subpart F, 24 CFR 92.254 of the HOME Program regulations. In the event that the Project is terminated before completion, either voluntarily or otherwise, any HOME funds invested in the Project must be repaid by the Developer to the City.

8. Uniform Administrative Requirements. Developer shall comply with all applicable uniform administrative requirements set forth in 2 CFR part 200 which, as of the date of this Agreement, may be found at the following link: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

9. Other Federal Requirements. Developer shall develop the Project in compliance with all Federal laws and regulations described in 24 CFR 92.350-356, including specifically, without limitation: nondiscrimination and equal opportunity; affirmative marketing procedures and requirements; displacement, relocation and acquisition; labor; lead-based paint; and conflict of interest. Developer shall not assume City's responsibilities for environmental review contained in 24 CFR 92.352. The requirements set forth below apply:

A. Nondiscrimination and equal opportunity. No person shall, on the grounds of race, color, national origin, religion or sex be excluded, denied benefits, or subjected to discrimination under any program funded in whole or in part by HOME funds. This applies to employment, contracting, as well as to marketing and selection of program participants. The following Federal laws, executive orders and regulations apply as summarized below:

1. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) states that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin. The regulations implementing the Title VI Civil Rights Act provisions for HUD programs may be found in 24 CFR Part 1.

2. The Fair Housing Act (42 U.S.C. 3601-3620) prohibits discrimination in the sale or rental of housing, the financing of housing, or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, disability, or familial status.
3. Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259) prohibits discrimination against individuals on the basis of race, color, religion, sex, or national origin in the sale, rental, leasing, or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds. Equal Opportunity in Housing regulations may be found in 24 CFR Part 107.
4. Age Discrimination Act of 1975, as amended (42 U.S.C.6101-6107) prohibits age discrimination in programs or activities receiving Federal financial assistance. Age Discrimination Act regulations may be found in 24 CFR Part 146.

B. Affirmative Marketing. Developer shall adopt affirmative marketing procedures and requirements for projects containing five (5) or more HOME-assisted housing units (24 CFR 92.351). Affirmative Marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. The written affirmative marketing requirements and procedures must include the following:

1. Methods for informing the public, property owners and potential tenants about federal fair housing laws and affirmative marketing policy (i.e., through the use of the fair housing logo or equal opportunity language in marketing materials, posters on office walls, and referrals to fair housing agencies).
2. Requirements and practices each property owner must adhere to in order to carry out the affirmative marketing procedures and requirements (i.e., advertising requirements, outreach to community groups, EO logo, fair housing poster).
3. Procedures to be used to inform and solicit applications from persons in the housing market area that are not likely to apply for the housing without special outreach. These efforts might include advertising in non-English language newspapers, targeted outreach through direct mail, informing service agencies about the project, community organizations, places of worship, and translators at public meetings.
4. Records that will be kept describing actions taken to affirmatively market HOME-assisted units and records to assess the results of these actions.
5. A description of agency's method to annually assess the success of the agency's affirmative marketing actions and what corrective actions will be taken when affirmative marketing requirements are not met (i.e., making an annual review of who the program or project is serving to determine whether members of protected classes are being reached and to determine which marketing vehicle works best to reach persons who might not be likely to apply).

C. Accessibility for Disabled Persons. Applicable regulations include:

1. Americans with Disabilities Act (42 U.S.C. 12131); and
2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination in Federally-assisted programs on the basis of disability. Individuals with disabilities must be able to access and participate in Federally-assisted programs, special communication systems may be necessary for outreach and participation and policies and procedures must be nondiscriminatory. In employment, employers must not discriminate and must make reasonable accommodations for individuals with known disabilities.

D. Employment and Contracting.

1. Equal Employment Opportunity, Executive Order 11246, as amended, prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin. Provisions to effectuate this prohibition must be included in all construction contract exceeding \$10,000.
2. Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that, to the greatest extent feasible, opportunities for training and employment will be provided to low-income person residing in the program service area, and to the greatest extent feasible, contracts for work to be performed in connection with the HOME assistance, will be awarded to Section 3 business concerns.
3. Minority/Women's Business Enterprise. Solicitation for contracts/services must be extended to Minority Business Enterprise (MBE) and Women-owned Business Enterprises (WBE).
4. Debarred, suspended, or ineligible contractors and participants. HOME funds may not be used to directly or indirectly employ or award contracts to debarred, suspended, or ineligible contractors and participants.

E. Labor.

1. Davis-Bacon Wages. In accordance with 24 CFR 92.354, every contract for the construction (rehabilitation or new construction) of housing that includes twelve (12) or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).

2. The contract for construction must contain these wage provisions if HOME funds are used for any project costs in § 92.206, including construction or non-construction costs, of housing with twelve (12) or more HOME-assisted units. When HOME funds are only used to assist homebuyers to acquire single-family housing, and not for any other project costs, the wage provisions apply to the construction of the housing if there is a written agreement with the owner or developer of the housing that HOME funds will be used to assist homebuyers to buy the housing and the construction contract covers twelve (12) or more housing units to be purchased with HOME assistance. The wage provisions apply to any construction contract that includes a total of twelve (12) or more HOME-assisted units, whether one or more than one (1) project is covered by the construction contract. Once they are determined to be applicable, the wage provisions must be contained in the construction contract so as to cover all laborers and mechanics employed in the development of the entire project, including portions other than the assisted units. Arranging multiple construction contracts within a single project for the purpose of avoiding the wage provisions is not permitted.
3. Contractors, subcontractors, and other participants must comply with regulations issued under the above-noted acts and with other Federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. The City requires certification as to compliance with the provisions of this section before making any payment under such contract.
4. Volunteers. The prevailing wage provisions of paragraph (1) and (2) of this section do not apply to an individual who receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time in the construction work. See 24 CFR part 70.
5. Sweat equity. The prevailing wage provisions of paragraph (1) of this section do not apply to members of an eligible family who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

F. Lead-Based Paint. Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, M and R of this title.

G. Drug-free workplace. The Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 2 CFR part 2429.

H. Displacement, Relocation and Acquisition. In accordance with 24 CFR 92.353 the Developer must ensure that they have taken all reasonable steps to minimize the displacement of

persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of the Project.

I. Conflict of Interest.

1. Conflicts prohibited. No persons described in paragraph (2) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
2. Persons covered. The conflict of interest provisions of paragraph (1) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City or Developer which are receiving HOME funds. No owner, developer or sponsor of a project assisted with HOME funds (or officer, employee, agent or consultant of the owner, developer or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable housing unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.

F. Faith-based activities. A faith based organization that is a recipient or subrecipient of HOME program funds is eligible to use such funds provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or any manner prohibited by law.

G. Anti-lobbying. Developer shall not use any proceeds of the HOME Loan for the purpose of influencing or attempting to influence an elected official or officer or employee of any local, state or federal agency, or in support or opposition of any political candidate or ballot measure. Developer agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C. (the Hatch Act).

9. Requests for Disbursement of Funds. Developer may not request disbursement of HOME funds under the HOME Loan Agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount actually needed and requests may be made as described in the HOME Loan Agreement.

10. Records and Reports. Developer must maintain all records pertaining to the Project and participation in the HOME Program and submit any required information or reports to the City, in order to assist the City in meeting its monitoring, recordkeeping and reporting requirements.

A. Records must be retained for a minimum five (5) years after the Project completion date. Other record keeping and reporting requirements as described in the HOME Loan Agreement shall apply.

B. City must provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.

C. Developer to provide a report including demographic data for each homebuyer as requested by the City.

11. Duration of Agreement. The provisions of this Agreement shall remain in force through transfer of the final Project housing unit to an eligible home buyer and all reports are submitted to City pursuant to Section 10 (a).

12. Enforcement of Agreement. City may use whatever legal means and remedies necessary and available to enforce this Agreement. Means of enforcement include, but are not limited to, liens on real property, deed restrictions, or covenants running with real property held by the Developer. The affordability requirement in 24 CFR Section 92.252 of the HOME Investment Partnership Program shall be enforced by deed restriction pursuant to the City Documents.


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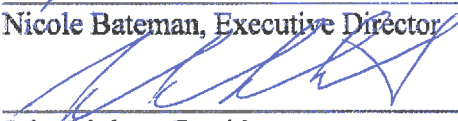
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first hereinabove set forth.

"City"

By:  
Mark Orme, City Manager

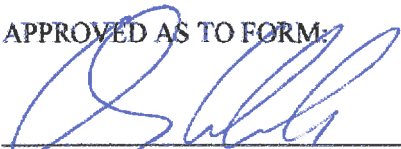
"Developer"

By: 
Nicole Bateman, Executive Director

By: 
John Linhart, President

Mailing Address: 220 Meyers Street
Chico, CA 95928

APPROVED AS TO FORM:


Vincent C. Ewing, City Attorney*

*Approved pursuant to the Charter of the City of Chico §906(D)