

AGREEMENT

for

**THE PERMANENT LOCAL HOUSING ALLOCATION (PLHA) PROGRAM
UNDER THE CALIFORNIA DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT (HCD)
FOR ALLOCATION YEARS 2019-2023**

by and between

COUNTY OF RIVERSIDE

and

CITY OF MORENO VALLEY,

Dated June 30, 20 20

**AGREEMENT FOR THE PERMANENT LOCAL HOUSING ALLOCATION (PLHA)
PROGRAM UNDER THE CALIFORNIA DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT (HCD) FOR ALLOCATION YEARS 2019-2023**

THIS AGREEMENT FOR THE PERMANENT LOCAL HOUSING ALLOCATION (PLHA) PROGRAM UNDER THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) FOR ALLOCATION YEARS 2019-2023 (Agreement) is made and entered into this 30th day of June, 2020, by and between THE COUNTY OF RIVERSIDE, a political subdivision of the State of California, through its Housing, Homelessness Prevention and Workforce Solutions (“County” or “Administering Local Government”), and THE CITY OF MORENO VALLEY, a California municipal corporation (“City” or “Delegating Local Government”). Together, County and City may hereafter be referred to individually as “Party,” or collectively as “Parties”.

RECITALS

A. Chapter 364, Statutes of 2017 (SB 2, Atkins), as authorized by Health and Safety Code (HSC) Section 50470, established the Building Homes and Jobs Trust Fund (Fund) and the Permanent Local Housing Allocation (PLHA) Program (“PLHA Program”) which was designed to provide a permanent source of funding to all local governments in California to help cities and counties implement plans to increase the affordable housing stock.

B. HSC Section 50470 authorizes the HCD to allocate moneys collected and deposited in the Fund for the PLHA Program, with 90 percent of PLHA funds to local governments, and to adopt Guidelines to implement the PLHA Program.

C. The Parties are both Entitlement Local Governments that each separately received a Community Development Block Grant (CDBG) for fiscal year 2017 pursuant to the federal CDBG formula specified in 42 U.S.C. Section 5306.

D. Pursuant to Section 300(c) of the HCD Guidelines, a local government may delegate another local government to submit an application and administer the formula component of PLHA funds on its behalf, provided the local governments enter into an agreement and the funds are expended for eligible activities consistent with program requirements.

E. Consistent with HCD Guidelines, City desires to delegate to County the responsibility for submitting an application for administering its formula component for Allocation Years 2019-2023 (“City’s Allocations”) in the estimated funding amount of Six Million One Hundred Seventy Eight Thousand Eight Hundred Fifty Four dollars (\$6,178,854).

F. The City fully supports the objectives, goals, strategies, programs and projects identified under the PLHA Formula Allocation 2020 Application that was proposed by the County for approval by the HCD (“Application”), and the City agrees to delegate its PLHA formula allocations to the County for the Application.

G. HCD requires this Agreement to set forth the agreed upon governance structure and terms of operation required to implement the PLHA program, including but not limited to, the expectations and responsibilities of the Parties, legal and financial terms, and community engagement and decision-making processes.

H. The Parties desire to enter into an Agreement as hereinafter set forth in order to establish a collaborative stakeholder structure for matters pertaining to the City's Allocations.

TERMS AND CONDITIONS

Section 1. DEFINITIONS.

- 1.1 General. The definitions set forth in the above recitals, in the PLHA Guidelines, and otherwise indicated in parenthesis hereafter, shall apply to this Agreement.
- 1.2 PLHA. "PLHA" shall mean the Permanent Local Housing Allocation.
- 1.3 PLHA Guidelines. "PLHA Guidelines" shall mean the HCD 2019 PLHA Final Guidelines.
- 1.4 Application. "Application" shall mean the PLHA Formula Allocation 2020 Application for funding submitted by County.
- 1.5 Bi-monthly. "Bi-monthly" shall mean every other month.
- 1.6 Budget. "Budget" shall mean the budget for a particular housing development project.
- 1.7 Budget Report. "Budget Report" shall mean the report containing the budget for a particular Housing development project, which breaks down cost by task and lien item.
- 1.8 Close-Out Report. "Close-Out Report" shall mean the report submitted to the HCD at the conclusion of an individual Housing development project.
- 1.9 Term. "Term" shall mean the term of the PLHA Program Agreement.
- 1.10 Applicant. "Applicant" shall mean the County of Riverside.
- 1.11 Performance Period. "Performance Period" shall mean the period of time beginning immediately upon the completion of a Housing development project and ending upon a date determined by the County, during which City will be required to complete additional Indicator Tracking.
- 1.12 Subcontractor. "Subcontractor" shall mean any third party used by the Parties to perform any work in furtherance of a Housing development project.

- 1.13 PLHA Standard Agreement. “PLHA Standard Agreement” shall mean the agreement entered into by and between the County and the HCD.

Section 2. INCORPORATION AND ACKNOWLEDGEMENT OF TERMS.

2.1 Incorporation. The Parties intend that this Agreement shall conform to and satisfy all requirements of the PLHA Guidelines and the PLHA Standard Agreement. The County’s performance shall be conducted in accordance with the PLHA Standard Agreement, the PLHA Guidelines, and this Agreement (hereafter collectively the “Performance Terms”).

2.2 Acknowledgement. Each Party acknowledges that it has reviewed the Performance Terms and the Application, and is fully committed to the goals and requirements of each.

Section 3. PURPOSE AND GOALS.

3.1 Purpose. The purpose of this Agreement is to formalize the partnership and understanding between the Parties and to set forth the terms by which the Parties will manage, coordinate, and administer PLHA funding-related activities within the City’s boundaries, including the following:

- a. Implementing activities, programs, strategies, and projects as set forth in the PLHA Standard Agreement;
- b. Promoting the execution of objectives and goals set forth in the PLHA Standard Agreement;
- c. Providing a platform for community engagement and input into implementation of activities related to PLHA funding; and
- d. Performing such other functions as may be deemed necessary and appropriate to meet the objectives of this Agreement.

3.2 Goals. Each Party affirms that the PLHA program is designed to provide a permanent source of funding to all local governments in California to help cities and counties implement plans to increase the affordable housing stock.

Section 4. RESPONSIBILITIES OF ALL PARTIES.

4.1 Mutual Cooperation. The Parties recognize that they have complementary expertise and common goals and interests. The Parties shall endeavor to cooperate, work together, and share knowledge, expertise, and best practices with regards to the Application and shall commit to working collaboratively with one another and with community stakeholders throughout the Term. The Parties hereto agree that they will each provide such information and documentation as is reasonably necessary to fulfill the intent of this Agreement and make diligent efforts to respond to

inquiries and requests for information from the other Party. The Parties agree to provide all project-related information and documents as requested by the other Party, or the State of California, including all reporting-related documentation.

4.2 Leveraging of Available Funds. The Parties shall make good faith efforts, as appropriate, to leverage available federal, state, local, and private funds, and to assist the other Party in leveraging available federal, state, local, and private funds, to support development and construction of affordable housing.

4.3 Communication. The Parties shall commit to the principle of good communication, especially when one's work may have some bearing on the responsibilities of the other. The Parties shall seek to alert each other as soon as practical to relevant developments with regards to the PLHA Program and its execution. The Parties shall also ensure that it is clear who the appropriate contacts are for particular matters and that contact details are kept up to date.

Section 5. COUNTY – ROLE AND RESPONSIBILITIES.

5.1 Applicant and Administering Local Government. County shall be the Applicant and Administering Local Government and shall execute the PLHA Standard Agreement, carry out all responsibilities as described in the Performance Terms, and work closely with HCD throughout the implementation of the Application. County commits to all duties and responsibilities corresponding to the Applicant's role under the PLHA Plan for the length of the Term. County acknowledges that it:

- a. Has reviewed the FY2020 PLHA Program NOFA, Final Guidelines, and related guidance from HCD;
- b. Has participated in the preparation of the Application seeking funding for the following eligible activities:
 - i. §301(a)(1) - The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to Extremely low-, Very low-, Low-, or Moderate-income households, including necessary operating subsidies; and
 - ii. §301(a)(9) – Homeownership opportunities, including, but not limited to, down payment assistance.
- c. Is fully committed to the goals and requirements of the NOFA, the Application, the funding requirements, and this Agreement.
- d. County agrees to expend no less than the amount allocated to the Delegating Local Government in its respective jurisdiction, in accordance to PLHA Guidelines over the span of the Term of this Agreement. The City's Allocations are anticipated to be in the funding amount of Six Million One Hundred Seventy Eight Thousand Eight Hundred Hundred Fifty Four dollars (\$6,178,854).

5.2 Administration. County shall serve as the administrator of the City's Allocations, including but not limited to, operating a down payment assistance program, promoting development of affordable housing inside the City, and annual reporting due to HCD. The County shall ensure compliance with all accounting, disbursement, recordkeeping, and all other compliance requirements with respect to the PLHA Standard Agreement.

5.3 Financial Support. County shall leverage as appropriate, or assist in leveraging, available federal, state, local, and private funds as available to support integrated strategic investment for the development of affordable housing developments in the City.

5.4 Oversight of Implementation. County shall supervise and coordinate the implementation of activities related to the PLHA Program, including development of affordable housing, down payment assistance program, long term compliance monitoring, and loan servicing of all PLHA loans.

5.5 Reporting. County shall be responsible for any and all required reports, including but not limited to Progress Reports, Indicator Reports, Budget Reports, and Close-Out Reports.

Section 6. TERM AND TERMINATION.

6.1 Term. This Agreement shall become effective as of the date on which the last Party executes this Agreement ("Effective Date"). The Term shall commence on the Effective Date and continue for five (5) years thereafter, unless terminated earlier or otherwise extended by a written amendment to this Agreement.

6.2 Termination – Convenience. Either Party may terminate this Agreement for convenience upon two (2) years written notice served upon the other Party, stating the extent and effective date of termination.

6.3 Termination – For Cause. Either Party may terminate this Agreement for cause, upon thirty (30) days written notice served upon the other Party, stating the extent and effective date of termination. For cause includes the following:

- a. Default in which the alleged defaulting Party refuses or fails to comply with the terms of this Agreement or fails to make progress that may endanger performance and does not immediately cure such failure;

6.4 Termination – No Funding / Dishonesty or Material Breach. This Agreement shall automatically terminate if the Delegating Local Government is not allocated funding based on the Application. The Delegating Local Government's rights under this Agreement shall also terminate upon dishonesty or a willful or material breach of this Agreement by the Delegating Local Government; or in the event of Delegating Local Government's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement.

6.5 The rights and remedies provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

Section 7. INDEMNIFICATION.

7.1 City shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as "County Indemnitees") from any liability, action, claim or damage whatsoever, based or asserted upon any services of City, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. City shall defend the County Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

7.2 With respect to any action or claim subject to indemnification herein by City, City shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes City indemnification to County Indemnitees as set forth herein.

7.3 City's obligation hereunder shall be satisfied when City has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

7.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe City's obligations to indemnify and hold harmless the County Indemnitees herein from third party claims.

Section 8. EFFECT OF THIS AGREEMENT.

8.1 Parties acknowledge and agree that nothing contained in this Agreement shall be deemed a covenant, promise, or commitment by the County to enter into any other agreement on any particular terms or conditions, in furtherance of any the Housing development projects in the Application if the Delegating Local Government is not selected for PLHA funding. The Delegating Local Government further understands and agrees that the State of California retains the ultimate discretion to approve or deny PLHA funding. Each Party's execution of this Agreement is merely an agreement to the terms of the collaborative stakeholder structure, contingent upon PLHA Program funding and award.

8.2 Nothing contained in this Agreement shall be construed to require, or have the effect of requiring, the County to take any action inconsistent with any applicable law, rule or regulation which governs the County's actions.

Section 9. NON-DISCRIMINATION.

The Parties shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

Section 10. DISPUTES.

The Parties agree that before any Party commences any legal or equitable action, action for declaratory relief, suit, proceeding, or arbitration regarding this Agreement, that the Parties shall first submit the dispute to mediation through a mutually acceptable professional mediator in Riverside County. Each Party shall bear its own expenses and costs associated with the mediation. Parties shall share the cost of a mediator equally.

Section 11. MISCELLANEOUS.

11.1 Notices. Any notices, , or reports relating to this Agreement, and any request, demand, statement or other communication required or permitted hereunder shall be in writing to the addresses set forth on the signature pages, and shall be deemed to have been received on (a) the day of delivery, if delivered by hand during regular business hours or by confirmed facsimile during regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid.

11.2 No Delegation or Assignment. City shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of County. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

11.3 Waivers. Any waiver by County of any breach of any one or more terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of County to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing County from enforcement of the terms of this Agreement.

11.4 Conflict of Interest. No member, official or employee of the Parties shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

11.5 Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California.

11.6 Venue. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court in Riverside County, California, and the Parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

11.7 No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and shall not create any rights in any third Parties. No other person or entity shall have any right of action based upon the provisions of this Agreement.

11.8 Section Headings. The Section headings herein are for the convenience of the Parties only and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Agreement.

11.9 Compliance with Laws and Regulations; Legal Authority. By executing this Agreement, the Parties agree to comply with all applicable federal, state and local laws, regulations and ordinances. Nothing in this Agreement binds the Parties to perform any action that is beyond its legal authority.

11.10 Authority. The persons executing this Agreement or exhibits attached hereto on behalf of the Parties to this Agreement hereby warrant and represent that they have the authority to execute this Agreement and warrant and represent that they have the authority to bind the respective Parties to this Agreement to the performance of its obligations hereunder.

11.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

11.12 Entire Agreement. This Agreement, including all exhibits and attachments hereto, is intended by the Parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. Any amendments to or clarification of this Agreement shall be in writing and acknowledged by all Parties to this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below.

THE COUNTY OF RIVERSIDE,
a political subdivision of the State of
California, through the County of Riverside
Department of Housing, Homelessness
Prevention and Workforce Solutions

By: Heidi Marshall
Heidi Marshall,
Director

Dated: 10/1/2020

Address:

County of Riverside
Department of Housing, Homelessness
Prevention and Workforce Solutions
Attention: Mike Walsh, Deputy Director
5555 Arlington Avenue
Riverside, CA 92504

APPROVED AS TO FORM:

GREGORY P. PRIAMOS,
County Counsel

By: Lisa Sanchez
Lisa Sanchez,
Deputy County Counsel

THE CITY OF MORENO VALLEY, a
California municipal corporation

By: Mike Lee
Mike Lee
Interim City Manager

Dated: 9/17/20

Address:

City of Moreno Valley
City Manager
Attn: Mike Lee, Interim City Manager
14177 Frederick Street
Moreno Valley, CA 92552

APPROVED AS TO FORM:

City Attorney

By: Paul E. Early
Signature

Printed Name : Paul E. Early

Title: Asst. City Attorney