



SECOND AMENDMENT TO THE AGREEMENT

BETWEEN

COUNTY OF SAN MATEO

AND

**EAST PALO ALTO COMMUNITY ALLIANCE &
NEIGHBORHOOD DEVELOPMENT ORGANIZATION
(EPA CAN DO)
FOR ASSISTANCE WITH THE CONSTRUCTION OF
AFFORDABLE HOUSING**

For the period of

4/1/2000

to

12/31/2005

Contact Person: Jack Marquis
Telephone number: (650) 802-5035

SECOND AMENDMENT TO THE AGREEMENT BETWEEN COUNTY OF SAN MATEO ("County"), AND EAST PALO ALTO COMMUNITY ALLIANCE & NEIGHBORHOOD DEVELOPMENT ORGANIZATION ("Contractor"), TO ASSIST WITH THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING

THIS SECOND AMENDMENT TO THE AGREEMENT is made and entered into this _____ day of _____, 2003, by and between the County and Contractor as named above.

WITNESSETH

WHEREAS, on June 6, 2000, by Resolution No. 63659, the Board of Supervisors authorized execution of an Agreement with Contractor for the purpose of assisting with the development of affordable rental housing (the "Original Agreement"); and

WHEREAS, on February 26, 2002, by Resolution No. 65090, the Board of Supervisors authorized a First Amendment to the Agreement with Contractor, which added additional funds and extended the term to December 31, 2003 (the "First Amendment") and thereby established as "Amended Agreement"; and

WHEREAS, the County wishes to: replace Exhibit A in its entirety with the new Exhibit A attached hereto and labeled as "REVISED 06-2003", add additional funds to cover increased construction costs, and to extend the term of the Amended Agreement to 12/31/2005 to match the Tax Credit Requirement; and

WHEREAS, in support of the expansion of the project, Contractor has been awarded an additional \$481,894 of FY 2003-04 HOME funds; and

WHEREAS, the County and Contractor desire to further amend said Amended Agreement to, among other things, reflect the increased scope of funding and development;

IT IS HEREBY AGREED BY THE PARTIES HERETO THAT THE AMENDED AGREEMENT IS FURTHER AMENDED AS FOLLOWS:

1. The Contract Amount is increased to \$2,210,031.00.
2. The term of the Amended Agreement is revised as follows: Start date April 1, 2000, End date December 31, 2005.
3. EXHIBITS
Exhibit A is replaced in its entirety with the new Exhibit A attached hereto and labeled "Exhibit A Program/Project Description (REVISED 06-2003)".
4. Except as herein specified, all other terms and conditions of the Amended Agreement dated February 26, 2002 between the County and Contractor shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Rose Jacobs Gibson, President
Board of Supervisors, County of San Mateo

Date: _____

ATTEST:

Clerk of Said Board

EPA CAN DO

Contractor - Print

Date:

ROBERT JONES, Executive Director

Title - Print
[Signature]

Signature

Date: *May 29, 2003*

Exhibit A
Program/Project Description (REVISED 06-2003)

1. Funded Activity

The funds provided under this Agreement shall be used to assist with the development of an affordable rental housing project (the "Project") consisting of approximately 32 units, as listed below as eligible CDBG and HOME expenses. The Project shall be built on the site owned by EPA CAN DO on University Avenue between Sacramento and Weeks Street more fully described as:

Lots 11, 12, 13, 14, 15, 16, & 17, Block 2, as shown on that certain map entitled, "RAVENSWOOD VILLAS, SAN MATEO COUNTY, CALIFORNIA", filed in the office of the Recorder of the County of San Mateo, State of California, on February 4, 1927, in Book 15 of Maps at pages 21 and 22.

The funds provided are coming from two sources: CDBG and HOME. Eligible CDBG expenses include, but are not limited to, acquisition, architecture and engineering fees, financing fees, appraisals, legal fees, construction period interest, construction period taxes, title and escrow expenses, tax credit application fees, environmental assessments, demolition costs, construction of required off-site improvements, marketing expenses and relocation expenses. Eligible HOME expenses include all of the above plus costs associated with the construction of the units.

Contractor acknowledges prior expenditures of HOME and CDBG funds on parcels making up the Project site as follows:

\$100,000	HOME funds to acquire and rehabilitate triplex at 2361 University Avenue
\$ 40,000	CDBG funds to acquire single family house at 2365 University Avenue
\$201,300	HOME funds to acquire vacant lot at University & Sacramento
\$ 38,959	CDBG funds for legal and title expenses incurred in connection with the above acquisition

All of the above funds are secured by a series of Notes and Deeds of Trust on the individual parcels affected; these Deeds of Trust shall be reconveyed, and a new Note and Deed of Trust, secured by the entire Project site, including the above amounts, together with any accrued interest, and all additional funds provided under this Agreement shall be executed by Contractor.

Contractor shall be responsible for providing relocation benefits, as required by CDBG and HOME regulation, to the tenant households currently occupying the units to be removed as a part of the Project.

\$481,894 of the HOME funds shall be set aside to be used specifically for contingency purposes only. The Project contingency budget is \$625,626, \$143,732 of which is being funded from other sources. The \$481,894 shall only be used after all other contingency funds have been utilized. All uses of contingency funds must be reviewed by County prior to expenditure. All project costs shall be certified upon project completion and compared to the Approved Development Budget contained herein. Any funds not used shall be returned to the County to be applied toward repayment of the County loan.

Exhibit A
Program/Project Description (REVISED 06-2003)

2. :
- a. Rent is a rental amount that does not exceed the lesser of (1) the Section 8 Fair Market Rents (FMRs), as established by HUD under 24 CFR Part 888, for existing housing minus tenant paid utilities, or (2) 30% of annual income for households at the HOME income limit for San Mateo County, adjusted for family size, less tenant paid utilities. This rental amount is calculated by San Mateo County at 120% of the Low HOME Rent as defined below.
 - b. If tenant is paying any utilities, a "utility allowance" must be deducted from the rent figures below. This allowance is calculated by HUD under 24 CFR Part 880 - 886 and may be obtained by contacting the San Mateo County Housing Authority.
 - c. Low HOME Rent is a rental amount that does not exceed 30% of annual income for households at the Very Low Income limit for San Mateo County, adjusted for family size, minus tenant paid utilities. This rental amount is calculated by HUD and adjusted from time to time.

If tenant is paying any utilities, a "utility allowance" must be deducted from the above rent figures. This allowance is calculated by HUD under 24 CFR Part 880 - 886 and may be obtained by contacting the San Mateo County Housing Authority.

- d. Very Low Income is the qualifying income with adjustments for family size, for very low income households as established by HUD pursuant to Section 8 of the United States Housing Act of 1937, as amended. These income limits are adjusted from time to time.
- e. HOME Income is income at 120% of the Very Low Income for the area adjusted for family size as calculated by HUD and adjusted from time to time.

3. **Rent and Occupancy Restrictions**

At least 20 of the units comprising the Project must be occupied by households whose income does not exceed the Very Low Income limit as specified above. The rents on said units, including tenant paid utilities, may not exceed the Low HOME Rent as specified above.

At least 8 of the units comprising the Project must be occupied by households whose income does not exceed the HOME Income Limit as specified above. The rents on said units, including tenant paid utilities, may not exceed the High HOME Rent as specified above.

The Income and Rent Limits specified above may be adjusted from time to time by HUD (or any successor agency); any such adjustments shall be incorporated into this Agreement. The current

4. **Deed Restriction**

In compliance with the requirements of the HOME Program which is providing a portion of the funding for this project, a Deed Restriction shall be recorded against the property comprising the Project. The term of said Deed Restriction shall be 30 years, and shall stand independent of this

Exhibit A
Program/Project Description (REVISED 06-2003)

Agreement. The Deed Restriction shall only affect 11 units and shall stand in addition to any restriction imposed by this agreement.

5. Security

Contractor shall execute and deliver a Promissory Note (the "Note") and Deed of Trust in favor of County in the amount of \$2,605,240 to secure the performance of all terms and conditions of this Agreement.

The Note shall bear interest at the rate of three percent (3%) per annum. The Note shall be for a term of thirty (30) years from the date of issuance from the City of East Palo Alto of a Certificate of Occupancy; interest shall commence on the same date.

Annual payments shall be made from the annual Surplus Cash generated by the Project and will be due 90 days from the end of the projects fiscal year. The payments will be first applied to outstanding interest and then to principal until the Note is paid in full. In the event this payment is less than unpaid accumulated interest plus current interest, any unpaid amount shall carry over to the following year. Interest shall not compound on this interest carry-over. The entire outstanding principal balance plus any unpaid accrued interest shall be due and payable upon maturity of the Note as specified above. The terms of repayment of this Note may be modified by the Director of the Office of Housing as deemed necessary to ensure the continuing affordability of the project.

All existing Notes and Deed of Trust in favor of the County shall be reconveyed upon recordation of the new Deed of Trust.

6. Due on Sale, Refinance or Transfer of Title

Contractor shall not sell or refinance the Project other than a refinance for a permanent loan to repay any interim loans taken out to complete construction of the Project, or assign its rights under this Agreement without obtaining prior written consent of the County Director of the Office of Housing. In the event of a sale or transfer of the Project or any interest therein by Contractor without such consent, the entire amount of the Note plus any accrued interest shall be immediately due and payable.

7. Acceleration of Note

In the event Contractor breaches any of the terms and conditions of this Agreement after notice and an opportunity to cure, as provided in Paragraph 1 of Exhibit E to this Agreement, the Contractor will be in default of the terms and conditions of the Note, and County may demand immediate and full payment of the principal amount of the Note plus any accrued interest, and/or may initiate foreclosure proceedings under the Deed of Trust.

8. Title P.

Contractor shall open an escrow with a mutually acceptable title company and shall secure at the close of escrow the issuance of a CLTA policy of title insurance in the amount of not less than

\$2,605,240, clear of any title defects which would prevent the operation of the proposed project. County shall submit into escrow instructions and documents for execution.

9. **Fire and Extended Coverage**

Contractor at its cost shall maintain on the improvements that are the subject of this Agreement, a policy of standard fire and extended coverage during the life of the Note and Deed of Trust securing performance of this Agreement, or any subsequently executed documents which replaces the Note and Deed of Trust, with vandalism and malicious mischief endorsements, to the extent of at least the full replacement value of the improvements which are part of the Project. The insurance policy shall be issued in the names of Contractor and County as their interests appear. The insurance policy shall contain a lender loss payable endorsement, providing that any proceeds shall be payable to the County as its interests appear. A Certificate of Insurance shall be delivered to the County Office of Housing as evidence of such insurance.

In the event that Contractor shall undertake to restore the damaged improvements or to reconstruct the destroyed improvements within a period of sixty (60) days, such insurance proceeds shall be released to Contractor as payments are required for such purposes, and upon completion of such restoration or reconstruction, any balance thereof remaining shall be paid to Contractor forthwith, subject to the rights of senior lenders.

In the event Contractor shall fail to undertake the restoration or reconstruction of such improvements within sixty (60) days following any such damage or destruction, there shall be paid and released to the County from such insurance proceeds a sum equal to the costs of clearing the premises in the event Contractor does not at its own expense clear the premises within said period. The balance shall be held to compensate the parties to this Agreement as if the premises were sold. Contractor shall also sell the vacant land on the open market and the proceeds of said land sale shall be distributed to the parties to this Agreement pursuant to the terms hereof.

10. **Approved Development Budget**

The following is the Approved Development Budget for this project; any variance from this budget must be approved by the Office of Housing:


SOURCES OF FUNDS	
First Mortgage (City Bank)	2,159,900
Construction Loan (Bank of America)	6,245,488
Packard Foundation Construction Loan	425,000
Third Mortgage (County CDBG & HOME)	2,605,240
Fourth Mortgage (EPA Redev. Agency)	1,100,000
Accrued interest during construction period	7,150
Deferred Developer Fee	100,000
General Partner Equity	165,961
Limited Partner Equity	5,169,371
TOTAL SOURCES	\$17,978,110

USES OF FUNDS	
Land Acquisition (incl. legal, title)	1,488,599
Offsite Construction/Demolition	133,845
Site Improvements	75,000
Residential Structures	5,805,522
Non-Residential structures	241,897
Contractor Bond	62,563
Contingency	625,626
Furnishings	20,000
Architecture & Engineering (incl. Soils)	515,750
Municipal Fees	57,612
Local Impact Fees	218,000
Appraisal	6,800
Bridge Loan Fees and Interest	7,500
Construction Period Interest	345,415
Construction Loan Fees (1%)	62,455
Construction Period Insurance	30,000
Real Estate Taxes	3,000
Mortgage Loan Fees (2%)	43,198
Title & Escrow, Construction closing	15,000
Title & Escrow, Mortgage closing	10,000
Legal - Construction closing	15,000
Legal - Mortgage	10,000
Legal - Organization	5,000
Legal - Syndication	25,000
Legal - Investor	15,000
Tax Credit Allocation Committee Fees	38,114
Syndication Consultant	30,000
Rent-up and Marketing Expenses	25,900
Market Study	7,000
Development fees	1,072,830
Project Management	40,000
Construction Management	30,000
Relocation	89,000
Holding Costs	49,996
Audit	12,000
Capitalized Operating Reserves	75,000
Repayment of Packard Foundation	425,000
Repayment of	6,245,488
TOTAL USES	\$17,978,110

**SAN MATEO COUNTY
MEMORANDUM**

DATE: 5/30/2003

TO: Priscilla Harris Morse FAX: 363-4864 PONY: EPS 163

FROM:  Lucho Bravo (650) 802-5100
FAX: (650) 596-3478 PONY: HSA210

SUBJECT: Contract Insurance Approval

The following is to be completed by the department before submission to Risk Management:

CONTRACTOR NAME: EPA CAN DO

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES?: Yes

NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR: >1

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: Assistance with the Construction of Affordable Housing.

The following will be completed by Risk Management:

INSURANCE COVERAGE:	Amount	Approve	Waive	Modify
Comprehensive General Liability	\$ <u>1m</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Motor Vehicle Liability	\$ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Professional Liability	\$ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Workers' Compensation	<u>statutory</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS/COMMENTS:

Priscilla Morse
Risk Management Signature

6-2-03
Date

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
04/09/2003

PRODUCER (650)341-4484 FAX (650)341-4465
Business Professional Ins. Assoc. Inc.
1519 South B Street
n Mateo,, CA 94402

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED East Palo Alto Community Alliance & Neighborhood Development organization (EPA CAN DO)
855 Runnymede Street
East Palo Alto, Ca 94303

INSURER A: Nonprofits' Insurance Alliance of California
INSURER B: Everest Insurance
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/>	2003-10976-NPO	04/08/2003	04/08/2004	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	2003-10976-NPO	04/08/2003	04/08/2004	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	3900033283021	07/01/2002	07/01/2003	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E L EACH ACCIDENT \$ 1,000,000 E L DISEASE - EA EMPLOYEE \$ 1,000,000 E L DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER Building Coverage	CWB0000412-01	04/08/2003	04/08/2004	\$369,000 - 2377 Clark Ave. \$356,000 - 2387,2397 Clark Ave Replacement Costs \$500 Ded.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Certificate holder is named as Additional insured in respects to source for Home Funding and CBDG Funding.

Ten [10] day notice of cancellation for non-payment of premium

Additional Insured applies to General Liability policy only, per form CG 2026 11/85

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

County of San Mateo
Office of Housing
262 Harbor Boulevard
Belmont, CA 94002

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Virginia Fontana/SANDEE

Virginia Fontana



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

**County of San Mateo
Office of Housing**

Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of the policy, and for which a certificate of insurance naming such person or organization as additional insured has been issued, but only with respect to their liability arising out of their requirements for certain performance placed upon you, as a nonprofit organization, in consideration for funding or financial contributions you receive from them. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

(If no entry appears above, information required to complete the endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your operations or premises owned by or rented to you.

CG 20 26 11 85 NIAC FORM