

**CITY OF SAN MATEO  
AGREEMENT TO PROVIDE FUNDS  
TO SUPPORT THE PRODUCTION OF AFFORDABLE HOUSING  
PERMANENT LOCAL HOUSING ALLOCATION**

THIS AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_ 2024, by and between the CITY OF SAN MATEO, a municipal corporation existing under the laws of the State of California, (hereinafter called "City"), and ST. JAMES COMMUNITY DEVELOPMENT CORPORATION (hereinafter referred to as "Organization").

The City wishes to provide support the production of affordable housing to provide a benefit to low-income San Mateo City residents.

To achieve common goals in the community, the City and the Organization agree as follows:

1. **ORGANIZATION:** The Organization is an independent contractor, organized in accordance with the laws of California, willing to and capable of performing such community services.
2. **SERVICES:** Organization shall provide the services and/or the improvements described in Exhibit "A", the Project Scope.
3. **FUNDING:** The source of City funds is the state Permanent Local Housing Allocation (PLHA). Funding shall be used for lawful purposes only. The City reserves the right to cancel, lower or rescind the amount of funding provided in this agreement if state funds are less than expected or other Congressional rescissions or restrictions to the program occur. There shall be no liability to Organization as a result of the lowering, or canceling of the funding under this agreement.

Funding by City to Organization shall be on progress payment basis as often as monthly, but to ensure timely expenditures, not less than quarterly and shall in no event exceed **\$377,212**. In the manner prescribed by the City, Organization shall provide an invoice for each request for payment that shall specify how the funds requested for reimbursement have been spent. Organization shall maintain receipts related to each reimbursable expense for five (5) years.

Funding shall be provided as a loan from the City to the Organization at an interest rate of 0% and will be forgiven at the completion of construction of the project. Repayments to the City will not be required from the Organization throughout the pre-development or development process.

4. **TERM:** The services to be performed under this Agreement shall commence upon execution and be completed on June 30, 2024. The term of this Agreement shall be automatically extended to cover any additional time period during which the Organization remains in control of PLHA funds or other PLHA assets, including program income.
5. **FISCAL AND OTHER RESPONSIBILITIES OF ORGANIZATION:** Organization shall:
  - A. Comply with State Regulations, particularly the provisions of "Permanent Local Housing Allocation Final Guidelines" dated October 2019.
  - B. Establish and maintain a written system of accounts for budgeted funds that shall be in conformance with generally accepted principles of accounting. Such system of accounts shall be subject to review, approval and inspection by City.

- C. Document all costs by maintaining complete and accurate records of all financial transactions, including, but not limited to, contracts, invoices, time cards, cash and charge receipts, vouchers, cancelled checks, bank statements and/or other official documentation evidencing in proper detail the nature and propriety of all transactions.
- D. Independent Audits: Organizations must perform an independent fiscal audit once a year, in conformance with the generally accepted standard accounting principles. Such audits must identify the total funds received and disbursed as well as funds granted and expended. The costs for such audits shall be at Organization's expense, unless otherwise provided for in this Agreement. The Organization Board of Directors must provide copies of the completed audits to the City within thirty (30) days of their completion and acceptance by the Organization Board of Directors.
- E. Disallowed Costs: Disallowed costs are costs not allowed and approved by the City. Organization is liable for repayment of disallowed costs. Disallowed costs may be identified through Quarterly Reports, audits, examination of invoices, monitoring or other sources. Organization shall be afforded the opportunity to respond to any adverse findings which may lead to disallowed costs. Notwithstanding anything to the contrary herein, any and all costs identified in Exhibit B shall constitute allowed costs and shall not be subject to the terms of this Section 5.E.
- F. For public works projects, comply with San Mateo Municipal Code Chapter 3.61 and State prevailing wage laws, including contractor registration with the Department of Industrial Relations.
- G. Comply with the City's minimum wage ordinance as codified in Municipal Code Chapter 5.92, which differs from the state minimum wage and includes a Consumer Price Index escalator.

**6. RECORDS, REPORTS AND AUDITS OF ORGANIZATION:**

- A. Establishment and Maintenance of Records: Organization shall maintain records, including but not limited to books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly (1) all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred to perform this Agreement, and (2) all other matters covered by this Agreement.
- B. Preservation of Records: Organization shall reserve and make available its records:
  - 1) Until the expiration of five (5) years from the date of the submission of the annual financial status report.
  - 2) For such longer period, if any, as is required by applicable law; or
  - 3) If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five (5) years from the date of any resulting final settlement.
- C. Program Report: Organization shall provide Program Reports to the City of San Mateo detailing progress made toward the provision of services as described in Exhibit "A". Reports are due by the 15<sup>th</sup> of the month following the end of each quarter. Organization shall include an Annual Report, in addition to the final quarterly report, which summarizes the achievement of stated outcomes for the program year.

**7. SUSPENSION AND TERMINATION:** In accordance with 24 CFR 85.43, suspension or termination may occur if the subrecipient materially fails to comply with any term of the award, and the award may be terminated

for convenience in accordance with 24 CFR 85.44.

8. **INTEREST OF PUBLIC OFFICIALS:** No members, officers, employees or agents of the City, shall have any interest, direct or indirect, in this Agreement or a related subcontract.
9. **INSPECTION OF PROGRAM:** It is understood that periodic review of the Organization's program will be necessary under procedures set forth in the City's PLHA Subrecipient Performance Monitoring Procedures.
10. **PROGRAM INCOME:** Organization shall record program income as part of the financial transactions of the program. Organization agrees that program income shall only be used in performing services and activities specified in Exhibit "A". Program income not used for these purposes shall be accounted for and returned to the City.
11. **REVERSION OF ASSETS:** If the Organization is dissolved or ceases to exist, any PLHA funds on hand at the time of its dissolution shall be accounted for per Section 4.B and immediately returned to the City. Any real property owned by the Organization which was purchased or improved with City funds in the amount of \$25,000 or more under the terms of this Agreement shall either:
  - A. Be used to meet one of the PLHA state objectives for at least five (5) years after the expiration of this Agreement; or
  - B. Be disposed of at a fair market value and a proration of these funds shall be returned to the City. The proration will be based on the percentage of PLHA funds used to acquire or improve the property as part of this contract.
12. **ASSIGNABILITY:** Organization shall not assign this Agreement and shall not transfer any interest in this Agreement without the prior written consent of the City.
13. **MEDIATION:** Should any dispute arise out of this Agreement; any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the State Mediation and Conciliation Service, or other agreed-upon service. The mediator shall be selected by a blind draw.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.
14. **INDEMNIFICATION:** Organization agrees to hold harmless and indemnify City of San Mateo, their elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of Organization's performance of this Agreement, except for those claims arising out of City's sole negligence or willful misconduct. Organization agrees to defend City of San Mateo, their elected and appointed officials, employees, and agents against any such claims. The Organization's duty to indemnify shall survive expiration or early termination of this Agreement.
15. **LITIGATION:** Organization shall testify at City's request if litigation is brought against City in connection with Organization's services under this Agreement. Unless the action is brought by Organization, or is based upon Organization's wrongdoing, City shall compensate Organization for preparation for testimony, testimony, and travel at Organization's standard hourly rates at the time of actual testimony.

16. **COSTS AND ATTORNEY FEES:** Attorney fees in total amount not exceeding \$5000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party in any action or actions to enforce the provisions of this Agreement. The above \$5000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this provision that neither party shall have to pay the other more than \$5000 for attorney fees arising out of an action, or actions to enforce the provisions of this Agreement.
17. **INSURANCE:** Organization shall procure and maintain for the duration of the contract the insurance as specified below:
- A. Coverage shall be at least as broad as:
- 1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
  - 2) Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Organization has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
  - 3) Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the Organization maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

- 1) Additional Insured Status: **The City, its elected and appointed officials, employees, and agents are to be covered as insureds** on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Organization; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Organization including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Organization's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
- 2) Primary Coverage: For any claims related to this contract, the Organization's insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the City, its elected and appointed officials, employees, or agents shall be excess of the Organization's insurance and shall not contribute with it.
- 3) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

- 4) Waiver of Subrogation: Organization hereby grants to City a waiver of any right to subrogation which any insurer of said Organization may acquire against the City by virtue of the payment of any loss under such insurance. Organization agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- 5) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Organization to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- 6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.
- 7) Verification of Coverage: Organization shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Organization's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**18. NONDISCRIMINATION:**

- A. General: No person shall, on the grounds of race, color, national origin, religious affiliation or non-affiliation, marital status, medical condition, sex, age, disability status, sexual orientation or political affiliation, be excluded from participation in, be denied the benefits, or be subjected to discrimination or harassment under this Agreement.
- B. Employment: Organization shall ensure equal employment opportunity based on objective standards of recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Agreement. Organization's personnel policies shall be made available to City upon request.

**19. GOVERNING LAW AND VENUE.** This Agreement is governed by the laws of the State of California. In the event of litigation, venue will be in the County of San Mateo.

**20. PROJECT REPRESENTATION:** The City and Organization hereby designate the following agents to act as project representatives and receive all notices in the execution of this Agreement.

To CITY:

Nicky Vu  
Housing Specialist  
Community Development Department  
City of San Mateo  
330 West 20<sup>th</sup> Avenue  
San Mateo, CA 94403

To ORGNIZATION:

Rev. Dr. Marlyn Bussey

Pastor and CEO  
St. James Community Development  
Corporation  
825 MONTE DIABLO AVE  
SAN MATEO, CA 94401

[SIGNATURE PAGE FOLLOWS]

This agreement has been duly executed by the following parties:

CITY OF SAN MATEO		ORGANIZATION	
<div><div></div><div>Alex Khojikian</div><div>City Manager</div></div>	Date	<div><div></div><div>Rev. Dr. Marlyn Bussey</div><div>Pastor and CEO</div><div>St. James Community Development Corporation</div></div>	Date

APPROVED AS TO FORM

Mazarin Vakharia

Assistant City Attorney

Date

## EXHIBIT A – PROJECT SCOPE

1. **PROJECT SUMMARY:** St. James Community Development Corporation owns the single-family parcels at 831 Monte Diablo Avenue in the City of San Mateo, which they plan to redevelop to create the New Beginnings Supportive Housing project. Funds for this project may be used for pre-development and development of the properties to construct a new housing development for extremely low-income (30% AMI or less) transition-aged former foster youth in the City of San Mateo with 4 to 6 units.
2. **PRIMARY GOALS AND OUTCOMES:**

Demolish the existing single-family property at 831 Monte Diablo Avenue, San Mateo, CA and construct a new supportive housing village project consisting of four (4) to six (6) units to house extremely low-income (30%AMI or less) transition-aged (ages 18 – 24) former foster youth. The unit mix count is tentative, and an exact unit mix will be finalized prior to construction of the project, however all units must be restricted to extremely low-income households for 55 years.
3. **TIMELINE:** Pre-development is expected to commence in 2024 with the execution of the agreement and will continue throughout the program year. Construction will follow only after the necessary planning and building approvals are received by the applicant and the City receives an amended budget for development line item costs.
4. **INCOME VERIFICATION:** The applicant, St James Community Development Corporation will maintain records that the tenants of the New Beginnings Supportive Housing Development will meet the established HCD criteria of being transition-aged former foster youth that meet the definition of being extremely low-income, or 30 percent AMI (Area Median Income) at the time of entry based on accepted income documentation including paystubs, bank statements, tax returns, and federal/state assistance letters (social security, etc) and will re-certify each year at the beginning of their tenancy.

## EXHIBIT B - FY 2023-2024 AGREEMENT BUDGET

**Agency:** St James Community Development Corporation

**Program:** New Beginnings Supportive Housing

Budget Line Item	San Mateo	Other Funding	Program Total
Pre-Development			
Architecture and Engineering	\$50,000	\$0	\$50,000
Reports and Studies	\$125,000	\$0	\$125,000
Financing Costs	\$10,000	\$0	\$10,000
Operating Reserve	\$35,000	\$0	\$35,000
Builder's Risk Insurance	\$15,000	\$0	\$15,000
OCIP Insurance	\$15,000	\$0	\$15,000
Impact Fees and Taxes	\$30,000	\$0	\$30,000
Permit Fees	\$30,000	\$0	\$30,000
Special Inspections	\$5,000	\$0	\$5,000
Contingency	\$31,500		
SITE PREPARATION SUBTOTAL	<b>\$346,500</b>	\$0	<b>\$346,500</b>
Developer Fee	\$30,712	\$87,249	\$117,961
<b>TOTAL</b>	<b>\$377,212</b>	<b>TBD</b>	<b>\$464,461</b>