

CITY OF PUEBLO
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
(RENTAL DEVELOPMENT)

This Agreement is made and entered into this ____ day of July 2022 (“Effective Date”) by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City"), the Housing Authority of the City of Pueblo, Colorado, a public body corporate and politic (hereinafter referred to as “Developer”), and Crawford Townhomes, LLLP, a Colorado limited liability limited partnership (hereinafter referred to as "Owner").

WITNESSETH, that:

WHEREAS, the City has entered into agreements with the U.S. Department of Housing and Urban Development ("HUD"), whereby federal financial assistance may be made available to City on behalf of the Pueblo Consortium ("Consortium"), established under Agreements between City and Pueblo County, Colorado ("County"), as a Participating Jurisdiction for the purpose of expanding the availability of affordable housing pursuant to the HOME Investment Partnerships Act (the “Act”) (42 U.S.C. 12701 et seq.), the Cranston-Gonzales National Affordable Housing Act and implementing regulations, including but not limited to those at 24 CFR Part 92; and

WHEREAS, in accordance with the provisions of the Act and 24 CFR Sections 92.200 and 92.205, a portion of such financial assistance, subject to de-obligation (and subject to appropriation with respect to any assistance payable out of future fiscal year allotments), may be made available to qualifying non-profit entities for the purpose of carrying out specific elements of the participating jurisdiction's housing strategy, including new construction of affordable rental housing; and

WHEREAS, Developer has submitted a project proposal for new construction of rental housing to create affordable housing in fulfillment of a portion of the City’s and Consortium’s housing strategy and has been selected to receive a loan for such project; and

WHEREAS, Developer has represented to City and the Consortium that it is a duly qualified public housing authority which is eligible and willing to undertake its proposed affordable housing project, as set forth in its application, as further amended by this Agreement and the attachments hereto; and

WHEREAS, Developer, through its non-profit affiliate, El Centro Pueblo Development Corporation, Inc., has formed Owner to assemble the financing, acquire the Property (defined in Section 4(b) below) on which the Project will be constructed, and implement the development plan with Developer’s assistance; and

WHEREAS, based upon Developer's representations, the Consortium and the City believe Developer and Owner are capable or can reasonably be expected to become capable of carrying

out said project, and City is willing to allocate federal funds as a loan to Owner for investment in housing to be developed, sponsored, or assisted by Developer which will comply with and fulfill said approved elements of City's housing strategy; and

WHEREAS, Developer has applied for and received from the Colorado Housing and Financing Authority a preliminary reservation of Federal Low-Income Housing Tax Credits in the amount of \$13,500,000.00 for allocation to Developer's project upon placement of the housing in service; and

WHEREAS, Developer warrants and guarantees that as of the date of execution of this Agreement, all necessary financing has been secured, a budget and schedule has been established, underwriting has been completed, and construction is scheduled to start within twelve months of the agreement date in accordance with the definition of "commit to a specific local project," 24 C.F.R. § 92.2; and

WHEREAS, the City is duly authorized to enter into this Agreement for and on behalf of the Consortium and to undertake all actions required by this instrument.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, terms and conditions set forth herein, the parties agree as follows:

1. DEVELOPER SERVICES.

(a) Developer shall, directly or indirectly, in accordance with all applicable federal, state, and local laws and regulations, undertake the construction of a new forty-nine (49) unit affordable housing project for low to moderate income households, with five (5) of the housing units being assisted hereunder (the "HOME Units"), in furtherance of the Consortium's housing strategy and as approved by the City. The affordable housing project, as described herein, may be referred to as the "Crawford Townhomes Project" or the "Project." Developer may undertake same as the Project sponsor with ownership of the Project to be held by either the Developer or by a limited liability partnership or limited liability limited partnership in which Developer or its affiliate acts as the sole member of the general partner, or by a limited liability company in which Developer is the sole member of the managing member. Developer shall satisfactorily perform and complete, or cause to be performed and completed, all services and items of work, and the furnishing of all labor and materials encompassed within or reasonably necessary to construct all of the improvements for the Project, and accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all of the provisions of this Agreement. Before proceeding with the Project, Developer shall furnish City with all reasonable information which City may request concerning the Project, execute all certifications, security instruments required by this Agreement and applicable laws and regulations, demonstrate eligibility of the Project for assistance under this Agreement and the Act, and obtain the written approval of City's authorized representatives as to the Project, which approval will not be unreasonably withheld. Upon project completion, the HOME Units must meet or exceed the minimum property standards required by 24 CFR 92.251. Owner must continue to maintain the HOME Units in compliance with 24 CFR 92.251 during the period of affordability.

(b) Developer warrants and represents that (i) it has the requisite authority and capacity to perform all terms and conditions on Developer's part to be performed hereunder; (ii) that it is duly organized as a public housing authority under the laws of the State of Colorado, including but not limited to the Colorado Housing Authority Law, as amended, C.R.S. § 29-4-201 et seq. (Vol. 9, 2000); (iii) that it is aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 24 CFR Part 92 and those identified in the exhibits hereto; and (iv) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

(c) Time is of the essence hereof. Developer agrees that it shall meet the following deadlines with respect to the Project:

(i) Developer shall obtain satisfactory evidence that the Owner has the financial ability to undertake and construct the Project, including proof that it has secured approval for tax credits, obtained loan commitments for a construction loan and the primary loan permanent financing for the Project, and furnish such evidence to City, on or before July 21, 2022.

(ii) Developer shall obtain commitments for all required loans on or before July 21, 2022;

(iii) Developer shall commence construction of the Project not later than August 15, 2022;

(iv) Developer shall substantially complete construction of the Project not later than January 15, 2024; and

(v) Lease-up of the Project shall be accomplished by not later than July 15, 2024.

2. ROLE AND RESPONSIBILITIES OF THE CITY.

Under this Agreement, the City is acting on behalf of the Consortium. Notwithstanding the foregoing, all obligations of Developer under this Agreement shall run directly to City and be fully enforceable by City and in the name of the City. The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement, approval of the Project to be undertaken by Developer hereunder and the disbursement of funds in connection therewith. In the absence of such a designation, the Mayor shall be deemed as City's authorized representative.

3. FINANCIAL ASSISTANCE AND METHOD OF PAYMENT.

(a) Upon execution of all documents required by City, the City will loan to Owner an amount up to that specified in subparagraph (c) of this section as the public investment in the Project assisted under this Agreement. Disbursement of funds to Owner is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Owner has

expended funds after July 21, 2022 for eligible approved expenditures with respect to the Project, (ii) that neither Developer nor Owner are in default of any material provision of this Agreement nor applicable law or regulation, (iii) that either Developer or Owner has timely submitted requests for disbursement detailing the eligible draw-down items in a format approved by City, (iv) that either Developer or Owner has certified with each payment or loan draw-down request compliance with the requirements identified in Exhibits "C" and "D" and that all expenditures for which draw-down is sought were made for and in furtherance of the Project and are an eligible use of federal assistance under the Act, and (v) that City has timely received from HUD sufficient federal assistance under the Act to pay the disbursement hereunder. Neither Developer nor Owner may request disbursement of funds under the Agreement until the funds are needed for payment of eligible costs, and the amount of each request must be limited to the amount needed.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with HUD regulations including but not limited to those at 24 CFR Part 92, as presently promulgated and as same may be revised from time to time in the future. All payments received by Owner hereunder are subject to repayment by Owner, where Owner shall repay all funds that City as a participating jurisdiction would be required to repay as provided in 24 CFR Part 92. If the HOME Units do not meet the affordability requirements or have not been rented to eligible tenants in accordance with Exhibit "A", such failures shall be a default of this Agreement, any related loan agreement, and the deed of trust (hereinafter referred to as the "Deed of Trust"), and all HOME funds must be returned to City. In case of such default, City may pursue remedies through this Agreement, loan agreements, including any promissory note (hereinafter referred to as the "Promissory Note" or "Note"), and/or the Deed of Trust. Funds provided hereunder for Project may only be used for development costs, as provided in 24 CFR 92.205(d) and 92.206(a), (c) and (d), where such costs can be separated, and funds are only applied to the HOME Units designated for the affordable housing project. Funds committed hereunder meet the requirements of "commit to a specific local project" under 24 CFR 92.504 and 24 CFR 92.2.

(c) The aggregate of all payments made hereunder shall not exceed Five Hundred-Thousand and No/100 Dollars (U.S. \$500,000.00).

(d) Upon expiration of the term of this Agreement or upon any prior termination, Developer shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination together with any accounts receivable attributable to the use of funds provided hereunder.

4. TERM OF AGREEMENT; SECURITY.

(a) Unless sooner terminated, the term of this Agreement, for purposes of making the loan and undertaking the construction and completion of the Project, shall be the Effective Date through the period of affordability, which is estimated to end January 15, 2044; provided however, that with the respect to the Project for which Developer and Owner have received financial assistance under and during the term of this Agreement, Developer and Owner shall have continuing responsibility to comply with the performance, certifications, repayment, nondiscrimination, affirmative marketing, displacement, relocation, acquisition, labor, conflict of interest, housing affordability compliance, recordkeeping, and other requirements of this

Agreement, and 24 CFR Part 92 (including, without limitation 24 CFR Sections 92.251, 92.252, 92.350, 92.351, 92.353, 92.354, 92.356, 92.359, and 92.508) which shall survive expiration or termination and remain in effect throughout the required full period of affordability, notwithstanding any prior termination or expiration of this Agreement. As used herein, "period of affordability" shall mean 20 years from the completion of the Project, except that if the assistance provided hereunder is used in connection with other financing insured by HUD under Chapter II of Title 24, Code of Federal Regulations, the period of affordability shall be the full original term of said mortgage or 20 years, whichever is longer.

(b) (i) The full amount of loan assistance provided to Developer and Owner for the Project pursuant to this Agreement shall constitute an indebtedness of the Owner to City which shall be evidenced by the Promissory Note which shall be due and payable with interest as provided therein and which shall be secured by the described real property, also the legal description of the property where Project will be constructed, situate in the County of Pueblo, State of Colorado, (the "Property"), attached hereto as Exhibit "H" – Legal Description and incorporated herein by reference, as evidenced by a Deed of Trust to be executed contemporaneously with said Promissory Note (together the "loan instruments"). The addresses of the Project are:

- _____

The loan instruments shall require the Owner to pay to City or holder the indebtedness as and to the extent same becomes due under the provisions of the Promissory Note and this Agreement. Owner shall include terms in said Promissory Note and Deed of Trust stating that the amount of the assistance shall continue as an indebtedness until paid in full, and notwithstanding such payment in full, the affordability restrictions described in this Agreement shall continue in effect and be enforceable for the full period of affordability without regard to the term specified in the Note or Deed of Trust for repayment.

(ii) In order to secure the affordability provisions and other requirements of this Agreement, City may, at any time, require an assignment and transfer of said Note and Deed of Trust.

(c) During the full Term of this Agreement and for the period of affordability, (i) any failure by the Owner to perform any obligation, covenant or provision of the Note or this Agreement required to be performed by the Owner, or (ii) any breach of any warranty made by Developer in this Agreement, or (iii) any other violation of any material term of this Agreement or the Deed of Trust given to secure the Note, shall constitute a default under this Agreement. Upon any such default, the City may demand that Owner repay to City the full amount of assistance provided hereunder, plus interest at the rate of four percent (4%) per annum from and after the date of such default. Owner further agrees that no release of any security for the indebtedness or extension of time for payment of same, or any installment thereof, and no alteration, amendment, or waiver of any provision of the Note or the Deed of Trust securing same shall in any manner, release, discharge, modify or affect the obligations of Developer or Owner under this Agreement.

(d) City will provide the Owner, through notice to Crawford MM, LLC (the Owner's general partner), a copy of any written notice, at 201 South Victoria Avenue, Pueblo, CO 81003.

City will allow the Owner thirty (30) days after receipt of such notice to cure or cause the cure of any default under this Agreement or the Loan Documents (as hereinafter defined), or such longer period as is reasonably necessary for the Owner to cure non-monetary defaults provided that Owner commences to cure and continues with due diligence. Copies of any and all notices required to be given by the Owner pursuant to this Agreement shall also be sent, in the same manner as such notice is given to the Owner, to the Owner's limited partner (the "Equity Investor") at the following address: RBC Community Investments, LLC, Attention: President and General Counsel, 600 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, and Applegate & Thorne-Thomsen, P.C., Attention: Bennett P. Applegate, Esq., 425 S. Financial Place, Suite 1900, Chicago, Illinois 60605. The Equity Investor may change its address for receipt of copies of notices by giving notice in writing stating its new address to the City. Commencing on the tenth (10th) day after the giving of such notice, the newly designated address shall be effective for purposes of all such copies of notices required to be sent by the City to the Equity Investor.

(e) Notwithstanding anything to the contrary contained in this Agreement, Equity Investor shall have the right, but not the obligation, to cure defaults of Owner.

5. TERMINATION OF AGREEMENT.

(a) For Cause. Subject to the notice and cure rights set forth in Paragraph 4 above, this Agreement may be terminated by City for cause, including any nonperformance by Developer or Owner, upon ten (10) days' written notice to Developer or Owner, as applicable, including a statement of the reasons therefor, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Director of Housing and Citizen Services whose decision as to both the grounds for termination and the appropriateness thereof shall be final and binding upon both City and Developer. In accordance with 2 CFR 200.338, cause for termination shall include any material failure by Developer or Owner to comply with any term of this Agreement.

(b) For Convenience. This Agreement may be terminated for convenience in accordance with the provisions of 2 CFR 200.339. This Agreement shall terminate immediately upon any non-appropriation of funds, or upon any suspension or non-receipt of federal assistance provided to City under the Act, regardless of cause.

(c) Post Termination Procedures. In the event of termination, Developer and Owner shall continue to be responsible for those matters which survive termination identified in Paragraph 4 above, unless City takes over the Project and, in connection therewith, prospectively releases Developer and Owner from one or more specific responsibilities in writing. Additionally, at City's sole option, all property acquired by Developer and Owner with loan funds, all loan funds, program income, and mortgage loans originated with loan funds or by payments therefrom and payments received under such mortgage loans, held, owned or retained by Developer or Owner shall immediately become the sole and separate property of the City, and Developer and Owner shall perform all acts and execute all instruments necessary to transfer and assign such property, funds, income, and mortgage loans to City. All finished or unfinished documents, data, studies, reports and work product prepared by Developer, Owner, or their agents and assigns under this Agreement or with loan funds shall, at the option of the City, become its property, and Developer or Owner,

as applicable, shall be entitled to receive just and equitable compensation only for satisfactory work completed and eligible costs for which compensation has not previously been paid nor reimbursement made.

6. ASSIGNABILITY.

This Agreement shall not be assigned or transferred by Developer or Owner without the prior written consent of the City; provided however, that this limitation shall not be construed to prohibit Developer from undertaking activities under this Agreement with the Owner meeting the requirements of Section 1(a) of this Agreement. The City understands that at some time within 24-months of closing of the project, RBC Community Investments, LLC intends to transfer its interests to RBC Community Investments Fund-X14 LP, 600 Superior Avenue, Suite 2300, Cleveland, OH 44114, and such an assignment or transfer is acceptable by City. Said assignment shall not impact the obligations of Developer or Owner under the terms of this Agreement and the period of affordability. Developer will provide City with written notice at least fourteen (14) days prior to said assignment. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

7. CONFLICT OF INTEREST.

HOME Regulation 24 CFR Part 92.356 is incorporated herein by reference, and sets forth applicable laws and regulations that apply to Conflict of Interest. Developer shall avoid all conflicts prohibited by applicable regulations, including but not limited to those set forth in 24 CFR Part 92 as presently promulgated and as same may be revised from time to time in the future.

8. DEVELOPER RECORDKEEPING.

Developer shall maintain records as to the Project work and activities undertaken with assistance hereunder, services provided, reimbursable expenses incurred in connection with the Project and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. Developer agrees to comply with all applicable uniform administrative requirements described or referenced in 24 CFR Part 92. The compliance provisions attached as Exhibit "B" hereto are made a part of this Agreement, and Developer agrees to perform and comply with same. The City, HUD, the Comptroller General of the United States, the Inspector General of HUD, and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of Developer and the Owner which relate to this Agreement for the purpose of making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may, at any time during the period of affordability or within five (5) years thereafter, require all of Developer's and the Owner's financial records relating to this Agreement to be turned over to the City.

9. MONITORING AND EVALUATION.

The City shall have the right to monitor and evaluate the progress and performance of Developer and Owner to assure that the terms of this Agreement are being satisfactorily fulfilled

in accordance with HUD's, City's, and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review Developer's performance using on-site visits, progress reports required to be submitted by Developer, audit findings, disbursement transactions and contact with Developer as necessary. Developer and Owner shall furnish to the City monthly or quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Developer and Owner shall fully cooperate with City relating to such monitoring and evaluation.

10. DEVELOPER FILES AND INFORMATION REPORTS.

Developer shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances, activity reports, and program income. These records shall be retained by Developer for a period of five (5) years, except that with respect to the Project undertaken with assistance provided hereunder, such records shall be maintained for the full required period of affordability and for the five (5) years thereafter. Activity reports shall be submitted monthly or quarterly no later than the ninth (9th) day of the month following the end of month or quarter for which the report is submitted.

11. INDEPENDENCE OF DEVELOPER.

Nothing herein contained nor the relationship of Developer and Owner to the City, which relationships are expressly declared to be that of an independent contractor, shall make or be construed to make Developer or the Owner, or any of Developer's or Owner's agents or employees, the agents or employees of the City. Both Developer and Owner shall be solely and entirely responsible for their acts and the acts of their agents, employees, and subcontractors.

12. LIABILITY & INSURANCE.

(a) As to the City, Developer and Owner agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Developer and Owner or by the conditions created thereby. Developer and Owner further agree to indemnify and save harmless the City, its officers, agents, and employees, from and against any and all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property, or based upon or arising out of the performance, nonperformance, or breach of this Agreement by Developer or Owner, or out of any violation by Developer or Owner of any statute, ordinance, rule or regulation.

(b) Developer and Owner agree that each shall procure and will maintain during the term of this Agreement, such insurance as will protect the respective parties from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease, or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as

set forth in subparagraph (c).

(c) The minimum insurance coverage which Developer and Owner shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado.

(ii) Comprehensive General and Automobile Liability Insurance with limits not less than One Million and No/100 Dollars (\$1,000,000.00) per person and occurrence for personal injury, including but not limited to death and bodily injury, and One Million and No/100 Dollars (\$1,000,000.00) per occurrence for property damage.

(d) Owner further agrees that it shall procure and maintain, at Owner's expense, hazard and fire insurance upon the property described in the Deed of Trust on an "all risk" form in such amounts as City's Department of Housing and Citizen Services may require, but in any event, for not less than the amount of all liens against the Property and the amount of funds provided to Owner by City pursuant to this Agreement. Owner shall furnish a certificate of insurance certifying such coverage to City's Director of Finance prior to disbursement of any funds to Owner. Both said certificate of insurance and the policy procured by the Owner shall name the City as an additional loss payee.

13. CERTIFICATIONS.

Developer agrees to execute and abide by the certifications contained in Exhibit "D" hereto, which are hereby expressly made a part of this Agreement.

14. PROGRAM INCOME; REVERSION OF ASSETS

(a) Unless otherwise authorized by City in writing in a separate instrument executed after date of this Agreement, all program income shall be returned to City within thirty (30) days of receipt by Developer. In the event City authorizes Developer to retain any portion of program income, it shall only be used to accomplish the work set forth in the Scope of Services, and the amount of loan funds payable by City to Developer shall be adjusted as provided by 24 CFR 92.503.

(b) Upon expiration of the term of this Agreement, or upon any prior termination, Developer shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination together with any accounts receivable attributable to the use of funds provided hereunder.

(c) The HOME Units within the Project and the Property, and any other real property acquired, constructed, or improved in whole or in part with funds provided pursuant to this Agreement shall be used as affordable rental housing within the meaning of 24 CFR 92.252 for the full period of affordability as defined in Paragraph 4 hereof. In the event the Project, the Property or such other property ceases to be so used, Owner shall be in default under the Deed of

Trust and Note, and Owner shall immediately pay to City the greater of (i) an amount equal to the current market value of the Project and Property less any portion of the value attributable to expenditures of funds not provided under this Agreement for the construction of the Project or acquisition of, or improvement to, the Property (that is, the calculation of the portion of value attributable to expenditures not provided by City under this agreement shall be the market value multiplied by a fraction whose numerator is the total Project cost or costs of acquisition determined as of the date of Project completion less the amount of assistance provided by City and whose denominator is the total Project cost or cost of acquisition determined as of the date of Project completion) or, (ii) the remaining principal balance and accrued interest owing under the Note. The affordability requirements apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or transfer of ownership. The use restriction and repayment obligation set forth in this subparagraph shall survive termination or expiration of this Agreement and shall be fully enforceable and subject to collection by City or HUD in accordance with applicable laws. Owner and any transferee shall comply with the requirements of this paragraph and execute a Deed of Trust which shall be and constitute a lien upon the Property and all other real property acquired or improved with funds provided hereunder, and which shall secure the affordability requirements hereunder. City shall have the right of first refusal to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability. City will have the authority to and may require specific performance to enforce the terms of this Agreement and any affordability requirements.

(d) In the event City incurs any cost or expense in enforcing the requirements of this Agreement, including but not limited to the requirements of this Paragraph 14, or in bringing any action to recover the amount of any repayment obligation, or, upon assignment of the Note and the Deed of Trust, to foreclose or obtain sale under the Deed of Trust or mortgage instrument, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

(e) To further ensure that the funds provided hereunder do not constitute an investment of more HOME funds than are necessary to provide affordable housing (as required by 24 CFR 92.250(b)), Owner shall retain ownership of the Project for a period of not less than 20 years from and after the completion of the Project. Consequently, in the event the Owner should sell or transfer title to the Project, the Property, or other real property or improvements constructed or improved with funds provided pursuant to this Agreement, within 20 years after substantial completion of the Project or said improvements, any loan agreement, Note and Deed of Trust shall provide that the entire indebtedness under the Note shall immediately become due and payable and shall be collected and repaid to City, together with interest thereon at the rate of four percent (4%) per annum from the time of substantial completion until said repayment is made; provided, however, such repayment shall not be required to the extent permitted by federal law, if the City has granted prior written approval of the sale or transfer, and the acquirer of the Property becomes subject to this Agreement, all HOME affordability restrictions, and the obligations of the Owner under this Agreement, the Note, and Deed of Trust have been assigned to and assumed by the purchaser, then Owner shall no longer be indebted to City and the City shall look to the purchaser for performance of any remaining obligations hereunder. If Owner is a limited partnership, nothing in this subparagraph (e), nor in subparagraph (f) of this Paragraph 14, is intended to prohibit a transfer of ownership from Owner to any general partner or limited partner in Owner as long as the transferee remains subject to this Agreement, all HOME affordability restrictions, and the obligations of the

Owner under this Agreement, the Note, and Deed of Trust.

(f) It is the intent of the parties that C.R.S. § 38-30-165 and any similar statute hereafter enacted, be preempted under federal law and regulations in order to maintain affordability of the HOME Units within the Property. Consequently, any loan agreement between City and the Owner and the Note and Deed of Trust executed by the Owner (collectively, the "Loan Documents") shall not be assumable, and the indebtedness shall be due and payable upon sale, transfer, or assignment, or any attempted sale, transfer, or assignment of the Property by the Owner, unless all of the following circumstances are demonstrated to exist: (i) more than 20 years have elapsed since the substantial completion of the Project, (ii) the senior lien holders also consent to assumption of the mortgage or obligation to which the Deed of Trust is subordinate, (iii) the sale of the Property is to a subsequent purchaser who agrees in writing to comply with the affordability requirements of this Agreement and applicable requirements, including those set forth at 24 CFR, 92.252, (iv) the sale price and payment of principal, interest, property taxes and insurance by the subsequent purchaser must permit the HOME Units to remain affordable for the remaining period of affordability specified in this Agreement, with affordability determined by applicable regulations and requirements, and (v) both the City and the holder of the Note expressly consent to assumption of the Owner's obligations under any loan agreement and the Note by the subsequent purchaser prior to sale or transfer, which consent shall be granted only upon the Owner's showing circumstances (i) through (iv) have or will be satisfied.

(g) Notwithstanding anything to the contrary in this Agreement or the Loan Documents, the Owner may transfer its interest in the Project and the Property to Developer without prior consent from the City.

15. SPECIAL REQUIREMENTS APPLICABLE TO IMPROVEMENTS TO PROPERTY.

(a) In addition to all procurement requirements otherwise applicable to the Project pursuant to any other provision of this Agreement or pursuant to any requirement of law or regulation incorporated in this Agreement by reference, Developer and Owner shall comply with all requirements of this Paragraph 15.

(b) No improvements shall be undertaken to the Property or other real property with funds (or reimbursement) provided hereunder unless and until: (i) plans and specifications therefor have been prepared by either a registered Professional Engineer in good standing and duly licensed to practice in the State of Colorado or an Architect duly licensed and authorized to conduct a practice of architecture in the state of Colorado; (ii) such plans and specifications have been filed with the City and approved by both the City's designated representative and the City's Director of Public Works; and (iii) all construction contracts for improvements for which funds are provided from City shall have been awarded only after an open, competitive bidding process which has been approved by City's Director of Purchasing and which allows qualified contractors to reasonably participate in the competitive bidding procedures; provided, however, that the open competitive bidding process required herein need not follow the City's procurement requirements for City improvements. Developer or Owner may submit its proposed bidding process to the City for review and approval or disapproval prior to receipt of any funds hereunder.

(c) No disbursement of funds to Owner shall be made by City hereunder unless and until all conditions precedent to payment specified elsewhere in this Agreement have been satisfied and Owner files with City's Director of Housing and Citizen Services a written request for payment signed by an officer of the General Partner of Owner that certifies (i) that the amounts included in the request for payment have not been included in any prior request for payment, (ii) that the improvements listed therein for which payment is sought have been completed in accordance with the approved plans and specifications therefor, and (iii) that the improvements for which payment is sought have been constructed so as to comply with City of Pueblo building codes and Section 8 Housing Quality Standards.

(d) [Reserved]

(e) Every contract for construction of improvements, and all lower tier covered transactions, shall include a requirement that the contractor, subcontractor, or vendor certify that neither it nor its principal is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any federally funded project.

(f) Owner shall, at Owner's sole expense, provide for relocation assistance to persons displaced as a result of the Project, if any, in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and applicable implementing regulations, and in accordance with 24 CFR 92.353.

16. RECOGNITION OF HUD, CITY.

In all printed materials, Project descriptions, and other activities undertaken with funds provided under this Agreement, Developer and Owner shall provide recognition that funds have been provided by the U.S. Department of Housing and Urban Development and the City of Pueblo. Recognition shall be accomplished by prominent disclosure of the role of HUD and the City in all such printed materials and Project signage, if any.

17. AFFIRMATIVE FAIR HOUSING MARKETING PLAN.

For all programs assisting five or more households, Developer has established procedures and will take steps necessary to affirmatively further Fair Housing in accordance with City policies, attached hereto in Exhibit "G", and federal regulations codified at 24 CFR 570.487(b) and 24 CFR 92.351, respective of CDBG/HOME funding. Developer has submitted to the City HUD Form 92243, Affirmative Fair Housing Marketing Plan, outlining its strategy to encourage those who are least likely to apply for the services funded by this Agreement.

18. ENTIRE AGREEMENT; AMENDMENTS; COUNTERPARTS.

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto with respect to the Project and supersede all prior written and oral agreements, understandings, or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provision

of this Agreement, shall be binding unless made in writing and executed by the duly authorized officers of the Developer, Owner, and City. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

19. GOVERNING LAW AND VENUE.

This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

20. SIGNATURES.

The persons signing this Agreement on behalf of Developer and Owner respectively represent and warrant that such persons and Developer and Owner have the requisite power and authority to enter into, execute, and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Developer and Owner enforceable against Developer and Owner, as applicable, in accordance with its terms. This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, Developer, Owner, and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO,
A Municipal Corporation

City Clerk

By: _____
Nicholas A. Gradisar, Mayor

[S E A L]

Date: _____

DEVELOPER:

HOUSING AUTHORITY OF THE CITY OF
PUEBLO, COLORADO, a body corporate and
politic organized under the laws of Colorado

By: _____
Steven L. Trujillo, Executive Director

Date: _____

OWNER:

CRAWFORD TOWNHOMES, LLLP,
a Colorado limited liability limited partnership

By: Crawford MM, LLC, a
Colorado limited liability company, its general
partner

By: El Centro Pueblo Development
Corporation, Inc., a Colorado non-profit
corporation, its sole member

By: _____
Steven L. Trujillo, Secretary/Treasurer

Date: _____

SCHEDULE OF EXHIBITS

Exhibit A	Statement of Project/Scope of Work
Exhibit B	Accounting System Compliance Provisions
Exhibit C	Federal Debarment Certification
Exhibit D	Certifications
Exhibit E	Annual Rent Reporting Form for Monitoring
Exhibit F	Section 3
Exhibit G	Affirmative Fair Housing Marketing Procedures
Exhibit H	Legal Description

Also, available on request:

- Technical Guide for Determining Income and Allowances for the HOME Program
- HOME Monitoring Forms

EXHIBIT A
STATEMENT OF PROJECT/SCOPE OF WORK

STATEMENT OF PROJECT AND SCOPE OF WORK:

General Description

The Project will consist of the construction of 49 townhome rental units of which 49 units will be subsidized rental housing for low to moderate income households. The HOME funds will be used for the costs associated with the construction of five (5) HOME Units. These HOME Units will be **floating** units for the purposes of accounting for the HOME per unit subsidies and affordability requirements. **Floating** HOME Units will be maintained during the period of affordability, meet the requirements of 24 CFR Part 92, and each substituted HOME Unit will be comparable in terms of size, features, and number of bedrooms to the originally designated HOME Unit.

The Developer agrees to perform the work described under the Project/Work Description of the City HOME application for funding in compliance with all the provisions of this Agreement. The Developer warrants and represents that it has the requisite authority and capacity to perform all terms and conditions on the Developer's part to be performed hereunder.

HOME Units

Based on preliminary budget figures of \$21,000,000.00 provided in the Application for HOME funds, and \$500,000.00 of available HOME funds, five (5) units must be HOME Units for the affordability period. The actual per unit HOME subsidy amount is \$100,000.00 per HOME Unit.

Rent Limits – 24 CFR 92.252

Rent Limitation. HUD provides the following maximum HOME rent limits. The rent limits apply to the rent, inclusive of utilities or the utility allowance. The maximum HOME rents (“High HOME Rents”) are the lesser of:

- (1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or
- (2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

Additional rent limitations (“Low HOME Rents”). The participating jurisdiction may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of this paragraph (b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:

- (1) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which

include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.

(2) The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

The unit composition and initial rent for each HOME Unit per month shall be established according to TABLE 1 (inclusive of the utility allowance; set according to the Section 8 RAD Housing Assistance Payments contract). The HOME units are targeted to serve families below 50% area median income. At a minimum, HOME requires all units designated as HOME Units be occupied by families with incomes below 60% of the Area Median Income (AMI). And, 20% of the designated HOME Units must be occupied by families whose income is below 50% AMI. Income averaging of HOME Units is NOT allowed.

Table 1				
HOME Unit Composition and Initial Rent inclusive of Utilities				
Unit Type	Total Monthly Rent RAD Contract Limit (inclusive of utility allowances)	Number of HOME Units Reserved for Families Below 50% AMI	Total Monthly Rent High HOME Limit (inclusive of utility allowances)	Number of HOME Units Reserved for Families Between 50% & 60% AMI
One-Bedroom	\$721	1	\$634	0
Two-Bedroom	\$927	2	\$836	0
Three-Bedroom	\$1,205	1	\$1,118	0
Four Bedroom	\$1,410	1	\$1,320	0

The procedures for rent increases are as follows: As required by the RAD Use Agreement and RAD program.

The total 49 units to be built are as follows:

- 8 - One-Bedroom units at approximately 636 sq. ft.;
- 27 – Two-Bedroom units at approximately 1083 sq. ft.;
- 12 – Three-Bedroom units at approximately 1,223 sq. ft.
- 2 – Four-Bedroom units at approximately 1,292 sq. ft.

Initial distribution of HOME Units are as follows:

- 1 - One-Bedroom Unit
- 2 - Two-Bedroom Units
- 1 - Three-Bedroom Unit
- 1 - Four-Bedroom Unit

Owner is prohibited from charging fees that are not customarily charged in rental housing, except for extra services voluntarily provided by Owner, such as bus transportation or meals.

The Owner shall provide the address (e.g., street address and apartment number) of each HOME Unit no later than the time of initial occupancy.

Violence Against Women Act (VAWA)

VAWA requirements set forth in 24 C.F.R. § 92.359 and 24 CFR part 5, subpart L, apply to rental housing assisted with HOME funds, and therefore apply to this Project. The Developer will comply with these requirements by providing the notification requirements, bifurcation lease requirements, the VAWA lease term/addendum, and will develop and submit to the City a copy of the Emergency Transfer Plan.

Change Orders

Once final development plans have been approved by the City, it is the Developer's responsibility to notify the City of any problems the contractor has in conforming to the accepted plans for any element of the proposed Project prior to construction.

It is the responsibility of the Developer during construction activities to resolve construction problems due to changed conditions or design errors encountered by the contractor during the progress of any portion of the Project. If, in the opinion of the City, the modifications to the accepted plans proposed by the Developer involve significant changes to the character of the work, or to the future contiguous public or private improvements, the Developer shall be responsible for resubmitting the revised plans to the City for acceptance prior to any further construction related to that portion of the Project. Any improvements not constructed in accordance with the accepted plans, or the accepted revised plans, shall be removed and reconstructed according to the approved plans. The City shall be notified of any changes to the originally accepted plans and/or any accepted revised plans.

The Developer shall be in compliance with any "General Notes" found on the accepted plans.

Davis Bacon

Based on the number of HOME Units assisted, compliance with the Davis-Bacon Act **is NOT triggered.**

Section 3 Economic Opportunity

Because this agreement is for an amount greater than \$200,000.00, the City's Section 3 Plan must be implemented by the Developer. The Section 3 Compliance Plan is made a part of this Agreement as Exhibit "F." The Compliance Plan must be a part of all bid documents for the Project (contracts and subcontracts), and the Section 3 Clause must be a part of all bid processes and contracts.

The Policies and Procedures for Section 3, which include the Compliance Plan, are available for the Developer's review upon request.

Debarred Contractors

The Developer must ensure compliance with 2 CFR 180 and 2 CFR 200.2424 regarding Debarred Contractors through use of the Federal Debarment Certification, attached as Exhibit "C." Additionally, the Developer shall provide verification of contractor/subcontractor eligibility by providing active, non-excluded, eligibility documentation from the www.sam.gov entity database.

Procurement

Developer will ensure that all procurement transactions are conducted in a manner providing full and open competition consistent with the standards of Title 24 of the Code of Federal Regulations. The bid process must allow for preference to a certified Section 3 business concern.

Environmental Assessment

[Reserved]

Native American Tribal Issues

In the event of an inadvertent discovery (cultural resources and/or human remains), a Stop Work Order on construction activities must be issued and immediate notification provided to the Authority so that notification can be provided to Native American Tribes with an interest in the area. Construction shall cease until proper treatment of cultural resources and/or human remains is achieved and such notification has been provided by the affected tribe to the Authority.

Tenant Selection, Income, and Lease

Owner shall be responsible for tenant selection and for verifying the income of all tenants at the time of application, as well as during the required annual recertification, and providing copies of all pertinent documentation to the City upon request.

- 1) Timing: The HOME Units must be occupied by households that are eligible as low- income families and must meet the requirements of 24 C.F.R. § 92.252 to qualify as affordable housing. If the housing is not occupied by eligible tenants within six (6) months following the date of Project completion, Owner will submit marketing information and, if appropriate, submit a marketing plan. Owner will repay HOME funds invested in any housing unit that has not been rented to eligible tenants within eighteen (18) months after the date of Project completion in accordance with the terms of this Agreement.
- 2) Income Verification at Occupancy: Owner shall determine tenant income eligibility at the time of initial tenancy by using 24 C.F.R. § 92.203 and Part Five of HUD's income determination schedule. Source documentation must be obtained and verified in accordance with the Part Five income definition. Under this income verification method, income from certain assets must also be included. Guidance on calculating incomes under the Part Five definition shall be provided by the Housing Authority upon request.

Total income is based on the income of the entire household (not just the primary tenant), as further defined under Part Five income definitions. Further, income is based on anticipated income and shall take into account any expected changes in income to the extent possible.

- 3) Income Re-certification: Owner shall re-certify annually the income of all current tenants on the anniversary date of each lease. Re-certification at this time can consist of a written statement and certification from the household with regards to current income and household size. The certification must state that the information is complete and accurate and must indicate that source documentation will be provided upon request. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant's annual income through a statement and certification in accordance with § 92.203(a)(1)(ii), must examine the income of each tenant, in accordance with § 92.203(a)(1)(i), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant's statement and certification in accordance with § 92.203(a)(1)(ii) is not required to examine the income of tenants in multifamily or single-family projects unless there is evidence that the tenant's written statement failed to completely and accurately state information about the family's size or income.
- 4) Tenant Lease: Owner must execute a written lease and Rules of Occupancy statement with every Project tenant covered under this agreement. The lease between a tenant and the Owner shall be for not less than twelve (12) months, unless by mutual written agreement. At no time will a lease be for less than thirty (30) days. The written agreement between the Owner and the tenant for a lease term of less than one (1) year, along with any lease amendments, must be retained in the tenant file. Termination of tenancy may be for cause only. All leases must be written and comply with the terms of 24 C.F.R. § 92.253.
- 5) Prohibited Lease Terms: The lease between a tenant and the Owner **may not** contain any of the following provisions:
 - i. Agreement to be sued or indemnify: Agreement by tenant to be sued, admit guilt, indemnify owner, or consent to a judgment in favor of the Owner in a lawsuit brought in connection with the lease.
 - ii. Treatment of property: Agreement by tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. (This provision does not apply to disposition of personal property left by a tenant who has vacated a property.)
 - iii. Excusing Owner from responsibility: Agreement by the tenant not to hold the Owner or the Owner's agents legally responsible for actions or failure to act, whether intentional or negligent.
 - iv. Waiver of notice: Agreement by the tenant that the Owner may institute a lawsuit without notice to the tenant.
 - v. Waiver of legal proceedings: Agreement by tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties
 - vi. Waiver of a jury trial: Agreement by the tenant to waive any right to a jury trial.

- vii. Waiver of right to appeal court decision: Agreement by tenant to waive the tenant's right to appeal or otherwise challenge in court a decision in connection with the lease.
- viii. Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins the court proceeding by the Owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

Tenant Selection

Prior to any tenancies, the Owner shall adopt written tenant selection policies and criteria and comply with 24 C.F.R. § 92.253.

Monitoring Schedule

The City monitors for compliance with HOME requirements annually. The Owner will be responsible for reporting beneficiary and rent data on each HOME Unit on HOME Monitoring Checklist 6-D (attached as Exhibit "E") throughout each year. Additionally, on-site monitoring to inspect individual HOME Units (a minimum of 20%), review of rent and occupancy requirements, review of the lease in effect and tenant selection policies, and other items noted in this Agreement will be conducted in the first year of this Agreement, and every subsequent year for the duration of the period of affordability.

EXHIBIT B
ACCOUNTING SYSTEM COMPLIANCE PROVISIONS

1. As used in this Exhibit, the term "Owner" shall mean the entity or entities entering into the Agreement with the City of Pueblo, a Municipal Corporation, to which this Exhibit is attached.
2. Owner is subject to and shall comply with the requirements of 2 CFR Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
3. Owner agrees to maintain Project and accounting records in accordance with generally accepted accounting principles which accurately reflect all costs chargeable to the Project, utilize adequate internal controls, and maintain source documentation for all costs incurred. The City shall have the right to review and approve Owner's account system and internal controls prior to the release of any funds under the Agreement.
4. During the preconstruction and construction phases of the Project, the Owner shall not materially deviate from any approved Project budget unless any proposed major revision thereto has been submitted to City and approved in writing. Change orders of less than \$75,000.00 each or \$300,000.00 in the aggregate shall not be deemed to be material deviations or major revisions to the Project budget.
5. Nothing in the Agreement or the Exhibits thereto shall obligate City to any third parties nor to any contractors, subcontractors, consultants, suppliers or workmen who have contracted with Owner or provided any materials or services to Owner.
6. The City has the right to periodically perform interim audits and a final audit of the Project and funds provided under the Agreement. Owner shall fully cooperate with City in undertaking any such audit and shall provide a suitable work area for City's audit personnel to inspect and copy records.

EXHIBIT C
FEDERAL DEBARMENT CERTIFICATION

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED
TRANSACTIONS**

This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants responsibilities*. The regulations were published as *Part IV of the January 30, 1989, Federal Register (pages 4722-4733)*.

***** BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

PR/Award Number or Project Name

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

Federal Debarment Certification – continued on following page

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-Procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person

who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Form AD-1048 (1/92)

EXHIBIT D CERTIFICATIONS

The entity entering into this Agreement with the City hereby certifies that the Project will be conducted and administered in compliance with all of the following requirements:

- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;
- (2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;
- (3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;
- (4) Section 3 of the Housing and Urban Development Act of 1968, as amended;
- (5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;
- (6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;
- (7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;
- (8) The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;
- (9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;
- (10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;
- (11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);
- (12) The applicable regulations, policies, guidelines and requirements of Subpart J of 24 CFR 570 and 2 CFR Part 200, as they relate to the acceptance and use of federal funds under this federally-assisted program;
- (13) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) HUD environmental criteria and standards [24 CFR Part 51, Environmental Criteria and Standards];

(15) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303(e));

(16) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(17) The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1272 et seq.) as amended; particularly section 7 (b) and (c) [16 U.S.C. 1278 (b) and (c)];

(18) The Reservoir Salvage Act of 1960 (16 U.S.C. 469 et seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(19) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(20) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et seq.); particularly sections 2 and 5;

(21) It will comply with the Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.);

(22) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(23) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(24) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provisions of the HUD 4010 and the Davis Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(25) No CDBG funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed, in accordance with 24 CFR Parts 87 and 91.

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, 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.

- (b) 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(26) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. CPD-90-44 EPA/OSHA.

(27) When HOME Investment Partnership Act funds are used, the Subrecipient will comply with implementing regulations and requirements under 24 CFR 92.

CRAWFORD TOWNHOMES, LLLP
A Colorado Limited Liability Limited
Partnership

By: Crawford MM, LLC, a Colorado
limited liability company, its general partner

By: El Centro Pueblo Development
Corporation, Inc., a Colorado non-profit
corporation, its sole member

By:

Steven L. Trujillo, Secretary

Date: _____

**EXHIBIT F
CITY OF PUEBLO, SECTION 3 PROGRAM**

**Developer's HOME Funding Application
Exhibit XII – Section 3 Project Plan**

CITY OF PUEBLO/PUEBLO CONSORTIUM
HOME INVESTMENT PARTNERSHIP FUND
SECTION 3 CERTIFICATION

PURPOSE, AUTHORITY AND RESPONSIBILITY

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of HUD funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers; and (b) 5% of total labor hours worked by Targeted Section 3 workers.

Housing Authority of the City of Pueblo (hereinafter called the Recipient/Contractor) hereby **CERTIFIES** that upon being awarded a contract to participate in the following HUD-funded project:

Crawford Townhomes (the "Project")

located at: 2601 Crawford Street Pueblo, CO 81004,

that the Recipient/Contractor:

- (a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and
- (b) will comply with HUD's regulations in 24 CFR Part 75; and
- (c) will submit to the Pueblo Consortium appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 workers, and confirmation of Section 3 business concerns and YouthBuild participants; and
- (d) will include the Section 3 Clause and this Section 3 Certification of Compliance in every subcontract and further agrees to take the appropriate action pursuant to those regulations in the event the contractor/subcontractor is found to be in violation of 24 CFR Part 75; and
- (e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

By:



Authorized Representative's Signature

Name and Title: Steven L. Trujillo, Executive Director

Date: 11/22/2021

Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.

- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

- C. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

- D. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Exhibit XII B – Commitment to Additional Outreach

	Outreach Effort	Man Hours Invested	Developer's Cost Allocated to Task
<input checked="" type="checkbox"/>	Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.	80	\$2,690
<input checked="" type="checkbox"/>	Provide training or apprenticeship opportunities.	80	\$2,690
<input type="checkbox"/>	Provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).		
<input checked="" type="checkbox"/>	Provide or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services	20	\$673
<input checked="" type="checkbox"/>	Held one or more job fairs.	40	\$1,346

<input checked="" type="checkbox"/>	Provide or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).	20	\$673
<input checked="" type="checkbox"/>	Provide assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.	10	\$336
<input checked="" type="checkbox"/>	Assisted Section 3 workers to obtain financial literacy training and/or coaching.	10	\$336
<input checked="" type="checkbox"/>	Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.	100	\$3,365
<input type="checkbox"/>	Provide technical assistance to help Section 3 business concerns understand and bid on contracts.		
<input type="checkbox"/>	Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.		
<input type="checkbox"/>	Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.		
<input checked="" type="checkbox"/>	Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.	100	\$3,365
<input checked="" type="checkbox"/>	Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.	100	\$3,365
<input type="checkbox"/>	Other:		



**Policies & Procedures
Implementing Section 3
of the Housing & Urban Development Act**



An

**Orientation Guide
for Contractors, Developers, and Sub-Grantees
doing business with the City of Pueblo**

Introduction

This guidebook has been prepared to provide information and guidance to firms and entities receiving housing or community development assistance covered under Section 3 of the Housing and Urban Development Act of 1968. This guidance should outline for recipients how the City of Pueblo through the Department of Housing and Citizen Services shall administer the Section 3 Regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and Section 3 Regulations. It is a summary of the pertinent provisions of the Act and Regulations and focuses on the requirements imposed on the Sub-Recipient, Developer, General Contractor, and Subcontractor receiving the requisite amount of Section 3 Funds.

The City of Pueblo reminds each Sub-Recipient, Developer, General Contractor and Subcontractor that it bears the responsibility to familiarize itself with the Section 3 Act and Section 3 Regulations prior to accepting projects covered by Section 3 from the City of Pueblo.

City of Pueblo's Policy Statement

The City of Pueblo, through the Department of Housing & Citizen Services (DHCS) will require recipients of HUD sourced funds to provide employment and contracting opportunities to low- and very low-income persons (as defined in 24 CFR Part 75.5) residing in the City of Pueblo and the greater Pueblo Metropolitan Statistical Area (MSA) and to area businesses meeting the definition of a "Section 3 Business Concern" (as defined by 24 CFR Part 75.5) on all Section 3 Covered Projects. Accordingly, DHCS has implemented policies and procedures to ensure that Section 3 regulations, when required, are followed and shall develop programs and procedures as necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided on a Section 3 covered project, in order to achieve the goals outlined within the City of Pueblo's Consolidated Plan for Housing and Community Development. This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It will apply to contractors who install materials or provide equipment on a Section 3 covered project. There is nothing in the policy that should be construed to require the employment or contracting of a Section 3 resident or business who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

What is Section 3?

Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u) and its implementing federal regulations in 24 C.F.R. 75. The purpose of Section 3 is to ensure that employment and economic opportunities generated by certain financing provided by the U.S. Department of Housing and Urban Development (HUD) is, to greatest extent feasible, directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very-low income persons.

The City of Pueblo has set forth policies and procedures to ensure that employment and economic opportunities generated by Section 3 covered projects, to the greatest extent feasible, are directed to low- and very low-income persons and business concerns.

What Projects are Section 3 Covered Projects?

Section 3 policies are applicable to all **HUD sourced construction projects or HUD sourced construction financing** when the total amount of assistance to the project exceeds a threshold of **\$200,000** related to:

- Housing rehabilitation and housing construction; and
- Other public construction funded by HUD programs to provide community development financial assistance.

Section 3 policies also apply to HUD sourced **lead hazard reduction projects** or financing when the total amount of assistance to the project exceeds a threshold of **\$100,000**.

Who are Section 3 Workers?

Section 3 worker means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- Participants in YouthBuild Programs; or,
- The worker is employed by a Section 3 business concern; or
- The worker’s income for the previous or annualized calendar year is below the annual income limit established by HUD, currently:

Pueblo County	1
Section 3 Worker 2022 Annual Income	\$46,050

Targeted Section 3 worker means:

- A Section 3 worker employed by a Section 3 business concern; or
- A Section 3 worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years (effective date 11/30/2020):
 - (i) Living within the service area or the neighborhood of the project (within one mile of the project or an area sufficient to encompass a population of 5000 people; or
 - (ii) A YouthBuild participant.

What is a Section 3 Business Concern?

A business meeting at least one of the following criteria, documented within the last six-month period:

- Is a business that is 51% or more owned and controlled by low- or very low-income persons; or
- Is a business that is 51% or more owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- Over 75% of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers.

Section 3 Employment and Contracting Goals

The City of Pueblo / Pueblo Consortium provides HOME funds from the U.S. Department of Housing and Urban Development (Federal funds) which must comply with Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that economic opportunities that are generated by the use of Federal funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.

Section 3 establishes employment benchmark goals of:

- 25% of total labor hours worked by Section 3 workers, and
- 5% of total labor hours worked by Targeted Section 3 workers.

These procedures summarize the requirements of Section 3 and describe how the City of Pueblo and the Pueblo Consortium implement the requirements. The procedures outline what the City/Consortium and its housing partners must do to comply with Section 3 and identify the record-keeping and reporting requirements that funded entities must collect and maintain.

The Section 3 implementing regulations, 24 CFR part 75, can be found at www.ecfr.gov.

Section 3 applies to Section 3 projects funded by the City of Pueblo and the Pueblo Consortium as follows [24 CFR 75.3(a)(2)(i)]:

A Section 3 project means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000. A lower assistance threshold of \$100,000, applies when assistance from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z- 1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 *et seq.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

For projects with HOME assistance exceeding the threshold limits, Section 3 applies to the entire project, whether the project is fully or partially assisted with HOME funds [24 CFR 75.3(a)(2)(iii)].

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)].

Section 3 Employment and Training

Recipient is defined as the entity receiving HOME funds and/or a HOME commitment in excess of the threshold amount. \$200,000 for most HUD programs and \$100,000 for activities funded through the Office of Lead Hazard Control and Healthy Homes.

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, ensure employment and training opportunities arising in connection with the Section 3 project is provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located [24 CFR 75.19(a)(1)].

Where feasible, priority for opportunities and training should be given to [24 CFR 75.19(a)(2)(i-ii)]:

- Section 3 workers residing within the service area or the neighborhood of the project, and
- Participants in YouthBuild programs.

Section 3 Contracting

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located [24 CFR 75.19(b)(1)].

Where feasible, priority for contracting opportunities should be given to [24 CFR 75.19(b)(2)(i-ii)]:

- Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
- YouthBuild programs.

Section 3 Reporting requirements

To comply with Section 3 regulations, the Recipient must report [24 CFR 75.25(a)]:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

The labor hours reported must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors [24 CFR 75.25(a)(3)].

In order to meet Section 3 reporting requirements, Recipients may report labor hours by Section 3 workers and Targeted Section 3 workers from professional services without including labor hours from professional services in the total number of labor hours worked for the project [24 CFR 75.25(a)(4)].

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient's reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks (see Form S3c).

Section 3 Contract Provisions

Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project [24 CFR 75.27(a)] (see Form "Additional Reporting").

Section 3 business concern means (24 CFR 75.5):

- (1) A business concern meeting at least one of the following criteria, documented within the last six- month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 worker means (24 CFR 75.5):

- (1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:
 - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
 - (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern; or
- (2) A worker who currently fits or when hired five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5;
or
 - (ii) A YouthBuild participant.

Penalties

In the event the developer fails to meet its commitments and cannot demonstrate to the City of Pueblo or the Pueblo Consortium's satisfaction that good faith efforts have been made to fulfill their commitments, it shall be subject to penalties for non-compliance as enumerated in the construction documents or the Affordable Housing Development Agreement between the Consortium member and the developer. A penalty for non-compliance up to 5% of loan/grant amount may be assessed per the Affordable Housing Development Agreement. A penalty of debarment may additionally be imposed by the City of Pueblo or Consortium member.

Exhibits to Section 3 Policies and Procedures

Form	Description	
S3a Involved Form	Certificate of Section 3 Compliance and Section 3 Clause S3b	Parties
S3c	Weekly Hours Worked Certification	
S3d	Section 3 Worker Certification	
S3e	Section 3 Business Certification	

CITY OF PUEBLO / PUEBLO CONSORTIUM
CDBG / HOME INVESMENT PARTNERSHIP FUND

SECTION 3 CERTIFICATION

PURPOSE, AUTHORITY AND RESPONSIBILITY

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of HUD funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers; and (b) 5% of total labor hours worked by Targeted Section 3 workers.

_____ (hereinafter called the Recipient/Contractor) hereby **CERTIFIES** that upon being awarded a contract to participate in the following HUD-funded project:

_____ (the "Project")

located at: _____,

that the Recipient/Contractor:

- (a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and
- (b) will comply with HUD's regulations in 24 CFR Part 75; and
- (c) will submit to the City of Pueblo or Pueblo Consortium Member, appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 workers, and confirmation of Section 3 business concerns and YouthBuild participants; and
- (d) will include the Section 3 Clause and this Section 3 Certification of Compliance in every subcontract and further agrees to take the appropriate action pursuant to those regulations in the event the contractor/subcontractor is found to be in violation of 24 CFR Part 75; and
- (e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

By: _____ Authorized Representative's
Signature

Name and Title: _____

Date: _____

Section 3 Clause must be included in contracts with all contractors/subcontractors/lower-tier subcontractors.

Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- C. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
- D. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Recipient must complete this form and submit to Consortium.

Parties Involved Form

Project Name

Owner Name	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Developer	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

GC	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
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Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	
Phone	



Section 3 Weekly Hours Worked Report

Date:		Contractor:	
Pay Period:		Address:	
Project:		City:	
Address:		State:	
City:		Zip Code:	

Employee	Emp. No.	Section 3 Worker (Yes/No)	Targeted Section 3 Worker (Yes/No)	Total Hours Worked on the Project during Pay Period	Section 3 Hours Worked	Targeted Section 3 Hours Worked	Sec 3 %	Targeted Sec. 3 %
Totals								

Signature:

Date:

Definitions

Section 3 worker means (24 CFR 75.5):

- (1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:
 - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - (ii) The worker is employed by a Section 3 business concern.
 - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern; or
- (2) A worker who currently fits or when hired five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or
 - (ii) A YouthBuild participant.

Section 3 business concern means (24 CFR 75.5):

- (1) A business concern meeting at least one of the following criteria, documented within the last six- month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient's reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks. In the absence of not meeting Section 3 benchmarks, the Recipient made efforts including (check all that apply and provide documentation of effort(s)):

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)] (Cont.)

- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.
- Other, please describe: _____

By signing this document, as an authorized employee of the Recipient, I certify the above efforts are true and accurate to the best of my knowledge and belief.

Recipient Signature

Date

Section 3 Worker Certification

Employee Name Project Name

Employee's Address City State Zip

Section 3 worker means (24 CFR 75.5):

(1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD (see the following income limits).
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Pueblo County 2022 Income Limit	
Section 3 Worker's Annual Income	\$46,050

By signing this document, I certify that I am a Section 3 worker because I fit into one or more categories listed above.

Signature Date

Section 3 Business Certification

If your business meets at least one of the categories listed below, please complete this form.

Business Name			
Business Address	City	State	Zip
Contact Name	Email	Phone	

Section 3 business concern means (24 CFR 75.5):

(1) A business concern meeting at least one of the following criteria, documented within the last six- month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

By signing this document, I certify

_____ is a Section 3 business concern because it fits into one or more categories listed above.

Signature

Title

Date

EXHIBIT G

City of Pueblo

Department of Housing and Citizen Services

Affirmative Fair Housing Marketing Procedures

It is the policy of the Department of Housing and Citizen Services to administer its housing programs affirmatively, as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, sexual orientation, handicap, familial status or national origin. Each applicant for participation in the Department's housing programs shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions.

METHODS AND PRACTICES FOR INFORMING THE PUBLIC

In order to inform the public, owners, and prospective tenants about federal fair housing laws and the City's affirmative marketing policies, the developer will include the Equal Housing Opportunity logotype and/or slogan, and a logotype and/or slogan indicating equality, non-discrimination, and equal access, in all press releases, solicitations, and program information materials.

The City shall develop an outreach plan each year, which will include, singularly or in combination, advertisements in local newspapers, public service announcements, distribution of fair housing brochures at relevant events, community presentations, or other outreach activities to inform the community about fair housing rights and responsibilities.

REQUIREMENTS AND PRACTICES FOR OWNERS

All developers who receive funds from the City are required to enter into loan and regulatory agreements with the City prior to receiving any funds. These agreements are designed to bind the recipients to all of the program requirements, including the affirmative fair marketing procedures. Developers receiving federal funds are required to create units that are accessible to people with disabilities. At least five percent of the new units must be accessible to people with mobility impairments and at least two percent must be accessible to people with hearing or vision impairments.

In addition to Federal laws requiring units for people with physical disabilities, Fair Housing laws require owners to make reasonable accommodations or modifications for people with all types of disabilities. In doing so, recipients are required to make and pay for structural modifications to dwelling units and common areas when needed as a reasonable accommodation for tenants or applicants with disabilities. In such cases where providing a requested accommodation would result in an undue financial and administrative burden, developers are required to take any other action that would not result in an undue burden.

Recipients must submit proposed marketing and management plans on the form HUD-935.2(a) for multifamily projects or 935.2(b) for single-family projects, along with supporting documentation to the City for review and approval. Prior to commencing marketing activities, owners will be required to meet with City staff to review the proposed marketing strategy to ensure that

affirmative marketing efforts will be employed.

Management plans must include policies for ensuring reasonable accommodation for persons with disabilities. Management plans must also contain policies and provisions for recordkeeping and monitoring.

Marketing plans must include information on strategies for reaching persons and groups not likely to apply including, but not limited to, households with a disabled member. Marketing plans must also include procedures for ensuring that accessible units are occupied by people with disabilities who require accessible features, as described below.

Marketing plans must include the use of the fair housing logotype and/or slogan, and use of a logotype and/or slogan and fair housing posters must be displayed at the project rental or sales office. Owners are required to advertise in newspapers of general circulation, and to provide notice to community groups when units become available.

Marketing strategies must include use of a welcoming statement to encourage people with disabilities to apply for units, as well as a description of available units, accessible features, eligibility criteria, and the application process.

Marketing plans must indicate that qualified applicants with disabilities who request accommodations shall receive priority for the accessible units. Open houses and marketing offices must be accessible to allow disabled persons to visit the site and retrieve information about accessible units.

PROCEDURES FOR OUTREACH TO PERSONS LEAST LIKELY TO APPLY

Owners are required to engage in special outreach to persons and groups in the housing market area who, in the absence of such outreach are not likely to apply for the housing. In determining what special outreach is needed, Owners should take into account past patterns of discrimination, the racial and ethnic makeup of the neighborhood, language barriers, location, or other factors that might make it less likely that some persons and groups (a) would be aware of the availability of the housing or (b) would be likely to apply for the housing.

In particular, owners are required to advertise in media, which are reasonably likely to reach such targeted groups, and to provide notice to community organizations, fair housing agencies, and other similar organizations. A list of local disability organizations and community development boards will be provided by DHCS upon request. Multilingual advertising is encouraged where such efforts would result in reaching persons and groups not likely to apply.

SPECIFIC PROCEDURES FOR ENSURING THAT ACCESSIBLE UNITS ARE OCCUPIED BY PEOPLE WITH DISABILITIES WHO REQUIRE ACCESSIBLE FEATURES

Outreach by owners to the community shall include the distribution of notices describing:

- ◆ the availability of all units;
- ◆ specific information regarding the availability and features of accessible units;
- ◆ eligibility criteria; and
- ◆ application procedures.

All application forms shall include information indicating that people with disabilities requiring accessible features shall receive priority for accessible units. The application must include a section to be filled out by any applicant requesting an accommodation with details on

the applicant's special needs for accessible features or other accommodations. Under no circumstance should an applicant be required to disclose a disability unless requesting an accommodation. This will allow developers to provide, upfront, any necessary accessible features and/or accommodations for those people requesting accommodations.

Owners shall take reasonable nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, any vacant, accessible unit should first be offered to a current, disabled tenant of the same project or comparable project under the owner's control.

The disabled occupant must require the features in the vacant unit and must be occupying a unit not having such features. If no such occupant exists, the developer shall then offer the unit to a qualified applicant on the waiting list who has a disability requiring the accessibility features of the unit.

Furthermore, when offering an accessible unit to applicants without disabilities, the owner may require such applicants to agree to move to a non-accessible unit when one becomes available or when the accessible unit is needed by a disabled household. Such an agreement may be incorporated into the lease.

Note: An owner may not prohibit an eligible family with a member who has a disability from accepting a non-accessible unit, which may become available before an accessible unit. Owners are required to modify such a non-accessible unit as needed or move a disabled household into a unit that can be altered, unless the modifications would result in an undue financial and administrative burden or alteration in the nature of a program. All applicants should be provided information about how to request a reasonable accommodation at the time they apply for admission and at every recertification.

RECORDKEEPING AND MONITORING

Owners must maintain records for at least five years regarding marketing and tenant selection practices. Upon request, Owners are required to submit to the City copies of all advertisements indicating the date the advertisements were placed and the media outlets which were used.

Owners must also provide copies of notices sent to community groups and a listing of those groups to which notices were sent. Owners must maintain records regarding the characteristics of persons applying for vacant units, and the characteristics (including race and familial status) of persons actually selected for the units. Owners' records must also include the number, location, and description of accessible units, and success in filling such units with people who need accessible features or other accommodations. In addition, Owners should document any reasonable accommodations made to, or requested by, tenants during the reporting year.

As part of the City's monitoring of assisted housing developments, the City will review the Owners' records to verify that each qualified household living in an accessible unit has at least one household member who needs the accessible features of the unit.

The duration of monitoring of Affirmative Fair Housing Marketing (AFHM) Requirements varies with each housing program. For homeownership programs, AFHM requirements apply through the completion of initial sales transactions on units covered by the approved AFHM plan. For assisted rental housing, AFHM requirements apply throughout the term of the loan and regulatory agreements, including those periods when the project does not maintain sustaining occupancy.

ANNUAL SURVEY AND CERTIFICATION

Housing providers should complete an annual survey and certification regarding its AFHMP and submit it to the City. The Annual Survey and Certification must respond to all of the following:

1. A current Affirmative Fair Housing Marketing Plan (AFHMP) (Form HUD-935.2A) is required of all City-assisted housing projects.
 - a. What is the date of the current AFHMP on file?
2. Does your site office / web site have the Equal Opportunity logo and statement posted?
3. How many units are currently vacant or have given notice to vacate?
4. How are vacant units advertised?
5. In the last year, have any applicants for units been rejected?
 - a. If yes, please provide reasons for rejection.
 - b. Did any rejected applicants have Housing Choice Vouchers (Section 8) or other rental subsidy sources of income?
6. In the last year, have any residents been evicted?
 - a. If yes, provide list of evicted households including building and unit number and reasons for eviction.

Project Name:

Project Address:

Owner Name:

Owner Address:

Signature of Owner or its Agent / Representative:

Date:

Printed name and Title:

ASSESSMENT OF SUCCESS AND CORRECTIVE ACTIONS

The City will review records maintained by owners to ensure that Affirmative Fair Housing Marketing requirements are being met. Where the characteristics of applicants are significantly different from the make-up of the City's population (i.e., in cases where specific groups are over-represented or under-represented), the City will examine in more detail the owner's actions to determine if a violation of the requirements has occurred.

The City employs a variety of corrective actions. Initially, owners who have not fully complied with the requirements are directed to engage in targeted marketing efforts to reach groups not initially reached. In cases where owners refuse to comply with the affirmative fair marketing procedures, the City may take additional actions to secure performance under the loan agreement, including declaring the loan in default and recapturing the funds.

**EXHIBIT H
LEGAL DESCRIPTION**

LEGAL DESCRIPTION

(2) TWO PARCELS OF LAND BEING A PORTION OF HOUSING SUBDIVISION RECORDED ON MAY 24, 1952 IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF PUEBLO UNDER RECEPTION NUMBER 913457 (BOOK 16, PAGE 3), A PORTION OF LOT 13, BLOCK 23 OF UPLANDS PARK RECORDED ON FEBRUARY 19, 1886 IN SAID RECORDS IN BOOK 2B AT PAGES 33-34 AND A PORTION OF UPLANDS TOWNHOMES FILING NO. 2 RECORDED ON DECEMBER 6, 2019 IN SAID RECORDS UNDER RECEPTION NUMBER 2161535; LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH LINE OF SAID HOUSING SUBDIVISION, MONUMENTED ON THE WEST END BY A FOUND 1-1/2" ALUMINUM TAG STAMPED "MANGINI REEVES INC, PLS 22101" AND ON THE EAST END BY A FOUND 1" YELLOW PLASTIC CAP STAMPED "CARDINAL, PLS 22101" (A 1-FOOT WITNESS CORNER), AND IS ASSUMED TO BEAR NORTH 88°54'18" EAST 1253.48 FEET.

PARCEL 1

COMMENCING AT THE WEST END OF SAID NORTH LINE; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID HOUSING SUBDIVISION AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE; THENCE NORTH 88°54'18" EAST, ON SAID NORTH LINE OF HOUSING SUBDIVISION, A DISTANCE OF 381.43 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUE NORTH 88°54'18" EAST ON SAID NORTH LINE, A DISTANCE OF 230.44 FEET TO THE NORTHWESTERLY CORNER OF SAID UPLANDS TOWNHOMES FILING NO. 2;

THENCE ON THE EXTERIOR OF SAID UPLANDS TOWNHOMES FILING NO. 2 THE FOLLOWING (4) FOUR COURSES:

1. THENCE SOUTH 01°05'42" EAST, A DISTANCE OF 178.95 FEET;
2. THENCE SOUTH 89°26'28" WEST, A DISTANCE OF 32.02 FEET;
3. THENCE SOUTH 01°06'56" EAST, A DISTANCE OF 60.09 FEET;
4. THENCE SOUTH 44°14'08" WEST, A DISTANCE OF 41.63 FEET TO A 184.06 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 13°35'26" WEST, BEING ALSO THE NORTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID UPLANDS TOWNHOMES FILING NO. 2;

THENCE ON SAID EXTERIOR THE FOLLOWING (4) FOUR COURSES:

1. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°56'58", AN ARC DISTANCE OF 19.11 FEET TO A 28.73 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 07°32'42" WEST;
2. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 51°19'09", AN ARC DISTANCE OF 25.74 FEET;
3. THENCE NORTH 46°13'38" WEST, A DISTANCE OF 64.92 FEET;
4. THENCE SOUTH 43°46'26" WEST, A DISTANCE OF 2.99 FEET TO THE NORTHEASTERLY CORNER OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID HOUSING SUBDIVISION;

THENCE NORTH 46°05'32" WEST ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SITTER PLACE, A DISTANCE OF 22.57 FEET;

THENCE NORTH 48°21'35" EAST, A DISTANCE OF 17.11 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 47.47 FEET;

THENCE SOUTH 88°53'56" WEST, A DISTANCE OF 76.58 FEET;

THENCE NORTH 00°38'19" WEST, A DISTANCE OF 144.77 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 47,937 SQUARE FEET OR (1.10048 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

PARCEL 2

COMMENCING AT THE WEST END OF SAID NORTH LINE OF HOUSING SUBDIVISION; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID HOUSING SUBDIVISION AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE SOUTH 01°05'45" EAST ON SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 477.95 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 88°53'56" EAST, A DISTANCE OF 260.82 FEET;

THENCE NORTH 01°06'02" WEST, A DISTANCE OF 83.87 FEET;

THENCE NORTH 88°54'36" EAST, A DISTANCE OF 178.06 FEET;

THENCE NORTH 00°50'50" WEST, A DISTANCE OF 49.79 FEET;

THENCE NORTH 89°45'13" EAST, A DISTANCE OF 22.78 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 46.64 FEET TO THE EXTERIOR OF SAID UPLANDS TOWNHOMES FILING NO. 2, BEING ALSO THE SOUTHERLY RIGHT-OF-WAY LINE OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID UPLANDS TOWNHOMES FILING NO. 2;

THENCE ON SAID EXTERIOR, SAID SOUTHERLY RIGHT-OF-WAY LINE, AND THE SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID UPLANDS TOWNHOMES FILING NO. 2, THE FOLLOWING (2) TWO COURSES:

1. THENCE SOUTH 46°13'38" EAST, A DISTANCE OF 15.21 FEET TO A 72.76 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 43°46'21" EAST;
2. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°53'10", AN ARC DISTANCE OF 20.17 FEET TO A 75.64 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 27°59'04" EAST;

THENCE CONTINUE ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE THE FOLLOWING (7) SEVEN COURSES:

1. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°09'13", AN ARC DISTANCE OF 30.57 FEET TO A 300.00 FOOT RADIUS REVERSE CURVE;
2. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 10°01'39", AN ARC DISTANCE OF 52.50 FEET TO A 39.00 FOOT RADIUS COMPOUND CURVE;
3. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°37'02", AN ARC DISTANCE OF 17.44 FEET TO A 63.17 FOOT RADIUS REVERSE CURVE;
4. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 83°11'16", AN ARC DISTANCE OF 91.72 FEET TO A 38.83 FOOT RADIUS REVERSE CURVE;
5. THENCE NORTHEASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 25°31'58", AN ARC DISTANCE OF 17.30 FEET TO A 301.18 FOOT RADIUS COMPOUND CURVE;
6. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°14'17", AN ARC DISTANCE OF 43.30 FEET;
7. THENCE NORTH 88°54'27" EAST, A DISTANCE OF 527.92 FEET TO THE EXTERIOR OF SAID UPLANDS TOWNHOMES FILING NO. 2, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF ACERO AVENUE;

THENCE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 31.69 FEET TO THE SOUTHEASTERLY CORNER OF SAID UPLANDS TOWNHOMES FILING NO. 2, BEING ALSO THE NORTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF UPLANDS PARK;

THENCE CONTINUE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 297.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF UPLANDS PARK, BEING ALSO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SPRAGUE AVENUE;

THENCE SOUTH 88°54'57" WEST ON SAID EXTERIOR AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.63 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, BLOCK 23 OF UPLANDS PARK AND THE SOUTHEAST CORNER

OF BLOCK 3 OF SAID HOUSING SUBDIVISION;

THENCE CONTINUE SOUTH 88°54'57" WEST ON THE EXTERIOR OF SAID HOUSING SUBDIVISION AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.81 FEET THE SOUTHWEST CORNER OF SAID HOUSING SUBDIVISION, BEING ALSO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE WITH SAID EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE NORTH 01°05'45" WEST ON SAID EXTERIOR AND SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 181.65 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 359,855 SQUARE FEET OR (8.26114 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

THE OVERALL PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 407,792 SQUARE FEET OR (9.36162 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.