

207  
**City of Las Cruces**<sup>®</sup>  
 PEOPLE HELPING PEOPLE

**Council Action and Executive Summary**

Item # 12 Ordinance/Resolution# 13-140

For Meeting of \_\_\_\_\_  
 (Ordinance First Reading Date)

For Meeting of April 15, 2013  
 (Adoption Date)

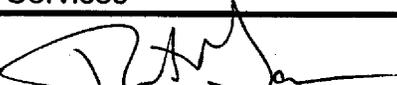
Please check box that applies to this item:

QUASI JUDICIAL     LEGISLATIVE     ADMINISTRATIVE

**TITLE: A RESOLUTION APPROVING A HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA INC. FOR THE TENANT BASED RENTAL ASSISTANCE (TBRA) PROGRAM.**

**PURPOSE(S) OF ACTION:**

Approve agreement.

<b>COUNCIL DISTRICT: ALL</b>		
<b>Drafter/Staff Contact:</b> Natalie Green	<b>Department/Section:</b> Community Development / Planning & Neighborhood Services	<b>Phone:</b> 528-3086
<b>City Manager Signature:</b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investment Partnerships Program (HOME). The HOME Program provides the City of Las Cruces the opportunity to administer a federally funded program in accordance with the goals of the City's Consolidated Plan, a housing document that outlines affordable housing and community development needs.

Annual Action Plans presented to and adopted by City Council outline how the HOME entitlement funds for each Program Year (PY) will be spent in accordance with the strategic goals as outlined in the Consolidated Plan. On March 19, 2012, City Council approved Resolution 12-159 adopting amendment #1 to the 2011 Action Plan, which allocated HOME funds in the amount of \$86,000.00 to La Casa Inc., a non-profit partnering with the City to provide Tenant Based Rental Assistance (TBRA) for victims of domestic violence for up to 24 months.

On May 7, 2012, City Council approved Resolution 12-181 supporting the PY 2012 Action Plan allocating HOME funding in the amount \$4,153.00 to La Casa to cover administrative fees as a result of managing the TBRA Program.

In order to comply with the HOME regulations, a HOME Grant Agreement between the City of Las Cruces and La Casa Inc., as shown in Exhibit "A", is required to be executed.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", HOME Agreement.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
<b>Does this action create any revenue?</b>	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A

**FUND EXPENDITURE SUMMARY**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds Current FY	Remaining Funds	Purpose for Remaining Funds
Community Development (Fund 2000)	20184340-722190-10416	\$86,000.00	\$86,000.00	\$0.00	N/A
Community Development (Fund 2000)	20184360-722190-11112	\$4,153.00	\$4,153.00	\$0.00	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the HOME agreement providing funding to La Casa Inc., for a Tenant Based Rental Assistance Program for homeless victims of domestic violence.

2. Vote "No"; this will deny the approval of HOME funding to La Casa Inc., for a Tenant Based Rental Assistance Program for homeless victims of domestic violence. This money will also be subject to recapture by HUD if it is not under agreement by June 30, 2013.
3. Vote to "Amend"; further direction would come from City Council.
4. Vote to "Table"; further direction would come from City Council.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Resolution No. 12-159
2. Resolution No. 12-181

**RESOLUTION NO. 13-140****A RESOLUTION APPROVING A HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA INC. FOR THE TENANT BASED RENTAL ASSISTANCE (TBRA) PROGRAM.**

The City Council is informed that:

**WHEREAS**, the Cranston-Gonzalez National Affordable Housing Act (NAHA) of 1990 created the HOME Investment Partnerships Program (HOME) which provides the City of Las Cruces the opportunity to administer a federally funded program in accordance with the goals of the City's Consolidated Plan; and

**WHEREAS**, annual Action Plans presented to and adopted by City Council outline how the HOME funds for each Program Year (PY) will be spent in accordance with the strategic goals as outlined in the Consolidated Plan; and

**WHEREAS**, on March 19, 2012, the Las Cruces City Council approved Resolution No. 12-159, adopting Amendment #1 to the 2011 Action Plan which allocated HOME funds of \$86,000.00 to La Casa Inc., for a Tenant Based Rental Assistance Program; and

**WHEREAS**, on May 7, 2012, the Las Cruces City Council approved Resolution No. 12-181, adopting the 2012 Action Plan which allocated HOME funds of \$4,53.00 to La Casa Inc., for administrative fees for managing the Tenant Based Rental Assistance Program; and

**WHEREAS**, in order to comply with HOME regulations, a HOME Program Grant Agreement between the City of Las Cruces and La Casa Inc., is required to be executed.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the HOME Program Grant Agreement between the City of Las Cruces and La Casa Inc., as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the Assistant City Manager/Chief Operating Officer of the City of Las Cruces is hereby authorized to execute the HOME Program Grant Agreement on behalf of the City of Las Cruces.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2013.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Smith: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

**HOME PROGRAM AGREEMENT  
BETWEEN THE CITY OF LAS CRUCES  
AND  
LA CASA, INC.**

This **AGREEMENT** (hereinafter referred to as the "Agreement") is entered into by and between the **CITY OF LAS CRUCES** (hereinafter referred to as the "City"), a New Mexico municipal corporation with a principal address of P.O. Box 20000, Las Cruces, New Mexico 88004 (hereinafter referred to as "City") and **LA CASA, INC.**, a New Mexico Non-profit Corporation, whose address is P.O. Box 2463, Las Cruces, New Mexico 88004 (hereinafter referred to as "Sub-recipient").

**WITNESSETH:**

**WHEREAS**, the purpose of the Agreement is to provide the Sub-recipient with the opportunity to administer portions of the City's HOME funds for a Tenant Based Rental Assistance (TBRA) Program; and

**WHEREAS**, the City is an entitlement recipient of the federal HOME Investment Partnerships Program (hereinafter referred to as "HOME") in furtherance of its goal of encouraging the production of decent, safe, sanitary affordable housing for the citizens of Las Cruces; and

**WHEREAS**, the United States Department of Housing and Urban Development ("HUD") has allocated funding to the City of Las Cruces under the HOME Program pursuant to Title II National Affordable Housing Act of 1990 as amended ("Act") and federal regulations at 24 CFR Part 92 "HOME Investment Partnerships Program", as amended ("HOME Regulations CFDA 14.239"); and

**WHEREAS**, the TBRA Program is an eligible activity under the HOME Program; and

**WHEREAS**, HOME TBRA funds will provide affordable housing opportunities within the City of Las Cruces, for the benefit of low income citizens; and

**WHEREAS**, the Sub-recipient represents and warrants that it has the necessary administrative capacity for the local implementation, administration and delivery of the Program in accordance with the terms of this Agreement.

**NOW, THEREFORE**, the Sub-recipient and the City, in order to ensure proper local implementation, administration and delivery of federally-funded affordable housing programs, agree to the following:

**Article 1. Scope of Work**

**Sub-recipient Name:** La Casa, Inc.

**Activity to be undertaken:** Tenant Based Rental Assistance

The Sub-recipient is required to provide and/or ensure, specifically, that this program will offer **cash assistance for security deposits, utility deposits and up to twenty four months rent**. The program funds are to be used strictly for Tenant Based Rental Assistance and related administration.

The Targeted Income Group for TBRA cannot have income in excess of 60% AMI for 90 percent of the households assisted. The program will allow assistance for up to 10 percent of households with incomes up to 80% of AMI. Each participating household must receive a minimum of one month supportive services for every month of rental assistance provided.

La Casa, Inc. is responsible for administering the Tenant Based Rental Assistance program in a manner satisfactory to HUD HOME Regulations at 24 CFR Part 92, the City's requirement, consistent with the City's 2011 – 2015 Consolidated Plan, and any standards required as a condition of providing these funds. In addition, the Program will include the following activities eligible under the HOME Tenant-Based Rental Assistance Program:

1. Provide rental assistance, security deposits, and utility deposits to pre-qualified homeless or near- homeless persons and families.
2. Enter into agreements with participants to ensure participation in required supportive services equal to one month for every one month of rental assistance to include the development of a written Individual Action Plan with goal-setting. Participant will be expected to reach milestones for subsequent rental assistance.
3. Handle the briefing and Income eligibility of program participants in compliance with 24 CFR Part 92.203 and 24 CFR 5.609. Calculate tenants rent at a maximum not to exceed 30 percent of the family's monthly adjusted income with a minimum family contribution of \$1.00.
4. Gross rents (contract rent and utility charges) for unit rents subsidized through this program shall not exceed the Fair Market Rental rate established by HUD for the applicable year. Rental assistance will not exceed a twenty- four month period.
5. Arrange for physical inspections of identified units by appropriate staff to certify that the units meet all Housing Quality Standards (HQS) established under 24 CFR 982.401. An individual who has participated in HQS inspections training and is certified to conduct HQS inspections must conduct inspections.
6. Provide to the City a monthly report detailing at a minimum: client name or unique identifier, unit address, number of bedrooms, date of occupancy of unit, date of departure from unit, date and amount paid for security deposit, utility deposit and monthly rental amount.
7. Policies and Procedures will be updated as necessary for the administration of this program and approved by City staff.

8. La Casa will recertify clients on an annual basis on or before their anniversary date into the program. The agency will meet with the client to review income and family composition every year to re-determine rent and assistance levels.

**Projected Number of units or Households to be Served:** Approximately 14 households

**Applicant Intake and Waiting List Procedures:** See attached TBRA Tenant Selection Plan

**Article 2. Funds to be Disbursed**

**Section 1. Maximum Fund Amounts:** The funds to be disbursed under this Agreement shall not exceed **Eighty Six Thousand Dollars (\$86,000.00)** in TBRA Program Year 2011 funds plus **Four Thousand One Hundred and Three (\$4,153.00)** for administrative fees, for total funding in the amount of **Ninety Thousand One Hundred Fifty Three Dollars (\$90,153.00)**.

**Section 2. Disbursement Limitations.** Except as otherwise provided herein, TBRA Program funds are set to be disbursed on a reimbursement basis consistent with amounts set forth in Section 1 of this Article of the Agreement.

**Section 3. Requests for Reimbursement.** It is expressly agreed and understood that the total amount to be paid by the City under this Agreement by reimbursement only, shall not exceed **\$90,153.00**. Payment requests are due by the fifteenth (15<sup>th</sup>) day of each month. The Sub-recipient agrees to use the Payment Request Form as referenced in **Schedule "F"**.

**Section 4. No Dual application of Costs.** The Sub-recipient certifies that any direct or indirect costs claimed pursuant to this Agreement will not be allocable to or included as a cost of any other Sub-recipient operated program, project, contract, or activity not approved by the City in advance in writing.

**Section 5. Prohibition of Substitution of Funds.** Any TBRA funds or other amounts received by Sub-recipient under this Agreement may not be used by Sub-recipient to replace other amounts made available or designated by State or local governments through appropriations for use for the purposes of HOME Programs.

**Section 6. Cost Allocation.** If required by the City, the Sub-recipient shall clearly identify and distribute all direct costs incurred pertaining to this Agreement by a methodology and cost allocation plan at times and in a manner prescribed by, or acceptable to the City.

**Section 7. Program Income.** Any program income generated from the proceeds of the HOME grant shall be returned to the City in accordance with 24 CFR 92.503(a) and 24 CFR 92.504 (C)(2)(ii).

**Section 8. Timely Expenditure of Program Funds.** That all Program funds awarded to Sub-recipient under this Agreement, including Administrative Compensation and

Program Compensation funds described in this section, above, shall be obligated and expended by the expiration date of this contract, as detailed in Article 3 of this Agreement.

### **Article 3. Term of Agreement**

This Agreement shall commence on January 1, 2013 and expire on or before June 30, 2014. All of the services required hereunder shall be completed on or before June 30, 2014. Thereafter, the City shall have no obligation to provide Program funds to the Sub-recipient, beyond the expiration date of this Agreement.

### **Article 4. Termination**

**Section 1. Termination at Will.** This Agreement may be terminated by the City with the consent of the Sub-recipient or by the Sub-recipient pursuant to 24 CFR 85.44. By such termination, neither party may nullify any obligation already incurred prior to the date of termination.

**Section 2. Termination for Default.** In addition to other remedies the City may have, the City may wholly or partly terminate or suspend this Agreement pursuant to 24 CFR 85.43 if Sub-recipient materially fails to comply with any term of this Agreement. In the event that the City brings an action or proceeding for the declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default hereof, or any other legal action arising out of this Agreement or the transactions contemplated hereby, or in the event the Sub-recipient is in default of its obligations pursuant hereto, the City shall be entitled to reasonable attorney's fees and costs.

**Section 3. Delivery of Program Funds.** In the event of termination, originals of all documents regarding Program Funds and Project Income on hand, all accounts receivable and all contracts, records, files and other instruments and documents related to all Projects described in Article 1, the Scope of Work, whether or not any Program Funds have been expended with respect to such Projects, shall be delivered to and become the property of the City within thirty (30) days of termination.

### **Article 5. The City's Responsibilities**

The City shall provide the following:

**Section 1. Compliance Monitoring.** The City shall conduct compliance review monitoring of the Sub-recipient in the performance under this Agreement, the Act, Regulations and the Program Documents. Monitoring will include a review of program files, financial records and HQS site inspections.

**Section 2. Technical Assistance.** The City shall provide related programmatic technical assistance and training as may be requested.

**Section 3. Payments.** The City shall provide individual project set-up in HUD's system for each Project approved under this Agreement. The City shall process any requests for payment ("Payment Requests") from the Sub-recipient for individual Project drawdowns from HUD or, in the case of other funds, from the appropriate funding source and shall make payment to the Sub-recipient pursuant to an approved Payment Request as may be required by the City.

**Article 6. Additional Sub-recipient Responsibilities**

1. **Statement of Assurances.** The Sub-recipient has complied with all applicable requirements as stated within the Statement of Assurances, including, but not limited to, all Federal Labor Standards such as the Davis-Bacon Act, 40 U.S.C. 176a-5, as amended, and which Statement has been provided to and executed by Sub-recipient and attached hereto as **Schedule A**.
2. **Compliance.** That the development, implementation, administration, and delivery of the HOME Program projects provided for under this Agreement ("Project") shall be consistent with each of the following: (a) the Act, (b) the Regulations, (c) the HUD-approved, City of Las Cruces Consolidated Plan, (d) the requirements, conditions, and program descriptions contained in the Agreement, and (e) the Sub-recipient's City-approved Program Design ("Program Documents").
3. **Uniform Administrative Requirements.** The Sub-recipient shall comply with all applicable uniform administrative requirements referred to in Section 92.505 of the Regulations. If the Sub-recipient contracts with a non-profit organization as a Sub-contractor to perform any of the services described in this Agreement, the Sub-recipient and non-profit Sub-contractor both shall comply with all applicable uniform administrative requirements referred to in Section 92.505(b) of the Regulations.
4. **Program Requirement.** The Sub-recipient is subject to the requirements of the Regulations applicable to the City. However, the Sub-recipient cannot assume the City's decision making and action under Section 92.352 of the Regulations.
5. **Property Standards.** Sub-recipient shall ensure that all housing meets the lead-based paint requirements of Section 92.355 of the Regulations, as well as Part 35 of the Regulations. Sub-recipient shall ensure that all rental housing assisted with Program Funds and all housing occupied by tenants receiving Tenant Based Rental Assistance is maintained in compliance with HUD Housing Quality Standards defined in 24 CFR 982.401 and other state or local code requirements.
6. **Other Federal Requirements.** Sub-recipient shall comply with and carry out each activity in compliance with all federal laws and regulations described in Subpart H "Other Federal Requirements" of the Regulations except that Sub-recipient shall not be required to carry out the City's or the State's duties under Sections 92.352 and 92.357 of the Regulations.

7. Affirmative Marketing. The Sub-recipient and the City shall exercise affirmative fair housing marketing and shall comply with the provisions of 24 CFR 92.351. The Sub-recipient and the City shall keep records necessary to comply with 24 CFR 92.508 (a) (7).

8. Religious Organizations. The Sub-recipient shall comply with the requirements pursuant to Section 24 CFR 92.257 of the Regulations regarding religious organizations. The Program must be used exclusively for secular purposes, available to all persons regardless of religion, and there must be no religious or membership criteria for participants in the Program.

9. Tenant Assistance. If Sub-recipient is providing Program Funds to a tenant receiving tenant based rental or security deposit assistance, Sub-recipient shall enter into a contract with such tenant that meets the requirements of Section 92.504(c)(5) of the Regulations, the form of which must be approved by the City prior to disbursement of any Program Funds.

10. Inspections. If Sub-recipient is providing Program Funds for rental housing or rental housing occupied by tenants receiving tenant based rental assistance ("TBRA"), Sub-recipient must conduct the inspections required under Section 92.504(d) of the Regulations.

#### **Article 7. Default/Indemnity**

If Sub-recipient or any of its Subcontractors fails to comply with the terms of this Agreement, the City may exercise all its remedies under 24 CFR 85.43 including but not limited to:

1. Reduction/Withdrawal of Program Funds. Reduce and/or withdraw Program Funds including Administrative Funds. Prior to reducing or withdrawing any funds, the City shall provide the Sub-recipient with written notice explaining the action to be taken and the reasons therefore, and giving Sub-recipient thirty (30) days from the date of the notice in which to correct any deficiencies or violations;

2. Mandatory Repayment of Funds. Require the Sub-recipient to repay Program Funds expended for that Project under this Agreement within sixty (60) days after written demand from the City;

3. Legal Proceedings. If the Sub-recipient refuses or fails, as determined by the City, to satisfactorily correct any compliance deficiencies or violations, the City may require repayment of Program Funds expended on the Project for which Sub-recipient has failed to correct such deficiencies or violations and the City may initiate legal proceedings against Sub-recipient for recovery of Program Funds and, where appropriate, damages, and/or foreclosure proceedings against the Projects developed, acquired, or acquired and rehabilitated using Program Funds under this Agreement; and

4. Debarment and Suspension from Future Participation. The City may bar the Sub-recipient from future participation in the HOME Program and other affordable housing programs which City manages or controls.

5. **Indemnity.** Sub-recipient accepts full responsibility and liability for the Scope of Work, as described in Article 1 of this Agreement, and for the proper obligation and expenditure of Program Funds under this Agreement and shall defend, hold harmless and indemnify the City and HUD against any and all claims or liabilities, including attorneys' fees and costs of litigation, arising out of Sub-recipients performance of or failure to perform the Scope of Work or arising out of any Project developed under the Scope of Work or for which Program Funds have been expended.

#### **Article 8. Records and Audit**

1. **Required Records.** The Sub-recipient will maintain adequate financial accounting, Program and Project records, including records required by Section 92.508 of the Regulations and such other records as may be required by the City to permit the City to fulfill its obligations under Section 92.508 of the Regulations and its obligations under this Agreement and the Act, the Regulations and the Program Documents.

2. **Beneficiary Data.** The Sub-recipient will maintain "characteristic data" for each individual and/or family assisted with either federal HOME program funds and/or matching funds, if applicable. Characteristic data, at a minimum, shall include household income, race, ethnicity, age of household members, and size of household, female head of household (if applicable), special needs households, and marital status. This data is required to be reported to the City monthly and annually in the format prescribed by the City and is due to the City each year at a time to be determined by the City in its sole discretion.

3. **Equal Opportunity Data.** The Sub-recipient will maintain data relative to "Equal Opportunity" as related to Minority Business Enterprises ("MBE") and Women's Business Enterprises ("WBE"). At a minimum, such data shall include the number and dollar value of MBE/WBE contracts and subcontracts awarded. The Sub-recipient shall keep records documenting compliance with these requirements as required by 24CFR 94.508 (a) (7).

4. **Audits and Inspections:** The Developer/Sub-recipients records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

One copy of the Developer/Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 13 months after the end of the audit period, whichever occurs first. The reporting package shall include:

1. Financial statement,
2. Schedule of prior year audit findings,
3. Auditor's report, and
4. Corrective action plan that addresses each audit finding.

Any deficiencies noted in audit reports must be fully cleared by the Developer/Sub-recipient within 30 days after receipt by the Developer/Sub-recipient. Failure of the Developer/Sub-recipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. The Developer/Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Developer/Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-profit Organizations), as applicable.

5. Record Retention. The Sub-recipient shall comply with 24 CFR 92.508 regarding records that must be maintained for this Project. Sub-recipient shall maintain and permit inspection of documents pursuant to this Article for a period of five (5) years after final disbursement of Program Funds is made under this Agreement.
6. Extended Record Retention. Sub-recipient shall maintain and permit inspection of documents pursuant to this Article for the extended periods required under Section 92.508(c) of the Regulations as applicable.
7. Reports and Information. The Sub-recipient shall submit monthly reports and Payment Request with such reports due by the 15<sup>th</sup> of each month. These reports shall include information on status of participants in the TBRA Program and their status.

#### **Article 9. Subcontracting**

The Sub-recipient shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. If approved by the City, the Sub-recipient shall be solely responsible for the performance of any subcontractor under such subcontract(s). The Sub-recipient shall execute written agreements with Subcontractors, which meet the requirements of Section 92.504 of the Regulations and are approved in advance by the City. Copies of executed agreements must be delivered to the City within ten (10) days of execution. Sub-recipient shall be responsible for monitoring its Subcontractor's performance and compliance. Use of a Subcontractor shall not relieve Sub-recipient of any obligation under this Agreement for any reason, including but not limited to a Subcontractor's bankruptcy, insolvency or other inability to perform the services required under any subcontract.

#### **Article 10. Assignment**

The Sub-recipient shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without prior written approval of the City.

#### **Article 11. Appropriations**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the United States Congress through HUD under the Federal HOME Program for

the performance of this Agreement. If sufficient appropriations and authorizations are not made this Agreement shall terminate upon written notice being given by the City to the Sub-recipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Sub-recipient and shall be final.

**Article 12. Equal Opportunity and Fair Housing Compliance**

The Sub-recipient agrees to abide by all Federal and State laws, rules and regulations, and executive orders of the President of the United States of America and the Governor of the State of New Mexico, pertaining to equal employment opportunity and fair housing. In accordance with all such laws, rules and regulations, and executive orders, the Sub-recipient agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, age, religion, sexual orientation, gender identity or disability, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

**Article 13. Release**

Final payment of the amounts due under this Agreement to the Sub-recipient shall operate as a release of the City, and HUD, their officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**Article 14. Amendment**

The City or Sub-recipient may amend the this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations.

**Article 15. Scope of Agreement**

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal, or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**Article 16. Officials Not to Benefit**

Sub-recipient represents and warrants that no Program Funds have been paid or will be paid, by or on behalf of the Sub-recipient or any Subcontractor to any person for influencing or attempting to influence an officer or employee of any state, federal or local agency, or a member of Congress, in connection with the awarding of any local, state or federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any local, state or federal contract, grant, loan or cooperative agreement.

If any funds other than the federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency or member of Congress in connection with this Agreement, or any grant, loan, or cooperative agreement related to this Agreement or the Program Funds to be disbursed hereunder, Sub-recipient or any Subcontractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

No local, state or federal employee or official shall be permitted to obtain any benefit that may arise from this Agreement. Pursuant to Sections 13-1-191, 30-24-1, et seq., and 30-41-1 through 30-41-3 NMSA 1978, the receipt or solicitation of bribes, gratuities and kickbacks is strictly prohibited. Should the City determine that Sub-recipient has violated any of these provisions; the City may terminate this Agreement, in addition to pursuing any other applicable penalties.

**Article 17. Interest of Members of the Local Governing Bodies**

The Sub-recipient shall require that the language below be included in all subcontracts, grants, loans, and cooperative agreements and shall require that all subcontractors and recipients of Program Funds shall make the certifications and disclosures required under this Article.

No member, officer or employee of the Sub-recipient, no member of the governing bodies in the jurisdiction in which the Sub-recipient operates and no other public official of such locality or localities who exercises any function or responsibilities with respect to any Project for which Project Funds are provided under this Agreement, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any proceeds or benefits arising from such Project or the Program Funds allocated thereto.

**Article 18. Insurance**

Without limiting the Sub-recipients indemnification, the Sub-recipient shall maintain in force at all times during the performance of this Agreement all appropriate policies of insurance hereinafter described concerning its operations. Valid certificates and authorized endorsements evidencing the maintenance and renewal of such insurance coverage shall be delivered to the City thirty (30) days prior to commencement of the project. The City shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. The City, its officers and employees, shall be named as an additional named insured on all policies of liability insurance.

1. All policies of insurance shall be in a company or companies authorized by law to transact insurance business in the State of New Mexico. In addition, such policy shall provide that the coverage shall be primary for losses arising out of the Sub-recipient's performance of the Agreement. Neither the City nor any of its insurers shall be required to contribute to any such loss. The required certificate shall be furnished by the Participation prior to execution of this Agreement.

2. At least thirty (30) calendar days prior to the expiration of any of the above-referenced policies, the Sub-recipient shall provide the City with evidence of the renewal of said insurance policies in a form satisfactory to the City.

3. The Policies of Insurance which must be secured are:

**a. Commercial General Liability Insurance:** The Sub-recipient must secure commercial property liability insurance to include, but not be limited to, bodily injury and property damage coverage. The policy's limit liability shall not be less than the limits of liability set forth in the New Mexico Tort Claims Act, which limits of liability are presently \$1,000,000.

**b. Worker's Compensation Coverage:** All employees of the Sub-recipient must be included under such policy and with coverage to meet all requirements of the State of New Mexico.

**c. Flood Insurance:** The Sub-recipient shall provide Flood Insurance as required under applicable HUD regulations.

### **Article 19. Schedules**

The following Schedules to this Agreement are made a part of this Agreement, whether physically attached hereto or executed separately by the parties and described as Schedules by reference to this Agreement. Schedules may, from time to time, be amended upon written agreement signed by both Sub-recipient and the City. Upon the City's approval of such amendment, said amendment shall become part of this Agreement. Except as otherwise amended, this Agreement shall remain in full force and effect. Any Amended Schedules will replace previous schedules and will not alter the Agreement in any other way.

#### **Schedule A Statement of Assurances**

- 1. Equal Employment Opportunity/Affirmative Action Clause for Contracts**
- 2. Certification of Drug Free Work Place**
- 3. Section 3 Clause**
- 4. Conflict of Interest**
- 5. Certification Regarding Lobbying**
- 6. Other Assurances**

**Schedule B Affirmative Marketing Plan/Minority Outreach**

**Schedule C Rent Schedule**

**Schedule D Proof of Registration with NM Attorney General's Office**

**Schedule E Definitions**

**Schedule F Payment Request**

**Schedule G Tenant Selection Plan**

**Schedule H Sample Client File**

### **Article 20. Non-Profit Registration Requirements**

If Sub-recipient is a non-profit organization, as a condition of entering into this Agreement and of the payment of TBRA under this Agreement, Sub-recipient must register with the New Mexico Attorney Generals Office's Registry of Charitable Organizations and keep such registry current during the term of this Agreement, all as required under the Charitable Solicitations Act NMSA 1978, Sec. 57-22-1, et. seq. and the New Mexico Attorney General's Office. Sub-recipient shall provide proof of its current registration with the New Mexico Attorney General by attaching evidence of that registration as Schedule D to this Agreement. On no less than an annual basis, Sub-recipient shall provide to the City proof of its continuing registration.

### **Article 21. Status of Sub-recipient**

1. **Independent Contractor.** Nothing contained in this Agreement is intended to, nor shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Sub-recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Sub-recipient is an "independent contractor."

2. **Hold Harmless** The Sub-recipient agrees to defend, indemnify and save harmless the City and its officers, agents and employees from any and all suits, actions and claims of any character brought because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from negligence of the Sub-recipient under this Agreement; however, this hold harmless clause shall not extend to liability, claims, damages, losses or expenses, including attorney fees.

### **Article 22. Applicable Law**

This Agreement shall be governed by the laws of the State of New Mexico and by applicable Federal law. The Sub-recipient consents to the jurisdiction of the Courts of the State of New Mexico. If any term or provision of this Agreement shall be found to be illegal or unenforceable then, notwithstanding, this Agreement shall remain in full force and effect and such term or provision shall be deemed to have no effect.

### **Article 23. Bond And Other Costs**

1. **Bond.** The Sub-recipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City. All sub-recipients located within or providing services within a City of Las Cruces-owned facility are required to include the City as an additional insured with the same coverage as the Sub-recipient on the Sub-recipient's liability insurance policies. The Sub-

recipient shall comply with the bonding and insurance requirements of 24 CFR Part 84, Subpart C, Financial and Program Management, Bonding and Insurance.

2. Other Costs. Sub-recipient shall be solely responsible for all applicable taxes, insurance, licensing and other costs of doing business. Should Sub-recipient default in these or other responsibilities, jeopardizing Sub-recipients ability to perform services, in the City's sole discretion, this Agreement may be terminated upon written notice. The Sub-recipient shall indemnify and hold the City harmless from and against any and all costs, expenses, and penalties incurred as a consequence of any failure of Sub-recipient to comply with the provisions of this section.

**Article 24. Notices**

All notices required to be given to the City under this Agreement shall be sent to the attention of the City's Project Manager or designee, at:

Natalie Green, Neighborhood Program Special  
City of Las Cruces Community Development Department  
P.O. Box 20000  
Las Cruces, New Mexico 88006

All notices required to be given to the Sub-recipient under this Agreement shall be sent to:

Theresa Armendariz, Executive Director  
La Casa, Inc.  
P.O. Box 2463  
Las Cruces, NM 88004

Whenever by the terms of this Agreement notice shall be given to either party, such notice shall be in writing and shall be hand delivered, sent by regular mail, or sent electronically.

**SIGNATURES ON NEXT PAGE**

IN WITNESS WHEREOF, the parties have executed this Agreement, each upon the date set forth next to his/her name.

**LA CASA, INC.**

\_\_\_\_\_  
Theresa Armendariz, Executive Director

\_\_\_\_\_  
Date

**CITY OF LAS CRUCES**

\_\_\_\_\_  
Brian Denmark, Assistant City Manager  
City of Las Cruces

\_\_\_\_\_  
Date

Approved As to Form:

\_\_\_\_\_  
City Attorney

STATEMENT OF ASSURANCES

As the official authorized designated representative, I hereby certify that if the LA CASA, INC. assumes the responsibilities specified in the HOME regulations and certifies that:

(Please mark your initials)

- A. It possesses the legal authority to apply for the grant and to execute the proposed program;
- B. It has resolved any audit findings for any federally-funded housing or community development projects or programs to the satisfaction of the City of Las Cruces or federal agency by which the finding was made;
- C. It is not currently suspended or debarred from receiving federal funds;
- D. It will comply with all statutes and regulations governing the HOME programs;
- E. The information, statements, and attachments contained in this application are, to the best of my knowledge and belief, true and correct.
- F. The organization has conflict of interest policies and procedures for staff and Board Members.

I authorize the City of Las Cruces to contact any agency, whether or not named in this application, which may assist in determining the capability of the applicant. All information contained in this application is acknowledged to be public information.

Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DAVIS-BACON ACT EXCEPTION CERTIFICATION**

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

LA CASA INC affirms that (partial) of its HOME is exempted from Davis-Bacon Prevailing Wage Rate Provision because: (check all that apply)

- The CDBG/HOME funds are used for acquisition ONLY and there is no construction. OR
- CDBG funds will be used for constructing or rehabilitating property that was designed for fewer than eight units (for CDBG funds) or twelve HOME-designated units (for HOME funds).<sup>1</sup> OR
- The prime construction contract funded in whole or in part with funds is less than \$2,000.00. OR
- Part/All of the project consists solely of delivery of goods or services (No construction contract). OR
- Part/All of the project will be done through a force account. For example, the grantee uses persons employed by the City to perform the work.<sup>2</sup> OR
- There are no federal monies in the construction contract. OR
- All or a portion of the CDBG/HOME funds shall be used for the purchase of equipment: (Check one):
- Installation of equipment is incidental (less than 13%) of the total cost (equipment PLUS installation - this requires a separate quote for equipment and the installation), OR
- No installation costs are included in the purchase of the equipment. OR
- Proceeds of the CDBG/HOME loan shall be used for working capital ONLY.
- N/A

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Theresa Armendariz, Executive Director**

<sup>1</sup> Applicant should confirm with Community Development staff member regarding this option. Clarification is necessary because some housing type projects will qualify as public facilities and not as housing.

<sup>2</sup> A force account is when a City receives funds and completes the project using their own employees. All employees in this case would be on the local government payroll.

**EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION CLAUSE FOR  
CONTRACTS NOT SUBJECT TO EXECUTIVE ORDER 11246**

In carrying out this Agreement, the Sub-recipient and its contractors and subcontractors, if any, shall not discriminate against any employee or applicant for employment because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or status with regard to public assistance. The Sub-recipient shall take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices shall include, but not be limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Sub-recipient shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this non-discrimination clause. The sub-recipient shall state in all solicitations or advertisement for employees placed by or on behalf of the Sub-recipient that it is an Equal Opportunity or Affirmative Action employer.

**ATTEST:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Theresa Armendariz, Executive Director**

## CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification set out below is a material representation upon which reliance is placed by the City of Las Cruces and the U.S. Department of Housing and Urban Development (HUD) in awarding this Grant. If it is later determined that the Sub-recipient knowingly rendered a false certification or otherwise violates the requirements of the Drug-Free Workplace Act, the City's Community Development Department and/or HUD, in addition to any other remedies available to the federal government, may take action authorized under the Drug-Free Workplace Act. The Sub-recipient will comply with the other provisions of the Act and with other applicable laws.

### CERTIFICATION

1. The Sub-recipient certifies that it will provide a drug-free workplace by:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - B. Establishing an ongoing drug-free awareness program to inform employees about:
    1. The dangers of drug abuse in the workplace;
    2. The Sub-recipient's policy of maintaining a drug-free workplace;
    3. Any available drug counseling, rehabilitation and employee assistance programs; and
    4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
  - C. Making it a requirement that each employee be engaged in the performance of the grant is given a copy of the statement required by Paragraph "A."
  - D. Notifying the employee in the statement required by Paragraph "A" that, as a condition of employment under the Grant, the employee would:
    1. Abide by the terms of the statement; and
    2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
  - E. Notify the City's Community Development Department and/or HUD in writing within ten (10) calendar days after receiving notice under Subparagraph (D) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless

**SCHEDULE A**

the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant.

F. Taking one of the following actions, within 30 calendar days of receiving notice under Subparagraph (D) (2), with respect to any employee who is so convicted:

1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.

G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E) and (F).

2. The Sub-recipient shall insert in the space provided on the attached "Place of Performance" form the site(s) for the performance of work to be carried out with the Grant funds (including street address, city, county, state, zip code and total estimated number of employees). The Sub-recipient further certifies that, if it is subsequently determined that additional sites will be used for the performance of work under the Agreement, it shall notify the City's Community Development Department and/or HUD immediately upon the decision to use such additional sites by submitting a revised "Place of Performance" form.

**PLACE OF PERFORMANCE  
FOR CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

Name of Sub-recipient: LA CASA INC.

Program Name: TENANT BASED RENTAL ASSISTANCE

Date: \_\_\_\_\_

Place of Performance includes street address, city, county, state, zip code for each site:

800 S. WALNUT, LAS CRUCES, NM 88001

Check  if there are work places on file that are not identified here.

**ATTEST:**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Theresa Armendariz, Executive Director**

**SECTION 3 CLAUSE – SUBRECIPIENTS AND CONTRACTORS**

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 Clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. In order for a Contractor to be given a "preference in bidding", per the regulations in 24 CFR part 135, they must achieve this certification no later than 4:30PM on last business day BEFORE the bid opening.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Theresa Armendariz, Executive Director**

**CONFLICT OF INTEREST**

Sub-part K - 570.611 and Sub-part H - 92..356.

**(a) Applicability.**

(1) In the procurement of supplies, equipment, construction, and services by recipients and by sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 84.42, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its sub-recipients to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to 570.203, 570.204, 570.455,\* or 570.703(i)) and 92. 205-215.

\* (The published regulation inadvertently refers to 570.455 which was removed when streamlined regulations were published on March 20, 1996.)

**(b) Conflicts prohibited.** The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, 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 or benefit from a CDBG/HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG/HOME-assisted activity, or with respect to the proceeds of the CDBG/HOME-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

**(c) Persons covered.** The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of sub-recipients that are receiving funds under this part.

**(d) Exceptions.** Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

**(1) Threshold requirements.** HUD will consider an exception only after the recipient has provided the following documentation:

- (i)** A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
- (ii)** An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

- (i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (ii) Whether an opportunity was provided for open competitive bidding or negotiation;
- (iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- (v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
- (vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (vii) Any other relevant considerations.

[53 FR 34456, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 57 FR 27120, June 17, 1992; 60 FR 56916, Nov. 9, 1995]

**ATTEST:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Theresa Armendariz, Executive Director**

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, subject to Attachment "A" Section II.D (8) to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement..

2. If any funds other than Federal appropriated funds have been paid 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 contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant and contracts under grants, and cooperative agreements) and that the Sub-recipient shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transactions was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**ATTEST:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Theresa Armendariz, Executive Director**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

The applicant or grantee hereby assures and certifies that:

#### **OFFICIAL RESOLUTION**

Its governing body has duly adopted or passed as an official act, a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

#### **ACCESS TO INFORMATION**

It will provide citizens with reasonable access to records regarding its HOME assisted activities and management.

#### **PROGRAM COMPLIANCE**

It will comply with all applicable program requirements described in the HOME Investment Partnerships Program regulations published in the Federal Register on December 16, 1991 (24 CFR Part 92) and any amendments hereafter and final regulations for the program. The housing program described in the application will benefit low and very-low income families in accordance with the requirements set forth in 24 CFR Parts 92.216, 92.217, 92.252, and 92.254, as applicable.

#### **ADMINISTRATIVE AND FINANCIAL REQUIREMENTS**

It will comply with the requirements and policies of 24 CFR Part 85 entitled: "Uniform Administrative Requirements for Grantees and Cooperative Agreements to State and Local Governments", as specified in 24 CFR Part 92.505; OMB Circular A-1 10 entitled: "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"; OMB Circular A-87 entitled: "Cost Principles for State and Local Governments"; OMB Circular A-122 entitled: "Cost Principles for Nonprofit Organizations"; OMB Circular A-128 entitled: "Audits of State and Local Governments", A-21 "Cost Principles for Educational Institutions", 24 CFR Part 44, OMB Circular A-133 entitled "Audits of Institutions of Higher Learning and Other Nonprofit Institutions"; Treasury Circular 1075, and 24 CFR Part 92 Subpart K.

#### **LABOR STANDARDS**

Fair Labor Standards Act of 1938, as amended (29 USC 201, et. seq.): Establishes the basic minimum wage for all work and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work, and establishes child labor standards. Grantee will comply with the following regulations issued under the following Acts and 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:

- (1) The Davis-Bacon Act, P.L. 86-624, as amended (40 U.S.C. 276a-5).
- (2) Contract Work Hours & Safety Standards Act, P.L. 87-581 (40 U.S.C. 327-332.).
- (3) Copeland "Anti-kickback" Act (40 U.S.C. 276c).
- (4) 29 CFR Parts 1, 3, 5, 6, and 7.

#### **ENVIRONMENTAL CLEARANCE**

The applicant will comply with the environmental laws and authorities at 24 CFR parts 50 and 58 and will (i) supply the City with information necessary for it to perform any necessary environmental review of each property; (ii) carry out mitigating measures required by the City or select alternate eligible property; and (iii) not acquire or otherwise carry out any program activities with respect to any eligible property *until* the City approval is received.

#### **LEAD BASED PAINT**

It will comply with Title IV of the Lead Base Paint Poisoning Prevention Act, P.L. 91-695, as amended, (42 U.S.C. 4821 *et seq.*) and the regulations issued pursuant thereto (24 CFR Part 35).

#### **ENERGY CONSERVATION**

It will comply with the minimum housing quality standards in 24 CFR part 882.109, Cost Effective Energy Conservation and Effectiveness Standards, P.L. 95-557 (42 U.S.C. 1425(b) and the regulations issued pursuant thereto (24 CFR Part 39); and the current edition of the Model Energy Code published by the Council of American Building Officials, as applicable, pursuant to 24 CFR part 92.251.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Theresa Armendariz, Executive Director**

**AFFIRMATIVE ACTION****1. Approved Plan**

The Sub-recipient agrees to be committed to and carry out the Grantee's specifications pursuant to an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. Each Sub-recipient must have an Affirmative Action Plan/Program filed with the Grantee within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the Grantee from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: \_\_\_\_\_

If the Sub-recipient does not have an AAP, it must develop one. The Sub-recipient shall develop and submit a plan for approval within 60 calendar days of the signing of the Agreement.

**2. Affirmative Marketing Requirements:**

The Grantee has adopted the following methods for informing the public, owners, and potential applicants about Federal fair housing laws and about Grantee's affirmative marketing policy:

Grantee will include information regarding Federal fair housing laws and requirements in its various training programs.

Grantee will use the Equal Housing Logotype and/or slogan in press releases, solicitations, and advertisement for affordable housing products.

This specifically includes the providing of literature and information regarding fair housing and the use of the Equal Housing logotype and/or slogan and display of the fair housing poster.

Grantee will encourage and solicit applications from persons in housing market areas who are not likely to apply for the housing without special outreach. This may be done by coordinating placement and application efforts with local non-profit community organizations, places of worship, employment centers, senior citizen centers, disability advocacy groups, fair housing groups and housing counseling agencies. Grantee, will also as able, use local Spanish language media to inform the public of housing and program availability.

Grantee will keep records of its' affirmative marketing efforts and actions as described in this plan. Grantee will identify and track the following:

Information provided with training and information fairs held to inform the public about Federal fair housing laws and requirements.

**SCHEDULE B**

Number of requests for literature and videos regarding fair housing and items made available to individuals and organizations.

Identify and list the use of the Equal Housing Logotype and/or slogan in press releases, solicitations, and advertisement for affordable housing products.

For projects and programs, monitor for and track numerically the number and type of solicitation outreach methods utilized to seek applicants.

Track (by providing a question on program applications) the source by which the applicants learned about the housing program. This will allow for an assessment of the results of affirmative marketing efforts.

*NOTE: the City will, as part of its' annual performance monitoring, review the information collected to assess the effectiveness of affirmative marketing actions and efforts. The City will monitor all HOME Program Sub-recipients and subgrantees to ensure adherence to the requirements adopted herein. THE CITY will reserve the right to revise these requirements in the best interest of furthering its affirmative marketing goals.*

**3. Minority Outreach:**

Grantee will by adoption of this plan establish a minority outreach program in order to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women.

In the solicitation for bids for goods or services in the operation of HOME funded programs Grantee will include in the solicitation a statement that minorities and women and entities owned by minorities and women are encouraged to bid or apply. This includes, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services.

**4. Section 3**

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) pertains to the training, employment and contract opportunities generated by HUD financial assistance for housing and community development programs. By adoption of this plan, grantee shall, to the greatest extent feasible, give these opportunities to low and very low income persons, particularly those who are recipients of government assistance for housing, and businesses that provide economic opportunities for those persons.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Theresa Armendariz, Executive Director**

### Tenant Based Rental Assistance Set Up Form HOME Program

Check the appropriate box:  
 Original Submission     Revision

Name and Phone Number of Person Completing Form: \_\_\_\_\_

**A. General and Activity Information.**

1. Name of Participant:	2. County Code:	3. IDIS Activity ID:	4. Activity Name: <b>TENANT BASED RENTAL ASSISTANCE</b>
5. Is this participant a faith-based organization? <input type="checkbox"/> Y <input type="checkbox"/> N	6. Total Number of TBRA Units: 5	7. Of Total, # Designated for Homeless: 5	8. Of those in 7, # designated for chronically homeless:

FOR CLC USE ONLY	OBJECTIVE: <input type="checkbox"/> 1 Suitable Living Environments	OUTCOME: <input checked="" type="checkbox"/> 1 Availability/Accessibility	<input type="checkbox"/> 2 Affordability
	<input checked="" type="checkbox"/> 2 Decent Affordable Housing	<input type="checkbox"/> 3 Create economic opportunities	<input type="checkbox"/> 3 Sustainability

**B. Household Characteristics.** (Refer to code below where applicable) Assisting more than 8 tenants? Make copies of this page for additional space.

No.	Last Name	# of Bedrooms	Sec Dep Utilities U or S	Tenant (n)	TBRA RENT ONLY (b)	Total (a+b)	% Med	Hispanic? Y/N	Race	Size	Type	Head of Household Female? Y/N	Head of Household Disabled? Y/N	Paid To? O=Owner T=Tenant	New? Y/N	Months of
	Address: _____															
	Address: _____															
	Address: _____															
	Address: _____															
	Address: _____															
	Address: _____															

TOTAL \$ \_\_\_\_\_

**C. Total/Subtotal of HOME Funds Requested: \$** (Must be total of column (b) under Monthly Rent and if Security Deposits and Utilities are included)

**# of Bedrooms**  
 0 - 0K/Clasancy  
 1 - 1 bedroom  
 2 - 2 bedrooms  
 3 - 3 bedrooms  
 4 - 4 bedrooms  
 5 - 5 or more bedrooms

**Household % of Med**  
 1 - 0 to 30%  
 2 - 30+ to 50%  
 3 - 50+ to 80%  
 4 - 80+ to 90%

**Household Race**  
 11 - White  
 12 - Black or African American  
 13 - Asian  
 14 - American Indian or Alaska Native  
 15 - Native Hawaiian or Other Pacific Islander  
 16 - American Indian or Alaska Native & White  
 17 - Asian & White  
 18 - Black or African American & White  
 19 - American Indian or Alaska Native & Black or African American  
 20 - Other MULT Racial

**Household Size**  
 1 - 1 person  
 2 - 2 persons  
 3 - 3 persons  
 4 - 4 persons  
 5 - 5 persons  
 6 - 6 persons  
 7 - 7 persons  
 8 - 8 or more persons

**Household Type**  
 1 - Single, non-study  
 2 - Family  
 3 - Single parent  
 4 - Two parents  
 5 - Other

**MFAUSE ONLY**  
 \_\_\_\_\_  
 \_\_\_\_\_

**Proof of Registration with NM Attorney General's Office  
(If applicable)**

## DEFINITIONS:

As used herein, the following words and terms, whether capitalized or not, shall have the following meanings, unless the context demands otherwise:

1. Tenant-Based Rental Assistance – is a rental subsidy that can provide help to individual households to afford housing costs such as rent, utility costs, security deposits, and/or utility deposits.
2. Affordable Rental Housing – means housing that must be occupied only by households that are eligible as low-income families and must meet the fair market rent for existing housing for comparable units in the area as established by HUD under 14CFR888.111. For purposes of this program, the rent for the household does not exceed 30 percent of the families' adjusted income.
3. Annual Gross Income – means the annual anticipated income for a household, or more specifically, the gross amount of wages, income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR §5.609.
4. Household – means one or more persons occupying a housing unit.
5. Eligible Person or Eligible Household – means one or more natural persons or a family who are determined by the City to be of Low Income, Very Low Income, or Extremely Low Income according to the income limits Adjusted to Family Size published annually by HUD based upon the Annual Gross Income of the household.
6. HUD – means the United States Department of Housing and Urban Development, its successors or assigns.
7. Adjusted for Family Size – means adjusted in manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, being the base income eligibility based upon a formula established by HUD for the Las Cruces Metropolitan Statistical Area (MSA).
8. Low Income Housing – means housing that is Affordable to Low Income and Moderate Income Persons.
9. Very Low Income Person or Low Income Household – means one or more natural persons who have a total Annual Gross Income for the household that does not exceed fifty percent (50%) of the median annual income Adjusted for Family Size for households with the Las Cruces MSA, which includes the City of Las Cruces, as determined by HUD.

**SCHEDULE E**

10. Moderate Income Person or Moderate Income Household – means one or more natural persons or a family who has a total Annual Gross Income for the household that does not exceed eighty percent (80%) of the median annual income Adjusted for Family Size for households within the Las Cruces MSA, which includes the City of Las Cruces, as determined by HUD.
11. Extremely Low Income Person or Extremely Low Income Household – means one or more natural persons or a family who has a total Annual Gross Income for the household that does not exceed thirty percent (30%) of the median annual income Adjusted for Family Size for households within the Las Cruces MSA, which includes the City of Las Cruces, as determined by HUD.
12. Project/Program – means the development and implementation of the program to provide tenant-based rental assistance thereby providing cash assistance for security deposits, utility deposits, and up to six months rental assistance with required 2 months supportive services for every one month of rental assistance received by each household.
13. Project/Program Completion – means that all necessary work has been performed; the project complies with the requirements the regulations at 24 CFR Part 92,; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.

Other terms herein which have not been defined shall have the definition, meaning, and intent given them in the HOME regulations, or 24 CFR Part 92, or as cross-referenced therein, or their ordinary dictionary meaning as the context so requires.

PAYMENT REQUEST



**INVOICE**

Month of \_\_\_\_\_

Project Name HOME Tenant Based Rental Assistance

Agency Name| La Casa, Inc. Vendor #6382

Original contract balance \$ \_\_\_\_\_

Balance as of end of previous month's billing \$ \_\_\_\_\_

**Invoice Expenses:**

**Rents:**

Leasing: \$ \_\_\_\_\_

Subtotal: \$ \_\_\_\_\_

**Admin:**

Admin: \$ \_\_\_\_\_

Subtotal: \$ \_\_\_\_\_

**GRAND TOTAL:** \$ \_\_\_\_\_

**Remaining Balance:** \$ \_\_\_\_\_

**Certification:**

I, \_\_\_\_\_, as \_\_\_\_\_

of \_\_\_\_\_, hereby certify that the information provided on this invoice is for reimbursement for expenses incurred for the program delivered in the month identified above.

\_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**Updated Tenant Selection Plan**  
**To be provided by Sub-recipient and approved by the City**

**Sample Client File****Sample Forms to be Included but not limited to:**

Tenant Application  
Tenant Participation Checklist  
Verification of Eligibility  
Gross Income Calculation  
Income Verification  
Rent Calculation  
Utility Allowance  
Residency Requirement (if applicable)  
Service Plan  
Citizenship or Legal Alien Declaration with supporting documentation  
Release of Information  
Zero Income Self Declaration  
Birth Certificate Affidavits  
Verification of Identity  
Social Security Card Verification  
Lead Hazard Information  
HQS Form  
Lease  
Contract between Tenant and Landlord.