

CITY OF LOMPOC

**1992 STATE HOME PROGRAM INCOME FUNDS
REIMBURSABLE CONTRACT**

**MEMORANDUM OF UNDERSTANDING
2006-2007**

NO. 45802-59134

THIS MEMORANDUM is made and entered into on July 18, 2006, by and between the City of Lompoc ("City") and **Lompoc Housing and Community Development Corporation – Operating Subsidy** ("Operating Agency") with reference to the following facts:

- A. The City wishes to promote the development of more affordable rental housing in neighborhoods in need of revitalization in the Lompoc community and provide a greater choice of housing opportunities for persons and families of low income and very low income; and
- B. The City has received Home Investment Partnership Program funds ("HOME Funds") from the United States Department of Housing and Urban Development ("HUD") via the State of California Department of Housing and Community Development pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low income persons and families; and
- C. The Operating Agency has requested that the \$12,500 balance in a 2002 allocation of HOME funds to the Operating Agency be re-authorized by City Council for use in funding a Construction Manager position with the Operating Agency. Operating Agency is a locally registered Community Housing and Development Organization (CHDO), which under the HOME Program may use HOME funds for operating subsidy purposes, with the ultimate intent of creating affordable housing for low income residents of Lompoc; and
- D. The City wishes to allocate Twelve Thousand Five Hundred Dollars (\$12,500) in State HOME Program Income to the Operating Agency for this purpose.

NOW, THEREFORE, for good and valuable consideration, City and Operating Agency agree as follows:

1. MEMORANDUM ADMINISTRATION. The City Administrator is fully authorized to act for City in the administration of this Memorandum consistent with its provisions. The City Administrator may delegate, in writing, any of his/her duties under this Memorandum.
2. SCOPE OF SERVICES. Operating Agency agrees to perform all services necessary to achieve the goals and objectives set forth in the Statement of Community Development Objectives ("the Services"), a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.
3. IMPLEMENTATION PROCEDURES. Operating Agency is eligible for reimbursement for the eligible project(s) implemented under this Memorandum only after a detailed Project Description and Budget are developed to the satisfaction of the City Administrator. The City Administrator shall not execute agreements necessary to initiate the project(s) under this Memorandum until the project(s) have been approved by the City Administrator and/or by HUD and, if applicable, environmentally approved or released by HUD.

4. TIME OF PERFORMANCE. Operating Agency's services shall commence on or after July 18, 2006, and shall be completed not later than June 30, 2007.

5. COMPENSATION.

A. REIMBURSEMENT AFTER PERFORMANCE. After Operating Agency's performance of the Services, City shall reimburse Operating Agency an amount not to exceed **\$ 12,500.00**, which constitutes full and complete reimbursement for the performance of this Memorandum. Reimbursement will be paid out of funds received by City from in State HOME Program Income. The parties understand and agree that reimbursement, is conditioned upon City's receipt of funding upon accumulation of Program Income from such projects, and shall not be a charge on any other funds of the City.

B. USE OF FUNDS. All funds approved under this Memorandum shall be used solely for costs approved in the program budget. Funds shall not be used as a cash advance, as security to guarantee payments for any non-program obligations, or as loans for non-program activities. Operating Agency shall not incur any expenditures for travel outside the City of Lompoc unless specifically authorized at Exhibit "A." Operating Agency certifies and agrees that it will not use any funds provided through this Memorandum for entertainment or for gifts. City shall not pay for any services provided by Operating Agency which are funded by other sources.

C. FISCAL LIMITATIONS. The United States of America, acting through HUD or the State of California Housing and Community Development Department, may, in the future, place unanticipated program or fiscal limitations on HOME Program Income funds. Accordingly, City reserves the right to unilaterally revise this Memorandum to take account of actions affecting HUD program funding. In the event of funding reduction, City may reduce the budget of this Memorandum as a whole or may limit the rate of the Operating Agency's use of both its uncommitted and its unspent funds. When HUD has directed or requested City to implement a reduction in funding, in whole or as to a cost category, with respect to funding for this Memorandum, the City Administrator may act for City in implementing and effecting such a reduction and in revising this Memorandum for such purpose.

D. METHOD OF PAYMENT. The funds to be paid under this Memorandum shall be disbursed to Operating Agency only after its full and satisfactory performance and after receipt and approval by City of a periodic detailed invoice in a form specified and approved by the City Administrator. Operating Agency shall submit invoices as specified on Exhibit "A."

E. CHANGES IN COMPENSATION. City reserves the right to reduce compensation when City's fiscal monitoring indicates that the Operating Agency's rate of expenditure will result in unspent funds at the end of the program year. Change in the grant allocation will be made after consultation with the Operating Agency. Such changes shall be made by written amendment, as set forth in Section 9 of this Memorandum.

F. FINAL PAYMENT. City reserves the right to withhold ten percent (10%) of the Memorandum amount on a completed project until completion is certified by the City Administrator.

6. ASSURANCES. Operating Agency hereby assures and certifies that it has complied with the Act, applicable regulations, policies, guidelines, and requirements, and that it will comply with all applicable federal, state, and local laws, regulations, 24 CFR Part 85, and OMB Circular A-87 as these relate to acceptance and use of federal funds for this federally assisted program. Operating Agency gives assurance and certifies that it will comply with provisions of 41 CFR 60-4.1 and 24 Code of Federal

Regulations 135.20, each of which are incorporated herein by this reference. Operating Agency further assures and certifies that it will comply with any future amendments or changes to these required assurances and that during the terms of this Memorandum will maintain current copies of these assurances at the address specified in Section 27 of this Memorandum.

7. PERFORMANCE STANDARDS.

A. COMPLIANCE. Operating Agency agrees to comply with specific project implementation and expenditure standards as adopted by the City Council.

B. PROCEDURES. Operating Agency agrees to utilize City forms and procedures and bill for expenditures not more often than once each calendar month.

C. ACCOUNTING. Operating Agency shall establish and maintain on a current basis an adequate accrual accounting system in accordance with generally accepted accounting principles and standards. The subrecipient agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

D. AUDIT AND INSPECTIONS. Operating Agency shall make available at any time during normal business hours, to authorized City, U.S. Department of Housing and Urban Development, State of California Housing and Community Development Department (HCD), the Comptroller General of the United States personnel or any of their authorized representatives for inspection, its performance, financial, and all other records pertaining to performance of this Memorandum, and allow City personnel or authorized representatives to inspect and monitor its facilities and program operations, including the interview of Operating Agency staff and program participants as required by the City. Operating Agency agrees to submit all necessary data to complete the Consolidated Performance and Evaluation Report in order to monitor program accountability and progress in accordance with HUD requirements at the time and in the format designated by the City Administrator. Any deficiencies noted in audit reports must be fully cleared by the Operating Agency within 30 days after receipt by the Operating Agency. Failure of the Operating Agency to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Operating Agency hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning subrecipient audits and OMB Circular A-133.

E. PERFORMANCE MONITORING. The City will monitor the performance of the Operating Agency against goals and performance standards as stated in Appendix A. Substandard performance as determined by the City will constitute noncompliance with this Memorandum. If action to correct such substandard performance is not taken by the Operating Agency within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated.

F. PROGRESS REPORTS. The Operating Agency shall submit regular Progress Reports to the City in the form, content, and frequency as required by the Grantee.

G. REVENUE DISCLOSURE. Operating Agency shall make available to City's representatives for inspection and audit, upon request at any time during the duration of this Memorandum and during a period of five (5) years thereafter, all of its books and records relating to the operation of each project or business activity which is funded in whole or in part with federal or state grant monies, whether or not such grants are received through City. Failure of Operating Agency to comply with the requirements of this Subsection constitutes a material breach and grounds upon which City may cancel, terminate, or suspend this Memorandum.

H. JOINT FUNDING. For programs in which there are sources of funds in addition to HOME funds, Operating Agency shall provide proof of such funding. All restrictions and/or requirements provided for in this Memorandum relative to accounting, budgeting, and reporting apply to the total program regardless of funding source. Operating Agency shall keep separate financial records for each of its programs and services.

I. FINANCIAL PHASE OUT PERIOD. Operating Agency agrees to complete all necessary financial phase out procedures required by the City Administrator not later than ninety (90) calendar days after the expiration date of the Memorandum ("the financial phase out period"). City is not liable to reimburse any expenses or costs associated with this Memorandum after the financial phase out period. Thereafter, those funds, if any, not paid to Operating Agency under this Memorandum will be immediately reprogrammed by City into other eligible activities in the City. The City Administrator may request a final financial audit for activities performed under this Memorandum at the expiration of the financial phase out period.

8. OPERATING AGENCY PROPERTY.

A. NONEXPENDABLE PROPERTY.

1. Nonexpendable property means leased or purchased tangible personal property having a useful life of more than one (1) year and an acquisition cost of \$300 or more per unit. Nonexpendable property includes, but is not limited to, office equipment, real property, any interest in, or encumbrance of such real property, and funds derived from the sale or disposition of nonexpendable property. Operating Agency shall obtain at least three (3) documented bids prior to purchasing nonexpendable property and agrees to purchase from the lowest responsible bidder. Purchase of property costing \$1,000 or more per unit requires prior written approval of the City Administrator.

2. Utilization of funds derived from the sale or disposition of nonexpendable property requires prior approval of City and shall otherwise comply with all applicable laws and regulations. If this Memorandum is terminated, City reserves the right to direct the final disposition of all nonexpendable property acquired under this Memorandum, in addition to all funds derived from its sale or disposition.

3. Operating Agency agrees that all nonexpendable property shall be properly identified, inventoried, and charged at its actual price, after deduction of all cash discounts, rebates, and allowances received by Operating Agency. This inventory shall be made available to the City Administrator upon request.

B. EXPENDABLE PROPERTY. Expendable property is all tangible personal property other than nonexpendable property. The purchase or disposition of expendable property valued at \$1,000 or more per unit requires the prior written approval of the City Administrator.

C. PURCHASING GUIDELINES. Operating Agency may purchase from an Operating Agency-related agency/organization only if funding source procurement requirements are met, prior authorization is obtained in writing from City, and no private gain accrues to Operating Agency or to any of its employees or officers.

D. LEASE OR RENTAL OF SPACE. City may approve space requirements necessary for Memorandum performance at cost, using prevailing area rates and space allocations, as established by the City Administrator at the time of Memorandum execution.

9. MEMORANDUM CHANGES. The City Administrator may modify Exhibit "A" to this Memorandum, provided that any such modification is:

- A. Requested in writing by Operating Agency;
- B. In the best interest of City and Operating Agency;
- C. Consistent with the Act, applicable federal regulations, and the other provisions of this Memorandum;
- D. Approved by the City Administrator, in writing, prior to expenditures being made, including the deletion or addition of eligible HOME activities; and
- E. Consistent with the "Final Statement of Community Development Objectives and Proposed Use of Funds" for the City as approved by the City Council.
- F. Any change in time of performance shall not exceed twelve (12) months per extension and an aggregate of thirty-six (36) months.
- G. Memorandum compensation changes shall comply with A-E, above, and may be made as surplus monies are identified within Operating Agency's HOME allocation from the City, so long as increases in compensation are within the aggregate HOME allocation to Operating Agency as approved by City Council.

10. ASSIGNMENT. This Memorandum is not assignable, in whole or in part, by Operating Agency without the prior written consent of City. Any attempt by Operating Agency to assign any performance of the terms of this Memorandum is null and void and constitutes a material breach of this Memorandum.

11. OUTSIDE EMPLOYMENT. In its written personnel policies, Operating Agency shall prohibit any outside employment of its employees that:

- A. Interferes with the efficient performance of the employee's duties in the program supported by this Memorandum; or
- B. Involves a conflict of interest or an appearance of conflict with the employee's duties in the program supported by this Memorandum; or
- C. Occurs during the employee's regular or assigned working hours in the program supported by this Memorandum, unless, during the entire day on which such employment occurs, the employee is on vacation, compensatory leave, or leave without pay.

Operating Agency agrees to establish effective procedures to enforce these provisions and provide specific procedures regarding outside employment of its full-time personnel whose duties are not readily confined to a standard workday or workweek. Such personnel include but are not limited to executive directors, neighborhood workers, and other employees whose responsibilities require them to be available for duty during evenings or on weekends.

12. INDEPENDENT CONTRACTOR. In the performance of this Memorandum, each party will be acting in an independent capacity and not as agent, employee, partner, joint venture, or associate of the other. The employees or agents of one party shall not be deemed or construed to be the agents or employees of the other party for any purpose whatsoever. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Operating Agency is an independent contractor.

13. WORKER'S COMPENSATION. The Operating Agency shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Memorandum.

14. COMPLIANCE WITH LAWS. The parties agree to be bound by applicable federal, state, and local laws, ordinances, regulations, and directives. This Memorandum is subject to and incorporates the terms of the Act; of 24 CFR Part 570; of 24 CFR Part 85; of OMB Circular A-87; and of the Rehabilitation Act of 1973 (Public Law 93-112). This Memorandum is subject to and incorporates the Copeland Anti-Kickback Act of 1968 (Public Law 90-577), which provides that "whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever, induces any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he/she is entitled under his/her contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

15. NON-DISCRIMINATION. No person shall, on the grounds of race, sex, creed, color, religion, or national origin, be excluded from participation in, refused the benefits of, or otherwise subjected to discrimination in any activities, programs or employment supported by this Memorandum. The Operating Agency agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

16. CIVIL RIGHTS COMPLIANCE. The Operating Agency agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act (HCDA) of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

17. Section 504. The Operating Agency agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S. C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the Operating Agency with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Memorandum.

18. RELIGIOUS AND POLITICAL ACTIVITIES. Operating Agency agrees that funds under this Memorandum will be used exclusively for performance of the services under this Memorandum, and that no funds made available under this Memorandum shall be used to promote any religious or political activity. Operating Agency further agrees that it will not perform or permit to be performed any religious or political activities in connection with the performance of this Memorandum.

If Operating Agency is, or may be deemed to be, a religious or denominational institution or organization, or an organization that is operated, controlled, or supervised by a religious or denominational institution or organization, Operating Agency hereby agrees that in connection with performance of this Memorandum, Operating Agency:

A. Will not discriminate against any employee or applicant for employment on the basis of religion, nor limit employment or give preference in employment to any person on the basis of religion;

B. Will not discriminate against any person applying for the Contract Services on the basis of religion, nor limit such services or give preference to any person on the basis of religion;

C. Will not provide religious instruction or counseling, conduct religious worship or services, engage in religious proselytizing, or exert religious influence of any kind in the provision of the Services; provided, however, that an Operating Agency that is a faith-based organization (FBO) may use space in their facilities to provide HOME-funded services, without removing religious art, icons, scriptures, or other religious symbols provided that the FBO does not use direct HOME funds to support any inherently religious activities, including but not limited to worship, religious instruction, and proselytization.

D. Agrees that the funds received under this Memorandum shall not be used to construct, rehabilitate, or restore any facility owned by the Operating Agency wherein the Services are provided.

19. NEPOTISM. Operating Agency shall not hire or permit the hiring of any person to fill a position funded through this Memorandum, if a member of that person's immediate family is employed in an administrative capacity by City's CDBG and HOME Program or by the Community Development Programs Office administering the CDBG and HOME Program. For the purposes of this Memorandum, "immediate family" means spouse, child, mother, father, brother, sister, uncle, step-parent, and stepchild. "Administrative capacity" means having selection, hiring, supervisory, or management responsibilities, including serving on Operating Agency's governing body.

20. LOBBYING. No federally appropriated funds have been or will be paid, by or on behalf of City, to any person for influencing or attempting to influence an officer or an employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Memorandum, the making of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal Memorandum, grant, loan, or cooperative agreement. If any funds other than federally appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Memorandum, grant, loan, or cooperative agreement, City shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

21. HATCH ACT. The Operating Agency agrees that no funds provided, nor personnel employed under this Memorandum, 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.

22. CONFLICT OF INTEREST. Operating Agency, its agents, employees, and volunteers shall comply with all applicable federal, state, and local laws and regulations governing conflict of interest. To this end, Operating Agency will make available to its agents, employees, and volunteers copies of all applicable federal, state, and local laws and regulations governing conflict of interest. Operating Agency shall furnish to the City, prior to performance of its project(s) under this Memorandum, a written list of all current or proposed sub-grantees/subcontractors, vendors, and personal service providers, including subsidiaries of Operating Agency, who will receive \$10,000 or more during the term of this Memorandum. The list shall include the names, addresses, telephone numbers, identification of principal(s), and a description of services to be provided. During the term of this Memorandum, Operating Agency shall notify the City in writing of any change in the list of sub-grantees/subcontractors, vendors, personal services providers, or subsidiaries of Operating Agency within fifteen (15) days after any change.

The Operating Agency agrees to abide by the provisions of 24CFR 84.42 and 570.611, which include (but are not limited to) the following:

- a. The Operating Agency shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of the Operating Agency shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to HOME-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or with respect to the proceeds from the HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one(1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer or elected or appointed official of the City the Operating Agency, or any designated public agency.

23. **AFFIRMATIVE ACTION**. Operating Agency shall make every effort to ensure that all projects funded wholly or in part by HOME funds shall provide equal employment and career advancement opportunities for minorities and women. In addition, Operating Agency shall make every effort to employ residents of the Lompoc area and shall keep a record of the positions that have been created directly by, or as a result of, its Program(s).

A. Operating Agency agrees that it will incorporate, or cause to be incorporated, into any Memorandum for construction work or modification thereof, as defined in Executive Order 11246, which is paid for in whole or in part with funds obtained from City, the following equal opportunity clause:

"During the performance of this Memorandum, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by City setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.

(3) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(4) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Memorandum so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials."

B. Operating Agency is responsible for complying with the provisions of 24 CFR, Part 135, "Employment Opportunities for Business and Lower Income Persons in Connection with Assisted Project." Operating Agency will also ensure that the provisions of 24 CFR, Part 135, are included in any subcontracts. Operating Agency agrees to affirmatively advertise material bids and to solicit participation from small, minority-owned, and female-owned businesses to the maximum extent possible. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Operating Agency may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

C. Operating Agency will refrain from entering into any contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with any contractor debarred from or ineligible for government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Secretary of Housing and Urban Development or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

24. INDEMNIFICATION. The Operating Agency agrees to indemnify, defend, and save harmless City, its agents, officers, and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with the Operating Agency's operations, or its services hereunder.

25. AUDIT EXCEPTIONS BY STATE AND FEDERAL AGENCIES. Operating Agency agrees that in the event its Program hereunder is subject to audit exceptions by appropriate state and federal audit agencies, it shall be responsible for complying with such exceptions and paying for the full amount of City's liability to the funding agency resulting from such audit exception.

26. INSURANCE. Without limiting Operating Agency's indemnification of City, Operating Agency shall provide and maintain at its own expense during the term of this Memorandum a program of insurance satisfactory to City covering its operations hereunder. The details of such insurance shall be specifically cited at Exhibit "A" for each project covered by this Memorandum. Operating Agency's satisfaction of the terms of this Section is a condition precedent to commencement of services under this Memorandum and to reimbursement of Operating Agency by City.

27. ALTERNATIVE FINANCIAL MANAGEMENT SERVICES. City may make available to Operating Agency a financial management service, which includes, among other things, certain designated record keeping, reporting, petty cash control, and lesser fiscal functions. This service is optional with Operating Agency, unless such services are mandated by this Memorandum, or City verifies the existence of fiscal management problems during the Memorandum term, in which case the City will mandate strengthening of the financial management system as a condition of continued funding

or future awards. If Operating Agency elects to use the City's financial management service, City may deduct its cost for this service from Operating Agency's total grant. Operating Agency will ensure that its employees and directors furnish such information, which, in the judgment of City representatives, may be relevant to a question of compliance and contractual conditions with City or granting agency directives, or with the effectiveness, legality, and achievements of this program.

28. TERMINATION.

A. This Memorandum may be terminated at any time by either party upon giving thirty (30) days written notice to the other party. The City Administrator shall give such notice of termination on behalf of the City. City may immediately terminate this Memorandum upon the termination, suspension, discontinuation, or substantial reduction in HOME funding for Costs or if for any reason the timely completion of the work under this Memorandum is rendered improbable, infeasible, or impossible. In such event, Operating Agency shall be compensated for all services actually rendered and all necessarily incurred costs performed in good faith in accordance with the terms of this Memorandum.

B. When the City Administrator has reasonable grounds to question Operating Agency's fiscal accountability, financial soundness, or compliance with this Memorandum, he/she may suspend this Memorandum for up to sixty (60) days upon three (3) days notice to Operating Agency of his/her intention so to do, pending an audit or other resolution of such questions. In no event, however, shall any revision made by City affect expenditures and legally binding commitments made by the Operating Agency before it receives notice of such revision, provided that such amounts have been committed in good faith, are otherwise allowable, and are consistent with HUD cash withdrawal guidelines.

C. Upon termination of this Memorandum, City reserves the right to determine the final disposition of any program income as described in 24 CFR 570.504 and 24 CFR Part 85.25. Final disposition may include the City taking possession of any such program income.

29. REVERSION OF ASSETS. Upon termination or expiration of this Memorandum, Operating Agency shall transfer to City any HOME funds on hand at the time of termination or expiration and any accounts receivable attributable to the use of HOME funds. Any real property acquired or improved with HOME funds must be used for HOME eligible costs as defined under 24 CFR 92.205 or disposed of in such a manner that results in the City being reimbursed in the amount of the current fair market value of the property less any portion attributable to non-HOME funds involved in the acquisition of, or improvements to, the real property. Any records or assets under the Operating Agency's control that were acquired or improved, in whole or in part, with HOME funds will be returned to the City within thirty (30) days after the termination or expiration date of this Memorandum.

30. NOTICES AND REPORTS. All notices, reports, and statements shall be in writing and served in person or by first class U.S. Postal Service, postage prepaid, at the following addresses:

To Operating Agency:

Ms. Sue Ehrlich, Executive
LHCDC – Operating Subsidy
604 East Ocean Avenue, Suite E
Lompoc, CA 93436

To City:

City Administrator
100 Civic Center Plaza
Post Office Box 8001
Lompoc, California 93438-8001
Attn: Community Development
Program Mgr.

31. ENTIRE AGREEMENT. This Memorandum constitutes the entire agreement between the City and the Operating Agency for the use of funds received under this Memorandum and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Operating Agency with respect to this Agreement.

IN WITNESS WHEREOF the City of Lompoc has caused this Memorandum to be subscribed by its Administrator, the City seal affixed, and attested by the City Clerk, and Operating Agency has subscribed the same through its authorized officer.

City of Lompoc

By _____
Gary Keefe, City Administrator

Operating Agency:

By _____
Title: _____

ATTEST:

Donna N. Terrones
City Clerk

APPROVED AS TO FORM:

Sharon D. Stuart
City Attorney

**EXHIBIT A
FY 06-07
STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES
FOR
Lompoc Housing Assistance and Community Development Corporation
(Operating Subsidy)**

1. IDENTIFICATION

Lompoc Housing and Community Development Corporation (LHCDC) is a public benefit corporation established in 1993 which provides a public service to predominantly low, very low and extremely low income persons in Lompoc represents that it is a corporation organized pursuant to the General Non-Profit Corporation Law of California and that its officers and directors are as follows:

President: Frank Signorelli
Vice-President: Susan Warnstrom
Secretary: John Beeler
Treasurer: Sharon Prihoda

2. AGREEMENT

On July 18, 2006 the Lompoc City Council approved an allocation of \$12,500.00 to LHCDC for salary costs associated with a Construction Manager position for the development of affordable housing. The grant shall be used for the project specified in paragraph 3 below and will commence on July 18, 2006 and terminate on June 30, 2007, unless extended by both parties to this Contract.

3. DESCRIPTION OF SERVICE

Lompoc Housing and Community Development Corporation provides a public service to predominantly low, very low and extremely low-income persons in Lompoc by developing and managing affordable housing. The Construction Manager will be responsible for construction oversight of the following projects:

- G & College Family Apartments ("College Park Apartments")
- T Street Condos (first time homebuyer project)
- Casa Del Desarrollo (special needs project for young adults coming out of foster care)
- Completion of rehabilitation work at Portabello Apartments
- On-going operation of LHCDC rental units, including soliciting bids and coordinating subcontractors during renovation and ongoing maintenance work.

The Construction Manager's office address will be: Lompoc Housing and Community Development Corporation, 604 E. Ocean, #E, Lompoc, CA 93436. Acceptable documentation for invoices submitted to the City include timesheet logs, payroll sheets, check stubs, or similar documentation of employee work records.

4. QUANTIFIED GOALS

The accomplishments of the Construction Manager shall be summarized in an end of the year report submitted to the City.

5. INCOME DEFINITIONS AND ELIGIBILITY RECORDS

For purposes of this agreement, low income persons shall mean persons whose household income does not exceed 80% of the area median income adjusted for household size as published by HUD. Very low-income persons shall mean persons whose household income does not exceed 50% of the area median income adjusted for household size as published by HUD. Extremely low-income persons shall mean persons whose household income does not exceed 30% of the area median income adjusted for household size as published by HUD. Tenant income verification records shall be kept on site and available for City or HUD inspection upon request. Proposed project information should be available and submitted with quarterly draw down requests.

6. INSURANCE

Lompoc Housing and Community Development Corporation shall maintain in full force and effect during the term of this Agreement comprehensive general liability insurance with personal injury and property damage liability limits of not less than One Million Dollars (\$1,000,000) combined single limit, and agrees that City, City Council and members thereof, and City's officers, agents and employees shall be named as additional insured under such liability insurance policy or policies.

A certificate of insurance evidencing such insurance coverage shall be filed with the City Administrator within ten (10) days of the execution of this Agreement by City and said policy shall include an endorsement providing that such insurance coverage shall not be canceled or reduced without at least thirty (30) days prior written notice to the City Administrator. Said certificate of insurance shall also provide that the insured waives any right of contribution, which it may have against any other insurance carrier by an additional insured. At least thirty (30) days prior to the expiration of any policy, a policy showing that such insurance coverage has been renewed or extended shall be filed with the City Administrator.

7. BUDGET

Funds shall be expended in substantial conformance with the budget set forth below:

PROPOSED TWELVE-MONTH BUDGET

<u>Quarter</u>	<u>Purpose</u>	<u>Amount</u>
1st	Construction Manager Costs	\$ 3,125.00
		<hr/>
		\$ 3,125.00
2 nd	Construction Manager Costs	\$ 3,125.00
		<hr/>
		\$ 3,125.00
3 rd	Construction Manager Costs	\$ 3,125.00
		<hr/>
		\$ 3,125.00
4 th	Construction Manager Costs	\$ 3,125.00
		<hr/>
		\$ 3,125.00
		<hr/>
		\$ 12,500.00