

AUG 11 2014



AMENDMENT NO. 1 TO THE GRANT AGREEMENT BETWEEN MARICOPA COUNTY ADMINISTERED BY ITS HUMAN SERVICES DEPARTMENT NEWTOWN COMMUNITY DEVELOPMENT CORPORATION AND CITY OF CHANDLER

THIS AMENDMENT NO. 1 (this "Amendment") to that Grant Agreement designated as contract number C-22-13-016-3-00 (the "Agreement") is made and entered into between and among Newtown Community Development Corporation, a non-profit Community Housing Development Organization ("CHDO"), the City of Chandler, an Arizona municipal corporation ("Administrator"), and Maricopa County, administered by its Human Services Department ("County"), who are collectively referred to herein as the "Parties" and individually as a "Party."

- I. The Parties desire and intend to enter into this Amendment for the purpose of: (a) extending the term of the Agreement; (b) adjusting the scope of work to ensure compliance with Final 2013 HOME Investment Partnership Program Rules adopted by the U.S. Department of Housing and Urban Development ("HUD"), as found at 24 CFR 92 (the "2013 Rules"); and assuring compliance with current federal laws concerning whistleblowers.
II. The Agreement shall be modified as follows:
A. The contract termination date is extended from June 30, 2014 to June 30, 2015.
B. Because HUD requires that HOME funds which were reserved prior to August 23, 2013, but not committed to a specific project until after August 23, 2013, must comply with the 2013 Rules, the Agreement is amended as follows:
1. The reference to "Scattered Site-to be determined" contained on the line designated Activity Address found on page 55 Section III Work Statement of the Agreement is replaced with the following:
a. 98 W. Ivanhoe Place, Chandler AZ 85225,
b. 946 W. Gary Drive, Chandler AZ 85224, and
c. 3620 E. Fairview Lane, Chandler AZ 85226 (collectively, the "NewTown Projects").
2. The following provision is added to the Agreement: "Prior to committing funds to CHDO for the NewTown Projects, Administrator will have satisfactorily completed all assessments required by the 2013 Rules, including, but not limited to: environmental review, underwriting review, assessed developer capacity, fiscal soundness and neighborhood market conditions. Thereafter, Administrator shall use its best efforts to help ensure the successful completion of the acquisition and rehabilitation of the NewTown Projects."
C. On page 62 Section IV Compensation, the encumbrance dates of September 30, 2013 and April 30, 2013, and the draw down date of June 30, 2014, are all deleted and the following shall be inserted:

- 1. The encumbrance date for CHDO funds is September 30, 2014. All funds shall be drawn from the Maricopa County letter of credit by June 30, 2015.

D. Add to the General Provisions:

WW. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLERBLOWER RIGHTS

- 1. The Parties agree that this Contract and employees working on this Contract will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and section 3.908 of the Federal Acquisition Regulation;
- 2. Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described in section 3.908 of the Federal Acquisition Regulation. Documentation of such employee notification must be kept on file by Contractor and copies provided to County upon request; and
- 3. Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold (\$150,000 as of September 2013).

III. The foregoing paragraph contains all the changes made by this Amendment. To the extent that the terms of the original agreement are inconsistent herewith, the terms of this Amendment shall control. All other terms and conditions of the original agreement remain the same and in full force and effect.

IN WITNESS THEREOF, the Parties have signed this agreement:

APPROVED BY:
CITY OF CHANDLER

APPROVED BY:
MARICOPA COUNTY

Authorized Signature

Denny Barney
Chairman of the Board Signature

Date: _____

Date: _____

Attested To:

City Clerk

Attested To:

Fran McCarroll, Clerk of the Board

IN ACCORDANCE WITH A.R.S. § 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS AGREEMENT IS IN PROPER FORM AND WITHIN THE POWER AND AUTHORITY GRANTED UNDER THE LAWS OF THE STATE OF ARIZONA.

CITY OF CHANDLER

MARICOPA COUNTY

BY: _____
Attorney for the City of Chandler *SAB*

BY: _____
Legal Counsel for Maricopa County

Date: _____

Date: _____

APPROVED BY:
NEWTOWN COMMUNITY DEVELOPMENT
CORPORATION CHDO

Authorized Signature

Date: _____



#9

AUG 11 2014
Chandler



MEMORANDUM NEIGHBORHOOD RESOURCES - COUNCIL MEMO NO. NR14-024

DATE: JULY 29, 2014

TO: MAYOR AND CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER ^{PD}
JEFF CLARK, FIRE CHIEF _{JK}

FROM: JENNIFER MORRISON, NEIGHBORHOOD RESOURCES DIRECTOR _{JM}

SUBJECT: RESOLUTION NO. 4796 OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, APPROVING AMENDMENT NO.1 TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN AND AMONG MARICOPA COUNTY, NEWTOWN COMMUNITY DEVELOPMENT CORPORATION, AND THE CITY OF CHANDLER, REGARDING USE OF FEDERAL FUNDS FOR A FIRST TIME HOMEBUYER PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE SUCH OTHER DOCUMENTS AS ARE NECESSARY TO COMPLY WITH PROVISIONS OF THE AGREEMENT, AS AMENDED

STAFF RECOMMENDATION: Mayor and City Council are requested to approve Resolution No. 4796 approving Amendment No. 1 to an Intergovernmental Agreement between and among Maricopa County, Newtown Community Development Corporation, and the City of Chandler, regarding use of federal funds for a first time homebuyer program; authorizing the Mayor to execute the Amendment; and authorizing the City Manager or a designee to execute such other documents as are necessary to comply with provisions of the Agreement, as amended.

BACKGROUND: The City of Chandler receives federal HOME Investment Partnership (HOME) funds annually from the U.S. Department of Housing and Urban Development (HUD) through the Maricopa HOME Consortium which is comprised of the cities/town of Avondale, Chandler, Glendale, Peoria, Scottsdale, Surprise and Tempe. The Consortium is required to allocate 15% of the annual HOME allocation to Community Housing Development Organizations (CHDOs). In January of 2012, Newtown Community Development Corporation applied for and received Chandler City Council approval to apply to the County for CHDO funds. Newtown was subsequently awarded \$340,000 in CHDO HOME funds for the acquisition, rehabilitation and resale of up to four properties to low to moderate income families under the Chandler Land Trust first time homebuyer program. In July of 2012, the City Council approved an agreement with Newtown for this purpose.

The final form of the agreement between the City, County and Newtown took the form of a three party intergovernmental agreement (IGA) wherein the County commits to funding \$340,000 in HOME funds for the project and the City commits to acting in the role of administrator of the funding with Newtown. An amendment to the agreement is now required.

The purpose of this amendment is to extend the contract termination date from June 30, 2014 to June 30, 2015 and to adjust the Scope of Work, which will ensure compliance with Final HOME Program Rules adopted by HUD in 2013. In addition, the amendment identifies three specific property addresses to which funds can be committed and includes language requiring the City to complete certain assessments, such as a market survey and risk assessment, prior to funds being committed to Newtown for the project. These items are also required as a result of the HOME Program Rule change in 2013.

FINANCIAL IMPLICATIONS: Funding for the HOME program is provided from HUD through the Maricopa County Consortium and does not require repayment.

RECOMMENDATION: Mayor and City Council are requested to approve Resolution No. 4796 approving Amendment No. 1 to an Intergovernmental Agreement between and among Maricopa County, Newtown Community Development Corporation, and the City of Chandler, regarding use of federal funds for a first time homebuyer program; authorizing the Mayor to execute the Amendment; and authorizing the City Manager or a designee to execute such other documents as are necessary to comply with provisions of the Agreement, as amended.

Attachments: Resolution No. 4796
Amendment No. 1 to the Grant Agreement between Maricopa County administered by its Human Services Department, Newtown Community Development Corporation and the City of Chandler

RESOLUTION NO. 4796

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, APPROVING AMENDMENT NO.1 TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN AND AMONG MARICOPA COUNTY, NEWTOWN COMMUNITY DEVELOPMENT CORPORATION, AND THE CITY OF CHANDLER, REGARDING USE OF FEDERAL FUNDS FOR A FIRST TIME HOMEBUYER PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; AND AUTHORIZING THE CITY MANAGER OR A DESIGNEE TO EXECUTE SUCH OTHER DOCUMENTS AS ARE NECESSARY TO COMPLY WITH PROVISIONS OF THE AGREEMENT, AS AMENDED.

WHEREAS, pursuant to Resolution No. 4601, passed and adopted on July 26, 2012, the Chandler City Council approved an agreement for the acquisition, rehabilitation and resale of properties for low to moderate income first time homebuyers using HOME funds provided through the Maricopa County HOME Consortium in the amount of \$340,000; and

WHEREAS, the final form of the agreement was a three-party, intergovernmental agreement, called a "Grant Agreement," between and among Maricopa County, acting by and through its Human Services Department ("Maricopa County"), Newtown Community Development Corporation, a non-profit Community Housing Development Organization ("Newtown"), and the City of Chandler ("Chandler"); and

WHEREAS, the parties now desire to amend the Grant Agreement for the purpose of (i) extending the contract termination date, (ii) adjusting the scope of work to include regulatory changes required to comply with the 2013 HOME Program Rules adopted by the U.S. Department of Housing and Urban Development, (iii) identifying specific projects to which the funds are to be committed, and (iv) having Chandler complete certain performance assessments prior to funds being committed to any of the specific projects identified.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler as follows:

Section 1. Amendment No. 1 to the Grant Agreement is approved in substantially the form attached hereto as Exhibit A so as to: (i) extend the termination date to June 30, 2015; (ii) adjust the scope of work to comply with the 2013 HOME Program Rules; and (iii) identify specific projects to which funds are to be committed, subject to the prior completion of certain performance assessments satisfactory to Chandler.

Section 2. The Mayor of the City of Chandler is authorized to execute Amendment #1 to the Grant Agreement and the City Manager, or designee, is hereby authorized to execute, on behalf of the City, appropriate certifications and other documents and take such other actions as are necessary to comply with the Grant Agreement, as amended by Amendment #1.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Mayor and Council of the City of Chandler, Arizona, this ____ day of _____, 2014.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4796 was duly passed and adopted by the City Council of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2014, and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

AB



AMENDMENT NO. 1 TO THE
GRANT AGREEMENT
BETWEEN
MARICOPA COUNTY
ADMINISTERED BY ITS
HUMAN SERVICES DEPARTMENT
NEWTOWN COMMUNITY DEVELOPMENT CORPORATION
AND
CITY OF CHANDLER



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1. The encumbrance date for CHDO funds is September 30, 2014. All funds shall be drawn from the Maricopa County letter of credit by June 30, 2015.

- D. Remove the FF. Insurance paragraph in the General Provisions in its entirety and replace with the following:

FF. INSURANCE

Contractor, at Contractor's own expense shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A+. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

Contractor shall have in effect at all times during the term of this Agreement insurance that is adequate to protect the County, its officers and employees, participants, and equipment funded under this Agreement against the losses set forth below. Contractor shall name the County as an additional insured party. Contractor shall provide the Department with documentation of insurance coverage by furnishing the Contract Administrator a certificate of insurance or a certified copy of the insurance policy or other documentation that is required by the Contract Administrator.

Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insured's.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

1. Commercial General Liability:
Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
2. Automobile Liability:
Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.
3. Workers' Compensation:
Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

4. Certificates of Insurance
Prior to commencing work or services under this Contract, Contractor shall have insurance in effect as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall be made available to the County upon ten (10) business days. BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF CONTRACT.

In the event any insurance policy(ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

5. Cancellation and Expiration Notice.
Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

If the Contractor provides professional or semi-professional personal services under this agreement for which malpractice or professional liability coverage is available, such as medical, psychiatric, or legal services, Contractor shall carry minimum liability coverage of \$2,000,000 each occurrence and provide the Department with proof of coverage.

None of the provisions of this subsection FF, shall apply to Administrator, who is a self-insured public entity, provided Administrator provides a Certificate of Self-Insurance.

E. Add to the General Provisions:

WW. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLERBLOWER RIGHTS

1. The Parties agree that this Contract and employees working on this Contract will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. § 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and section 3.908 of the Federal Acquisition Regulation;
2. Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described in section 3.908 of the Federal Acquisition Regulation. Documentation of such employee notification must be kept on file by Contractor and copies provided to County upon request; and
3. Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold (\$150,000 as of September 2013).

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IN WITNESS THEREOF, the Parties have signed this agreement:

APPROVED BY:
CITY OF CHANDLER

APPROVED BY:
MARICOPA COUNTY

Authorized Signature

Denny Barney
Chairman of the Board Signature

Date: _____

Date: _____

Attested To:

Attested To:

City Clerk

Fran McCarroll, Clerk of the Board

IN ACCORDANCE WITH A.R.S. § 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED WHO HAVE DETERMINED THAT THIS AGREEMENT IS IN PROPER FORM AND WITHIN THE POWER AND AUTHORITY GRANTED UNDER THE LAWS OF THE STATE OF ARIZONA.

CITY OF CHANDLER

MARICOPA COUNTY

BY: _____
Attorney for the City of Chandler *GAB*

BY: _____
Legal Counsel for Maricopa County

Date: _____

Date: _____

APPROVED BY:
NEWTOWN COMMUNITY DEVELOPMENT
CORPORATION CHDO

Authorized Signature

Date: _____