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City of Las Cruces[®]
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Council Action and Executive Summary

Item # 18 Ordinance/Resolution# 10-040 Council District: All

For Meeting of July 20, 2009
 (Adoption Date)

TITLE: A RESOLUTION APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE AGREEMENTS BETWEEN THE CITY OF LAS CRUCES AND VARIOUS NON-PROFIT AGENCIES FOR PROGRAM YEAR 2009 (CITY FISCAL YEAR 2010). THE RESOLUTION FURTHER AUTHORIZES THE CITY MANAGER TO EXECUTE THE AGREEMENTS ON THE CITY'S BEHALF.

PURPOSE(S) OF ACTION: To request the approval of eight (8) agreements with separate non-profit agencies and the City of Las Cruces for the CDBG Public Services program for Program Year 2009.

Name of Drafter: Jean Barnhouse-Garcia <i>JBG</i>		Department: Community Development <i>JBG</i>		Phone: 528-3066	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>PW</i>	528-3066	Budget	<i>Richard Y...</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>Zun...</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: Based on the Council approved 2009 Action Plan for the CDBG and HOME programs, City staff has developed eight (8) written agreements with each of the non-profit agencies that were selected to provide public services to the City's low-income families for the next fiscal year. The agreements are required in order to meet HUD's regulations related to implementing the CDBG program. The non-profit agencies and their programs that will receive funding are as follows:

Agency	Program Name	Funding Amt.:
Casa de Peregrinos	Food Pantry	\$ 11,876.00
Community Action Agency	Senior Therapeutic Meals	\$ 10,276.00
Community Action Agency	Teen Parent Program	\$ 11,876.00
Families & Youth Inc.	Adolescent Shelter	\$ 21,876.00
Jardín de los Niños	On-Site Medical Services	\$ 13,876.00
La Casa, Inc.	Emergency Shelter Services	\$ 36,068.00
Mesilla Valley CASA, Inc.	Volunteer Development	\$ 20,276.00
Mesilla Valley Community of Hope	Homeless Services	\$ 33,876.00

These agencies were recommended for funding through a competitive application process administered by Neighborhood Services staff and recommendations developed by the City's

Health and Human Services Advisory Committee (HHSAC). The HHSAC's recommendations were incorporated into the City's Program Year 2009 Action Plan that was approved by the City Council on May 4, 2009 under Resolution 09-259. The 2009 Action Plan was submitted and approved by HUD in May 2009. Furthermore, the funding for these agencies was incorporated into the City's FY2010 adopted Budget.

Under existing City policy for the City's CDBG and HOME Programs, the City Manager is authorized to execute these agreements on the City's behalf.

SUPPORT INFORMATION:

CDBG Fund Name / Account Number	Amount of Expenditure	Budget Amount
20184240-722190-10313 (Casa de Peregrinos)	\$11,876.00	\$11,876.00
20184240-722190-10315 (CAA-Senior Therapeutic Meals)	10,276.00	10,276.00
20184240-722190-10316 (CAA-Teen Parent Program)	11,876.00	11,876.00
20184240-722190-10312 (Families & Youth Inc.)	21,876.00	21,876.00
20184240-722190-10307 (Jardin de los Ninos)	13,876.00	13,876.00
20184240-722190-10305 (La Casa Inc.)	36,068.00	36,068.00
20184240-722190-10314 (Mesilla Valley CASA Inc.)	20,276.00	20,276.00
20184240-722190-10306 (MV Community of Hope)	33,876.00	33,876.00

1. Resolution
2. Exhibits "A" through "H" – CDBG Public Service Agreements
3. Attachment I – Resolution 09-259 approving the 2009 Action Plan

OPTIONS / ALTERNATIVES:

1. Vote "YES" and approve the Resolution. Such action would approve the eight agreements for the CDBG Public Services Program for Program Year 2009, which will provide needed services to low-income families and comply with HUD's requirement for written agreements with outside agencies and the City.
2. Vote "NO" and deny the Resolution. Such action would not approve the CDBG Public Services Agreements for Program Year 2009 and thus, not implement the approved 2009 Action Plan for the City's CDBG Program. Furthermore, such action would require the City to revise the HUD-approved 2009 Action Plan.
3. Modify the Resolution at the Council's discretion, then vote "YES" on the modified Resolution. Modification would be based on Council's direction.
4. Table/Postpone the Resolution and provide direction to staff.

RESOLUTION NO. 10-040

A RESOLUTION APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE AGREEMENTS BETWEEN THE CITY OF LAS CRUCES AND VARIOUS NON-PROFIT AGENCIES FOR PROGRAM YEAR 2009 (CITY FISCAL YEAR 2010). THE RESOLUTION FURTHER AUTHORIZES THE CITY MANAGER TO EXECUTE THE AGREEMENTS ON THE CITY'S BEHALF.

The City Council is informed that:

WHEREAS, the Health & Human Services Advisory Committee, in conjunction with staff from the Neighborhood Services Section of the Community Development Department, implemented and recommended funding to various agencies for the Community Development Block Grant (CDBG) Public Services Program for Program Year 2009 (City FY 2010); and

WHEREAS, the Public Services Program utilizes CDBG funds from the U.S. Department of Housing & Urban Development (HUD) to provide needed operating assistance to qualified non-profit agencies in exchange for qualified services to low- and moderate-income families; and

WHEREAS, the Public Service Program funds were approved for eight agencies for Program Year 2009 as part of the 2009 Action Plan, which has been approved by both the City Council and HUD; and

WHEREAS, HUD regulations for the CDBG Program require the City to execute written agreements between the non-profit agencies and the City in order to implement the Public Services Program; and

WHEREAS, the Public Service funds for CDBG were incorporated into the City's FY 2010 Budget.

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

(I)

THAT the Agreement between Casa de Peregrinos for the Food Acquisition Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the Agreement between Community Action Agency of Southern New Mexico for the Senior Therapeutic Meals Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "B," attached hereto and made part of this Resolution, is hereby approved.

(III)

THAT the Agreement between Community Action Agency of Southern New Mexico for the Teen Parent Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "C," attached hereto and made part of this Resolution, is hereby approved.

(IV)

THAT the Agreement between Families and Youth, Inc. for the Transitional Living Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "D," attached hereto and made part of this Resolution, is hereby approved.

(V)

THAT the Agreement between Jardín de los Niños for the On-Site Medical Services Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "E," attached hereto and made part of this Resolution, is hereby approved.

(VI)

THAT the Agreement between La Casa, Inc. for the Emergency Shelter Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "F," attached hereto and made part of this Resolution, is hereby approved.

(VII)

THAT the Agreement between Mesilla Valley CASA, Inc. for the Volunteer Coordination and Development Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "G," attached hereto and made part of this Resolution, is hereby approved.

(VIII)

THAT the Agreement between Mesilla Valley Community of Hope for the Homeless Services Program and the City of Las Cruces for Program Year 2009, as shown in Exhibit "H," attached hereto and made part of this Resolution, is hereby approved.

(IX)

THAT the City Manager of the City of Las Cruces is hereby authorized to sign all agreements approved under this Resolution on behalf of the City of Las Cruces.

(X)

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

DONE AND APPROVED this ____ day of _____ 2009.

(SEAL)

APPROVED:

Mayor

ATTEST:

City Clerk

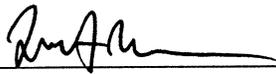
VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

EXHIBIT "A"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
CASA DE PEREGRINOS
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Casa de Peregrinos (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10313; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes FY 2009-10 funding of **\$11,876.00** for the **Emergency Food Bank Program**; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served ____ (i.e. Presumed Benefit); or

___ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

___ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

Casa de Peregrinos operates an emergency food bank program with donated and purchased goods. CDBG Public Services funds will allow for the purchase of food at an economical price that allows Casa de Peregrinos to operate more efficiently and process more clients on an emergency basis.

2. Program Type: Public Services (General)

Program Title: Food Bank Program

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

(a.) Number New Units this year (new projects only): **5,145 units**

- (b.) Increased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009).

Unit Definition: Units of service are duplicated individuals served at **Casa de Peregrinos**, or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than **June 30, 2010**.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from **July 1, 2009, to June 30, 2010** are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City’s Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient’s control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City’s governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
602-002	Operating Supplies	\$11,876.00
	TOTAL	\$11,876.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City’s Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City’s governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$11,876.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Rebeca Rentería, Executive Director Casa de Peregrinos 999 W. Amador Las Cruces, NM 88005 Phone: 575-523-5542 E-mail: casadepere@yahoo.com

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

2. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

CASA DE PEREGRINOS

Signature

Rebeca Rentería
Printed Name

Executive Director
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMSA. Audits and Inspections

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing "no billing for this month."

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. "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."

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards and retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: **Public Services (General) PY2009**

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Casa de Peregrinos

Program Name: Emergency Food Bank

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

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

Casa de Peregrinos
999 W. Amador Ave., Las Cruces, NM 88005
(Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

EXHIBIT "B"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
COMMUNITY ACTION AGENCY OF SOUTHERN NEW MEXICO
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Community Action Agency of Southern New Mexico (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10315; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes FY 2009-10 funding of **\$10,276.00** for **Senior Therapeutic Meals**; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served Elderly Persons (i.e. Presumed Benefit); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

Senior Therapeutic Meals are pre-boxed food items that contain nutritional food specifically for homebound/low income elderly persons. They come in three different boxes: Diabetic, Basic and High Protein. Additionally, fresh produce and bread are included with each box. Each box contains approximately two weeks worth of shelf staple food.

2. Program Type: Senior Services

Program Title: Senior Therapeutic Meals

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

(a.) Number New Units this year (new projects only): **398**

- (b.) Increased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009).

Unit Definition: Units of service are duplicated individuals served at **Community Action Agency of Southern New Mexico-Senior Therapeutic Meals**, or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than **June 30, 2010**.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from **July 1, 2009, to June 30, 2010** are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
900-002	Client Support (pre-boxed meals)	\$10,276.00
	TOTAL	\$10,276.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City’s governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$10,276.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Stacey Cox, Chief Executive Officer Community Action Agency of Southern New Mexico 3880 Foothills Road, Ste. A Las Cruces, NM 88011 Phone: (575) 527-8799 E-mail: staceyc@caasnm.org

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

COMMUNITY ACTION AGENCY OF SOUTHERN NEW MEXICO

Signature

Stacey Cox
Printed Name

Chief Executive Officer
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing “no billing for this month.”

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15, 2010 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient’s obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. “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.”

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards and retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: **Senior Services PY2009**

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"**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 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: Community Action Agency of Southern New Mexico- Food Bank

Program Name: Senior Therapeutic Meals

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered y the certification:

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

Physical Location:

Community Action Agency of Southern New Mexico
Food Bank
2320 Westgate, Las Cruces, NM 88001
(Doña Ana County)

Administrative Location:

Community Action Agency of Southern New Mexico
Administrative Office
3880 Foothills Road, Ste. A, Las Cruces, NM 88011
(Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

EXHIBIT "C"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
COMMUNITY ACTION AGENCY OF SOUTHERN NEW MEXICO
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Community Action Agency of Southern New Mexico (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10316; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes FY 2009-10 funding of **\$11,876.00** for the **Teen Parent Program**; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served ____ (i.e. Presumed Benefit); or

In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

 X In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

 In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

The Teen Parent Program helps pregnant and parenting teens who want to continue their education, enhance their parenting skills, and improve their overall lives and their children's lives. Case management is provided to teen parents ages 13-21 who are able to remain within their family of origin or successfully live independently. Support services provided by the Teen Parent Program include educational enrollment, parenting education, nutritional classes, budget management, recreational activities, transportation assistance, psychological screening, tutoring and assistance in completing applications for TANF, food stamps, Medicaid, WIC and child care. Life Skills classes include the topics of sex education, sexual assault, child abuse prevention, domestic violence, immunizations, drug and alcohol prevention, hygiene and dental health.

2. Program Type: Youth Services

Program Title: Teen Parent Program

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

- (a.) Number New Units this year (new projects only): **24 units**
- (b.) Increased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009).

Unit Definition: Each unit represents one unduplicated individual served at **Community Action Agency of Southern New Mexico-Teen Parent Program**, or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant B-09-MC-35-0002**, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than **June 30, 2010**.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from **July 1, 2009, to June 30, 2010** are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Position, Full Time	\$10,400.00
502-007	Other Employee Benefits	\$ 1,476.00
	TOTAL	\$11,876.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by

Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City's governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$11,876.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Stacey Cox, Chief Executive Officer Community Action Agency of Southern New Mexico 3880 Foothills Road, Ste. A Las Cruces, NM 88011 Phone: (575) 527-8799 E-mail: staceyc@caasnm.org

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided.

Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

COMMUNITY ACTION AGENCY OF SOUTHERN NEW MEXICO

Signature

Stacey Cox
Printed Name

Chief Executive Officer
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing “no billing for this month.”

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15, 2010 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient’s obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. “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.”

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards and retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: **Youth Services PY2009**

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African--Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Community Action Agency of Southern New Mexico- Food Bank

Program Name: Teen Parent Program

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered y the certification:

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

Community Action Agency of Southern New Mexico
Teen Parent Program
3880 Foothills Road, Ste. A, Las Cruces, NM 88011
(Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

EXHIBIT "D"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
FAMILIES AND YOUTH, INC.,
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Families and Youth, Inc. (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10312; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes funding of **\$21,876.00** for FY 2009-2010; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served: **Homeless Persons.**

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and

moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

FYI's residential programs provide a positive alternative to homelessness and/or involvement with law enforcement, child welfare, mental health and juvenile justice systems for youth age 12-18. The goal of the residential programs is to keep youth off the streets and out of danger of exploitation, abuse, substance abuse and delinquency. Residential services include Stepping Stones Group Home/Adolescent Shelter and the Transitional Living Program.

2. Program Type: **Homeless Persons**

Program Title: **Stepping Stones Program / Transitional Living Program**

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

(a.) Number New Units this year (new projects only): **81**

(b.) Increased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009)

Unit Definition: Each unit represents one unduplicated individual served at Families and Youth Inc., or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than June 30, 2010.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from July 1, 2009, to June 30, 2010 are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Positions – Full Time	\$18,283.00
502-007	Other Employee Benefits	3,593.00
804-001	Automobiles	0.00
	TOTAL	\$21,876.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes X No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City’s governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$21,876.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	José V. Fietze, Chief Executive Officer Families and Youth Inc. 1320 S. Solano Las Cruces, NM 88001 Phone: (575) 556-1620 E-mail: jfietze@fyinm.org

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

FAMILIES AND YOUTH, INC.

Signature

José V. Fietze
Printed Name

Chief Executive Officer
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMSA. Audits and Inspections

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing "no billing for this month."

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. "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."

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Subrecipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards/retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable

personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: Abused and Neglected Children PY2008

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Families and Youth Inc.

Program Name: Transitional Living Program and Stepping Stones Group Home /
Adolescent Shelter

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

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

- Families and Youth, Inc. 1320 S. Solano, Las Cruces, NM 88001 (Main Office)
- 880 E. Idaho, Las Cruces, NM 88001 (Boys' Residential Program)
- 2211 and 2215 N. Valley Drive, Las Cruces, NM 88005 (Girls' Residential Program)

(All of the above places of performance are located in Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
JARDÍN DE LOS NIÑOS
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Jardín de los Niños (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10307; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes funding of **\$13,876.00** for FY 2009-2010; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served _____;

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and

moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

 In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

 X In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

Jardín de los Niños and the NM Department of Health provide a collaborative initiative for on-site medical care and health assessment services to homeless/near homeless children and their families at the Jardín site.

2. Program Type: **Homeless Children**
Program Title: **On-Site Medical Services**

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

(a.) Number New Units this year (new projects only): 277

(b.) Increased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009)

Unit Definition: Units of service are duplicated individuals served at Jardín de los Niños, or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant B-09-MC-35-0002**, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than June 30, 2010.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from July 1, 2009, to June 30, 2010 are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Positions – Full Time	\$ 9,713.00
602-002	Operating Supplies	1,387.00
602-005	Motor Oil & Fuel	1,387.00
605-002	Auditing Services	794.00
701-003	Auto or Truck Repair	595.00
	TOTAL	\$13,876.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City’s governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$13,876.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Shirley Jaquez, Executive Director Jardín de los Niños 999 W. Amador, Ste. E Las Cruces, NM 88005 Phone: (575) 522-2111 E-mail: shirleyjaquez@hotmail.com

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

JARDÍN DE LOS NIÑOS

Signature

Shirley Jaquez
Printed Name

Executive Director
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing "no billing for this month."

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. "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."

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Subrecipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards/retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable

personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: **Homeless Children PY2009**

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Jardín de los Niños

Program Name: On-Site Medical Services

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered y the certification:

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

999 W. Amador, Ste. E, Las Cruces, NM 88005
(Doña Ana County)

(All of the above places of performance are located in Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"**SECTION 3 CLAUSE**

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

EXHIBIT "F"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
LA CASA, INC.
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and La Casa, Inc. (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10305; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes funding of **\$36,068.00** for FY 2009-10; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

 X In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served: **Battered Spouses**; or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and

moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

The program includes: La Casa's Emergency Shelter Program offers from 1-90 days of short-term residential care to victims of domestic violence and their children who are made homeless due to domestic violence. This safe, structured, and therapeutic environment is offered in order to stabilize a crisis and/or transition to an independent living situation.

2. Program Type: Battered and Abused Spouses
Program Title: Emergency Shelter Program

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

- (a.) Number New Units this year (new projects only): ...

(b.) Decreased levels of service from 352 units provided last year to 239 units this year (projects operating/having a grant in 2008-2009).

Unit Definition: Each unit represents one unduplicated individual served at the La Casa, Inc., or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than June 30, 2010.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from July 1, 2009, to June 30, 2010 are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Positions, Full Time	\$24,874.00
501-001	Permanent Positions, Part Time	11,194.00
	TOTAL	\$36,068.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes X No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City's governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$36,068.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Gina Orona-Ruiz, Executive Director La Casa, Inc. Mailing: P O Box 2463 Las Cruces, NM 88004 Physical: 800 S. Walnut Las Cruces, NM 88001 Phone: (575) 526-2819 E-mail: gruiz@lacasainc.org

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

LA CASA, INC.

Signature

Gina Orona-Ruiz
Printed Name

Executive Director
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing “no billing for this month.”

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient’s obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. “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.”

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards/retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. Affirmative Action

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: Battered and Abused Spouses Emergency Shelter PY2009

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African--Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. Employment Restrictions

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Emergency Shelter Program

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

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

Physical Location:

La Casa, Inc. 800 S. Walnut, Las Cruces, New Mexico 88001 – Doña Ana County

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"**SECTION 3 CLAUSE**

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

EXHIBIT "G"

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
MESILLA VALLEY CASA, INC.
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Mesilla Valley CASA, Inc. (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10314; CDBG Activity # _____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes funding of **\$20,276.00** for FY 2009-10; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served: **Abused Children**; or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and

moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

The program includes: Mesilla Valley CASA, Inc. is a largely volunteer organization whose caseload of abused and neglected children in foster care has doubled with the advent of a second Third District Court Judge. CDBG Public Services funds will support the recruitment and ongoing training for current and additional volunteers. This is a collaborative partnership with the Third District Court and NM Children Youth & Families Department.

2. Program Type: Abused and Neglected Children

Program Title: Volunteer Coordination and Volunteer Development

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during PY 2009-2010.

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

- (a.) Number New Units this year (new projects only): **40 volunteers and 80 foster children**

(b.) Decreased levels of service from n/a units provided last year to n/a units this year (projects operating/having a grant in 2008-2009).

Unit Definition: Each unit represents one unduplicated individual served at Mesilla Valley CASA, Inc., or equivalent facility, as provided by the Sub-recipient. Each individual will be a qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on July 1, 2009, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than June 30, 2010.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from July 1, 2009, to June 30, 2010 are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Positions, Full Time	\$15,902.00
708-005	Training and Education	4,374.00
	TOTAL	\$20,276.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: _____ Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City's governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$36,068.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048 E-mail: jbarnhouse-garcia@las-cruces.org	Doreen Gallegos, Executive Director Mesilla Valley CASA, Inc. 119 N. Downtown Mall Las Cruces, NM 88001 Phone: 575-527-0035 Email: dgmvcasa@qwestoffice.net

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender, disability status, and female head of household status of all eligible clients.
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and shall be submitted as part of the monthly report and also made available to the City monitors or their designees for review upon request. A Monthly Summary Progress Report of clients served shall be submitted with each monthly billing (see chart of requirement, below).

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED N CLIENT FILES
Client Verification (intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

* Due to confidentiality requirements of Sub-recipient, CVFs will be monitored on site.

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

MESILLA VALLEY CASA, INC.

Signature

Doreen Gallegos
Printed Name

Executive Director
Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing “no billing for this month.”

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient’s obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. “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.”

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Sub-recipient. If such program income is collected or awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards/retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

 The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

 X Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

Q. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: **Abused & Neglected Children PY2009**

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"

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 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: Mesilla Valley CASA, Inc.

Program Name: Volunteer Coordination and Volunteer Development

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

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

Physical Location:
119 N. Downtown Mall, Las Cruces, NM 88001
(Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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:

By: _____ Date: _____

By: _____ Date: _____

**AGREEMENT BETWEEN
THE CITY OF LAS CRUCES AND
MESILLA VALLEY COMMUNITY OF HOPE
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this ____ day of _____, 2009, between the City of Las Cruces (herein called the "City") and Mesilla Valley Community of Hope (herein called the "Sub-recipient"), under CDBG Grant Number **B-09-MC-35-0002**.

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383, Title 24 of the Code of Federal Regulations (CFR) and Catalogue of Federal Domestic Assistance No. 14.218; Munis Project #20184240-722190-10306; CDBG Activity #_____.

WHEREAS, the City will have performed all of the steps necessary to obtain U.S. Department of Housing and Urban Development (HUD) approval of the City's 2006-2010 Consolidated Plan, including the 2009 Action Plan, which includes funding of **\$33,876.00** for FY 2009-10; and

WHEREAS, the City wishes to engage the Sub-recipient to assist the City in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. National Objectives

The Sub-recipient certifies that the activities it carries out with funds provided under this Agreement will meet the CDBG Program's National Objective (check one):

____ In accordance with 24 CFR 570.208 (a) (1) of benefiting all census blocks with the highest proportion of low and moderate persons, specifically census tract: block group(s) of ____ (i.e. Area Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (A), of benefiting clientele who are generally presumed to be principally low and moderate income persons in specific presumed groups, singularly or in combination of categories approved by the City and qualifying under this Section. Presumed benefit group to be served: _____ (i.e. Presumed Benefit); or

____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (B) of benefiting low/moderate income persons by requiring information on family size and income so that at least 51 percent of the clientele are low and moderate income families, but only low and

moderate income families will be qualified for the CDBG funds (i.e. Low/Mod Limited Client, Income Verification Required); or

_____ In accordance with 24 CFR Part 570.208 (a) (2) (i) (C) have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons, (i.e. Low-Mod Income Clientele, Income Verification Required, Exclusive Activity): or

X In accordance with 24 CFR Part 570.208 (a) (2) (i) (D) be of such nature and be in such location that it may be concluded that there is presumed benefit and the activity's clientele will primarily be low and moderate income persons. The nature and location of the activity must be officially documented by the City in advance of services (i.e. nature and location).

B. Activities

The Sub-recipient will be responsible for administering a CDBG Public Services program in a manner that complies with HUD Regulations and City requirements.

The program will include the following activities eligible under the Community Development Block Grant Program:

1. Program Description:

The program includes: Provision of a wide range of services to the homeless, including case management, day time outreach services (laundry, shower, clothing), housing programs and transportation. Housing programs include Veterans Transitional Housing, Hope Housing First, Community Housing Connection, emergency and homeless prevention. City funds help pay some of the basic operating expenses, and help fund much needed administrative expenses, such as accounting and data.

2. Program Type: Homeless Services
Program Title: Homeless Services

C. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Sub-recipient agrees to provide the following level of program services during FY 2009-2010:

Activity

Public Services, 24 CFR Part 570.201 (e). Total Units/ Year (fill in one):

- (a.) Number New Units this year (new projects only): n/a

(b.) Decreased levels of service from **1,929** units provided last year to **411** units this year (projects operating/having a grant in 2008-2009)

Unit Definition: Each unit represents one unduplicated individual served at the Mesilla Valley Community of Hope, or equivalent facility, as provided by the Sub-recipient. Each individual will be qualified benefit recipient as defined in 24 CFR Section 570.208 and City requirements (if applicable).

D. Performance Monitoring

The City will monitor the performance of the Sub-recipient against goals and performance standards required herein on a quarterly basis. The Sub-recipient is expected to complete the projected "units of service" listed in "C. Levels of Accomplishment" in a timely manner. If, at the end of each quarter, the Sub-recipient's performance provided to the City is 25%, or more, below that projected, the Sub-recipient will be considered to be in default of this Agreement and will receive written notice of the default from the City. The Sub-recipient shall submit a written plan to the City within 15 days of the City's notice correcting the default by undertaking such efforts to either increase the number of units served to those planned or propose an increase of related services for eligible clients that are within the available funds. The City shall provide a written response to the Sub-recipient within 15 days.

If the plan is not approved and agreement cannot be reached between the Sub-recipient and the City on how to rectify the default, the Sub-recipient will receive formal notice of non-compliance with this Agreement.

If, by the end of the third quarter of this Agreement, the total number of units of provided service remains 25%, or more, below the projected number, the City shall either provide an administrative amendment to the Agreement to implement a corrective plan or alter the amount of funding awarded the Sub-recipient. This authorization is in addition to any administrative authority contained in "III. Budget" in this Agreement. The performance measures contained herein are in addition to the requirements for timely expenditure of funds in "Section III. Budget," contained elsewhere in this Agreement.

Continued or on-going substandard performance, as determined by the City above, will constitute default with this Agreement and suspension or termination procedures may be initiated.

II. TIME OF PERFORMANCE

A. Term of the Agreement

This Agreement shall start on **July 1, 2009**, or the date on which the United States Department of Housing and Urban Development releases funds to the City for **Grant**

B-09-MC-35-0002, whichever is later. The period of performance will continue for twelve (12) months after the beginning date, but end no later than **June 30, 2010**.

B. Eligible Payment Period

All expenses and purchases approved by this Agreement and incurred during the grant period from **July 1, 2009, to June 30, 2010** are eligible for reimbursement. The term of this Agreement and the provisions herein shall not be extended unless a one-time extension for less than six (6) months is requested in writing by the Sub-recipient and approved by the City. Such an extension may be granted by the City's Neighborhood Services Administrator, provided that such an extension is for cause beyond the Sub-recipient's control, and in accordance with the same terms and conditions of the original agreement. All other extensions or changes in scope, performance, or approved responsibility to this Agreement shall be by the City's governing body and the Sub-recipient in writing.

III. BUDGET

Sub-recipient is required to expend funds in a timely manner. Sub-recipient should expend a minimum of 40% of the funds within six months of the Agreement start date. Funds that are not expended by the end of the term of the Agreement will be held by the City and will not be available to the Sub-recipient.

Payments will be made for the line items listed below:

EXPENDITURE CLASSIFICATION	DESCRIPTION OF ITEM	APPROVED BUDGET
501-001	Permanent Position, Full Time	\$15,302.00
502-001	Permanent Position, Part Time	7,572.00
502-007	Other Employee Benefits	4,782.00
603-001	Postage and Copying	878.00
604-001	City Service (water, waste, etc.)	996.00
604-002	Electricity	1,993.00
605-002	Auditing Services	1,953.00
708-001	Transportation	200.00
708-002	Per Diem	100.00
708-005	Training and Education	100.00
	TOTAL	\$33,876.00

A detailed description of each line item above may be requested of the Sub-recipient as a condition of contract execution and will be included as Attachment F.

Detailed description requested: Yes No

If necessary, up to 25% of the total funding of the grant may be moved within already approved line item categories during the course of the grant. All changes to approved budget lines will require written requests for change, to be submitted on the provided Budget Line Item Revision Request by the Sub-recipient. Any budget changes must be

limited to comply with the administrative scope of the program/project as defined by Part I, Scope of Service of this Agreement and the line items listed in this section. Adjustments between the individual line items above may be approved by the City's Neighborhood Services Administrator. All other adjustments or amendments in excess of 25% or any change to the scope must be approved by the Las Cruces City Council and the Sub-recipient in writing, excluding the adjustments between budget line items.

Indirect costs cannot be charged to this Agreement.

IV. AMENDMENTS

The City or Sub-recipient may amend the budget, scope of work, or 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, and approved by the City's governing body except as provided in Section III. Such amendments shall not invalidate nor relieve or release the City or Sub-recipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by a written amendment signed by both City and Sub-recipient.

V. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$33,876.00**. The payment of eligible expenses shall be made for only the line item budgets specified in Section III herein and in accordance with the scope of service. Payments are contingent upon adherence to all administrative requirements as specified in Section VII of this Agreement.

VI. COMMUNICATIONS

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

CITY	SUB-RECIPIENT
Jean Barnhouse-Garcia, Neighborhood Programs Specialist-Public Services Community Development Department City of Las Cruces P.O. Box 20000 Las Cruces, NM 88004 Phone: (575) 528-3048	Pamela Angell, Executive Director Mesilla Valley Community Hope P.O. Box 6875 Las Cruces, NM 88006 Phone: (575) 523-2219 E-mail: hope@zianet.com

E-mail: jbarnhouse-garcia@las-cruces.org	
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VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Sub-recipient agrees to comply with the standards specified in 24 CFR Part 84, Subpart C, Financial Program Management, 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. The Sub-recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133, "Audits for States, Local Governments and Non-Profits."

B. Documentation and Record-Keeping

1. Records to be Maintained

The Sub-recipient shall maintain all records required by Federal regulations, State law, local ordinances and City requirements that are pertinent to the activities to be funded under this Agreement, including 24 CFR Part 570 and 24 CFR Part 5. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken and demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program;
- b. Records necessary to determine the eligibility of activities;
- c. Records documenting compliance with the fair housing and equal opportunity components of the CDBG Program in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973;
- d. Financial records as required by 24 CFR Part 570.502 and 24 CFR Part 84, Subpart C, Financial and Program Management;
- e. Other records necessary to document compliance with 24 CFR 570 Subpart K;
- f. Records of the ethnicity, race, gender and disability status of all eligible clients;
- g. For those Sub-recipients not covered by 24 CFR part 570.208 (a) (2) (i) (A) or (D), disclosure of family income, individual income, annual income and as adjusted income.

2. Data Collection

The Sub-recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, income (as applicable), identity and verification of Las Cruces residency, verification in accordance with 24 CFR Part 5 or other City required

documentation for determining eligibility, and description of service provided. Such information shall be maintained in a client file by the Sub-recipient and made available to the City monitors or their designees for review upon request. A listing of clients by name and/or identifying numbers, including each client's ethnicity, race, disability status, and whether female head of household shall be submitted along with a Monthly Summary Progress Report of clients served with each monthly billing on a form provided by the City (see chart of requirement, below).

Additionally, the Sub-recipient is required to participate in a survey of all clients for a one week period specified by the City. Such survey shall query clients on their homelessness and income category and other information as needed to determine the continued Mesilla Valley Community of Hope campus status as a "nature and location" concluded activity. The City shall provide the survey instrument. Both City and Sub-recipient personnel shall conduct the survey.

3. Required Documents for Client Files and Regular City Submissions:

REPORTS and/or DOCUMENTATION	SUBMITTED TO CITY	RETAINED IN CLIENT FILES
Client Verification (Intake) Forms	*	X (original)
Verification of Las Cruces residency	*	X (original)
Monthly Expenditure Report	X	
Client List	X	
Monthly Summary Progress Report	X	
Monthly Request for Payment w/back-up documentation	X	
Final (Annual) Report	X	

4. Retention

The Sub-recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this Agreement shall be retained for three (3) years after final disposition of such property. Records for any displaced person must be kept for three (3) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the three-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the three-year period, whichever occurs later.

5. Disclosure

The Sub-recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Sub-recipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

C. Training

From time to time, the City may provide training to Sub-recipients and contractors. Such courses, when scheduled, will be identified as to mandatory or voluntary status. Training may also be available or required from HUD or other Federal and/or State Agencies.

VIII. GOVERNANCE AND SEVERABILITY

- A. This agreement shall be governed by the laws of the State of New Mexico.
- B. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- C. All attachments are part of this Agreement have the same weight and importance as the initial Sections I through VIII.
- D. All certifications in Attachments "B" through "E" shall be signed by the Sub-recipient as part of this Agreement.

IN WITNESS WHEREOF, the parties hereto do mutually execute the Agreement as of the date first written:

MESILLA VALLEY COMMUNITY OF HOPE

Signature

Pamela Angell

Printed Name

Executive Director

Title

Date

CITY OF LAS CRUCES

Terrence Moore, City Manager

APPROVED AS TO FORM:

Date

City Attorney

ATTACHMENT "A"

I. GENERAL ITEMS**A. Audits and Inspections**

All Sub-recipient 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 Sub-recipient's reporting package shall be submitted to the City 30 days after receipt of an auditor's report or 9 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 Sub-recipient within 30 days after receipt by the Sub-recipient. Failure of the 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 Sub-recipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Sub-recipient audits and OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations), as applicable.

B. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial terminations of the approved Scope of Service may only be undertaken with the prior approval of the City. In the event of any termination for convenience in accordance with 24 CFR 85.44, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Sub-recipient under this Agreement shall become the property of the City, and the Sub-recipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

In accordance with 24 CFR 85.43, the City may also suspend or terminate this Agreement, in whole or in part, if the Sub-recipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Sub-recipient ineligible for any further participation in the City's Agreements, in addition to other remedies as provided by law. In the event there is probable cause to believe the Sub-recipient is in

noncompliance with any applicable rules or regulations, the City may withhold up to fifteen (15) percent of said Agreement's funds or such amount that the City may determine as appropriate. Such suspension will last until such time as the Sub-recipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

C. Workers' Compensation

The Sub-recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

D. Insurance and Bonding

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.

E. Reporting and Payment Procedures

1. Payment Procedures and Monthly Reports

The City will pay to the Sub-recipient funds available under this Agreement based upon information submitted by the Sub-recipient and consistent with any approved budget and City policy concerning payments. Expense summaries, payment requests, monthly reports and support documentation will be submitted to the City every month, no later than the fifteenth day (15th) following the month reported, effective from the date of this Agreement through one month after the period of performance.

Payments will be made no more than once per month and only after receipt of a currently monthly program and fiscal report as described in this section. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub-recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance funds and program income balances available (if any) in Sub-recipient accounts. In addition, the City reserves the right to liquidate funds available under this Agreement for costs incurred by the City on behalf of the Sub-recipient.

Monthly Reports shall contain the Monthly Summary Progress Report as specified in Section VII.B.3. of the Agreement. The Monthly Reports shall be submitted each month even if there is no monthly billing. For reports with no payment requested, an indication shall be made in writing "no billing for this month."

2. Final Report

The Final report shall contain client data/statistics summarized from the Monthly Reports and a narrative summary of the grant year, both positive and negative. This report shall be submitted to the City no later than July 15 after completion of the Agreement Period or Program Year.

F. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Making final payments, submission of Final Report, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

G. General Compliance

The Sub-recipient agrees to comply with the requirements of 24 CFR, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants.) The Sub-recipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this Agreement.

H. "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."

I. 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 arising out of:

1. The preparation or approval of maps, drawings, opinion, reports, surveys, change orders, designs or specification by the City, or its agents or employees; or
2. The giving of or failure to give directions or instructions by the City, or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

In the event the City, or its officers, agents or employees actively participate in such negligence, (a) the Sub-recipient is relieved of its obligation to defend the City, and (b) the Sub-recipient's obligation to indemnify and save harmless is limited to the amount representing the Sub-recipient's comparative share of negligence as between the Sub-recipient and the City.

J. Grantor Recognition

The Sub-recipient shall insure recognition of the role of the Grantor agency in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Sub-recipient will include a reference to the support, provided herein, in all publications made possible with funds made available under this Agreement.

K. Program Income

In accordance with 24 CFR 570.504, no program income is anticipated by this Agreement by the Subrecipient. If such program income is collected/awarded, said program income shall be paid to the City.

L. Reversion of Assets

Upon its expiration, the Sub-recipient shall transfer to the City any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. This Agreement does not authorize the acquisition of real property; therefore, change in use or property standards/retention requirements in 570.504 are not applicable.

M. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. Standards

The Sub-recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR Part 84 Subpart C, Procurement Standards (84.40-84.48) and shall subsequently follow 24 CFR part 84 Subpart C, Property Standards (84.30-84.37), Property Management Standards, as modified by 24 CFR 570.502 (b) (6) covering utilization and disposal of property.

N. Travel (Check one)

The Sub-recipient shall obtain written approval from the City for any travel outside the State of New Mexico, excepting El Paso County, Texas, with funds provided under this agreement.

Travel is NOT included as part of this Agreement.

O. Sub-contract Provisions

If the Sub-recipient decides to sub-contract part of the scope of work in this Agreement, it must get prior written authorization from the City. The Sub-recipient also must include the provisions of Attachment "C" (Equal Employment Opportunity/Affirmative Action Clause) in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.

Additionally, the Sub-recipient will include the Section 3 Clause (see Attachment "D"), following, in any sub-contract and will take appropriate action pursuant to the sub-contract upon a finding that the sub-contractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not sub-contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

The Sub-recipient shall furnish and cause each of its own sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

1. Approvals

The Sub-recipient shall not enter into any sub-contracts with any agency or individual in the performance of this Agreement without the written consent of the City, prior to the execution of such agreement.

2. Monitoring

The Sub-recipient will monitor any sub-contracted services on a regular basis to assure Agreement compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of non-compliance. These reports will be submitted to the City within 45 calendar days of completed correction of the non-compliance matter.

3. Content

The Sub-recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any sub-contract executed in the performance of this Agreement.

4. Selection Process

The Sub-recipient shall undertake to insure that any sub-contracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all sub-contracts shall be forwarded to the City along with documentation concerning the selection process.

P. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

QP. Religious Organizations

The Sub-recipient agrees that all funds and/or programs under this Agreement, which includes faith-based organizations, are subject to the requirements specified in 24 CFR Part 570.200 (j), as amended.

II. PERSONNEL AND PARTICIPANT CONDITIONS

A. Drug-Free Workplace

The Sub-recipient shall maintain a drug-free workplace and so place signs in appropriate places indicating such to clients, staff, and applicants. Attachment "B" Certification is required of all Sub-recipients as part of the entire Agreement.

B. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964, as amend; 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 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 with Executive Order 11246, as amended by Executive Orders 11375 and 12086.

2. Non-discrimination/EEO-AA Statement

The Sub-recipient will not discriminate against any employee or applicant for employment as stated in Attachment "C." Attachment "C" Certification is required of all Sub-recipients as part of the entire Agreement.

3. Section 504

The Sub-recipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

4. Americans with Disabilities Act.

a. Contracts to Conduct Programming

The Sub-recipient shall ensure that all programs, services and activities are accessible to and useable by persons with disabilities in accordance with the Americans with Disabilities Act, including but not limited to, equal opportunity to participate and benefit, equally effective communication for persons with speech, hearing or cognitive disabilities, integrated seating and the provision of reasonable modifications and/or accommodations and to maintain, and provide to the City upon request, a record of all such requests received, granted and/or denied and the reason for any denials.

b. Operational Duties and Responsibilities

The Sub-recipient shall post one or more signs containing facility hours, rules, warning signs and emergency telephone numbers, anti-drug policy, EEO, New Mexico Workforce and Fair Housing Posters as appropriate. The Sub-recipient shall make such postings available in alternate formats

upon request. The Sub-recipient shall adhere to the City of Las Cruces Communication Policy when publicizing events, activities, programs or services.

c. Bid Specifications for Products, Design and/or Construction

The Sub-recipient shall insure all proposed products, services, or activities contained as a part of this Agreement comply with the requirements of the Americans with Disabilities Act and ADAAG requirements, ANSI Accessibility Guidelines and NMBC Accessibility Requirements (when applicable) to ensure accessibility to persons with disabilities.

C. **Affirmative Action**

1. Approved Plan

The Sub-recipient agrees to be committed to and carry out the City'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 City within 30 calendar days of the signing of this Agreement or certify that there is an AAP on file with the City from another activity undertaken by the Sub-recipient within the last five (5) years. State the activity: HUD #614 CDBG Public Service grant for Homeless Services in PY 2009

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. Women/Minority Business Enterprises

The Sub-recipient will use its best efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female 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, a "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and Native Americans. The Sub-recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

D. **Employment Restrictions**

1. Prohibited Activity

The Sub-recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

2. “Section 3” Clause

The Sub-recipient to agree to comply with “Section 3,” regulations set forth in 24 CFR 135. The Sub-recipient further agrees to comply with the “Section 3” requirements and to include the language of Attachment “D”, Sections A, B, and D in all sub-contracts executed under this Agreement. The Sub-recipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements. Sub-recipients shall sign Attachment “D” as a condition of receiving this grant.

3. Notifications

The Sub-recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Sub-recipient’s commitments hereunder, and shall post copies of the notice in conspicuous, easily accessible places available to employees and applicants for employment.

4. Assignability

The Sub-recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Sub-recipient from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

5. Debarment and Suspension

No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Hatch Act

The Sub-recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of the Title V United State Code.

7. Conflict of Interest (COI)

The Sub-recipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Sub-recipient further covenants that in the performance of the Agreement no person having such a financial interest shall be employed or retained by the Sub-recipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or Sub-recipients which are receiving funds under the CDBG Entitlement program. The Sub-recipient is required to submit conflict of interest statements to the City and as specified by the City.

a. Applicability

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 24 CFR 84.42, respectively, shall apply.

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 Sec. 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to Sec. 570.203, 570.204, 570.455, or 570.703 (i)).

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-assisted activity, or have a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, sub-contract, or agreement with respect to a CDBG-assisted

activity, or with respect to the proceeds of the CDBG-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 Sub-recipient, or any designated public agencies, or of Sub-recipients that are receiving funds under this part.

The Sub-recipient shall provide to the City a current list of Board of Directors, with names, addresses, telephone numbers and positions held. The Sub-recipient shall also provide signed COI statements dated no earlier than 180 days prior to the effective date of this Agreement, within 30 days of signing this Agreement for all Board members and appropriate staff, so identified. COI statements must be renewed annually by all appropriate persons.

8. Lobbying

The Sub-recipient hereby certifies that federally appropriated funds have not been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence any award action. Attachment "E" Certification is required of all Sub-recipients as part of the entire Agreement.

ATTACHMENT "B"**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 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: MESILLA VALLEY COMMUNITY OF HOPE

Program Name: Homeless Services

Date: _____

The Sub-recipient shall insert in the space provided below the site(s) expected to be used for the performance of work under the Grant covered by the certification:

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

999 W. Amador Ave, Suite E, Las Cruces, NM 88005
(Doña Ana County)

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

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "C"

**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:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "D"

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project providing direct Federal financial assistance from the Department of Housing and Urban Development ("HUD") and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and contracts for work in connection with the Project be awarded to business concerns that are located in or owned in substantial part by persons residing in the area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability that would prevent them from complying with these requirements.
- C. The Sub-recipient will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Sub-recipient will include this Section 3 Clause in every sub-contract for work in connection with the Program and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the Sub-recipient is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Sub-recipient will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued there under prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant

or recipient, its Sub-recipients, and its successors, and assigns to those sanctions specified by the CDBG Agreement or contract through which Federal assistance is provide, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

ATTEST:

By: _____ Date: _____

By: _____ Date: _____

ATTACHMENT "E"

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.

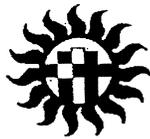
ATTEST:

By: _____ Date: _____

By: _____ Date: _____

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City of Las Cruces®

PEOPLE HELPING PEOPLE

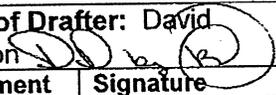
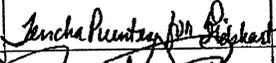
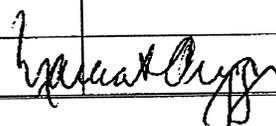
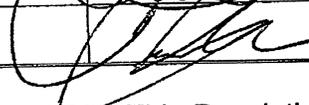
Council Action and Executive Summary

Item # 3 Ordinance/Resolution# 09-259 Council District: N/A

For Meeting of May 4, 2009
(Adoption Date)

TITLE: A RESOLUTION APPROVING THE 2009 ACTION PLAN AS PART OF THE 2006-2010 CONSOLIDATED PLAN FOR THE CITY OF LAS CRUCES. THE RESOLUTION AUTHORIZES THE CITY STAFF TO SUBMIT THE 2009 ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZES THE ACTION PLAN TO BE INCORPORATED INTO THE CITY'S BUDGET FOR FY2009/2010.

PURPOSE(S) OF ACTION: To approve the 2009 Action Plan for the City and authorize the project listing and budgets to be incorporated into the City's FY2010 budget.

Name of Drafter: David Dollahon 		Department: Community Development		Phone: 528-3060	
Department	Signature	Phone	Department	Signature	Phone
Community Development		528-3067	Budget		541-2281
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: This Resolution approves the 2009 Action Plan, a part of the 2006-2010 Consolidated Plan for the City of Las Cruces. The required 2009 Action Plan, as mandated by the U.S. Department of Housing and Urban Development, is required to be completed by each entitlement community in order to utilize the funds for both the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) programs.

The City of Las Cruces adopted the 5-year, 2006-2010 Consolidated Plan in May 2006 and it contains the following six identified Strategic Plan Goals:

Goals	Title
A	Increase the supply of affordable housing for low- and moderate income homebuyers.
B	Increase affordability of rental housing for the City's lowest income renters.
C	Preserve existing affordable housing stock.
D	Assist special needs populations with social service and housing needs, including improvements to public facilities.
E	Improve public infrastructure, economic, and housing conditions in low-income, economically-challenged and deteriorating neighborhoods.
F	Strengthen the City's ability to address fair housing issues.

The 2009 Action Plan is the funding mechanism for the CDBG and HOME funds from HUD and must be consistent with the strategic plan policies established within the Consolidated

(Continued on Page 2)

Plan. The 2009 Action Plan Program Year is from July 1, 2009, through June 30, 2010, which coincides with the City's Fiscal Year 2010. The 2009 Action Plan has funding limits, by program, as follows:

	HUD Entitlement	Program Income	Carryover Entitlement from Previous Years	Program Total
CDBG:	\$ 992,000.00	\$100,000.00	\$ 0.00	\$1,092,000.00
HOME:	\$ 481,000.00	\$ 35,000.00	\$ 0.00	\$ 516,000.00
FUNDING TOTAL:				\$1,608,000.00

These funding levels represent a decrease of less than 1% for both the CDBG and HOME Entitlement Funds from Program Year 2008. Program Income for CDBG represents an estimated 20% decrease from last year (down from \$125,000), while the HOME program income estimate is the same as last year's. The program income decrease for CDBG is due to a smaller loan portfolio from previously-made, home rehabilitation loans which have been decreasing due to collection efforts by staff and payoffs by clients. There aren't any carryover entitlement funds from previous years due to all previously funded projects expending their full funding. The total funding represents an overall 3% decrease.

The public service activities proposed from the CDBG funding in 2009 were developed following the City's adopted CDBG Public Services Guide. The activities listed are those recommended for funding by the City's Health and Human Services Advisory Committee (HHSAC). The recommended public service activities are consistent with the adopted Consolidated Plan. The recommendations also represent the extensive dedication and personal commitment by the members of the HHSAC.

The HHSAC recommends the following Public Service agencies for funding, as part of the 2009 Action Plan:

<u>AGENCY</u>	<u>RECOMMENDED FUNDING AMOUNT</u>
▪ La Casa – Emergency Shelter	\$ 36,068.00
▪ MV Comm. Of Hope – Homeless	\$ 33,876.00
▪ Community Action Agency – Senior Therapeutic Meals	\$ 10,276.00
▪ Community Action Agency – Teen Parent Program	\$ 11,876.00
▪ Jardin de los Ninos – On Site Medical Care	\$ 13,876.00
▪ Mesilla Valley Court Appointed Special Advocates	\$ 20,276.00
▪ Casa de Peregrinos – Food Bank	\$ 11,876.00
▪ Families & Youth, Inc. – Transitional Shelter	\$ 21,876.00

The 2009 Action Plan, excluding Public Services, was developed using criteria that provides a balance between:

- Public comments received at the City's Public Hearings held on December 9 and 11, 2008 and March 31 and April 2, 2009, as well as emails and other comments received during the 30-day public comment period;
- Applications received by the City and the respective project's ability to meet the priorities of the Consolidated Plan;
- Continuation or completion of previously started projects;
- Priority of affordable housing programs and projects over non-housing projects;

(Continued on Page 3)

- Due to limited HOME funds, alternating between owner-occupied and rental housing projects between Action Plan years and 2009 dedicated to rental housing and rental assistance under the HOME program;
- Compliance with all of the HUD and City regulations and policies; and
- Feasibility of the project being completed in a timely manner for CDBG funding (i.e. CDBG timeliness requirement for expenditures) or contractual requirements for the HOME program (i.e. projects that can be under contract within 2 years and fully expended within 5 years).

The Resolution authorizes that the 2009 Action Plan, once approved, be signed by the City Manager for submittal to HUD. The Resolution further authorizes that the projects contained within the 2009 Action Plan be incorporated into the City's FY 2009/10 Budget.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
Community Development Fund/ Fund 2000 (Varies)	\$516,000 (HOME) \$1,092,000 (CDBG)	\$516,000 (HOME) \$1,092,000 (CDBG)

1. Resolution.
2. Exhibit "A" –the 2009 Action Plan.
3. Attachment "B" – Details on the Public Service proposals/applications, including those recommended and not recommended and combined ranking sheets of the HHSAC.
4. Attachment "C" – Source of Funds Chart.
5. Attachment "D" – Projects by Category and by Funding Source with Cross Reference to Strategic Plan Goals and Objectives.
6. Attachment "E" – Use of Funds Chart, by Category and Funding Source.
7. Attachment "F" - Minutes and sign-in sheets from the Public Hearings.
8. Attachment "G" - Draft, unapproved Minutes from the HHSAC meeting of March 18, 2009, that adopted the CDBG Public Service funding recommendations.
9. Attachment "H" - Copies of public comments received via e-mail or letter, if any.

COUNCIL OPTIONS:

1. Vote YES and approve the Resolution. Such action would adopt the 2009 Action Plan for the City, as required for all CDBG and HOME entitlement communities by HUD. This includes authorizing the City Manager to sign the necessary submittal forms and inclusion of the 2009 Action Plan items to be reflected in the City's budget for the next fiscal year.
2. Vote NO and disapprove the Resolution. Such action would not adopt the 2009 Action Plan for the City, as required for all CDBG and HOME entitlement communities by HUD.
3. Modify the Resolution and then vote YES based on the modifications. This action would be based on Council's direction to Staff.

NOTE: Table or postponement of this Request is not an option due to HUD's submittal deadline for the Action Plan.

RESOLUTION NO. 09-259

A RESOLUTION APPROVING THE 2009 ACTION PLAN AS PART OF THE 2006-2010 CONSOLIDATED PLAN FOR THE CITY OF LAS CRUCES. THE RESOLUTION AUTHORIZES THE CITY STAFF TO SUBMIT THE 2009 ACTION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZES THE ACTION PLAN TO BE INCORPORATED INTO THE CITY'S BUDGET FOR FY 2009/2010.

The City Council is informed that:

WHEREAS, the City of Las Cruces is an Entitlement community as defined by the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) Programs, and

WHEREAS, Entitlement communities are required to develop, adopt, and implement a Consolidated Plan every three to five years to address the City's housing and community development needs in order to continue to receive the CDBG and HOME funding, and

WHEREAS, for the 2009 Action Plan, the City will receive entitlement and program income for both the CDBG and HOME Programs from HUD in the amount of \$1,608,000.00 to address the City's affordable housing and community development needs for its low- and moderate-income areas and residents.

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

(I)

THAT the 2009 Action Plan and all necessary support documentation, as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved and adopted.

(II)

THAT Staff is hereby authorized to secure necessary signatures and transmit the 2009 Action Plan to the U.S. Department of Housing and Urban Development on the City's behalf.

(III)

THAT the 2009 Action Plan is hereby authorized to be incorporated into the City's FY 2009/10 budget, once developed.

(IV)

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

DONE AND APPROVED this _____ day of _____, 2009.

APPROVED:

Mayor Ken Miyagishima

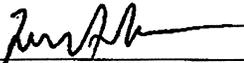
ATTEST:

City Clerk
(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____