

parent, affiliate, or subsidiary organization, the standards of conduct must cover organizational conflicts of interest to ensure SUBRECIPIENT is able to be impartial in conducting a procurement action involving a related organization.

At a minimum, the standards of conduct shall include any person who is an employee, agent, consultant, officer, or elected official or appointed official of SUBRECIPIENT. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG -assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG -assisted activity, or with respect to the proceeds of the CDBG -assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Both SUBRECIPIENT and any subcontractors shall complete a Disclosure of Conflict of Interest Form included as Exhibit "D". Upon written request, GRANTEE may grant an exception to the conflict of interest provisions on a case-by-case basis.

10. OTHER PROGRAM REQUIREMENTS

SUBRECIPIENT agrees to administer the services in compliance with all applicable City/County, State, and Federal guidelines including, but not limited to the following federal program requirements as now in effect and as may be amended from time to time:

Section 109 of the Housing and Community Development Act of 1974 requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs.

Equal Opportunity requirements as described in Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107.

Equal Protection of the Laws for Faith-Based and Community Organizations as described in Executive Order 13279 and the implementing regulations at 41 CFR chapter 60.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part apply.

Exclusion of Debarred and Suspended Contractor requirements as described in 2 CFR Part 180.

Certain newly legalized aliens, as described in 24 CFR part 49, are not eligible to apply for CDBG benefits, including financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available with CDBG. Benefits do not include relocation services and payments to which persons displaced are entitled by law (24 CFR §570.613).

A building or facility designed, constructed, or altered with CDBG funds governed by this Agreement that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications.

The contract provisions for non-federal entity contract under federal awards as set forth in Exhibit "E".

11. CLOSEOUT AND REVERSION OF ASSETS

GRANTEE will close out this Agreement when it determines that all applicable administrative actions and all required work of the Agreement have been completed by SUBRECIPIENT .

Unless provided an extension through written notification by GRANTEE, SUBRECIPIENT shall complete the following actions no later than thirty calendar days after the end date of the term of this Agreement:

- Submit, all financial, performance, and other reports as required by the terms of this Agreement;
- Liquidate all obligations incurred under the Agreement; and
- Transfer to GRANTEE any accounts receivable attributable to the use of CDBG funds, including CDBG program income.

Notwithstanding the expiration or earlier termination of this Agreement, SUBRECIPIENT's obligations to GRANTEE shall not terminate until all closeout requirements are completed. The following obligations of SUBRECIPIENT shall survive the termination of this Agreement:

- SUBRECIPIENT'S indemnity obligations;
- the obligation to cause audits to be performed relating to SUBRECIPIENT'S activities and costs under this Agreement;
- the obligation to repay to GRANTEE any CDBG proceeds improperly disbursed to SUBRECIPIENT or disbursed for ineligible expenditures;

- any other obligations which cannot by their nature be performed until after the expiration of the Agreement such as the submittal of final payment request and performance reports.

Any real or personal property purchased in whole or in part with CDBG funds provided under this Agreement are subject to the following requirements that shall survive the termination of this Agreement:

- Insurance and reporting requirements regarding real and personal property acquired with federal funds in accordance with the uniform administrative requirements contained in the U.S. federal regulations published at 2 CFR Part 200; and
- For real property under SUBRECIPIENT's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000, said property shall be used to meet one of the national objectives in 24 CFR 570.208 for five years after close out of this Agreement. If the property is disposed of within five years of the close out of this Agreement, SUBRECIPIENT shall reimburse GRANTEE the a percentage of the current fair market value of the property equal to the percentage of CDBG funds expended to the overall acquisition and improvement cost of the property.

12. SUSPENSION AND TERMINATION

Termination for Convenience. This Agreement may be terminated by either party if SUBRECIPIENT and GRANTEE mutually agree in writing to its termination and upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated.

Furthermore, GRANTEE may suspend or terminate this Agreement if SUBRECIPIENT materially fails to comply with any terms of this Agreement.

If, through any cause, the SUBRECIPIENT fails to fulfill in timely and proper manner its obligations under this Agreement, ineffectively or improperly use funds provided under this Agreement, or if SUBRECIPIENT shall violate any of the covenants, agreements, or stipulations of this Agreement, GRANTEE shall thereupon have the right to terminate this Agreement by giving written notice to SUBRECIPIENT of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents and reports prepared by SUBRECIPIENT under this Agreement shall, at the option of GRANTEE, become its property and SUBRECIPIENT shall be entitled to receive just and equitable payment for any satisfactory work completed subject to the limitations of this Agreement.

13. MANDATORY DISCLOSURES

SUBRECIPIENT shall provide written notice to the GRANTEE within five days of all potential conflicts of interest and violations of criminal law involving fraud, bribery, or gratuity violations potentially affecting this Agreement. Failure to make required disclosures can result in termination of the Agreement and suspension or debarment from future federal awards.

14. FINDINGS CONFIDENTIAL

Any reports, information or data given to or prepared by SUBRECIPIENT concerning GRANTEE under this Agreement shall not be made available to any individual or organization by SUBRECIPIENT without first submitting them to GRANTEE.

15. GENERAL CONDITIONS

SUBRECIPIENT shall implement this Agreement in accordance with applicable Federal, State, County, and City laws, ordinances and codes. Should a Project receive additional funding after the commencement of this Agreement, SUBRECIPIENT shall notify GRANTEE in writing within thirty days of receiving notification from the funding source and submit a cost allocation plan for approval by GRANTEE within forty-five days of said official notification.

SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) SUBRECIPIENT does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) SUBRECIPIENT does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. SUBRECIPIENT further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

SUBRECIPIENT shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

SUBRECIPIENT shall comply with the bonding and insurance requirements set forth in 2 CFR Part 200. The SUBRECIPIENT shall additionally carry sufficient insurance and bond coverage as set forth in Exhibit "C".

SUBRECIPIENT shall subcontract all work or services through written contract or agreement subject to each provision of this Agreement and applicable City, County, State and Federal guidelines and regulations. Prior to execution of any subcontract hereunder, such subcontracts must be submitted by SUBRECIPIENT to GRANTEE for its review and approval, which will specifically include a determination of compliance. None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted by SUBRECIPIENT or reimbursed by GRANTEE without prior written approval.

16. INDEPENDENT CONTRACTOR

In furnishing the services provided for herein, SUBRECIPIENT is acting solely as an independent contractor. Neither SUBRECIPIENT, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of GRANTEE for any purpose. GRANTEE shall have no right to control or supervise or direct the manner or method by which SUBRECIPIENT shall perform its work and functions. However, GRANTEE shall

retain the right to administer this Agreement so as to verify that SUBRECIPIENT is performing its obligations in accordance with the terms and conditions thereof.

This Agreement does not evidence a partnership or joint venture between SUBRECIPIENT and GRANTEE. SUBRECIPIENT shall have no authority to bind GRANTEE absent GRANTEE's express written consent. Except to the extent otherwise provided in this Agreement, SUBRECIPIENT shall bear its own costs and expenses in pursuit thereof.

Because of its status as an independent contractor, SUBRECIPIENT and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to GRANTEE's employees. SUBRECIPIENT shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, SUBRECIPIENT shall be solely responsible, indemnify, defend and save GRANTEE harmless from all matters relating to employment and tax withholding for and payment of SUBRECIPIENT's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in GRANTEE employment benefits, entitlements, programs and/or funds offered employees of GRANTEE whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, SUBRECIPIENT may be providing services to others unrelated to GRANTEE or to this Agreement.

17. INDEMNIFICATION

To the furthest extent allowed by law including California Civil Code section 2782, SUBRECIPIENT shall indemnify, hold harmless and defend GRANTEE and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in Contract, tort or strict liability, including, but not limited to personal injury, death at any time and property damage) incurred by GRANTEE, SUBRECIPIENT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. SUBRECIPIENT's obligations under the preceding sentence shall apply regardless of whether GRANTEE or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or willful misconduct, of GRANTEE or any of its officers, officials, employees, agents or volunteers.

If SUBRECIPIENT should contract or subcontract all or any portion of the work to be performed under this Agreement, SUBRECIPIENT shall require each SUBRECIPIENT and/or subcontractor to indemnify, hold harmless and defend

GRANTEE and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

18. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

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

GRANTEE

City of Orange Cove
C/O Rudy Hernandez,
Interim City Manager
633 Sixth Street
Orange Cove, CA 93646

SUBRECIPIENT

Self-Help Enterprises
C/O Susan Long, Program Director
8445 W Elwin Ct
P.O. Box 6520
Visalia, CA 93290

19. AMENDMENTS

GRANTEE or SUBRECIPIENT may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the GRANTEE's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the GRANTEE or SUBRECIPIENT from its obligations under this Agreement.

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

20. ASSIGNMENT

SUBRECIPIENT shall not assign or transfer any interest in this Agreement without the prior written consent of the GRANTEE.

21. SEVERABILITY

If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining

provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

22. ATTORNEY FEES

If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party will be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

23. BINDING ON ALL SUCCESSORS AND ASSIGNS

Unless otherwise expressly provided in this Agreement, all the terms and provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto, and their respective nominees, heirs, successors, assigns, and legal representatives.

24. COUNTERPARTS

This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. The execution of this Agreement by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.

25. CUMULATIVE REMEDIES

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. All powers and remedies given by this Agreement shall be cumulative and in addition to those otherwise provided by law.

26. EFFECTIVE DATE

This Agreement shall be effective upon the Parties' complete execution following City Council approval.

27. ENTIRE AGREEMENT

This Agreement represents the entire and integrated agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified or amended only by written instrument duly authorized and executed by both GRANTEE and SUBRECIPIENT.

28. EXHIBITS

Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

29. EXPENSES INCURRED UPON EVENT OF DEFAULT

SUBRECIPIENT shall reimburse GRANTEE for all reasonable expenses and costs of collection and enforcement, including reasonable attorney's fees, incurred by GRANTEE as a result of one or more Events of Default by SUBRECIPIENT under this Agreement.

30. GOVERNING LAW AND VENUE

Except to the extent preempted by applicable federal law, the laws of the State of California shall govern all aspects of this Agreement, including execution, interpretation, performance, and enforcement. Venue for filing any action to enforce or interpret this Agreement will be Kern County, California.

31. HEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

32. INTERPRETATION

This Agreement in its final form is the result of the combined efforts of the parties. Any ambiguity will not be construed in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

33. NO THIRD PARTY BENEFICIARY

The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties other than expressly identified herein. No subcontractor, mechanic, materialman, laborer, vendor, or other person hired or retained by SUBRECIPIENT shall have any rights hereunder and shall look to SUBRECIPIENT as their sole source of recovery if not paid. No third party may enter any claim or bring any such action against GRANTEE under any circumstances. Except as provided by law, or as otherwise agreed to in writing between GRANTEE and such person, each such person shall be deemed to have waived in writing all right to seek redress from GRANTEE under any circumstances whatsoever. SUBRECIPIENT shall include this paragraph in all contracts/subcontracts.

34. NO WAIVER

Neither failure nor delay on the part of the GRANTEE in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the SUBRECIPIENT therefrom shall be effective unless the same shall be in writing, signed on behalf of the GRANTEE by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the SUBRECIPIENT in any case shall entitle the SUBRECIPIENT to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the GRANTEE's right to take other or further action in any circumstances without notice or demand.

35. NON-RELIANCE

SUBRECIPIENT hereby acknowledges having obtained such independent legal or other advice as it has deemed necessary and declares that in no manner has it relied on GRANTEE, its agents, employees or attorneys in entering into this Agreement.

36. PRECEDENCE OF DOCUMENTS

In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement will control.

37. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement at Orange Cove, California, the day and year first above written.

Addresses:

GRANTEE:

City of Orange Cove
C/O Rudy Hernandez,
Interim City Manager
633 Sixth Street
Orange Cove, CA 93646
Phone: (559) 626-4488
FAX (559) 626-4653

SUBRECIPIENT:

Self-Help Enterprises
Attention: Susan Long
Program Director
8445 W Elowin Ct
P.O. Box 6520
Visalia, CA 93290
Phone: (559) 802-1630
FAX: (559) 651-3634

Attachments:

EXHIBIT A: SCOPE OF WORK
EXHIBIT B: PROPOSED BUDGET
EXHIBIT C: INSURANCE REQUIREMENTS
EXHIBIT D: CONFLICT OF INTEREST
EXHIBIT E: CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS

IN WITNESS WHEREOF, the parties have executed this Agreement at
Fresno, California, the day and year first above written.

GRANTEE
CITY OF ORANGE COVE

SUBRECIPIENT
SELF-HELP ENTERPRISES

Rudy Hernandez, Interim City
Manager

Thomas Collishaw, CEO/President

Addresses :

GRANTEE:
City of Orange Cove
C/O Rudy Hernandez,
Interim City Manager
633 Sixth Street
Orange Cove, CA 93646
Phone: (559) 626-4488
FAX (559) 626-4653

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Attention: Susan Long
Program Director
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FAX: (559) 651-3436

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EXHIBIT A: SCOPE OF WORK
EXHIBIT B: PROPOSED BUDGET
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EXHIBIT E: CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS

EXHIBIT A
SCOPE OF WORK

Matrix Code: 05Q LMH Subsistence Payments
National Objective: 24 CFR 570.207(b)(4)
CDBG Eligibility: Emergency Grants

Project Description:

Self-Help Enterprises will offer a Subsistence Payment Program: Subsistence Payments will provided grant payments for income eligible (at or below 80% of county AMI) individuals or families, living in the City limits of Orange Cove, for items such as housing (rent or mortgage), or utilities, for a period acceptable under the Notice of Program Rules, Waivers, and Alternative Requirements, Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs Item III.B.5.(f)(i).

Records to Be Maintained

The subrecipient shall maintain records including, but not limited to:

Basic Activity Information

The SUBRECIPIENT shall maintain a project file that contains a full description of each activity assisted with CDBG and funds, including its location, the amount of CDBG funds budgeted, obligated and expended for the activity, and the eligibility and national objective under which it is eligible.

Data on the extent to which each racial and ethnic group and have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

Data will be collected to document duplication of benefits at application and will be collected throughout the expenditure period and provided to the County.

Financial Management Records

The SUBRECIPIENT shall maintain financial records in accordance with the applicable requirements listed in Sec. 570.502, including source documentation.

The project file must document how the CDBG funds are expended. Such documentation must include, to the extent applicable:

- Invoices with supporting documentation
- Evidence that adequate procurement practices were in place and followed
- Schedules containing comparisons of budgeted amounts and actual expenditures,
- Construction progress schedules signed by appropriate parties (e.g.,

- general contractor and/or a project architect), if applicable
- Other documentation appropriate to the nature of the activity

National Objective Compliance - Low Mod Housing Activities (LMH) - Owner

The SUBRECIPIENT shall maintain records for each household, including:

- The total cost of the activity, including both CDBG and non-CDBG funds.
- a determination of beneficiary's household size and estimated annual income (as defined under the 24 CFR 5.609) completed and signed by the SUBRECIPIENT supported by documentation such as pay stubs and other accepted forms of income verification.

SUBRECIPIENT shall ensure the CDBG grant and program income funds provided by GRANTEE are clearly identified as a subaward and include the following information:

- SUBRECIPIENT NAME: Self-Help Enterprises
- Subrecipient ID (DUNS): 056179906
- State Award Identification Number:
- State Award Date:
- Period of Performance:
- Funds Obligated by this Agreement: CDBG CV-1 Grant and Program Income
- Total Funds Obligated to SUBRECIPIENT: \$480,536
- Total Amount of the Award: \$382,536
- Award project description: See Exhibit A - Scope of Work
- Name of awarding agency: CA Dept. of Housing and Community Development
- Name of pass-through entity: City of Orange Cove, California
- Award Official Contact Information: See Section 18 - Notices
- CFDA Number:
- CFDA Name: Community Development Block Grant
- Identification of R&D: No
- Indirect cost rate for the Federal award: 21.97%

EXHIBIT B
PROPOSED BUDGET

#	Line Item	Approved Budget
1	Salaries	\$17,500
2	Fringe Benefits	\$5,775
3	Professional Services	\$350
4	Supplies & Equipment	\$450
5	Rent / Lease / Utilities	\$1,128
6	Utilities / Telephone	\$1,017
7	Mileage / Transportation	\$500
8	Other: Indirect Cost Rate (approved 21.97%)	\$5,114
9	Other: Education & Outreach	\$750
10	Other: Subsistence Payments	\$200,001
	TOTAL	\$250,649

EXHIBIT A SCOPE OF WORK

Matrix Code: 18A ED Assistance
National Objective: 24 CFR 570.207(b)(4)
CDBG Eligibility: Emergency Grants

Project Description:

Self-Help Enterprises will offer a Micro-Enterprise Assistance Program: Forgivable Loans will be provided to income eligible (at or below 80% of county AMI) business owners and/or create/retain job for those with incomes at or below 80% of the county AMI, in the City limits of Dinuba, for items such as operating expenses and working capital, for a period acceptable under the Notice of Program Rules, Waivers, and Alternative Requirements, Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs Item III.B.5.(f)(i).

Records to Be Maintained

The subrecipient shall maintain records including, but not limited to:

Basic Activity Information

The SUBRECIPIENT shall maintain a project file that contains a full description of each activity assisted with CDBG and funds, including its location, the amount of CDBG funds budgeted, obligated and expended for the activity, and the eligibility and national objective under which it is eligible.

Data on the extent to which each racial and ethnic group has applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

Data will be collected to document duplication of benefits at application and will be collected throughout the expenditure period and provided to the City.

Financial Management Records

The SUBRECIPIENT shall maintain financial records in accordance with the applicable requirements listed in Sec. 570.502, including source documentation.

The project file must document how the CDBG funds are expended. Such documentation must include, to the extent applicable:

- Invoices with supporting documentation
- Evidence that adequate procurement practices were in place and followed
- Schedules containing comparisons of budgeted amounts and actual expenditures,

- Construction progress schedules signed by appropriate parties (e.g., general contractor and/or a project architect), if applicable
- Other documentation appropriate to the nature of the activity

National Objective Compliance - Low Mod Job Activities (LMJ)

The SUBRECIPIENT shall maintain records for each job created/retained, including:

- The total cost of the activity, including both CDBG and non-CDBG funds.
- a determination of beneficiary's household size and estimated annual income (as defined under the 24 CFR 5.609) completed and signed by the SUBRECIPIENT supported by income self-certifications.

SUBRECIPIENT shall ensure the CDBG grant and program income funds provided by GRANTEE are clearly identified as a subaward and include the following information:

- SUBRECIPIENT NAME: Self-Help Enterprises
- Subrecipient ID (DUNS): 056179906
- State Award Identification Number:
- State Award Date:
- Period of Performance:
- Funds Obligated by this Agreement: CDBG CV-1 Grant and Program Income
- Total Funds Obligated to SUBRECIPIENT: \$480,536
- Total Amount of the Award: \$382,536
- Award project description: See Exhibit A - Scope of Work
- Name of awarding agency: CA Dept. of Housing and Community Development
- Name of pass-through entity: City of Orange Cove, California
- Award Official Contact Information: See Section 18 - Notices
- CFDA Number:
- CFDA Name: Community Development Block Grant
- Identification of R&D: No
- Indirect cost rate for the Federal award: 21.97%

EXHIBIT B
PROPOSED BUDGET

#	Line Item	Approved Budget
1	Salaries	\$17,500
2	Fringe Benefits	\$5,775
3	Professional Services	\$350
4	Supplies & Equipment	\$450
5	Rent / Lease / Utilities	\$1,128
6	Utilities / Telephone	\$1,017
7	Mileage / Transportation	\$500
8	Other: Indirect Cost Rate (approved 21.97%)	\$5,114
9	Other: Education & Outreach	\$750
10	Other: ED Assistance	\$218,065
	TOTAL	\$250,649

EXHIBIT C

INSURANCE REQUIREMENTS Agreement between City of Orange Cove ("CITY") and Self-Help Enterprises ("SUBRECIPIENT")

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The ~~Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury, " "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."~~
2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto). If personal automobile coverage is used, the CITY, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability (Errors and Omissions) that includes Cyber Liability (Privacy and Data breach) insurance appropriate to SUBRECIPIENT profession.

MINIMUM LIMITS OF INSURANCE

SUBRECIPIENT, or any party the SUBRECIPIENT subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**

- (i) \$1,000,000 per occurrence for bodily injury and property damage;
- (ii) \$1,000,000 per occurrence for personal and advertising injury;
- (iii) \$2,000,000 aggregate for products and completed operations; and,
- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **COMMERCIAL AUTOMOBILE LIABILITY:**

\$1,000,000 per accident for bodily injury and property damage.

3. **WORKERS' COMPENSATION INSURANCE** as required by the State of California with statutory limits.

4. **EMPLOYER'S LIABILITY:**

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

5. **PROFESSIONAL LIABILITY** (Errors and Omissions) & (Privacy & Data breach coverage):

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event SUBRECIPIENT purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents, and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

SUBRECIPIENT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and SUBRECIPIENT shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the CITY's Risk Manager or designee. At the option of the CITY's Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents, and volunteers; or
- (ii) SUBRECIPIENT shall provide a financial guarantee, satisfactory to CITY's Risk Manager or designee, guaranteeing payment of losses and related investigations,

claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds. SUBRECIPIENT shall establish additional insured status for the City and for all ongoing and completed operations by use of ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents, and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims relating to this Agreement, SUBRECIPIENT's insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of SUBRECIPIENT's insurance and shall not contribute with it. SUBRECIPIENT shall establish primary and non-contributory status by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 010413.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: SUBRECIPIENT and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents, and volunteers.

If the Professional Liability (Errors and Omissions) with Cyber Liability insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by SUBRECIPIENT.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs

first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by SUBRECIPIENT, SUBRECIPIENT must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. SUBRECIPIENT is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, SUBRECIPIENT shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, SUBRECIPIENT shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

Should any of the required policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by any defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

The fact that insurance is obtained by SUBRECIPIENT shall not be deemed to release or diminish the liability of SUBRECIPIENT, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as a limitation upon the amount of indemnification to be provided by SUBRECIPIENT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of SUBRECIPIENT, its principals, officers, agents, employees, persons under the supervision of SUBRECIPIENT, vendors, suppliers, invitees, consultant, sub-consultant, subcontractors, or anyone employed directly or indirectly by any of them.

SUBCONTRACTORS - If SUBRECIPIENT subcontracts any or all of the services to be performed under this Agreement, SUBRECIPIENT shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance

documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, SUBRECIPIENT will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

VERIFICATION OF COVERAGE

SUBRECIPIENT shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, SUBRECIPIENT shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

EXHIBIT D
CONFLICT OF INTEREST

		YES*	NO
1	Are you currently in litigation with the City of Orange Cove or any of its agents?	<input type="checkbox"/>	X
2	Do you represent any firm, organization or person who is in litigation with the City of Orange Cove?	<input type="checkbox"/>	X
3	Do you currently represent or perform work for any clients who do business with the City of Orange Cove?	<input type="checkbox"/>	X
4	Are you or any of your principals, managers or professionals, owners or investors in a business which does business with the City of Orange Cove, or in a business which is in litigation with the City of Orange Cove?	<input type="checkbox"/>	X
5	Are you or any of your principals, managers or professionals, related by blood or marriage to any City of Orange Cove employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	X
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	X
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

Date _____

Print Signature Name

Self-Help Enterprises
8445 W Elowin Ct
Visalia, CA 93290

Additional page(s) attached.

EXHIBIT E
CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS
UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from

inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, " and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended- Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)- A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that

implement Executive Orders 12549 (3 CFR Part 1986 Comp., p.189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See §200.322 Procurement of recovered materials.

**CITY OF ORANGE
PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN that the City Council of the City of Orange Cove will conduct a public hearing on JANUARY 13, 2021 at 6:30pm, at the Orange Cove City Hall, 633 Sixth Street, Orange Cove, CA 93646 (via teleconference), in order to discuss an application for funding under the State administered Community Development Block Grant (CDBG) Program.

PUBLIC HEARING

DATE: JANUARY 13, 2021

TIME: 6:30 p.m.

PLACE: Orange Cove City Council Chambers (via teleconference)
633 Sixth Street, Orange Cove, CA 93646

TELECONFERENCE

(CALL 888-204-5987 ACCESS CODE 8166599#)

COVID-19 NOTE: These meetings will be held by telephone consistent with the Governor's Executive Order N-25-20 and N-29-20 issued on March 18, 2020. The purpose of this is to provide a safe environment for staff and the public to conduct City business, while allowing for public participation. These meetings will be held by teleconference only unless the emergency has been lifted before the meeting date. Members of the public are encouraged to participate by phone or email at jvb@cityoforange Cove.com or by submitting written comments at City Hall prior to the hearing. At least 72 hours before the meeting the Agenda will be posted at. Please check the Agenda for additional ways to participate in this matter.

The City Council will consider potential CDBG-CV programs and provide direction for staff to prepare an application in response to the release of the Notice of Funding Availability (NOFA) for CDBG-CV funds for COVID-19 related activities that benefit low-and moderate-income residents.

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act in response to the impacts of the COVID-19 pandemic. The State Department of Housing and Community Development (HCD) is will be publishing a Notice of Funding Availability (NOFA) for Community Development Block Grant Coronavirus Aid, Relief, and Economic Security (CDBG-CV2 and CV3) funds. Eligible cities and counties may submit applications for CDBG-CV funds under the upcoming NOFA. It is estimated that The City of Livingston will be eligible to receive funds based on a formula allocation provided by HCD. The State will receive \$113,263,490 in CDBG-CV2 funds and \$ 18,031,478 in CDBG-CV3 funds.

Eligible activities paid for with State CDBG funds must meet one of the three National Objectives listed in CDBG Federal Statutes as follows: benefit to low-income households or persons (also called Low/Mod Benefit), slum and blight (addressing physical problems in specific neighborhoods) or meeting urgent community development need (a need resulting from a state or federal declared disaster or posing unforeseen risks to health and safety). In addition, eligible activities must be used directly to prevent, prepare for or respond to COVID-19 and meet CDBG requirements as provided and directed by HCD in the published NOFA and outlined in their plan as follows:

- Public services to respond to COVID-19 impacts
- Public facility improvements to increase capacity for healthcare facilities and improve public facility safety
- Housing facilities for persons experiencing homelessness, including acquisition and rehabilitation
- Economic development to support needs of local businesses to retain and bring back jobs impacted by COVID-19

The City of Orange Cove anticipates submitting an application under the NOFA published December 18, 2020. The City of Orange Cove has or anticipates receiving approximately \$100,000 in CDBG Program Income that must be expended prior to expending awarded grant funds.

The purpose of this public hearing is to give the public an opportunity to make their comments known regarding what types of eligible activities the City of Orange Cove should apply for under the State administered CDBG program.

If you require special accommodations to participate in the public hearing, please contact June Bracamonte, City of Orange Cove, 633 Sixth Street, Orange Cove, CA 93646, or you may telephone (559) 626-4488. In addition, the proposed plan is available for review at the City of Orange Cove's website at www.cityoforange Cove.com.

If you are unable to attend the public hearing, you may direct written comments to the City of Orange Cove, 633 Sixth Street, Orange Cove, CA 93646, or you may telephone June Bracamonte (559) 626-4488. In addition, information is available for review at the above address between the hours of 8:00 a.m. and 5:00 p.m. Monday – Friday. The State Action Plan Substantial Amendment for the CARES Act funding may be accessed at: <https://www.hcd.ca.gov/policy-research/plans-reports/index.shtml#aap>. State CDBG NOFA's can be accessed at: <https://www.hcd.ca.gov/grants-funding/activefunding/cdbg.shtml>.

The City of Orange Cove promotes fair housing and makes all its programs available to low- and moderate-income families regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.

Published: January 7, 2021, Reedley Exponent

**CIUDAD DE ORANGE COVE
NOTICIA PÚBLICA**

POR LA PRESENTE SE DA AVISO de que el Concejo Municipal de la Ciudad de Orange Cove llevará a cabo una audiencia pública el 13 de ENERO de 2021 a las 6:30 pm, en el Ayuntamiento de Orange Cove, 633 Sixth Street, Orange Cove, CA 93646 (por teleconferencia), con el fin de discutir una solicitud de financiamiento para el próximo año fiscal (1 de julio al 30 de junio) Programa de Subvenciones en Bloque para el Desarrollo Comunitario (CDBG) administrado por el estado.

AUDIENCIA PÚBLICA

FECHA: 13 DE ENERO DE 2021

HORA: 6:30 p.m.

LUGAR: Cámaras del Ayuntamiento de Orange Cove (vía teleconferencia)
633 Sixth Street, Orange Cove, CA 93646

TELECONFERENCIA

LLAME AL 888-204-5987 CÓDIGO DE ACCESO 8166599 #

NOTA COVID-19: Estas reuniones se llevarán a cabo por teléfono de conformidad con la Orden Ejecutiva del Gobernador N-25-20 y N-29-20 emitida el 18 de marzo de 2020. El propósito de esto es proporcionar un ambiente seguro para el personal y el público para realizar negocios de la Ciudad, permitiendo al mismo tiempo la participación pública. Estas reuniones se llevarán a cabo por teleconferencia únicamente, a menos que la emergencia se haya levantado antes de la fecha de la reunión. Se anima a los miembros del público a participar por teléfono o correo electrónico a jvb@cityoforange Cove.com o enviando comentarios por escrito al Ayuntamiento antes de la audiencia. Al menos 72 horas antes de la reunión, se publicará la agenda en. Consulte la Agenda para conocer formas adicionales de participar en este asunto.

El Ayuntamiento considerará posibles programas CDBG-CV y proporcionará instrucciones al personal para preparar una solicitud en respuesta a la publicación del Aviso de disponibilidad de fondos (NOFA) para fondos CDBG-CV para actividades relacionadas con COVID-19 que benefician a bajas y moderadas - residentes de ingresos.

El 27 de marzo de 2020, el Congreso aprobó la Ley de Ayuda, Alivio y Seguridad Económica por el Coronavirus (CARES) en respuesta a los impactos de la pandemia COVID-19. El Departamento de Vivienda y Desarrollo Comunitario del Estado (HCD) publicará un Aviso de Disponibilidad de Financiamiento (NOFA) para los fondos de Ayuda, Alivio y Seguridad Económica del Coronavirus de Subvenciones en Bloque para el Desarrollo Comunitario (CDBG-CV2 y CV3). Las ciudades y condados elegibles pueden enviar solicitudes para fondos CDBG-CV bajo el próximo NOFA. Se estima que la Ciudad de Livingston será elegible para recibir fondos según una fórmula de asignación proporcionada por HCD. El Estado recibirá \$ 113,263,490 en fondos CDBG-CV2 y \$ 18,031,478 en fondos CDBG-CV3.

Las actividades elegibles pagadas con fondos estatales de CDBG deben cumplir con uno de los tres objetivos nacionales enumerados en los estatutos federales de CDBG de la siguiente manera: beneficio para hogares o personas de bajos ingresos (también llamado beneficio bajo / moderado), barrios marginales y deterioro (abordar problemas físicos en vecindarios) o satisfacer una necesidad urgente de desarrollo comunitario (una necesidad resultante de un desastre declarado estatal o federal o que presente riesgos imprevistos para la salud y la seguridad). Además, las actividades elegibles deben usarse directamente para prevenir, prepararse o responder a COVID-19 y cumplir con los requisitos de CDBG según lo dispuesto y dirigido por HCD en el NOFA publicado y descrito en su plan de la siguiente manera:

- Servicios públicos para responder a los impactos del COVID-19
- Mejoras en las instalaciones públicas para aumentar la capacidad de las instalaciones sanitarias y mejorar la seguridad de las instalaciones públicas.
- Instalaciones de vivienda para personas sin hogar, incluida la adquisición y rehabilitación

- Desarrollo económico para apoyar las necesidades de las empresas locales de retener y recuperar los trabajos afectados por COVID-19

La Ciudad de Orange Cove anticipa presentar una solicitud bajo la NOFA publicada el 18 de diciembre de 2020. La Ciudad de Orange Cove tiene o prevé recibir aproximadamente \$ 100,000 en Ingresos del Programa CDBG que deben gastarse antes de gastar los fondos de la subvención otorgados.

El propósito de esta audiencia pública es darle al público la oportunidad de dar a conocer sus comentarios con respecto a qué tipos de actividades elegibles debe solicitar la Ciudad de Orange Cove bajo el programa CDBG CV administrado por el estado.

Si necesita adaptaciones especiales para participar en la audiencia pública, comuníquese con June Bracamonte, Ciudad de Orange Cove, 633 Sixth Street, Orange Cove, CA 93646, o puede llamar al (559) 626-4488. Además, el plan propuesto está disponible para su revisión en el sitio web de la ciudad de Orange Cove en www.cityoforange Cove.com.

Si no puede asistir a la audiencia pública, puede enviar comentarios por escrito a la ciudad de Orange Cove, 633 Sixth Street, Orange Cove, CA 93646, o puede llamar a June Bracamonte (559) 626-4488. Además, la información está disponible para su revisión en la dirección anterior entre las 8:00 a.m. y las 5:00 p.m. Lunes Viernes.

La ciudad de Orange Cove promueve la vivienda justa y pone todos sus programas a disposición de familias de ingresos bajos y moderados sin importar la edad, raza, color, religión, sexo, nacionalidad, preferencia sexual, estado civil o discapacidad.

Publicado: 7 de enero de 2020, Reedley Exponent

RESOLUTION NO. 2021-03

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING AND THE
EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS
THERE TO FROM THE 2020 COMMUNITY DEVELOPMENT BLOCK
GRANT PROGRAM- CORONAVIRUS RESPONSE FUNDS NOFA's**

BE IT RESOLVED by the **City Council** of the **City** of Orange Cove as follows:

SECTION 1:

The City Council has reviewed and hereby approves the submission to the State of California of one or more application(s) in the aggregate amount, not to exceed, of \$382,536 for the following CDBG Coronavirus response activities, pursuant to the CDBG Coronavirus Response NOFA's:

Public Service- Subsistence Payments	\$ <u>229,886</u>
Economic Development- Microenterprise/Business Assistance	\$ <u>152,650</u>

SECTION 2:

The City hereby approves the use of Program Income in an amount not to exceed \$98,000 for the CDBG Coronavirus response activities described in Section 1.

SECTION 3:

The City acknowledges compliance with all state and federal public participation requirements in the development of its application(s).

SECTION 4:

The City hereby authorizes and directs the City Manager, or designee*, to execute and deliver all applications and act on the City's behalf in all matters pertaining to all such applications.

SECTION 5:

If an application is approved, the City Manager, or designee*, is authorized to enter into, execute and deliver the grant agreement (*i.e.*, Standard Agreement) and any and all subsequent amendments thereto with the State of California for the purposes of the grant.

SECTION 6:

If an application is approved, the City of Manager, or designee, is authorized to sign

and submit Funds Requests and all required reporting forms and other documentation as may be required by the State of California fromtime to time in connection with the grant.

PASSED AND ADOPTED at a regular meeting of the **City Council** of the **City** of _____ held on _____ by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

Name and Title
City Council

STATE OF CALIFORNIA

City/County of _____

I, _____, City Clerk of the City of Fresno, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted by said City Council on this ___ day of _____, 20__.

Name, City Clerk of the City of Orange Cove, State of California

By: _____
Name and Title

Note: The attesting officer cannot be the person identified in the Resolution as the authorized signer.

**CITY OF ORANGE COVE
SUBRECIPIENT AGREEMENT**

THIS AGREEMENT, entered this 13 day of January, 2021 by and between the City of Orange Cove, California, a municipal corporation, (GRANTEE) and Self-Help Enterprises (SUBRECIPIENT).

WHEREAS, the California Department of Housing and Community Development, hereinafter "HCD", is authorized to allocate Community Development Block Grant Program, hereinafter "CDBG" funds made available from the U.S. Department of Housing and Urban Development, hereinafter referred to as "HUD", as, as authorized under Title I of the Housing and Community Development Act of 1974, as amended, and implemented under Title 24 of the Code of Federal Regulations, hereinafter collectively referred to as the "Act", incorporated herein by its reference; and

WHEREAS, GRANTEE is a recipient of CDBG funding for use in funding eligible activities furthering established national objectives to benefit its low and moderate income residents as defined in the Act; and

WHEREAS, GRANTEE in accordance with its 2019-2024 Housing Element, desires to provide CDBG funds to SUBRECIPIENT, for activities and services, as more fully described in Exhibit A, Scope of Services, upon the terms and conditions in this Agreement; and

WHEREAS, pursuant to City Resolution No. 2020-XXX, the Interim City Manager is authorized to execute CDBG Agreements, on behalf of GRANTEE, that are within available allocated CDBG funding and in a standard form approved by the City Attorney.

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

1. TERM

The term of this Agreement shall commence on January 14, 2021, unless terminated earlier pursuant to the terms of this Agreement, shall continue until five years. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which SUBRECIPIENT remains in control of CDBG funds or other CDBG assets, including Program Income.

2. SCOPE OF WORK

SUBRECIPIENT will be responsible for administering services in a manner satisfactory to GRANTEE and consistent with any standards required as a condition of providing these funds. GRANTEE will also perform the services set forth in Exhibit "A" entitled "Scope of Work" attached hereto and incorporated by reference herein and made a part hereof.

SUBRECIPIENT shall administer the Program for the whole of the term of the Agreement. SUBRECIPIENT shall administer the Program in compliance with the CDBG requirements and in a manner that meets the CDBG national objective(s) of 24 CFR 570.208 statewide goals.

GRANTEE will monitor the performance of SUBRECIPIENT against goals and performance standards as stated above. Substandard performance as determined by GRANTEE will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by SUBRECIPIENT within a reasonable amount of time after being notified by GRANTEE, contract suspension or termination procedures will be initiated.

3. RECORDS AND REPORTS

On a quarterly basis, SUBRECIPIENT shall submit to GRANTEE, in a form acceptable to GRANTEE, a performance report summarizing the number of unduplicated persons served, including race, ethnicity, and income data. The performance report shall be submitted within thirty days of the close of each quarter.

SUBRECIPIENT shall ensure the CDBG grant funds provided by GRANTEE are clearly identified as subawards and include the following information:

- SUBRECIPIENT NAME:
- Subrecipient ID(DUNS):
- State Award Identification Number: (CDBG Grant#)
- State Award Date:
- Period of Performance:
- Federal/State Funds Obligated by this Agreement:
- Total Federal/State Funds Obligated to SUBRECIPIENT:
- Total Amount of the Federal/State Award:
- Federal/State Award project description:
- Name of State awarding agency: Dept. of Housing and Community Development
- Name of pass-through entity: City Orange Cove, California
- Award Official Contact Information: Name and Address
- CFDA Number: 14.218
- CFDA Name: Community Development Block Grant
- Identification of R&D: No
- Indirect cost rate for the Federal award:

SUBRECIPIENT shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities funded under this Agreement. Such records shall include but not be limited to:

- a) A full description of each activity undertaken;
- b) Records demonstrating each activity undertaken meets one of the National Objectives of the CDBG program;

- c) Records required to determine the eligibility of activities;
- d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f) Financial records as required by 24 CFR Part 200 as amended by 24 CFR 570.502, and
- g) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

SUBRECIPIENT shall retain all project files, financial records, and any other documents related to the Program for a period of three years from the date of the close out of this Agreement, except in the following cases:

- If any litigation, claim, or audit is started before the expiration of the three year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the SUBRECIPIENT is notified in writing by the GRANTEE to extend the retention period.
- Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition.

GRANTEE shall monitor and evaluate SUBRECIPIENT's performance under this Agreement to determine compliance with this Agreement and CDBG requirements. SUBRECIPIENT shall cooperate with GRANTEE and any federal or state auditors authorized by GRANTEE and shall make available all information, documents, and records reasonably requested and shall provide GRANTEE the reasonable right of access to both records and personnel during normal business hours for the purpose of assuring compliance with this Agreement and evaluating performance hereunder. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

4. METHOD OF PAYMENT

Grant funds shall be disbursed to reimburse SUBRECIPIENT in accordance with the Proposed Budget attached hereto as Exhibit "B" and incorporated herein. SUBRECIPIENT's sole source of compensation hereunder will be in the form of a grant of CDBG funds as described herein. It is expressly agreed and understood that the total amount to be paid by GRANTEE under this Agreement shall not exceed FIVE HUNDRED THOUSAND Dollars and 00/100 (\$500,000).

SUBRECIPIENT shall submit to GRANTEE a request for payment, in a form acceptable to GRANTEE, on a monthly basis for the term of the Agreement. Said request shall be accompanied with supporting documentation, including but not limited to paid receipts, invoices and timesheets, to allow GRANTEE to determine compliance with applicable federal regulations, including cost allowability.



Date: January 13, 2021
To: Mayor and City Council
From: Rudy Hernandez, Interim City Manager
Subject: Approval of Sales Agreement for the Proposed Sale of 5 Lots on Hope Ave To Yanez Construction, Incorporated
Attachments: 1.Real Property Purchase and Sales Agreement and Escrow Instructions
2.Resolution Approving Purchase and Sales Agreement
3.Letter from Yanez Construction Requesting for 25% Reduction on Impact Fees.

BACKGROUND:

Efrain Yanez, owner of Yanez Construction Incorporated of Reedley, California has offered to purchase the 5 vacant lots on Hope, Ave. here in the City of Orange Cove for \$175,000. The 5 lots of the APN #'s are 378-290-49T – 378-290-53T. On November 10, 2020, the City Council discussed this sales offer and accepted the purchase price subject to the conditions listed below:

- Staff verify that Yanez Construction Inc. has the money (\$175,000) to purchase the property.
- Staff verify that Yanez Construction Inc. has the money to building the 5 homes.
- Yanez Construction Inc must start building homes by date determined by the City Council.
- Cannot sell any of the 5 lots to another developer/contractor.
- Any other conditions directed by City Council.

On November 11, 2020, staff met with Yanez Construction staff to discuss the sales and purchase conditions and they agreed with the conditions said forth by the City Council. Listed below are the sale and purchase price terms:

Total price is \$175,000

Down Payment is \$50,000

The Note is for \$125,000 at 3.5% per annum payable or before six months from date of signing Exhibit

The Deed of Trust will secure the promise to pay and the development agreement.

The Development Agreement has the contractor promising to build the five lots within three years.

The Guaranty makes the contractor individually liable along with the corporation.

RECOMMENDATION:


Staff recommends that the City Council approve the attached resolution approving the purchase and sales agreement with Yanez construction.

FISCAL IMPACT:

The \$175,000 will be deposited in the City's General Fund. In addition, there will be building and planning fees that will also go into the City's General Fund.

Mr. Yanez is once again requesting that the City Council wave 25% of the Development Impact fees on the 5 lots (single family homes). The projected impact fee revenue on the 5 lots would be (\$14,595 x 5) would be \$ 72,975. 25% would translate to \$18,243 in reduced development impact fees which nets out to (\$72,975 - \$18,243) \$54,732 in actual development impact fees.

Prepared by Rudy Hernandez

Approved by: 

REVIEW: City Manager: ☒

Finance: _____

City Attorney: _____

TYPE OF ITEM:	COUNCIL ACTION:	APPROVED	DENIED	NO ACTION
<input type="checkbox"/> Consent	<input type="checkbox"/> Public Hearing			
<input type="checkbox"/> Info Item	<input type="checkbox"/> Matter Initiated by a Council Member			
<input checked="" type="checkbox"/> Action Item	<input type="checkbox"/> Other			
<input type="checkbox"/> Department Report	<input type="checkbox"/> Continued to: _____			
<input type="checkbox"/> Redevelopment Agency				

RESOLUTION NO. 2021-__

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE
APPROVING AN AGREEMENT BY AND BETWEEN
THE CITY OF ORANGE COVE AND YANEZ CONSTRUCTION, INC. FOR
PURCHASE OF FIVE RESIDENTIAL LOTS AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS**

WHEREAS the City is the owner of five residential lots within the City of Orange Cove; and,

WHEREAS the City of Orange Cove and the Council seek to encourage the development of single-family homes for sale to the residents of Orange Cove; and

WHEREAS, the City Council of the City of Orange Cove has found that the proposed purchaser of the five residential lots, Yanez Construction Inc., to be a local builder with success in building residential developments in neighboring cities; and,

WHEREAS, the City Council has determined that the sale to the proposed purchaser will result in the development and sale of five new single family residential homes in Orange Cove; and

WHEREAS, the City and Yanez Construction Inc have set forth the terms and conditions of the agreement in the attached Exhibit "A" which is incorporated herein by this reference as if set forth in full.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE COVE, FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

1. The foregoing recitals, and each of them, are true and correct, and they are each hereby adopted as findings of the City.

2. The Agreement, the attached Exhibit "A", as proposed between the City and Yanez Construction, Inc, for the purchase, construction, development, and sale of five new single family residential homes are in the best interest of the residents of Orange Cove and of the City of Orange Cove.

3. The Mayor or City Manager of the City is hereby authorized to execute the attached Agreement on behalf of the City Council and City of Orange Cove.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Orange Cove at a meeting thereof held on the 13th day of January 2021, by the following vote:

AYES:	COUNCILMEMBERS:	
NOES:	COUNCILMEMBERS:	
ABSENT:	COUNCILMEMBERS:	
ABSTAIN:	COUNCILMEMBERS:	None

Mayor of the City of Orange Cove

ATTEST:

City Clerk of the City of
Orange Cove



42931 Road 52
Reedley, CA. 93654
559-638-6644

1/5/21

Mr. Rudy Hernandez
City of Orange Cove
633 Sixth Street
Orange Cove, CA. 93646

Dear Mr. Hernandez,

Yanez construction is requesting to appeal the recent city council decision denying the request for a 50% reduction of the impact fees for the 5 lots on Hope Avenue, APN 378-290-49 thru 53, and the 3.73 Acre parcel APN 378-030-41. We respectfully request a 25% reduction of the impact fees as these are considered "infill" properties and Central Valley cities typically offer a 50% reduction on impact fees for these type of "infill" projects.

Thanks for your understanding,

Tim Spate

Yanez Construction
559-273-6510

**REAL PROPERTY PURCHASE AND SALE AGREEMENT
AND ESCROW INSTRUCTIONS**

(City of Orange Cove/ Efrain Yanez Construction, Inc.)

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (this "Agreement") is made and entered into this ____ day of _____, 2021 (the "Effective Date"), by and between (i) the CITY OF ORANGE COVE, a California general law city (collectively referred to herein as "Seller"), and (ii) EFRAIN YANEZ CONSTRUCTION, INC. a California corporation, ("Buyer"). Seller and Buyer are sometimes collectively referred to in this Agreement as the "Parties" and individually by their individual names or, without specific reference, as a "Party".

RECITALS:

A. WHEREAS, Seller is the owner of 5 vacant lots on Hope Ave, Orange Cove, California, and identified as APN#: 378-290-49T, APN# 378-290-50T; APN#378-290-51T, APN# 378-290-52T, APN# 378-290-53T as described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and,

B. WHEREAS, Buyer intends to improve and develop the Property for single family and is agreeable to develop the Property in a manner consistent with this Agreement and build the homes; and,

C. WHEREAS, Seller has determined that the sale and development of the Property as proposed is in the best interests of the residents of Orange Cove, and, that the promise to develop the property and build is material to the Seller; and

D. WHEREAS, Buyer now desires to purchase the Property from Seller and develop in the manner as Seller desires, and Seller now desires to sell the Property to Buyer, pursuant to the terms and subject to the conditions set forth in this Agreement and the terms and conditions of the Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, Buyer and Seller hereby agree as follows:

ARTICLE I

AGREEMENT TO PURCHASE THE PROPERTY

1.01 **Purchase of the Property.** Pursuant to the terms and subject to the conditions set forth in this Agreement, and for the consideration set forth in Section 1.02 of this Agreement, Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the

Property from Seller, at the Closing (as defined in Section 6.06 of this Agreement). The Property shall include, without exception:

- (a) All improvements located on or under the Property;
- (b) All of Seller's right, title, and interest in and to any easements and rights of way relating to, used in connection with, or appurtenant to the Property, whether or not of record;
- (c) All fixtures or items of personal property that Seller may have an interest in as may be appurtenant or affixed to the Property;
- (d) All of Seller's right, title, and interest in any and all minerals, oil, gas, and other hydrocarbons located on or under the Property; and
- (e) All of Seller's other rights, title, and interests in any and all tangible and intangible property related to the Property.

1.02 **Purchase Price.** Subject to the provisions of Section 1.03(c) below, the purchase price for the Property shall be One Hundred Seventy-Five Thousand Dollars and no cents (\$175,000.00) (the "**Purchase Price**").

1.03 **Payment of the Purchase Price.** The Purchase Price for the Property shall be payable as follows:

(a) **Initial Deposit.** Within five (5) business days of the Date, the Effective Date, Buyer shall deposit the sum of Fifty Thousand and No/100 Dollars (\$50,000.00) with Escrow Holder (as defined below) in cash, by cashier's check, wire transfer or other immediately available funds (the "**Initial Deposit**"), which shall be held in escrow until the due diligence period expires and all entitlements (rezone to Commercial) are obtained.

(b) **Promissory Note.** Buyer shall execute and deposit into escrow a Promissory Note in the form and substance as set forth in Exhibit "B" attached hereto and set forth herein in the amount of One Hundred Fifty Thousand Dollars and no cents (\$125,000.00) in favor of the Seller, payable in full on or before nine (9) months of the close of escrow.

(c) **Closing Costs.** Buyer shall deposit Buyer's share of Closing Costs, by cashier's check or certified check, by wire transfer, or by other cash substitute of immediately available funds acceptable to Escrow Holder, with Escrow Holder at least three (3) business days before the Closing Date (as defined in Section 6.06 of this Agreement).

1.04 **Conditions Precedent.** As further conditions to the close of escrow:

(a) **Verification of Funds.** Within ten (10) days of escrow opening Buyer shall provide to the Seller verification of funds in Buyer's possession or due to Buyer to be used for purchase of the Property. Buyer shall also provide, as a condition to the close of escrow to the satisfaction of the Seller, that Buyer has the ability, experience and is prepared to complete the project through the construction and sale of the five homes.

(b) **Development Agreement.** Buyer shall enter into a Development Agreement with Seller regarding the development of the Property in the form of the attached Exhibit "C", incorporated herein as if set in full. The parties shall cause an executed, notarized copy of the Development Agreement to be recorded as a covenant running with the land until released by the Seller. Seller shall release its' interest in the Property upon the Buyer obtaining a Certificate of Occupancy for each lot on the Property as single family residential.

(c) **Deed of Trust.** Buyer shall execute and deposit into escrow a notarized Deed of Trust in the form of the attached Exhibit "D" incorporated herein as if set in full ensuring the payment of the Note and performance of the Development Agreement.

(d) **Personal Guaranty.** Buyer shall have Efrain Yanez executed a Personal Guaranty in the form as attached hereto as Exhibit "E" incorporated herein as if set in full guaranteeing the performance of the Buyer herein.

(d) **Due Diligence.** Seller shall make available for Buyers' inspection, a copy of all available information, within Seller's possession or reasonably available to Seller, affecting the Property including, but not limited to, any bonds, assessments, engineering reports and/or surveys, environmental reports, soils reports, site and building plans, leases, services contracts, and any other recorded or unrecorded reports or agreements related to the Property (Due Diligence Package). Buyer and its agents shall be granted access to the Property to conduct tests and inspections immediately after the Purchase and Sale Agreement has been fully executed, including environmental assessments and soils tests.

Buyer shall inspect the Property and complete all Due Diligence, and obtain the entitlements outlined below within 120 days of receipt of the Due Diligence Package, (Contingency Period). Within this Contingency Period, at Buyer's sole discretion, Buyer shall have the right to cancel said escrow with no further obligation or offset, and all deposit money shall be refunded to the Buyer. Buyer and Seller may agree to extend the

Contingency Period to allow for time for the entitlements to be obtained, If Buyer has not cancelled said escrow prior to the expiration of the Contingency Period, the \$50,000 deposit shall become non-refundable and shall be immediately released to the Seller.

(e) **Offsite Improvements.** Buyer shall be responsible for the cost of any "Offsite Improvements" including street improvements, public sidewalks, alley improvements, or undergrounding of existing utilities, Buyer shall be allowed to proceed with construction of buildings and onsite improvements while the construction of Offsite Improvements are underway by the City; occupancy will not be approved until the Offsite Improvements are completed for use.

1.05 **Handling of Deposits.** If the Escrow fails to close by the Closing Date described in Section 6.06 due to Buyer's default, the Initial Deposit shall be disbursed by the Escrow Holder to Seller as provided in Section 1.06. If Escrow closes, then Escrow Holder shall apply the Initial Deposit against the Purchase Price.

1.06 **Liquidated Damages.** If the escrow shall fail to close by the closing date or any extension thereof for any reason other than: (a) the failure of any of the conditions precedent set forth hereof; (b) Seller's breach of any of its other obligations hereunder; or (c) acts of god, war, or events totally beyond the control of buyer; the deposit shall act as liquidated damages and shall be immediately disbursed to seller. Disbursement of such funds by escrow holder to seller as liquidated damages is not intended as a forfeiture or penalty; but instead, is intended to constitute liquidated damages to seller. The parties acknowledge that the actual damage which would result to seller as a result of such failure would be extremely difficult to ascertain. In addition, Buyer desires to limit its potential liability to Seller in the event that this transaction shall fail to close. Therefore, in order to induce seller to accept Buyer's offer, and in order to induce Seller to waive all of its remedies it may have in the event of a breach by buyer, the parties accept the concept of liquidated damages as set forth herein. By separately initialing below, the parties hereby acknowledge their agreement concerning liquidated damages.

Buyer: _____

Seller: _____

ARTICLE II

POSSESSION, PHYSICAL INSPECTION, AND

CONDITION OF UNDIVIDED INTEREST IN THE PROPERTY

2.01 **Possession.** Buyer shall have the right to possess the Property on and after the Close of Escrow (as defined in Section 6.06 of this Agreement).

2.02 **Inspection of the Property.** Commencing with the Effective Date and continuing for a period of one hundred twenty (120) days thereafter (the "Contingency Period"),

Buyer and Buyer's agents, employees, contractors, and representatives (collectively, "Buyer's Agents") may investigate, inspect, and conduct such tests upon the Property, and each portion thereof, as Buyer deems necessary or advisable ("Buyer's Inspections").

2.03 **Approval of the Physical Condition of the Property.** Buyer shall have until the expiration of the Contingency Period, to approve or disapprove of Buyer's Inspections and all other matters relating to the physical condition of the Property. Buyer shall deliver the Buyer's approval or disapproval of Buyer's Inspections and the physical condition of the Property to Seller and the Escrow Holder on or before the expiration of the Contingency Period. If Buyer fails to deliver Buyer's approval or disapproval of Buyer's Inspections and the physical condition of the Property to Seller and the Escrow Holder on or before the expiration of the Contingency Period, then Buyer shall be deemed to have approved Buyer's Inspections and the physical condition of the Property. In the event Buyer objects in writing to the condition of the Property before the expiration of the Contingency Period, Buyer shall be entitled to a full refund of the Initial Deposit.

2.04 **Buyer's Indemnification of Seller.** Buyer shall indemnify, defend, and hold Seller, and Seller's employees, agents, successors, and assigns, and each of them, and the Property, harmless from and against any and all claims, demands, losses, costs, expenses, damages, recoveries, deficiencies, liabilities, and liens (including, without limitation, the defense thereof and all reasonable attorneys', paralegals', and other professionals' fees and costs) that may arise, result from or be attributable to the acts or omissions of Buyer or Buyer's Agents, or both, in performing or preparing Buyer's Inspections.

ARTICLE III

CONDITION OF TITLE TO THE PROPERTY

3.01 **Condition of Title to the Property.** Seller shall convey fee simple title in and to the Property to Buyer at the Closing. Title shall be conveyed by Seller to Buyer by grant deed, subject to the items enumerated in this Section 3.01. Buyer shall accept title to the Property subject to the following exceptions (the "Permitted Exceptions");

(a) Any easements and right-of-way for public roads, public utilities, underground pipelines that are of the record or apparent, except as provided in Section 3.02 of this Agreement;

(b) The lien for property taxes that are assessed but not yet delinquent (if any);

(c) The lien for supplemental taxes and assessments resulting from the change in ownership created by the sale of the Property to Buyer (if any); and

(d) All other exceptions to title reflected on a preliminary title report (the Preliminary Report"), except as objected to by Buyer pursuant to Section 3.02 of this Agreement.

3.02 Preliminary Report.

(a) **Title Review.** Seller shall obtain and deliver to Buyer the Preliminary Report to be prepared by Escrow Holder. Buyer may make objections to any exception to title reflected in the Preliminary Report (other than the items listed in Sections 3.01(b) and 3.01(c) of this Agreement), provided such objections are made to Seller in writing within twenty (20) days of Buyer's receipt of the Preliminary Report. If Buyer fails to notify Seller, in writing, of any objections to title by such date, then Buyer shall be deemed to have accepted title to the Property subject to all of the exceptions to title reflected in the Preliminary Report.

(b) **Removal of Exceptions.** If Buyer timely objects to any exception to title set forth in the Preliminary Report (other than the items listed in Sections 3.01(b) and 3.01(c) of this Agreement), Seller may (i) cause the exception to be removed of record; (ii) obtain the appropriate endorsement of the policy of title insurance to be issued by Escrow Holder to Buyer insuring against the exception; or (iii) terminate the sale of the Property to Buyer pursuant to this Agreement, unless Buyer elects to take title to the Property subject to such exception. If necessary, to insure around the exception, Seller may choose a new title company reasonably satisfactory to Buyer.

3.03 Title Insurance. At the Close of Escrow and as a condition to Buyer's obligation to purchase the Property, the Escrow Holder shall commit to issue, and to deliver to Buyer, its standard coverage Owner's Policy of Title Insurance insuring title to the Property in Buyer in the condition set forth in Section 3.01 of this Agreement and with liability in the amount of the Purchase Price (the "Title Policy").

ARTICLE IV

COVENANTS, REPRESENTATIONS, AND WARRANTIES

4.01 Covenants, Warranties, and Representations of Seller. Seller hereby makes the following covenants, representations, and warranties and acknowledges that Buyer's execution of this Agreement has been made and Buyer's acquisition of the Property will be made in material reliance by Buyer on these covenants, representations, and warranties:

(a) **Authority.** Seller has the authority to enter into this Agreement and to perform all covenants and obligations and make all representations and warranties set forth in this Agreement.

(b) **No Knowledge of Defects in Title.** There are no defects in title to the Property, or any portion thereof, which is not of record or that have not been disclosed in writing to Buyer and the Escrow Holder.

(c) **Governmental Violations.** The Property does not violate any Federal, State, County, City, or other building, zoning, fire, health codes or ordinances, or other governmental regulations applicable to the Property. Neither the execution and delivery of this Agreement, nor the consummation of the transactions called for or contemplated hereby, violates any Federal, State, County, City laws, regulations, statutes, or ordinances.

(d) **Litigation.** There are no actions, suits, claims, legal proceedings, or other matters pending, and, to the knowledge of Seller, there are no threatened actions, suits, claims, legal proceedings, or other matters, involving or affecting the Property, or any portion thereof, at law, in equity or otherwise, before any court or governmental agency.

(e) **Environmental.**

(i) **Environmental Representations and Warranties.**

Seller represents and warrants that any and all handling, transportation, storage, treatment or usage of Hazardous Substances (as defined in Section 4.01(f)(iii) of this Agreement) that has occurred on the Property, or any portion thereof, during the period of Seller's ownership has been in compliance with all Environmental Requirements (as defined in Section 4.01(f)(ii) of this Agreement) and has not resulted in a release of any Hazardous Substances above, on, or beneath the Property, or any portion thereof, or any adjoining or other property. Seller further represents and warrants that, except as otherwise disclosed to Buyer in writing, any currently known Hazardous Substances that might be present above, on, or beneath the Property, or any portion thereof, do not exceed those concentrations that would violate current applicable laws and regulations and there are no underground storage tanks at the Property. Seller shall indemnify, defend, and hold harmless Buyer and Buyer's Agents, employees, contractors, successors, and assigns, and each of them, and the Property from and against any and all claims, demands, suits, actions, causes of action, judgments, damages, obligations, liabilities, liens, losses, costs, expenses, penalties, and interest (including, without limitation, reasonable attorneys', paralegals', consultants', experts', and other professionals' fees and costs) arising out of or relating to a breach of Seller's representations and warranties set forth above. This indemnity shall survive the Close of Escrow.

- (ii) **"Environmental Requirements" Defined.** "Environmental Requirements" means all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states or political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including, without limitation, all requirements pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of "Hazardous Substances", chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, materials, or wastes, whether solid, liquid, or gaseous in nature.
- (iii) **"Hazardous Substances" Defined.** The term "Hazardous Substances" shall include without limitation: (A) those substances included within the definitions of "Hazardous Substances," "Hazardous Materials," "Toxic Substances" or "Solid Waste" in CERCLA (42 U.S.C. 9601 et seq.), RCRA (42 U.S.C. 6901 et seq.) and the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801 et seq.), TSCA (15 U.S.C. § 2601 et seq.) and in the regulations promulgated pursuant to said laws; (B) those substances defined as "Hazardous Wastes" in sections 25117 of the California Health and Safety Code, or as "Hazardous Substances" in section 25316 of the California Health and Safety Code and in the regulations promulgated pursuant to said laws; (C) those substances listed in the United States Department of Transportation Table of Hazardous Materials (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (iv) such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and (v) any material, waste or substance which is petroleum, asbestos, polychlorinated biphenyls, flammable explosives, or radioactive materials. Any reference herein to statutory or regulatory sections shall be deemed to include any amendments thereto and any successor sections. "Hazardous Substances" shall also include any substance the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, or policy; and includes, in addition, any substance the presence of which causes or threatens to cause a nuisance upon the Property, or any portion thereof, or adjacent property,

or threatens the health and safety of persons on or about the Property, or any portion thereof.

(g) **Leases**. Excluding any Permitted Exceptions, as of the Closing, the Property will not be subject to any leases, licenses, or other rights of possession of any kind whatsoever.

(h) **Performance**. Seller shall timely perform and comply with all covenants and agreements, and satisfy all conditions, that Seller is required to perform, comply with, or satisfy under this Agreement.

4.02 **Covenants, Warranties, and Representations of Buyer**. Buyer hereby makes the following covenants, representations, and warranties to Seller and acknowledges that Seller's execution of this Agreement and the Development Agreement has been made and Seller's agreement to sell the Property to Buyer will be made in material reliance by Seller on these covenants, representations, and warranties:

(a) **Authority**. Buyer has the authority to enter into this Agreement, and the attached Development Agreement and to perform all covenants and obligations, and make all representations and warranties, set forth in this Agreement and attached Development Agreement.

(b) **No Violation**. Neither the execution nor delivery of this Agreement, nor the consummation of the transactions called for or contemplated hereby, will as of the closing, violate any contract, agreement or instrument to which Buyer is a party or bound.

(c) **Performance**. Buyer shall timely perform and comply with all covenants and agreements, and satisfy all conditions, that Buyer is required to perform, comply with, or satisfy under this Agreement and Development Agreement.

ARTICLE V

CONDITIONS PRECEDENT

5.01 **Conditions Precedent to Seller's Obligation to Perform**. Seller's obligation to perform as set forth in this Agreement is hereby expressly conditioned on satisfaction of each and every one of the following conditions precedent:

(a) **Performance by Buyer**. Buyer shall have performed each of the acts to be performed by it under this Agreement, including, without limitation, executing the Development Agreement, executing the Deed of Trust, and depositing the Down Payment and Buyer's share of the Closing Costs (as defined in Section 6.05 of this Agreement) into the Escrow (as defined in Section 6.01 of this Agreement) by the Closing Date.

(b) **Accuracy of Buyer's Representations and Warranties.** Each of Buyer's representations and warranties set forth in Section 4.02 shall be true at the Close of Escrow as if affirmatively made at that time.

(c) **Development Agreement.** Seller and Buyer shall have signed a Development Agreement mutually prepared by the parties setting forth Seller's and Buyer's obligations pursuant to paragraph 1.05 above. The parties to cause said Development Agreement to be recorded against all the Property to guarantee performance of Seller and Buyers' obligations and it is the parties' intent that the Development Agreement will run with the land and bind the Parties' heirs, assigns and successors-in-interest.

The foregoing conditions are solely for the benefit of Seller, any, or all of which may be waived by Seller in Seller's sole discretion.

5.02 **Conditions Precedent to Buyer's Obligations to Perform.** Buyer's obligation to perform as set forth in this Agreement is hereby expressly conditioned on the satisfaction of each and every one of the following conditions precedent:

(a) **Performance by Seller.** Seller shall have performed every act to be performed by it under this Agreement, including, without limitation, depositing into Escrow the signed Development Agreement and a grant deed conveying the Property to Buyer (the "Grant Deed").

(b) **Accuracy of Seller's Representations and Warranties.** Each of the representations and warranties of Seller contained in Section 4.01 or elsewhere in this Agreement shall be true at the Close of Escrow as if affirmatively made at that time.

(c) **Development Agreement.** Seller and Buyer shall have signed a Development Agreement mutually prepared by the parties setting forth Seller's and Buyer's obligations pursuant to paragraph 1.05 above. The parties to cause said Development Agreement to be recorded against all the Property to guarantee performance of Seller and Buyers' obligations and it is the parties' intent that the Development Agreement will run with the land and bind the Parties' heirs, assigns and successors-in-interest.

(d) **Approval of the Physical Condition of the Property.** Buyer shall have approved, or have been deemed to have approved, Buyer's Inspections and the physical condition of the Property.

(e) **Objections to Title.** Any objections to any exceptions to title set forth in the Preliminary Report shall have been remedied by Seller as set forth in clauses (i), (ii) or (iii) of Section 3.02(b) of this Agreement.

(f) **Title Insurance.** The Escrow Holder shall be committed to issue the Title Policy as set forth in Section 3.03 of this Agreement in the condition set forth in Section 3.01 of this Agreement and Seller shall have complied with all requirements of Escrow Holder in connection with the issuance of the Title Policy.

The foregoing conditions are solely for the benefit of Buyer, any, or all of which may be waived by Buyer in Buyer's sole discretion.

5.03 **Failure or Waiver of Conditions Precedent.** In the event any of the conditions set forth in Sections 5.01 and 5.02 of this Agreement are not fulfilled or waived on or before the Closing Date, this Agreement shall terminate and all rights and obligations under this Agreement of each Party shall be at an end, unless otherwise agreed in writing by Seller and Buyer. Seller or Buyer may elect, at any time prior to the Closing, to waive in writing the benefit of any of their respective conditions set forth in Sections 5.01 and 5.02 of this Agreement, as applicable. In any event, the Parties' consent to the Close of Escrow shall waive any remaining unfulfilled conditions (but such waiver shall not be deemed to waive any subsequently discovered breach of any representation, warranty, or covenant made by either Party to this Agreement).

ARTICLE VI

ESCROW

6.01 **Establishment of Escrow.** Upon the execution of this Agreement, the Parties shall promptly open an escrow (the "Escrow") with Alisa Scott at Placer Title Company, Fresno, California (the "Escrow Holder") to provide for the conveyance of the Property by Seller to Buyer pursuant to this Agreement. Within five (5) business days after the execution of this Agreement, a duplicate of this Agreement shall be deposited with the Escrow Holder and shall constitute escrow instructions to the Escrow Holder concerning this transaction.

6.02 **Deposits in Escrow.** The Parties shall make the following deposits in Escrow at or prior to the Close of Escrow:

(a) **Seller's Deposits.** Seller shall deposit the following funds and documents into the Escrow prior to the Close of Escrow:

- (i) An executed and acknowledged original Grant Deed; and
- (ii) An executed, notarized copy of the Development Agreement.

(b) **Buyer's Deposits.** Buyer shall deposit the following funds and documents into the Escrow prior to the Close of Escrow:

- (i) The approval or disapproval of Buyer's Inspections and the physical condition of the Property described in Section 2.03 of this Agreement;
- (ii) The executed Promissory Note;
- (iii) A Preliminary Change in Ownership Report;
- (iv) Buyer's Share of the Closing Costs;
- (v) An executed, notarized copy of the Development Agreement;
- (vi) An executed, notarized copy of the Deed of Trust; and,
- (vii) An executed copy of the Personal Guaranty

6.03 **Prorations.** Seller shall be responsible for any supplemental assessments or reassessments made to the extent attributable to any period prior to the Closing Date, and Buyer shall be responsible for all periods thereafter. Buyer shall pay any supplemental taxes assessed pursuant to the laws of the State of California resulting from the sale of the Property to Buyer. The Escrow Holder shall prorate real and personal property taxes or assessments and other like charges relating to the Property to the extent attributable to any period prior to the Closing Date to Seller, and to Buyer for all periods thereafter. Seller is a tax-exempt governmental entity and shall only pay the prorated amount of non-exempted taxes, if any.

6.04 **Title Insurance.** At the Closing, the Escrow Holder shall commit to provide or issue, effective as of that date, the Title Policy as set forth in Section 3.03 of this Agreement.

6.05 **Costs and Expenses.** Closing costs (the "Closing Costs") shall be borne by the Parties as follows:

- (a) The premium for the Title Policy and any transfer taxes, sales taxes, or other similar taxes shall be paid by Seller;
- (b) Recording fees, document preparation fees, and any use taxes shall be paid by Buyer;
- (c) Escrow fees and other Closing Costs shall be shared equally between Buyer and Seller; and
- (d) Any other closing costs shall be borne by Seller and Buyer in the manner as is customary in the County of Fresno, State of California.

Buyer and Seller shall each deposit additional funds into the Escrow in an amount equal to their respective shares of the Closing Costs as determined by the Escrow Holder; provided, however, that if sufficient funds have been otherwise deposited into the Escrow, the Escrow Holder is hereby authorized to withhold Seller's share of the Closing Costs from funds that would otherwise be distributable to Seller.

6.06 **Closing Date.** Unless otherwise extended by the Parties in writing, the Close of Escrow shall be no later than thirty (30) days from the close of the Contingency Period. As used herein, the terms "Close", "Closing", and "Closing Date" shall be synonymous with the term Close of Escrow.

6.07 **Conditions Precedent to the Close of Escrow.** The Close of Escrow is hereby expressly conditioned on the satisfaction or waiver by the Party whose performance is conditional thereon, of each of the conditions precedent contained in Article V hereof.

6.08 **Procedure for Closing.** The Escrow Holder shall close the Escrow by doing the following:

(a) Pay from funds deposited by Seller or otherwise distributable to Seller, all claims, demands, and liens necessary to place title to the Property in the condition set forth in Section 3.01 of this Agreement;

(b) In accordance with Section 6.05 of this Agreement pay Seller's share of the Closing Costs from funds deposited by Seller or otherwise distributable to Seller;

(c) Pay from funds deposited by Buyer, Buyer's share of the Closing Costs;

(d) Prorate real and personal property taxes, assessments, and charges as set forth in Section 6.03 of this Agreement;

(e) Date the Grant Deed, Note and Deed of Trust as of the Close of Escrow;

(f) Record the Grant Deed in the Official Records of the County of Fresno, State of California, and direct the County Recorder to affix the transfer tax after recording, and return the recorded Grant Deed to Buyer with a conformed copy to Seller;

(g) Record the Development Agreement in the Official Records of the County of Fresno, State of California;

(h) Record the Deed of Trust in the Official Records of the County of Fresno, State of California;

(h) Deliver a copy of Buyer's and Seller's closing statements for this Escrow to the respective Parties;

(i) Unless otherwise instructed by Seller unilaterally, deliver the Personal Guaranty, Note, Deposit and the Down Payment, less payments, and other charges that are chargeable to Seller as authorized hereunder, to Seller;

(j) Deliver any remaining funds held in Escrow to Buyer; and

(k) Deliver to Buyer the original and two (2) copies of the Title Policy in the form set forth in Section 3.03 of this Agreement no later than thirty (30) days after the Closing Date.

6.09 **Inability to Close.** In the event the Escrow Holder is unable to close the Escrow and the Closing Date is not otherwise extended, this Escrow shall terminate. The Escrow Holder shall return to each Party any money or documents deposited by the Parties and terminate the Escrow; provided, however, that any cancellation charges imposed by the Escrow Holder shall be paid by the defaulting Party, or if neither Party is in default, divided equally between Buyer and Seller.

ARTICLE VII

MISCELLANEOUS

7.01 **Survival and Indemnity.** Notwithstanding the Closing, delivery of instruments, conveyances of property, and payment of consideration therefore the Parties agree that the respective representations, warranties, covenants, indemnities, and agreements made by each such Party pursuant to this Agreement shall survive the Closing including Buyers' obligations under paragraph 1.05 above, and each Party agrees to indemnify, defend, and hold the other harmless from and against any and all claims, demands, suits, actions, causes of action, judgments, damages, obligations, liabilities, liens, losses, costs, expenses, penalties, and interest (including, without limitation, reasonable attorneys', paralegals', and other professionals' fees and costs) arising out of or in connection with a breach by the indemnifying party of any such representation, warranty, covenant, or agreement.

7.02 **Broker Fees.** The Seller has entered into a compensation agreement with Tim Spate, Square One Realty, which is incorporated herein by this reference which provides for a 2.5% commission to Tim Spate and Square One Realty for services rendered in the sale of the Property.

7.03 **Costs and Expenses.** Each of the Parties shall pay all costs and expenses incurred, or to be incurred, by them in negotiating and preparing this Agreement, and in closing and carrying out the transactions contemplated by this Agreement, including, without limitation, their attorneys', paralegals', and other professionals' fees and costs.

7.04 **Time.** Time is of the essence of this Agreement and all of its provisions.

7.05 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the purchase and sale of the Property, and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties with regard thereto. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all of the Parties.

7.06 **Waiver.** A waiver of any breach of this Agreement by any Party shall not constitute a continuing waiver, or a waiver of any subsequent breach of the same, or any breach of another, provision of this Agreement.

7.07 **Counterparts and Facsimile Signatures.** This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument. Each Party agrees to accept facsimile signatures as original signatures.

7.08 **Assignment.** Neither Party may assign any or all of its rights under this Agreement, including the right to purchase the Property, or delegate any of the duties and obligations under this Agreement, to any other person, without the prior written consent of the other Party.

7.09 **Binding Effect.** Subject to the provisions of Section 7.08 of this Agreement, this Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors, and assigns of the Parties.

7.10 **Survival of Agreement.** The provisions of this Agreement, and the covenants and conditions contained in this Agreement, shall be continuous and shall survive the execution of this Agreement, the Close of Escrow, and the death or disability of any Party.

7.11 **Professionals' Fees.** If any suit, action or proceeding of any kind (an "Action") is brought by any Party to enforce, defend or interpret any provision of this Agreement (including, without limitation, an Action for declaratory relief or any proceeding in the Bankruptcy Court in which any party to this Agreement is a debtor), the prevailing party in such Action shall recover from the other parties to such Action all reasonable costs and expenses which the prevailing party may incur in bringing such Action (including, without limitation, any bankruptcy proceeding involving issues peculiar to bankruptcy law in which any party to this Agreement takes any legal action to protect or enforce his rights) and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such Action and shall be paid whether or not such Action is prosecuted to judgment. For purposes of this Section 7.11, the "prevailing party" means the Party entitled to recover costs of suit, whether or not any Action proceeds to final judgment. Any judgment or order entered in such Action shall specifically provide for the recovery of all reasonable costs and expenses incurred by the prevailing party in connection therewith, including, without limitation, costs and expenses

incurred in enforcing such judgment. For purposes of this Section 7.11, "costs and expenses" shall include all court costs and all attorneys', paralegals', and other professionals' fees and costs.

7.12 **Notices.** All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of receipt, if sent by facsimile to the person to whom notice is to be given at the facsimile number set forth below, or (iii) on the third day after mailing, if mailed to the party to whom notice is to be given by first-class mail, registered or certified, postage prepaid, and properly addressed as follows:

To Seller: City of Orange Cove
633 Sixth Street
Orange Cove, California 93646
Attn: Rudy Hernandez, Interim City Manager
Phone: (559) 626-4488

With a Copy to: Daniel T. McCloskey, Esq.
Tuttle & McCloskey
750 E. Bullard Avenue, Suite 101
Fresno, California 93710
Phone: (559) 437-1770
danm@t-m-law.com

To Buyer: Efrain Yanez
Yanez Construction, Inc.
42931 Road 52
Reedley, California 93654

Phone: 5599853993
Email: efrain@yanezconstruction.com

A Party or other designated recipient may change their address and/or facsimile number by notifying the other Party and designated recipient to this Agreement of their or its new address and/or facsimile number in accordance with the procedures set forth in this Section 7.12.

7.13 **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding the conflicts of laws provisions thereof to the extent that they might allow another State's laws to apply. The Parties agree that venue for any litigation arising under this Agreement shall be in the County of Fresno, State of California, if instituted in the State courts, or the Eastern District of California (Fresno), if instituted in the Federal courts.

7.14 **Partial Invalidity.** If any provision of this Agreement, or any portion thereof, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement, including, without limitation, the portions thereof not held to be invalid, void, or unenforceable, shall nevertheless continue to be in full force and effect without being impaired or invalidated in any way.

7.15 **Construction.** All words used in this Agreement shall be construed to include the plural as well as the singular number, and vice versa; words used in this Agreement in the present tense shall include the future as well as the present; and words used in this Agreement in the masculine gender shall include the feminine and neuter genders, whenever the context so requires.

7.16 **Effect of Headings.** The subject headings of the articles, sections, and subsections of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

“Seller”

CITY OF ORANGE COVE

By _____
Rudy Hernandez
Interim City Manager

“Buyer”

YANEZ CONSTRUCTION, INC.

By _____ Name

Title

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, 2021, before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

LIST OF EXHIBITS

- A. Legal Description of the Property**
- B. Promissory Note**
- C. Development Agreement**
- D. Deed of Trust**
- E. Personal Guaranty**

EXHIBIT A

LEGAL DESCRIPTION OF FIVE LOTS

EXHIBIT B
PROMISSORY NOTE

**PROMISSORY NOTE
SECURED BY A DEED OF TRUST**

\$ 125,000.00

_____, 2021
Orange Cove, California

FOR VALUE RECEIVED, EFRAIN YANEZ CONSTRUCTION, INC., a California corporation ("Yanez"), promise to pay the **CITY OF ORANGE COVE**, a municipal corporation organized under the laws of the State of California ("City") as the registered owner hereof, or order at the City's office at 636 Sixth Street, Orange Cove, California 9368, or such other place as City may designate in writing, the principal sum of One Hundred Twenty-five Thousand Dollars (\$125,000.00), or such lesser amount that the City may request in writing (the "Note Amount"), in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. **Agreement.** This Promissory Note (the "Note") is given in accordance with that certain Agreement executed by the City and Yanez, dated as of _____, 2021 (the "Purchase Sale Agreement"). The rights and obligations of the City and Yanez under this Note shall be governed by the Purchase Sale Agreement and by the additional terms set forth in this Note. The Note Amount shall be disbursed to City in accordance with the provisions of the Purchase Sale Agreement upon satisfaction of the Conditions Precedent set forth in the Purchase Sale Agreement.

2. **Interest.** The Note Amount shall bear interest at the rate of 3.5% per annum beginning no sooner than thirty (30) days after the close of escrow in the Purchas

3. **Repayment of Note Amount.** The Note Amount shall be repaid to City in installments of principal and interest upon the sale of each of the five parcels of land contemplated by the Purchase and Sale Agreement, and, in any event, all principal and interest shall be paid in full no later than nine months after the close of escrow for the five parcels subject of the Purchase Sale Agreement.

4. **Attorneys' Fees and Costs.** Yanez agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable

attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

5. **Amendments and Modifications.** This Note may not be changed orally, but only by an amendment in writing signed by Yanez and by the City.

6. **Terms.** Any terms not separately defined herein shall have the same meanings as set forth in the Purchase Sale Agreement.

EFRAIN YANEZ CONSTRUCTION INC.

By: _____
Efrain Yanez, President

EXHIBIT C
DEVELOPMENT AGREEMENT

**CITY OF ORANGE COVE/ EFRAIN YANEZ
CONSTRUCTION INC. DEVELOPMENT AGREEMENT**

This Development, Agreement ("Agreement") is entered into as of _____, 2020 (the "Effective Date") between the City of Orange Cove (herein "City"), and Efrain Yanez Construction Inc., a California Corporation, or Assignee, (the "Developer").

Section 1. Purpose of the Agreement.

The purpose of this Agreement is to provide for the improvement of certain real property (the "Project Site") located within the City of Orange Cove. The improvement of the Project Site pursuant to this Agreement, and the fulfillment generally of this Agreement, in the vital and best interest of the City of Orange Cove, and the health, safety, and welfare of the people of the State of California (the "State") and of the City of Orange Cove, and will help eliminate conditions of blight within the area, and will significantly benefit the community, in that completion and operation of the project will (i) increase the number of new homes (ii) provide construction jobs within the City of Orange Cove (iii) result in increased property and sales tax revenue for the benefit of the community; (iv) cause economically productive use of vacant property located in an urban area; and (vii) eliminate or mitigate other existing blighting conditions and influences.

The City of Orange Cove is entering into this Agreement in reliance on the expectations and understanding, based on representations by the Developer that the project will result in additional property tax, sales tax income to the City of Orange Cove.

Section 2. The Developer.

The Developer may form a limited partnership for the purposes of ownership of the Project Site and/or ownership, constructions, or operation of the Project. In that event, this Agreement may be assigned to such partnership, subject to all the following conditions:

a. The partnership shall assume in writing all rights and obligations of the Developer under this Agreement, in form and content satisfactory to the City of Orange Cove;

b. The City of Orange Cove shall have the right to review the limited partnership agreement prior to its execution to verify compliance with this section;

c. Admission of an additional limited or general partner who will have more than 10 percent ownership interest, or who will have management duties with respect to the Project, shall require the prior written consent of the City of Orange Cove.

If the Assignment is made and all the above conditions are satisfied, the term "Developer" in this Agreement shall mean the limited partnership described above.

Section 3. Project Area.

The Project Area is located in the City of Orange Cove. The exact boundaries of the Project Area, as amended, are specifically described below.

Section 4. The Project Site and Project.

The Project Site is that area shown on the diagram attached to this Agreement as Exhibit "A", which is attached to and incorporated in this Agreement. The Project Site, also referred herein as Project, will be comprised of real property presently owned by the City of Orange Cove, as follows:

5 vacant lots on Hope Ave, Orange Cove, California, and identified as APN#: 378-290-49T, APN# 378-290-50T; APN#378-290-51T, APN# 378-290-52T, APN# 378-290-53T;

The Developer shall redevelop the Project Site by taking all actions necessary to (i) acquire the Project Site from the City; and (ii) construct on the Project Site new residential homes (the "Project"), all in conformity with this Agreement. The Project is described in Exhibit "B", which is attached to and incorporated in this Agreement.

Section 5. Sale, Purchase and Conveyance of Project Site.

The Developer shall acquire the Project Site from the City of Orange Cove in accordance with that certain Purchase and Sale Agreement dated concurrently with this document, which is incorporated herein by this reference as if fully set forth within the provisions herein.

Section 6. Project Development, Operation and Maintenance.

a. Upon execution of this agreement, the Developer shall promptly commence and thereafter timely pursue all steps necessary to develop the uses on the Property as set forth in the Exhibit "B" in accordance with all provisions of this Agreement, the Amended Plan, and the building plans approved by the City of Orange Cove as provided herein, the City of

Orange Cove Building, Electrical, Heating and Ventilation, Housing, Fire or Plumbing Codes, and all other applicable federal, state and local codes, ordinances and regulations

b. The Developer shall apply for and obtain permits, site plan reviews and development entitlements required by the codes, ordinances or standards and applicable prevailing wage standards described in subsection 7.a. from any federal, State, or local agency, including the City of Orange Cove). Furthermore, except as expressly provided in other provisions of this Agreement, the Developer shall pay or otherwise be responsible for all direct and indirect cost in connection with the Project, including all work and improvements, development and building fees, architecture and engineering, insurance, interim financing (if any), and other items necessary or appropriate to complete the Project in accordance with this Agreement.

c. Not limiting subsection 6.a., the Developer shall cause the Project to be constructed according to all building plans approved by the City of Orange Cove. Except for grading, site clearance, and other site preparation work permitted by the City of Orange Cove, the Developer and its employees and contractors shall not commence any work on the project until the building plans for the residential home have been reviewed and approved by City of Orange Cove. The City of Orange Cove review shall be for the purposes of determining compliance with this Agreement, and applicable building codes. The City of Orange Cove shall not unduly delay review of the building plans or response to the developer based on such review. In this regard, the City of Orange Cove shall issue a grading permit on the same day the Developer makes application for a building permit. Furthermore, City of Orange Cove shall issue a foundation permit within five (5) working days of receiving four complete sets of approved building and site plans, which include all structural calculations necessary to construct the home. The City of Orange Cove shall make all reasonable effort to issue a permit for the remainder of the building and site improvements within thirty (30) working days of the issuance of a foundation permit. The City of Orange Cove shall not unduly delay review of the building plans or response to the Developer based on such review.

If, during the period the Project is being constructed, the Developer or its contractor wants to make any change to building plans previously approved by the City of Orange Cove, the Developer shall first submit the proposed change to the City of Orange Cove for review. The City of Orange Cove shall approve or reject the proposed change with one working day of receipt of approved and stamped plan revisions from the Developer's architect or engineer. If the City of Orange Cove finds that the proposed change does not conform to this Agreement, the guidelines or applicable federal, state, or local codes, regulations or standards, the City of Orange Cove shall reject the proposed change and so notify the Developer, stating the reasons for rejection. The Developer or the contract may then modify the proposed change to address the objections of the City of Orange Cove and resubmit it for review.

d. The Developer shall apply for a building permit for at least one home in the project within twenty-four (24) months of the date of this agreement. However, the Developer shall be entitled to an extension of the Project completion date and/or the operation date for such period as may be reasonably necessary to overcome the effects of a delay caused by acts of God; earthquake; natural catastrophe; unusually severe weather or flood; unavoidable inability to secure labor, materials, supplies, or equipment; strike or similar labor dispute; or other unforeseeable cause beyond the Developer's control. The Developer shall not be entitled to any extension unless it has given the City of Orange Cove notice of such delay within ten (10) days after its onset stating the cause of the delay and the extension period the Developer reasonably expects will be needed. The actual extension period shall be subject to the approval of the City of Orange Cove. Such an extension of time shall be the Developer's sole remedy under this Agreement for any delay in constructing or completing the Project.

e. During the period, the project is being constructed, the Developer and its representatives and contractors shall permit the City of Orange Cove access to the Project Site and all buildings and structures thereon, during regular construction hours, for any purpose necessary for carrying out the provisions of the Amended Plan or this Agreement. This access shall include inspection of work by representatives of the City of Orange Cove or the City of Orange Cove for compliance with the codes, ordinances, and standards specified in subsection 7.a. and any other local, State, or Federal, health, safety, zoning, or housing codes or regulations. Such inspection shall not relieve the Developer from the obligation to construct the Project and relating improvements in accordance with this Agreement, and all codes, regulations, and standards referenced herein. This subsection 6e. shall not limit the authority of representatives of the City of Orange Cove or any Federal, State, or other local agencies having jurisdiction to inspect the Project Site, the Project Buildings, or other structures thereon, or any work thereon for the purposes of insuring compliance with applicable building, health, safety, zoning, or housing codes, regulations, or standards.

f. The Developer shall notify the City of Orange Cove upon completion of any parcel within the Project. Within ten (10) days after such notice, the City of Orange Cove shall inspect that portion of the Project. When the City of Orange Cove determines that the parcel has been developed in accordance with this Agreement, the guidelines, and applicable codes, regulations and standards, the City of Orange Cove shall promptly deliver to the Developer certificates certifying such completion of the development of that parcel (the "Certificate of Completion"). The City of Orange Cove shall not unreasonably withhold the Certificate of Completion. The Certificate of Completion shall be, and shall state that it is, conclusive evidence that the Developer, its partners and their respective successors and assigns have satisfied all agreements and obligations in this Agreement with respect to that parcel of the Project construction. The Certificate of Completion shall be in the form that will permit it to be

recorded in the Fresno County Recorder's Office. The Certificate of Completion will not be evidence of compliance with satisfaction of any obligation of the Developer to any holder of a mortgage or trust deed, including the bank and City of Orange Cove, recorded on that parcel the Project Site. The Certificate of Completion is not the Notice of Completion referred to in California Civil Code Section 3093.

Section 7. Operation and Maintenance of the Project.

a. After the Certificate of Completion is issued pursuant to subsection 6.f., for any one parcel within the Project, the Developer shall continue to complete the Project in a reasonable manner and in a reasonable time. Developer shall have completed the Project when all parcels on the Project Site, including the interior and exterior of the buildings and other structures thereon, and all amenities, facilities and other on-site and off-site improvements, as and all other facilities, all are (i) in accordance with this Agreement, the Orange Cove Zoning Ordinance and its building, electrical, heating and ventilation, housing and plumbing codes, and all other applicable Federal, State, Orange Cove, and local laws, codes, ordinances, standards and permit requirements as specified in subsection 6.a., (ii) consistent with the highest but reasonable standards prevailing from time to time in the housing industry and (iii) in a manner reasonably calculated to increase the taxable assessed value of the Project Site, generate taxable retail sales, and create new job opportunities. Developer shall complete all parcels and obtain certificates of occupancy for each parcel on the Project Site within three (3) years of the date of this Agreement.

b. The Developer shall bear all risk of loss or damage to the Project Site and all project buildings, structures, and improvements and fixture thereon. At all times during construction, operation and maintenance of the Project, the Developer shall maintain in full force and effect the following insurance: (i) insurance of the Project Site and all project buildings, structures, improvements and fixtures thereon at not less than full replacement value against fire, theft, damage, or destruction; (ii) comprehensive liability insurance (including coverage for public liability, automobile liability, and property damage) insuring the Developer, the City their respective members, officers, employees and representatives in an amount of at least \$2,000,000.00 combined single limit; and (iii) worker's compensation insurance covering all employees of the Developer, on the Project, in the amount required by statute from time to time. The Developer shall maintain all insurance with corporate insurer's carriers qualified to do insurance business in the state. The insurance will not be cancelled or materially modified without at least 30 days written notice to the City of Orange Cove. On request by the City of Orange Cove, the Developer from time to time shall submit to the City of Orange Cove copies of all insurance policies or certificates evidencing that the insurance is in full force and effect. The insurance requirements in this subsection 7.b. will not limit any insurance requirements of the bank or any other lender in connection with the Project Site or the Project, or under standards

prevailing from time to time for facilities similar to the Project in communities having population and customer base similar to the City of Orange Cove..

c. The Developer shall pay before delinquency and keep current all taxes and assessments levied against the Project Site, the Project, personal property thereon or any business activities thereon or therein, including without limitation real property and personal property taxes, sale and use taxes, possessory interest taxes, assessments, license fees and all other governmental charges, fees, fines or penalties lawfully imposed on or attributable to the Project or other use and operation of the Project Site.

Section 8 Submittal of Documents, etc.

In addition to submittals required under other provisions of this Agreement, and as further conditions on the City of Orange Cove's obligation to convey the City of Orange Cove's property and perform its other obligations under this Agreement, the Developer shall submit the following documents and information to the City of Orange Cove within the times specified below, each in form reasonably satisfactory to City of Orange Cove's Manager, and the City of Orange Cove's lead counsel:

a. Promptly after request by City of Orange Cove, any other documents or information related to the General Contractor, the Project Site, or the Project as the City of Orange Cove reasonably requires for the purposes of this Agreement

Section 9. City of Orange Cove Assistance.

Upon the City of Orange Cove's receipt and approval of all documents and other items specified in subsection 8a and (to the extent applicable), and subject to the Developer's compliance with and satisfaction of all requirements, conditions, and obligations on its part under this section and other provisions of this Agreement, then in addition to the City of Orange Cove's other responsibilities under this Agreement, City of Orange Cove shall provide the following assistance to the Project:

- a. Issue a grading permit on the same day that Developer or its General Contractor makes application for a building permit.
- b. Issue a foundation permit within five (5) working days of receiving four complete sets of approved building and site plans, which shall include all structural calculations necessary to construct the facility.
- c. Issue a building permit within thirty (30) working days of the issuance of a foundation permit.
- d. Respond within twenty-four hours (excluding weekends and holidays) to Developer's request for inspections during workdays.
- e. Approve all structural improvement change orders within one (1) working day of the receipt of approved stamped plan revisions from the Developer's architect or engineer.

Section 10. Use and Non-discrimination Covenants.

- a. The Developer covenants for itself, Buyer, and its' respective successors, assigns, transferees, employees and contractors, and all persons claiming under or through any of them, including lessees of the Project Site, the Project, or any part of either, that the Developer, Buyer, such successors, assigns, transferees, employees and contractors, and all lessees and other persons claiming under or through them, shall;
 - (1) Construct and complete the Project on the Project Site in accordance with Section 6 and all requirements, codes, ordinances, regulations, and standards as specified therein.
 - (2) Operate and maintain the Project and the Project Site, including buildings and any other structures thereon, and all amenities, facilities, and other on-site and off-site improvements, as one of the permitted uses as set forth in Exhibit "B", all in accordance with this Agreement, the Orange Cove Zoning Ordinance, and all

other applicable Federal, State, and local laws, codes, ordinances, standards, and permit requirements specified in Section 6 and subsection 8.a and not devote the Project Site, in whole or in part, to any other use or purpose without the prior written consent of the City of Orange Cove and as memorialized in an appropriate written amendment to this Agreement.

- (3) Not effect or execute any agreement, lease, conveyance, or other instrument whereby the rental, sale, lease or occupancy of the Project, the Project Site, or any part thereof is restricted on the basis of race, color, creed, religion, sex, marital status, ancestry, or national origin of any person.
- (4) Not discriminate against or segregate any person, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, rental, transfer, use, occupancy, tenure, or enjoyment of the Project, the Project Site or any part thereof, nor shall the Developer itself, or any person claiming under or through either of them, establish any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy tenants, lessees, subtenants, sub lessees or vendees in the Project, the Project Site or any part thereof.
- (5) Provide in all leases, subleases or conveyances affecting the Project, the Project Site, or any part thereof that no person shall, on the ground of race, color, creed, religion, sex, marital status, national origin, or ancestry, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in connection with the performance of any obligation under this Agreement.

b. All agreements, covenants and restrictions in this Section 10 shall be covenants running with the land on the Project Site and shall be binding on the Developer and its successors, assigns, transferees, employees and contractors, and all persons claiming under or through any of them, including lessees of the Project Site, the Project, or any part of either. Without limiting the preceding sentence, the agreements, covenants, and restrictions in paragraphs 10.a. (3), (4) and (5) shall be covenants running with the land; shall be binding on the Developer and their respective successors, assigns, transferees, employees and contractors, and all persons claiming under or through any of them, including lessees of any Project Site within the Project or any part thereof. All agreements, covenants and restrictions in this Section 10 shall inure to the benefit of the City of Orange Cove, its successors, and assigns.

c. The agreements, covenants, and restrictions in paragraphs 10.a (2), (3), (4) and (5) shall survive the termination of this Agreement. The agreements, covenants, and restrictions in paragraph 10.a. (2) shall remain in effect on the Project Site until the permitted use

as set forth in Exhibit "B" has changed. The agreements, covenants, and restrictions in paragraphs 10.a. (3), (4) and (5) shall remain in effect on the Project Site in perpetuity.

Section 11. Events of Default.

Any of the following shall be an event of default ("Event of Default"):

- a. Failure of the Developer, to comply with or satisfactorily perform any of the terms, covenants or requirements of this Agreement, any amendment hereof, or any agreement or other document relating to any City of Orange Cove loan, or grant, if any.
- b. Any fact, representation or statement made by or on behalf of the Developer in this Agreement or in any document referred to herein shall prove at any time to have been incorrect in any material respect when made.
- c. Any assignment or transfer, or attempted assignment or transfer, in violation of Section 15.

Section 12. Remedies of the City of Orange Cove.

- a. If there is an Event of Default, and if (i) the default is in beginning of the Project within the twenty four (24) month period, or (ii) for any other event of Default, the Developer fails to cure or remedy to the City of Orange Cove's reasonable satisfaction within 30 days after written notice thereof, the City of Orange Cove may immediately pursue any and all remedies in law or equity, including without limitation specific performance of this Agreement; termination of the Agreement; recapture, restitution and any payments made by the City of Orange Cove on behalf of the Developer and all other benefits the Developer has received from the City of Orange Cove under any provision of this agreement, Developer would be entitled to restitution of monies less any payments made by the City of Orange Cove on behalf of the

Developer and all other benefits the Developer has received from the City of Orange Cove. Failure or delay in giving notice of an Event of Default shall not be deemed a waiver of the default, nor shall it change the time of the Event of Default. All remedies shall be cumulative. Pursuit of any one remedy by the City of Orange Cove shall not be deemed an election of remedies or a waiver of any other remedy. The City of Orange Cove may pursue any or all remedies at the same time or different times for the same Event of Default or any other Event of Default.

b. The City of Orange Cove's rights and remedies in this section 12 are to be interpreted in light of the fact that the City of Orange Cove will convey the City of Orange Cove Property to the Developer, for development of the Project not for speculation in undeveloped land or for any other purpose.

Section 13 City of Orange Cove Officers and Employees.

a. No official, agent or employee of the City of Orange Cove shall be personally liable or responsible for any obligations of the City of Orange Cove under the terms of this Agreement.

b. No member, officer or employee of the City of Orange Cove shall have any direct or indirect interest in this agreement, nor participate in any decision relating to this Agreement, where such interest or decision is prohibited by law.

Section 14. Relationship of the Parties.

The Developer shall be an independent contractor as to all matters described in this Agreement. Neither the Developer, its agents, contractors nor employees shall be deemed agents, contractors, or employees of the City of Orange Cove. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the Developer and the City of Orange Cove.

Section 15. Restrictions on Assignments, Etc.

a. Except as expressly provided in Section 2, the Developer shall not assign or transfer, or attempt to assign or transfer, this Agreement, or any right herein, or make any total or partial sale, transfer, conveyance or assignment of all or part of the Project Site or the Project or permit an involuntary assignment or conveyance of this Agreement, the Project Site or the Project or any part thereof, without the prior written consent of the City of Orange Cove. This restriction shall not prevent the Developer from permitting deeds of trust or other security instruments authorized by this Agreement to be recorded.

b. If there is an actual or attempted assignment, transfer, sale, or conveyance in violation of subsection 15.a. the City of Orange Cove shall have the right to terminate this Agreement, declare an Event of Default and pursue all rights and remedies provided in Section 12 or otherwise available in law or equity.

c. Subject to subsection 15.a. this Agreement shall bind and benefit the City of Orange Cove, the Developer and their respective officers, directors, partners, administrators, successors, transferees, and assigns, including the Developer, from the Effective Date, until terminated pursuant to this agreement or by operation of law. If there is a sale through foreclosure or power of sale under mortgage, deed of trust, or other security interest on the Project Site, the purchaser(s), their successors and assigns, the Project Site and the Project shall remain subject to all conditions, restrictions, and covenants in this Agreement.

Section 16. Indemnity.

a. The Developer shall indemnify, defend and hold harmless the City of Orange Cove and its' respective boards, commissions, councils, officers, officials, employees and agents from any and all loss, liability, costs and damages (whether in contract, statute, tort, or strict liability, including without limitation death at any time, personal injury or property damage), and from any and all suits and claims in law or equity (including attorneys' fees, court costs and legal expenses), arising directly or indirectly out of or in any way connected with (i) any act, error or omission of the Developer, or any of his employees, contractors, subcontractors, invitees, agents or representatives in connection with this Agreement, the Project, or the Project Site; (ii) any use of the Project, the Project Site or any portion of any of them by the Developer,

or any of his employees, contractors, subcontractors, invitees, agents or representatives; or (iii) the design, construction, operation or maintenance of the Project, or any portion thereof, or any related improvements on the Project Site.

b. Subsection 16.a. shall apply to the greatest extent allowed by law except that it shall not apply to, and the Developer shall not be responsible for, any loss, liability, costs, damages, suits, or claims caused solely by the active negligence or willful misconduct of the City of Orange Cove, or any of its' respective officials, officers or employees acting within the scope of their authority.

Section 17. Hazardous Materials After Transfer of the Property to the Developer.

a. The full financial responsibility for curing, removing, and eliminating any hazardous materials present, brought onto, used, generated, stored, disposed of, or discharged on or in the Project, the Project Site, by any person, in violation of federal, State, or local law after transfer of the property shall rest with and be the responsibility of the Developer. The Developer hereby releases the City of Orange Cove and its' respective boards, commissions, councils, officers, officials, employees, agents, and duly authorized volunteers from any such responsibility or obligation.

b. In addition to and without limitation on Section 16, the Developer shall indemnify, hold harmless and defend the City of Orange Cove and its' respective boards, commissions, councils, officers, officials, employees and agents from any and all loss, liabilities, costs, fines, penalties and damages that may be charged or claimed against the City of Orange Cove or any of its' respective boards, commissions, councils, officers, officials, employees or agents and from any and all suits and claims in law or equity (including attorneys' fees, court costs and legal expenses), arising from or in any way connected with the presence, use, generation, storage, disposal or discharge of hazardous materials on or in the Project, the Project Site or the Project Site at any time after conveyance of the Project Site, to the Developer, by any person (other than one or more of the above indemnities), in violation of Federal, State or local law.

c. For purposes of this Agreement, "hazardous materials" shall include but not be limited to substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation, and Liability act of

1980, as amended (42 USC §§ 9601-9675); The hazardous Materials Transportation Act, as amended (49 USC §§ 5101 et seq.); the Resource Conservation and Recovery Act of 1976, as amended (42 USC §§ 6901-6992K); any and substance defined as "hazardous waste" in California Health and Safety Code § 25117 or as "hazardous substances" in California Health and Safety Code § 25316; and in the regulations adopted and publications issued under any of these laws.

Section 18. Notices.

All notices in connection with this Agreement shall be in writing and shall be given by personal delivery or first-class U.S. mail, postage prepaid, to a part at its respective address below:

To the City of Orange Cove:

City of Orange Cove
633 Sixth Street
Orange Cove, California 93646
Attn: Rudy Hernandez, Interim City Manager
Phone: (559) 626-4488

To the Developer:

Yanez Construction, Inc.
42931 Road 52
Reedley, California 93654
Attn: Efrain Yanez
Phone: 559-859-3909
Email: efrain@yanezconstruction.com

Notice by personal delivery shall be effective upon delivery; notice by mail shall be effective upon receipt or three days after the postmark date, whichever is earlier.

Section 19. Attorneys' Fees.

If either party commences legal action or arbitration to enforce or interpret any provision of this Agreement, the prevailing party in such action or arbitration shall be entitled to recover from the losing party reasonable attorneys' fees, court costs and legal expenses in the amounts determined by the court or tribunal having jurisdiction.

Section 20. General Provisions.

a. The City of Orange Cove shall not unreasonably withhold or delay any consent or approval on its part under this Agreement.

b. The provisions of this Agreement shall be interpreted and enforced, and the rights and duties (both procedural and substantive) of the parties hereunder shall be determined, according to California law.

c. Any legal action in connection with this Agreement shall be instituted in the Superior Court of the County of Fresno, California or in the Federal District Court for the Eastern District of California, as appropriate.

d. Waiver of any provisions of this Agreement must be in writing and signed by a duly authorized representative of the party making the waiver.

e. A copy of this Agreement shall be recorded in the Fresno County Recorder's Office.

f. This Agreement may be amended only in writing signed by duly authorized representatives of the City of Orange Cove and the Developer, after approval by the City of Orange Cove's City Council.

g. This Agreement integrates all of the terms, conditions, agreements and understandings between the City of Orange Cove and the Developer concerning the Project Site, the Project and the other matters described in the Agreement. The Agreement supersedes all negotiations and previous agreements and understandings between the parties concerning such matters.

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Each party represents that this Agreement has been executed as of the Effective Date by such party or its duly authorized representative(s), as appropriate.

CITY OF ORANGE COVE

By: _____

Rudy Hernandez, Interim City Manager

ATTEST:

By: _____

City Clerk

DEVELOPER

By: _____

It is _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, 2020, before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, 2020, before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

List of Exhibits

EXHIBIT "A" LEGAL DESCRIPTION OF PARCEL \SITE MAP

EXHIBIT "B" (ALL USES ALLOWED IN THE R-1 ZONE PURSUANT TO THE CITY
OF ORANGE COVE MUNICIPAL CODE)

EXHIBIT "C" Preliminary site plan.

EXHIBIT "D" ASSESSORS PARCEL MAP OF PARCELS COMPRISING THE SITE

EXHIBIT D
DEED OF TRUST

Recording Requested by:

City of Orange Cove

When recorded please mail to:

**City of Orange Cove
636 Sixth Street
Orange Cove, California 93646**

DEED OF TRUST

THIS DEED OF TRUST is made this ___ day of _____ 2020, among Efrain Yanez Construction, Inc., a California corporation (hereinafter referred to as "Trustor"), whose principal place of business is 42931 Road 52, Reedley, California, 93654, and the City of Orange Cove (the "Beneficiary"), and Placer Title Company, (the "Trustee").

WITNESSETH: that Trustor hereby grants, transfers, and assigns to Trustee, its successors, and assigns, in trust, with power of sale, that property in the City of Orange Cove, County of Fresno, State of California, described as:

APN#: 378-290-49T, APN# 378-290-50T; APN#378-290-51T, APN# 378-290-52T, APN# 378-290-53T and referred to herein as the "Premises"]

TOGETHER WITH all and singular the tenements, hereditaments, rights, rights of way, easements, privileges and appurtenances thereunto belonging, or in any way appertaining (all as part of the Premises hereby conveyed) which shall be deemed to include but not to be limited to (i) all rents, issues, profits, royalties and revenue therefrom, subject, however, to any right, power and authority hereinafter given to and conferred upon Beneficiary to collect the same; (ii) all improvements and fixtures (whether or not annexed thereto) now or hereafter used in connection therewith.

FOR THE PURPOSE OF SECURING:

ONE: Faithful performance and payment by Trustor of the Promissory Note in the amount of One Hundred Twenty-five Thousand Dollars and No Cents (\$125,000.00) signed by Trustor of even date; and

TWO: Faithful performance by Trustor of the conditions and obligations set forth in that certain Development Agreement between Trustor and Beneficiary of even date and recorded concurrently with this Deed of Trust affecting the Premises.

TRUSTOR AGREES:

(1) To keep the Premises insured against loss or damage by fire, the perils against which insurance is afforded by the Extended Coverage Endorsement. The policy or policies of such insurance shall be in the form in general use from time to time in the State of California, shall be in an amount not less than the indebtedness from time to time secured hereby and by any senior encumbrances, shall be issued by a company or companies rated A XII or better in Best's Insurance Guide, and shall contain the Standard Mortgagee Clause with loss payable to Beneficiary. Trustor shall provide Beneficiary with a certificate evidencing such insurance from the issuing company. Such policy or policies shall provide that they will not be canceled without thirty (30) days prior written notice to Beneficiary. Whenever required by Beneficiary in writing mailed to Trustor at Trustor's last address known to Beneficiary, copies of such policies shall be delivered immediately to Beneficiary. Any and all amounts received by Beneficiary under any of such policies shall be applied in accordance with the provisions of this Deed of Trust. The parties acknowledge that the Trustor is currently self-insured through a Risk Management Authority composed of over fifty other cities. As an alternative to providing the insurance required by this Agreement, the Trustor may provide a self-insurance method or plan of protection. Amounts available for payment from any such self-insurance method or plan shall be deemed insurance proceeds for purposes of this Deed of Trust. The term "insurance" as used in this Deed of Trust may be interpreted so as to include such a plan of self-insurance.

(2) To keep the Premises in good condition and repair, and not to commit or permit waste thereof; not to remove or demolish, nor impair the structural character or integrity of any building, fixture, equipment, fence, canal, well or other improvement now or hereafter situated upon said Premises, without the prior written consent of Beneficiary (which shall not be unreasonably withheld or delayed); to complete or restore promptly and in good and workmanlike manner any building or improvement which may be constructed, damaged or destroyed thereon and to pay when due all claims for work, labor or services performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon.

(3) Not to discriminate upon the basis of sex, marital status, race, color, creed, religion, national origin, or ancestry in the sale, lease, sublease, transfer, or rental, or in the use, occupancy, tenure or enjoyment of the Property or any improvements thereon, or of any part thereof. Nor shall the Trustor or anyone claiming under or through the Trustor, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenancy, lessees, subtenants, sublessees, or vendees in the Premises. Each and every deed, lease, and contract entered into with respect to the property shall or be subject to nondiscrimination or non-segregation clauses identical to those set forth in Section 33436 of the California Health and Safety Code.

(4) That if, during the existence of this trust, there be commenced or pending any action or proceeding affecting said Premises, or the title thereto, or if any adverse claim for or against the said Premises be made, and if Trustor fails to do so or is otherwise in default hereunder, Trustee or Beneficiary, or both, may appear in said action or proceeding and retain counsel therein and defend the same, or otherwise take such action therein as they or either of them may deem advisable, and may settle or compromise the same or the said adverse claim; and in that behalf, and for any of the said purposes, may pay and expend such sums of money as they, or either of them may deem to be reasonable and necessary.

(5) To comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting said Premises, and not to suffer or permit any act to be done in or upon said Premises in violation thereof.

(6) That, if Trustor fails to do so, Beneficiary, without demand or notice and as in its sole judgment it may consider necessary, may do any or all things required of Trustor by any of the provisions herein contained and incur and pay all reasonable and necessary expenses in connection therewith.

(7) To pay to Trustee and Beneficiary, respectively, promptly and within thirty (30) days of receipt of written demand, the amounts of all sums of money which they shall respectively pay pursuant to any of the provisions herein contained, including but not limited to reasonable attorney fees and the cost of evidence of title or any guaranty thereof, together with interest upon each of said amounts, until repaid, from the time of the payment thereof, at the rate of seven percent (7 %) per annum.

(8) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any material agreement hereunder, Beneficiary may deliver a written Notice of Default (as set forth in the Agreement) and of election to cause said property to be sold, which notice Trustee shall cause to be filed for record, and Beneficiary may also declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default. After the lapse of such time as may then be required by law following the recordation of said Notice of Default, and Notice of Sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said Notice of Sale, either as a whole or in separate parcels, and in such order as Beneficiary may determine, subject to any statutory right which Trustor may have to direct such order, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary may purchase at such sale. After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at seven percent (7 %) per annum; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(9) Notwithstanding paragraph (8) herein, that upon default by Trustor of the Note secured by this Deed of Trust after the date of this Deed of Trust or any extension secured for said performance, Beneficiary may deliver a written Notice of Default and of election to cause that portion of the premises to be sold as set forth in paragraph (8) herein.

(10) That all of the rents, issues, and profits of said Premises are hereby assigned to Beneficiary as further security for the payment of the indebtedness and performance of the obligations, covenants, promises, and agreements secured hereby. Provided, and only for so long as, Trustor is not in default hereunder, Beneficiary hereby authorizes Trustor or Trustor's agents to collect the aforesaid rents and revenues. In case default be made in payment of any indebtedness secured hereby or in performance of any of Trustor's material agreements herein contained, Beneficiary shall be entitled at any time without notice, in its sole discretion, either by their agents, attorneys, employees, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, to enter upon and take possession of the above Premises or any part thereof, and to do and perform any acts that Beneficiary may deem necessary or proper to conserve the value thereof, and to collect and receive all rents, issues and profits thereof, including those past due and unpaid as well as those accruing thereafter. Trustor further agrees that Beneficiary may also take possession of, and use, any and all personal property contained in said Premises and used by Trustor in the rental or leasing of said Premises or any part thereof. Beneficiary may apply all such rents, issues and profits collected or received by it in the manner hereinabove specified in respect of proceeds of sale of said Premises, or any part or all of such moneys may be released by Beneficiary at its sole option. The expense (including receivers' fees, if any, and compensation to any agent appointed by Beneficiary, and reasonable counsel fees and costs and disbursements) incurred in taking possession and effecting such collection or attempting to take possession and effect collection, shall be deemed a portion of the expense of this trust to be paid by Trustor and secured hereby. Neither the entering upon and taking possession of the said property nor the collection of such rents, issues and profits and the application or release thereof as aforesaid, shall cure or waive any default or Notice of Default hereunder or invalidate any act done pursuant to such Notice.

(11) That all judgments, awards of damages and settlements hereafter made as a result of or in lieu of any condemnation or other proceedings for public use of, or for any damage to, said Premises or the improvements and any award for change of grade of streets thereon are hereby assigned and shall be paid to Beneficiary. Trustor agrees to execute such further assignments of any such award, judgment or settlement as Beneficiary may require, and to deliver to Beneficiary all proceeds of any such award, judgment or settlement which may be received by Trustor. Beneficiary shall apply any and all such sums in accordance with paragraph 25 of this Deed of Trust

(12) Without affecting the liability of Trustor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Beneficiary with respect to any security not expressly released in writing, Beneficiary may, at any time and from time to time, either before or after the maturity of the Note, and without notice or consent:

a. Release any person liable for payment of all or any part of the indebtedness or for performance of any obligation.

b. Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying, or otherwise dealing with the lien or charge hereof;

c. Exercise or refrain from exercising or waive any right Beneficiary may have;

d. Accept additional security of any kind;

e. Release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property herein described.

(13) That if the indebtedness secured hereby is now or hereafter further secured by chattel mortgages, security interests, deeds of trust, pledges, contracts of guaranty or other additional securities, Beneficiary may, at its option, exhaust any one or more of said securities as well as the security hereunder, either concurrently or independently and in such order as it may determine, and may apply the proceeds received upon the indebtedness secured hereby without affecting the status of, or waiving any right to exhaust all or any other security including the security hereunder and without waiving any breach or default of any right or power, whether exercised hereunder or contained herein, or in any such other security.

(14) This Deed of Trust shall not be construed to create a security interest under the provisions of the Uniform Commercial Code, as same together with any amendments or supplements thereto may be in effect, with respect to any goods, equipment, appliances, bank accounts, account receivables, inventory or articles of personal property now attached to or used or hereafter to be attached to or used in connection with the Premises.

(15) That acceptance by Beneficiary of any sum in payment, or part payment, of any indebtedness secured hereby, after the same is due or after the recording of a Notice of Default, shall not constitute a waiver of the right to require prompt payment, when due, of all other sums so secured, nor shall such acceptance cure or waive any remaining default or invalidate any sale held pursuant to such Notice for any such remaining default, or prejudice any of the rights of Beneficiary under this Deed of Trust.

(16) That Beneficiary may, at any time Beneficiary may desire, appoint another Trustee in the place and stead of said Trustee or any successor in trust, and the title herein conveyed to said Trustee shall be vested in said successor, which appointment shall be in writing and shall be duly recorded in the Recorder's Office of the County in which the above-described land is situated.

(17) That the trust herein created are irrevocable.

(18) While it is owned by the Trustor and prior to payment in full of the Promissory Note, Trustor shall not, without Beneficiary's prior written consent, transfer title to the property or place a lien or encumbrance on the property or allow a lien or encumbrance to be placed on the property which has priority to the lien evidenced by this instrument. That breach of the covenants contained in this paragraph shall constitute a default hereunder and, in such event, Beneficiary shall have the right, at its option, to declare all sums secured hereby forthwith due and payable. This

option may be exercised at any time after the occurrence of such event and the acceptance of one or more installments from any person thereafter shall not constitute a waiver of Beneficiary's option. Consent to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transactions.

(19) That default in the terms of any other instrument securing the debt secured hereby shall constitute a default in this Deed of Trust.

(20) That the invalidity of any one or more covenants, phrases, clauses, sentences, or paragraphs of this Deed of Trust shall not affect the remaining portions of this Deed of Trust or any part thereof and this Deed of Trust shall be construed as if such invalid covenants, phrases, clauses, sentences or paragraphs, if any, had not been inserted herein.

(21) Trustor agrees to pay Beneficiary's reasonable charge for any statement regarding the obligations secured by this Deed of Trust requested by Trustor or in his behalf.

(22) If Trustor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar to successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Trustor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Trustor within sixty (60) days from the date when such proceedings are brought, or if Trustor shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Trustor or Trustor's property, or if the Premises shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Trustor shall make an assignment for the benefit of Trustor's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Trustor's assets and such seizure is not discharged within thirty (30) days, then Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable without prior notice to Trustor, and Beneficiary may invoke any remedies permitted by this Deed of Trust. Any reasonable attorney fees and other reasonable expenses incurred by Beneficiary in connection with Trustor's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Trustor secured by this Deed of Trust.

(23) Notwithstanding the existence of any other security interest(s) in the Premises held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Premises shall be subjected to the remedies provided herein. Beneficiary shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Trustor, any party who consents to this Deed of Trust and any party who now or hereafter acquires a security interest in the Premises and who has actual or constructive notice hereof hereby waives any and all rights to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

(24) Casualty:

A. For purposes of this paragraph 24, the following terms and phrases shall have the meanings indicated:

(i) "Restoration" means the restoration, repair, replacement or rebuilding of the Premises and/or the improvements, if any, to a value, condition, and character equal to or greater than that immediately prior to the damage, destruction or "Taking," as defined below.

(ii) "Taking" means the taking of all or any part of the Premises and/or the improvements, if any, or any interest therein or right accruing thereto, as the result of the exercise of the right of condemnation or eminent domain or change of grade effecting the Premises or the improvements, if any, or any part thereof. A conveyance in lieu of or in anticipation of the exercise of any such right of condemnation or eminent domain shall be considered a Taking.

B. In case of any damage to the Premises or any part thereof, if the reasonable cost of Restoration (and any temporary repairs and property protection pending commencement of the Restoration) exceeds \$10,000.00, Trustor will promptly give written notice of such damage to Beneficiary, describing the nature and extent of such damage and setting forth the best estimate of the cost of Restoration (and such temporary repairs and property protection). In case of any damage to the Premises or any part thereof, Trustor at its expense shall promptly commence and complete the Restoration provided that the Net Casualty Insurance Proceeds (defined below) are made available to Trustor. All insurance proceeds on account of any damage to the Premises shall be payable to, and deposited with, Beneficiary. Subject to the conditions set forth below, Beneficiary, at its sole option, (i) may apply such insurance proceeds upon the Note, as the Beneficiary may determine, (ii) may use such insurance proceeds, without reducing the principal balance of the Note, to accomplish the Restoration, (iii) may release such insurance proceeds, without reducing the principal balance of the Note to Trustor, or (iv) any such amount may be divided in any manner among any such application, use or release. No such application use or release shall, however, cure or waive any default or Notice of Default under the Agreement or invalidate any act done pursuant to such Notice. Any unapplied, undisbursed insurance proceeds remaining with the Beneficiary shall inure to the benefit of and pass to the owner or purchaser of the Premises or any part of it at any foreclosure or trustee's sale under the Agreement.

C. In the event that Trustor requests that the insurance proceeds be used to accomplish the Restoration, then any "Net Casualty Insurance Proceeds" (i.e., the casualty insurance proceeds remaining after reimbursement of the Beneficiary for any reasonable costs and expenses of the Beneficiary, including reasonable attorneys' fees, for collection thereof) received by the Beneficiary shall be applied to the cost of Restoration and disbursed in the same manner and subject to the same conditions as the Project Funds (as defined in the Agreement) if but only if each of the following conditions is satisfied: (1) no default or potential default exists hereunder; (2) the Net Casualty Insurance Proceeds, together with such additional funds (the "Required Equity Funds") as Trustor shall have deposited with the Beneficiary (and which the Trustor shall be required to deposit with the Beneficiary within one hundred twenty (120) days after the occurrence of such casualty), are sufficient, in the reasonable judgment of the Beneficiary, to pay all costs of (a) the Restoration and (b) any other expenses related to the Premises; (3) the anticipated date for completion of Restoration shall, in the reasonable judgment of the Beneficiary, be prior to the date which is six (6) months prior to the then-applicable maturity date of the Note; and (4) each of the insurance companies from which the Net Casualty Insurance Proceeds are received shall have waived in writing all right of subrogation for the benefit of Trustor and the Beneficiary.

(25) In the event of a partial Taking such that the Premises is subject to Restoration, all proceeds and awards shall be paid to Beneficiary to accomplish the Restoration in the event that Trustor requests and satisfies the conditions for the same; and such amount shall be disbursed as set forth in subparagraph 24C. (as the same applies to the application of the Net Casualty Insurance Proceeds, with each reference therein to insurance proceeds deemed to include a reference to condemnation proceeds and awards). In the event of a total Taking or in the event Borrower does not elect to apply such award or proceeds to the Restoration, such amount shall be applied as follows, in the order of priority indicated:

A. To reimburse Beneficiary for all reasonable costs and expenses, including reasonable attorneys' fees, incurred in connection with collecting such proceeds; and

B. Any remaining balance, if any, shall be paid to the Trustor.

UPON WRITTEN REQUEST OF BENEFICIARY stating that all obligations secured hereby have been performed and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment by Trustor of its fees, Trustee shall reconvey, without warranty, the estate in the Premises then held by Trustee. The grantee in such reconveyance may be designated and described as the "person or persons legally entitled thereto," or by other appropriate terms.

This Deed of Trust shall inure to and bind the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto, and shall be so construed that wherever applicable with reference to any of the parties hereto, the use of the singular number shall include the plural number, the use of the plural number shall include the singular number, the use of the masculine gender shall include the feminine gender, and shall likewise be so construed as applicable to and including a corporation or corporations that may be a party or parties hereto.

TRUSTOR hereby requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

IN WITNESS WHEREOF, the Trustor executed this Agreement as of the day and year first written above.

Signature of Trustor:

EFRAIN YANEZ CONSTRUCTION, INC.

By: _____
Efrain Yanez, President

By: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
--

State of California)
County of _____)

On _____, 2020, before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT E
PERSONAL GUARANTY

GUARANTEE OF PURCHASE SALE AGREEMENT

WHEREAS, City of Orange Cove, hereinafter "Seller" and Efrain Yanez Construction, Inc., a California corporation, hereinafter "Buyer", are about to execute a document entitled "Purchase Sale Agreement" (herein "Agreement"), concerning the premises commonly known as five parcel lots and specifically known as APN#: 378-290-49T, APN# 378-290-50T; APN#378-290-51T, APN# 378-290-52T, APN# 378-290-53T wherein Seller will sell the premises to Buyer, and

WHEREAS, Efrain Yanez., hereinafter "Guarantor" has a financial interest in Buyer; and,

WHEREAS Seller would not execute the Agreement if Guarantor did not execute and deliver to Seller this Guarantee of Purchase Sale Agreement.

NOW THEREFORE, in consideration of the execution of the foregoing Agreement by Seller and as a material inducement to Seller to execute said Agreement, Guarantors hereby jointly, severally, unconditionally and irrevocably guarantee the prompt payment by Buyer of all of the purchase price and all other sums payable by Buyer under said Agreement and the faithful and prompt performance by Buyer of each and every one of the terms, conditions and covenants of said Agreement to be kept and performed by Buyer.

It is specifically agreed that the terms of the foregoing Agreement may be modified by agreement between Seller and Buyer, or by a course of conduct, and said Agreement may be assigned by Seller or any assignee of Seller without consent or notice to Guarantor and that this Guaranty shall guarantee the performance of said Agreement as so modified.

This Guarantee shall not be modified or affected by the failure or delay on the part of Seller to enforce any of the rights or remedies of the Seller under said Agreement, whether pursuant to the terms thereof or at law or in equity.

No notice of default need be given to Guarantor, it being specifically agreed that the guarantee of the undersigned is a continuing guarantee under which Seller may proceed immediately against Buyer and/or against Guarantor follow any breach or default by Buyer or for the enforcement of any rights which Seller may have as against Buyer under the terms of the Agreement or at law or in equity.

Seller shall have the right to proceed against Guarantor hereunder following any breach of default by Buyer without first proceeding against Buyer and without previous notice to or demand upon either Buyer or Guarantor.

Guarantor hereby waives (a) notice of acceptance of this Guaranty; (b) demand of payment, presentation and protest; (c) all right to assert or plead any statute of limitations relating to this Guaranty or the Agreement; (d) any right to require the Seller to proceed against the Buyer or any other Guarantor or any other

person or entity liable to Seller; (e) any right to require Seller to apply to any default any security deposit or other security it may hold under the Agreement; (f) any right to require Seller to proceed under any other remedy Seller may have before proceeding against Guarantor; (g) any right of subrogation.

Guarantor does hereby subrogate all existing or future indebtedness of Buyer to Guarantors to the obligations owed to Seller under the Agreement and this Guaranty.

If a Guarantor is married, such Guarantor expressly agreed that recourse may be had against his or her separate property for all the obligations hereunder.

The obligations of Buyer under the Agreement to execute and deliver estoppel statements and financial statements, as therein provided, shall be deemed to also require the Guarantor hereunder to do and provide the same.

The term "Seller" refers to and means the Seller named in the Agreement and also Seller's successors and assigns. So long as Seller's interest in the Agreement, the premises or the rents, issues and profile therefrom, are subject to any mortgage or deed of trust or assignment for security, no acquisition by Guarantor of the Seller's interest shall affect the continuing obligation of Guarantor under this Guaranty which shall nevertheless continue in full force and effect for the benefit of the mortgage, beneficiary, trustee or assignee under such mortgage, deed of trust or assignment and their successor and assigns.

The term "Buyer" refers to and means the Buyer named in the Agreement and also Buyer's successors and assigns.

In the event any action be brought by said Seller against Guarantors hereunder to enforce the obligation of Guarantors hereunder, the unsuccessful party in such action shall pay to the prevailing party therein a reasonable attorney's fee which shall be fixed by the court.

This Guaranty was executed this ____ day of _____, 2020 at _____, California.

"GUARANTOR"

Efrain Yanez



REPORT TO SUCCESSOR AGENCY

January 8, 2021

To: Mayor and Council

From: Rudy Hernandez, City Manager

SUBJECT: Recognized Obligation Payment Schedule 21-22 for the July 1, 2021 through June 30, 2021 period and Administrative Budget for Fiscal Year 2021-22

BACKGROUND:

A Recognized Obligation Payment Schedule ("ROPS") covering the period of July 1, 2021 through June 30, 2022 is due by February 1, 2021 pursuant to Health and Safety Code ("HSC") Section 34177(o). The ROPS requests necessary payments for each enforceable obligation of the former Orange Cove Redevelopment Agency for Fiscal Year ("FY") 2021-22.

Orange Cove Successor Agency ("Successor Agency") staff has prepared a ROPS 21-22 for the Successor Agency Board's consideration, which is attached to this staff report. The Fresno Countywide Oversight Board ("Oversight Board") will also review the ROPS 21-22 at its meeting on January 24, 2021. Once approved, staff will transmit it electronically to the Department of Finance ("DOF"), State Controller, and Fresno County Auditor-Controller ("CAC") for their review. The adopted ROPS must be transmitted by February 1, 2021; if it is not transmitted on time, the City of Orange Cove will be subject to a penalty of \$10,000 per day. With DOF approval, the Auditor-Controller will be authorized to disperse property tax revenue to pay ROPS obligations on June 1, 2021 and January 2, 2022.

It is important to remember that the ROPS is merely a projection of estimated payments for the ensuing twelve-month fiscal period. The actual payments made could be the same or less.

ROPS 21-22 Obligations

The following summarizes the Successor Agency's obligations listed on the ROPS 21-22:

- Item 10 – Successor Agency Administration & Operations - The Successor Agency is requesting \$100,000 for its FY 2021-22 administrative expenses. An Administrative Budget that details proposed expenses has been prepared and is discussed later in this staff report.
- Item 16 – 2014 Tax Allocation Refunding Bonds, Series 2014 – The Successor Agency is requesting \$391,812 in RPTTF to fund the repayment of the Series 2014 Tax Allocation Refunding Bonds ("Bonds"). The 2014 Bonds refinanced bonds issued by the former Redevelopment Agency in 2004. The 2014 Bonds are the Successor Agency's largest obligation and are projected to be fully repaid by fiscal year 2031-32.
- Item 17 – Trustee Administration Fee - \$1,500 is requested to pay an administrative fee charged by the fiscal agent on the 2014 Bonds pursuant to an enforceable contract.
- Item 18 – Continuing Disclosure - \$3,500 is requested to pay Albert Peché to prepare and submit legally mandated reports on the 2014 Bonds pursuant to an enforceable contract.
- Item 22 – Underfunded Trustee Fee – The shortfall amount of \$110 is requested to pay the negative balance due to underfunded trustee fee in FY 2018-19.

Cash Balances

The Report of Cash Balances in the current ROPS represents the Successor Agency's estimate of the cash balance as of June 30, 2018. It shows the inflow and outflow of funds held by the Successor Agency. Funds are being spent in a timely manner and consistent with the approvals of the Oversight Board and DOF. The Cash Balances page helps the Successor Agency to identify other funds available to spend on enforceable obligations, detailed as follows:

- As of June 30, 2018, the Successor Agency had \$392,266 in remaining bond proceeds. DOF approved a Bond Expenditure Agreement on the ROPS 19-20 that permitted the Successor Agency to transfer bond proceeds to the City to spend as required by the bond covenants.
- The Successor Agency had \$0 Reserve Balances.
- The Successor Agency earned \$297 in Fiscal Year 2018-19 from Other Fund revenues, contributing to an ending Other Funds balance of \$369 as of June 30, 2019.

- The Successor Agency expects DOF to re-allocate \$460 in property tax revenues received, but not spent, for obligations in fiscal year 2018-19 for expenditures in Fiscal Year 2021-22.

ROPS 18-19 Prior Period Adjustment

As required by HSC section 34186 (c), the Successor Agency prepared a reconciliation between approved and actual payments on enforceable obligations from the ROPS covering Fiscal Year 2018-19 and submitted this reconciliation to the CAC prior to October 1, 2020. There was a \$460 difference between approved and actual payments. The CAC is reviewing the Prior Period Adjustment and will submit its determination to DOF by February 2, 2021. DOF will reduce the ROPS 21-22 RPTTF allocation by the amount determined by the CAC.

Administrative Cost Allowance

The maximum administrative cost allowance a successor agency can receive is 50 percent of the RPTTF distributed in the prior fiscal year for non-administrative obligations. The ROPS 20-21 had \$396,312 in non-administrative obligations funded by RPTTF. The ROPS 21-22 may request an administrative allowance that is up to 50 percent of this amount, or \$198,156. The Successor Agency is requesting a lower administrative budget of \$100,000 for the ROPS 21-22 period based on the Successor Agency's anticipated costs.

An administrative budget has been prepared for FY 2021-22 for the Successor Agency Board and Oversight Board's consideration.

Oversight Board Consolidation

As of July 1st, 2018, the Fresno Countywide Oversight Board was established pursuant to HSC Section 34179 (j), replacing the local Orange Cove Oversight Board. The Countywide Oversight Board reviews actions taken by all successor agencies within Fresno County and can direct successor agencies to perform certain actions.

The Countywide Oversight Board has scheduled its next meeting for January 23, 2021. The deadline for the Successor Agency to submit its ROPS 21-22 to the Countywide Oversight Board was January 3, 2021. This deadline allows for County staff to review the submission and provide feedback, and for the Successor Agency to incorporate feedback if necessary. With the consolidation of the Oversight Board, it is expected that expenditures may be more stringently monitored, and successor agencies may have to provide additional supporting documentation, especially for the administrative allowance. Successor Agency staff will respond to any requests for additional information from the Oversight Board.

RECOMMENDATIONS

Staff recommends that the Successor Agency:

1. Adopt Resolution No. 2021-xx Approving the Successor Agency's Administrative Budget for Fiscal Year 2021-22
2. Adopt Resolution No. 2021-xx Approving the Recognized Obligation Payment Schedule 21-22 for July 2021 through June 2022 and Authorizing its Transmittal

RESOLUTION NO. SA 2021-01

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE 21-22 FOR JULY 2021 THROUGH JUNE 2022 AND AUTHORIZING ITS TRANSMITTAL

WHEREAS, Assembly Bill 26 (“AB x1 26”) was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 2012, the City Council adopted Resolution No. 2012-09 electing to serve as the Successor Agency to the former Orange Cove Redevelopment Agency (“Successor Agency”) in accordance with the Dissolution Act (enacted by Assembly Bills x1 26 and 1484 and Senate Bill 107, as codified in the California Health & Safety Code); and

WHEREAS, among the duties of successor agencies under the Dissolution Act is the preparation of a Recognized Obligation Payment Schedule (“ROPS”) for the ensuing twelve-month period for consideration by an oversight board and the California Department of Finance (“DOF”) for purposes of administering the wind-down of financial obligations of the former Redevelopment Agency; and,

WHEREAS, the Dissolution Act requires that the proposed ROPS be approved by the Fresno Countywide Oversight Board, transmitted for review to the Fresno County Auditor-Controller, State Controller’s Office, and DOF; and,

WHEREAS, the proposed ROPS 21-22 for the twelve-month period from July 1, 2021 through June 30, 2022, attached hereto as Exhibit “A” has been prepared and is consistent with the provisions of the Dissolution Act and in the format made available by DOF; and,

WHEREAS, the Successor Agency desires to approve the ROPS 21-22 and transmit it to various parties as required by the Dissolution Act.

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Approval of ROPS. The Successor Agency hereby approves and adopts the ROPS 21-22 covering the period of July 1, 2021 through June 30, 2022, in substantially the form attached hereto as Exhibit A, and incorporated herein by reference, as required by the Dissolution Act.

Section 3. Posting; Transmittal to Appropriate Agencies. The City Manager is hereby authorized and directed to post of copy of the ROPS 21-22 on the City’s website and

transmit a copy to the Fresno Countywide Oversight Board for its approval and to other parties as required by the Dissolution Act.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Successor Agency, on the 13th day of January, 2021, by the following vote:

AYES:	AGENCY BOARD MEMBERS:
NOES:	AGENCY BOARD MEMBERS:
ABSENT:	AGENCY BOARD MEMBERS:

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

XXX, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary the Successor Agency to the Orange Cove Redevelopment Agency and that the foregoing resolution was duly adopted at a regular meeting of the Successor Agency held on the 8th day of January, 2021.

June Bracamontes
Agency Secretary

EXHIBIT A

RECOGNIZED OBLIGATION PAYMENT SCHEDULE 2021-22
JULY 2021 THROUGH JUNE 2022

RESOLUTION NO. SA 2021-02

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2021-22

WHEREAS, Assembly Bill 26 (“AB x1 26”) was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 2012, the City Council adopted Resolution No. 2012-09 electing to serve as the Successor Agency to the former Orange Cove Redevelopment Agency (“Successor Agency”) in accordance with the Dissolution Act (enacted by Assembly Bills x1 26 and 1484 and Senate Bill 107, as codified in the California Health & Safety Code); and

WHEREAS, Section 34177(j) requires the Successor Agency to prepare a proposed administrative budget and submit it to the Fresno Countywide Oversight Board for approval; and

WHEREAS, the Successor Agency has prepared an Administrative Budget for the period July 1, 2021 to June 30, 2022, attached hereto as Exhibit “A”; and

WHEREAS, the Successor Agency desired to approve the Administrative Budget and submit it to the Fresno Countywide Oversight Board for approval.

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Approval of Administrative Budget. Pursuant to the Dissolution Act, the Successor Agency approves the Fiscal Year 2021-22 Administrative Budget submitted herewith as Exhibit A, which is incorporated herein by this reference.

Section 3. Posting; Transmittal to Appropriate Agencies. The Successor Agency authorizes transmittal of the Fiscal Year 2021-22 Administrative Budget to the Fresno Countywide Oversight Board.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Successor Agency, on the 13th day of January, 2021, by the following vote:

AYES:	AGENCY BOARD MEMBERS:
NOES:	AGENCY BOARD MEMBERS:
ABSENT:	AGENCY BOARD MEMBERS:

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

XXX, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary of the Successor Agency to the Orange Cove Redevelopment Agency, and that the foregoing resolution was duly adopted at a regular meeting of the Successor Agency held on the 13th day of January, 2021.

June Bracamontes
Agency Secretary

EXHIBIT A

SUCCESSOR AGENCY ADMINISTRATIVE BUDGET
FOR FISCAL YEAR 2021-22

ORANGE COVE SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FY 2021-22

FY 2021-22 Administrative Activities		Personnel				
County correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel				
State correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel				
Prepare ROPS		Successor Agency Staff, RSG, Legal Counsel				
Prepare administrative budget		Successor Agency Staff, RSG, Legal Counsel				
Governmental asset transfer		Successor Agency Staff, RSG, Legal Counsel				
Oversight Board staff support		Successor Agency Staff, RSG, Legal Counsel				
Management of dissolution activities		Successor Agency Staff, RSG, Legal Counsel				
Annual audit		Accountant				
Manage/monitor finances		Successor Agency Staff, RSG				
Agendas/minutes/Brown Act records assistance		Successor Agency Staff				
Budget by Personnel	Description	Estimated Hours	Average Rate	Total	ROPS A Period	ROPS B Period
Successor Agency Staff Costs	Salaries, Wages, Benefits	1,400	\$42	59,600	59,600	0
Operating Expenses	Insurance, Supplies, Maintenance		n/a	5,000	5,000	0
RSG, Inc.	Advisory Services (ROPS Preparation, Legislative Guidance, Property Disposition, Cash Flow Projections, State/County Correspondence, etc.)	110	\$180	20,000	20,000	0
Legal Counsel	Legal Services (Review materials. Meeting attendance is charged to the City for City Council/Successor Agency meetings.) Audit Services	60	\$165	9,900	9,900	0
Accountant			n/a	3,500	3,500	0
Oversight Board Costs	Supplies and Meeting Operations Cost		n/a	2,000	2,000	0
Contingency			n/a	-	-	0
Grand Total			\$	100,000	\$ 100,000	\$ -

ORANGE COVE SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FY 2021-22

FY 2021-22 Administrative Activities		Personnel				
County correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel				
State correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel				
Prepare ROPS		Successor Agency Staff, RSG, Legal Counsel				
Prepare administrative budget		Successor Agency Staff, RSG, Legal Counsel				
Governmental asset transfer		Successor Agency Staff, RSG, Legal Counsel				
Oversight Board staff support		Successor Agency Staff, RSG, Legal Counsel				
Management of dissolution activities		Successor Agency Staff, RSG, Legal Counsel				
Annual audit		Accountant				
Manage/monitor finances		Successor Agency Staff, RSG				
Agendas/minutes/Brown Act records assistance		Successor Agency Staff				
Budget by Personnel	Description	Estimated Hours	Average Rate	Total	ROPS A Period	ROPS B Period
Successor Agency Staff Costs	Salaries, Wages, Benefits	1,400	\$42	59,600	59,600	0
Operating Expenses	Insurance, Supplies, Maintenance		n/a	5,000	5,000	0
RSG, Inc.	Advisory Services (ROPS Preparation, Legislative Guidance, Property Disposition, Cash Flow Projections, State/County Correspondence, etc.)	110	\$180	20,000	20,000	0
Legal Counsel	Legal Services (Review materials. Meeting attendance is charged to the City for City Council/Successor Agency meetings.) Audit Services	60	\$165	9,900	9,900	0
Accountant			n/a	3,500	3,500	0
Oversight Board Costs	Supplies and Meeting Operations Cost		n/a	2,000	2,000	0
Contingency			n/a	-	-	0
Grand Total				\$ 100,000	\$ 100,000	\$ -

Recognized Obligation Payment Schedule (ROPS 21-22) - Summary
Filed for the July 1, 2021 through June 30, 2022 Period

Successor Agency: Orange Cove

County: Fresno

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	21-22A Total (July - December)	21-22B Total (January - June)	ROPS 21-22 Total
A Enforceable Obligations Funded as Follows (B+C+D)	\$ -	\$ -	\$ -
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	\$ 302,235	\$ 194,687	\$ 496,922
F RPTTF	202,235	194,687	396,922
G Administrative RPTTF	100,000	-	100,000
H Current Period Enforceable Obligations (A+E)	\$ 302,235	\$ 194,687	\$ 496,922

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/ _____
Signature Date

Orange Cove
Recognized Obligation Payment Schedule (ROPS 21-22) - Report of Cash Balances
July 1, 2018 through June 30, 2019
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.							
A	B	C	D	E	F	G	H
	ROPS 18-19 Cash Balances (07/01/18 - 06/30/19)	Fund Sources				Non-Admin and Admin	Comments
		Bond Proceeds		Reserve Balance	Other Funds		
		Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.		
1	Beginning Available Cash Balance (Actual 07/01/18) RPTTF amount should exclude "A" period distribution amount.	392,266			369	1,847	F: Other Funds held for ROPS 18-19. G: PPA 16-17 (\$1,489) and 17-18 (\$358).
2	Revenue/Income (Actual 06/30/19) RPTTF amount should tie to the ROPS 18-19 total distribution from the County Auditor-Controller	6,508				571,631	
3	Expenditures for ROPS 18-19 Enforceable Obligations (Actual 06/30/19)					571,281	F and G: Expenditures reported on PPA 17-18.
4	Retention of Available Cash Balance (Actual 06/30/19) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	398,774				1,847	C: Bond proceeds retained for bond expenditure agreement approved on ROPS 19-20 to transfer to City. G: PPA 16-17 (\$1,489) + PPA 17-18 (\$358)
5	ROPS 18-19 RPTTF Prior Period Adjustment RPTTF amount should tie to the Agency's ROPS 18-19 PPA form submitted to the CAC		No entry required			460	
6	Ending Actual Available Cash Balance (06/30/19) C to F = (1 + 2 - 3 - 4), G = (1 + 2 - 3 - 4 - 5)	\$-	\$-	\$-	\$369	\$(110)	G: Negative \$110 due to underfunded trustee fee in 18-19. The shortfall amount

Orange Cove
Recognized Obligation Payment Schedule (ROPS 21-22) - Notes
July 1, 2021 through June 30, 2022

Item #	Notes/Comments
10	
16	
17	
18	
22	



REPORT TO CITY COUNCIL AND SUCCESSOR AGENCY

January 13, 2021

To: Mayor and Successor Agency Board

From: Rudy Hernandez, City Manager

SUBJECT: Consideration of Proposals for Fiscal Year 2021-22 Successor Agency and Housing Successor Consulting Services by RSG, Inc.

BACKGROUND:

In 2012, the Orange Cove Redevelopment Agency was dissolved by State law. The City of Orange Cove ("City") elected to become the Successor Agency to the Orange Cove Redevelopment Agency ("Successor Agency") and the Housing Successor to the Orange Cove Redevelopment Agency ("Housing Successor"). The dissolution of redevelopment is complex and arduous. The City requires financial and management consulting services to help manage the numerous deadlines and requirements of State Law on Successor Agency and Housing Successor activities.

Successor Agency Consulting Services

The City and Successor Agency have employed RSG, Inc. ("RSG") to provide consulting services related to the dissolution of the former Orange Cove Redevelopment Agency since 2012. To date, RSG has assisted with:

- Operational startup activities to create the Successor Agency, Housing Successor Entity, and Oversight Board
- Recognized Obligation Payment Schedules (ROPS) and Administrative Budgets covering January 2012 through Fiscal Year ("FY") 2021-22
- Long-Term Cash Flow Analyses to aid preparation of the ROPS and inform other planning activities
- City Loan Agreements to cover shortfalls in prior ROPS periods
- Due Diligence Review advisory services
- Zero-Property Long Range Property Management Plan
- Review and analysis of contracts, agreements, and other documents

- Documents and presentations for City Council, Successor Agency, and Oversight Board Meetings
- Documents and presentations for meetings with State and County agencies
- Correspondence with State, County, and other agencies as needed
- General project advisory and management services
- Legislative tracking, analysis, and advice
- Other services as needed

A new contract for administrative services is proposed in a not-to-exceed amount of \$20,000 to continue providing consulting services in FY 2021-22.

RSG will consult on all activities required by the Dissolution Act, which may include but are not limited to:

- Maintenance of Budget and Cash Flow - RSG will maintain a working cash flow model for the Successor Agency to anticipate any future budget shortfalls.
- Preparation of the Annual ROPS and accompanying Administrative Budgets - RSG will assist the Successor Agency in completing the ROPS 22-23 and the annual administrative budget for FY 2022-23 that is due February 1, 2021. If the Successor Agency decides to prepare a Last & Final ROPS, it may be prepared under the FY 2021-22 contract to the extent budget is available. A contract amendment may be required to increase the budget if agreed upon by Successor Agency staff and RSG.
- Assistance with the Prior Period Adjustment (“PPA”)19-20 - RSG will assist the Successor Agency in reporting the differences between approved obligations and actual payments in FY 2019-20, and coordinate with the Fresno County Auditor-Controller on submission and follow-up.
- Attendance of Meetings - RSG will make a staff member at Successor Agency, Oversight Board, of DOF meetings (up to 6 meetings total).
- Provision of Additional Administrative Services - RSG will assist the Successor Agency with any additional administrative tasks as they arise.

The fee stated in the proposal matches the amount proposed to the Successor Agency and Oversight Board in the FY 2021-22 Administrative Budget. Costs for services will be paid on a monthly basis as they accrue on a time and material basis by the Successor Agency.

Housing Successor Consulting Services

Health and Safety Code Section 34176.1 requires the City to prepare an annual report of the Housing Successor’s financial activity, loan administration, and property disposition and development activity every year. A report of FY 2020-21 activities is due to the California Department of Housing and Community Development (“HCD”) by April 1, 2022. RSG proposes preparing the report for a fixed fee of \$5,000.

RECOMMENDATIONS:

1. Adopt Resolution No. SA 2021-03 Approving a Contract with RSG, Inc. to Provide Consulting Services to the Successor Agency through Fiscal Year 2021-22.
2. Adopt Resolution No. 2021-05 Approving a Contract with RSG, Inc. to Provide Consulting Services to the Housing Successor through Fiscal Year 2021-22.



17872 GILLETTE AVE.
SUITE 350
IRVINE, CA 92614

714 541 4585
INFO@WEBRSG.COM
WEBRSG.COM

December 3, 2020

Via Electronic Mail

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
633 Sixth Street
Orange Cove, CA 93646

**PROPOSAL FOR SUCCESSOR AGENCY ADMINISTRATIVE CONSULTING
SERVICES 2021-22**

Dear Mr. Hernandez:

RSG is pleased to present this proposal to the City of Orange Cove ("City") and Successor Agency to the Redevelopment Agency of the City of Orange Cove ("Successor Agency") to provide administrative consulting services for the 2021-22 fiscal year. RSG has been working with the City and Successor Agency since the beginning of redevelopment dissolution in 2012. With RSG's assistance, the Successor Agency has overcome many hurdles and fulfilled numerous state reporting requirements. RSG would like to continue serving the Successor Agency in its capacity as Administrative Consultants and see the Successor Agency through to the end of this arduous process.

SCOPE OF SERVICES

The proposed Scope of Services is based upon our experience with the Successor Agency and upcoming tasks that we have identified. RSG is happy to discuss modifications to the scope as needed to satisfy the Successor Agency's needs. RSG has identified the following tasks:

Task 1: Budget and Cash Flow Work

RSG will continue to maintain a working cash flow model for the Successor Agency to anticipate any future budget shortfalls and ensure that obligations can be met. RSG will assist the Successor Agency in working to close any budget gaps by employing the variety of methods. RSG will also review the County Auditor-Controller's January and June RPTTF distributions to ensure accuracy, including updates the Successor Agency's long-term cash flow based on actual revenues and expenditures.

Task 2: Complete Annual ROPS and accompanying Administrative Budgets

The Successor Agency must annually submit a Recognized Obligation Payment Schedule ("ROPS") to the Countywide Oversight Board ("Oversight Board") and Department of Finance. RSG will assist the Successor Agency in completing the 2022-23 ROPS that will be due February 1, 2022. Should an issue arise during the Department of Finance's review of the ROPS, RSG would assist the Successor Agency in drafting a Meet and Confer request and is available to attend the meeting. The Successor Agency is allowed to amend the ROPS once during the period. RSG can assist the Successor Agency if this need arises.

The Successor Agency must submit an annual administrative budget supporting the use of the annual administrative allowance allowed by law. RSG will assist the Successor Agency in preparing the annual administrative budget for fiscal year 2022-23, which will be submitted along with the ROPS. RSG will attend the Oversight Board meetings for both these items and prepare related staff reports and resolutions.

Task 3: Assist with County Prior Period Adjustment

The differences between actual payments and past estimated and approved obligations on the ROPS shall be annually submitted by the Successor Agency to the County Auditor-Controller on October 1 each year for review and adjustment to future distributions. RSG will assist the Successor Agency with the Prior Period Adjustment report of fiscal year 2019-20 expenses that is due October 1, 2021. This includes assisting the Successor Agency with providing any information requested by the County.

Task 4: Attend Meetings as Necessary

RSG will make a staff member available to the Successor Agency should they need assistance at Successor Agency, Oversight Board, or DOF meetings.

Task 5: Additional Administrative Services as Needed

RSG will assist the Successor Agency with any additional administrative tasks as they arise and respond to general inquiries from DOF and other interested parties.

CONTRACT TERM

RSG's contract will begin on July 1, 2021 and end on June 30, 2022.

PROJECT TEAM

Ms. Tara Matthews, Partner will be the principal in charge of this engagement. Suzy Kim, Senior Associate will be the Project Manager, and will be assisted by additional staff as needed.

FEE PROPOSAL

RSG will complete consulting services on a time-and-materials basis, with a not to exceed amount of **\$20,000**. RSG does not charge clients for mileage (except direct costs related to field surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended and the hourly rate.

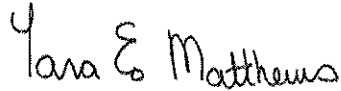
HOURLY BILLING RATES:

Principal	\$ 275
Director	245
Senior Associate	200
Associate	180
Senior Analyst	150
Analyst	135
Research Assistant	125
Technician	80
Clerical	60
Reimbursable Expenses	Cost plus 10%

Rudy Hernandez
CITY OF ORANGE COVE
December 3, 2020
Page 4

We appreciate the opportunity to submit our proposal to the City and Successor Agency, and look forward to working with you again. If you have any questions, please do not hesitate to contact me at 714-316-2116.

Sincerely,
RSG, INC.



Tara Matthews
Principal



Suzy Kim
Senior Associate

APPROVED AND AUTHORIZED TO
PROCEED:

Signature: _____
Printed _____
Name: _____
Title: _____
Date: _____



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714 541 4585
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WEBRSG.COM

December 3, 2020

Via Electronic Mail

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
633 Sixth Street
Orange Cove, CA 93646

PROPOSAL FOR HOUSING SUCCESSOR CONSULTING SERVICES IN FY 2021-22

Dear Mr. Hernandez:

RSG is pleased to present this proposal to the City of Orange Cove ("City") to provide Housing Successor Agency consulting services. The City serves as the Housing Successor Agency to the former Orange Cove Redevelopment Agency. The City is required to prepare a Housing Successor Agency Annual Report and pursue affordable housing opportunities in accordance with the California Health and Safety Code. This letter presents our scope of services and fee estimate to assist with City with these obligations.

SCOPE OF SERVICES

Task 1 – Housing Successor Agency Annual Report

RSG will prepare the Housing Successor Agency Annual Report ("Annual Report") for Fiscal Year 2020-21. The Annual Report is due with the City's Housing Element Annual Report by April 1, 2022 to the California Department of Housing and Community Development ("HCD"). The Annual Report must also be presented to City Council.

The Annual Report will include all items required by Health & Safety Code Section 34176.1. It includes a summary of financial activity and affordable housing efforts. RSG will integrate financial data provided by City staff and information about affordable housing resources and activity. The Annual Report will clearly detail compliance with legal requirements and outline steps to come into compliance, if necessary.

It is important to note that the City is also required to prepare an independent financial audit of the Successor Housing Agency's Low and Moderate Income Housing Asset Fund ("Housing Fund"), which is due to the City Council by December 31 annually. The audit may be completed as a component of the City's Annual Audited Financial Statements.

PROJECT TEAM

To provide the best, most transparent services, RSG dedicates at least one Principal and a Project Manager to each project and creates a core group of people that works with each client on a consistent basis throughout all stages of the assignment. We employ a passionate and talented team of associates and analysts, who blend an understanding of each client's situation with our expertise in researching, analyzing, modeling, and ultimately developing recommendations and results.

This engagement will be led by Tara Matthews, Principal with other RSG staff assigned as needed. Staff resumes may be found on our company website at www.webrsg.com/about.

FEE ESTIMATE

The fixed fee for this engagement is **\$5,000**. Any services in excess of the quoted amounts will be conducted with City staff's authorization and may require a contract amendment. Our services for this engagement would be charged on a time-and-materials basis using the billing rates below.

HOURLY BILLING RATES:

Principal	\$ 275
Director	245
Senior Associate	200
Associate	180
Senior Analyst	150
Analyst	135
Research Assistant	125
Technician	80
Clerical	60

Reimbursable Expenses	Cost plus 10%
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RSG does not charge clients for mileage (except direct costs related to field surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs, and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended, and the hourly rate. Our Federal Tax ID is 95-3435849.

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
December 3, 2020
Page 3

We welcome the opportunity to discuss this proposal with you in further detail. If you have any questions, please do not hesitate to contact Tara at (714) 316-2111 or tmatthews@webrsg.com. If this proposal is acceptable as written, please sign below indicating the tasks to be completed, or forward a contract in the City' preferred format. Thank you for the opportunity to assist the City.

Sincerely,
RSG, INC.



Tara Matthews
Principal

APPROVED AND AUTHORIZED TO PROCEED:

Signature: _____
Printed _____
Name: _____
Title: _____
Date: _____

RESOLUTION NO. SA 2021-03

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY APPROVING A CONTRACT WITH RSG, INC. TO PROVIDE CONSULTING SERVICES TO THE SUCCESSOR AGENCY THROUGH FISCAL YEAR 2021-22

WHEREAS, Assembly Bill 26 (“AB x1 26”) was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 2012, the City Council adopted Resolution No. 2012-09 electing to serve as the Successor Agency to the former Orange Cove Redevelopment Agency (“Successor Agency”) in accordance with the Dissolution Act (enacted by Assembly Bills x1 26 and 1484 and Senate Bill 107, as codified in the California Health & Safety Code); and

WHEREAS, HSC Section 34177.3(b) states that successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including acquiring necessary professional administrative services; and

WHEREAS, the Successor Agency desires to approve a contract with RSG, Inc. to provide Successor Agency consulting services through Fiscal Year 2021-22 as outlined in the proposal attached as Exhibit “A” (“RSG Contract”); and

WHEREAS, the RSG Contract is to be funded by the administrative cost allowance pursuant to HSC Section 34171(b); and

WHEREAS, the Successor Agency and Oversight Board shall adopt an Administrative Budget for Fiscal Year 2021-22 pursuant to HSC Section 34177(j) that includes services to be provided under the RSG Contract; and

WHEREAS, the Successor Agency desires to approve the proposed RSG Contract.

NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Contract Approval. The RSG Contract is hereby approved.

Section 3. Execution and Transmittal. The City Manager is hereby authorized and directed to take such other and further action consistent with this resolution and sign and transmit any documents, as necessary, in order to implement this Resolution on behalf of the Successor Agency.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Successor Agency,
on the 13th day of January, 2021 by the following vote:

AYES:	AGENCY BOARD MEMBERS:
NOES:	AGENCY BOARD MEMBERS:
ABSENT:	AGENCY BOARD MEMBERS:

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

XXX, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary
the Successor Agency to the Orange Cove Redevelopment Agency and that the foregoing
resolution was duly adopted at a regular meeting of the Successor Agency held on the 13th day of
January, 2021.

June Bracamontes
Agency Secretary

EXHIBIT "A"
RSG, INC. PROPOSAL FOR
ORANGE COVE SUCCESSOR AGENCY
CONSULTING SERVICES IN FISCAL YEAR 2021-22

RESOLUTION NO. 2021-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE APPROVING A CONTRACT WITH RSG, INC. TO PROVIDE HOUSING SUCCESSOR CONSULTING SERVICES THROUGH FISCAL YEAR 2021-22

WHEREAS, Assembly Bill 26 (“AB x1 26”) was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 2012, the City Council of the City of Orange Cove (“City Council”) adopted Resolution No. 2012-01 electing to serve as the Housing Successor to the former Orange Cove Redevelopment Agency (“Housing Successor”) in accordance with California Health & Safety Code (“HSC”) Section 34176; and

WHEREAS, HSC Section 34176.1 requires the Housing Successor to prepare an annual report of its activities and submit it to the California Department of Housing and Community Development (“HCD”) by April 1 annually; and

WHEREAS, the City Council desires to approve a contract with RSG, Inc. to provide Housing Successor consulting services through Fiscal Year 2021-22 as outlined in the proposal attached as Exhibit “A” (“RSG Contract”); and

WHEREAS, the City Council desires to approve the proposed RSG Contract.

NOW, THEREFORE, THE CITY COUNCIL TO THE CITY OF ORANGE COVE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Contract Approval. The RSG Contract is hereby approved.

Section 3. Execution and Transmittal. The City Manager is hereby authorized and directed to take such other and further action consistent with this resolution and sign and transmit any documents, as necessary, in order to implement this Resolution on behalf of the City.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council, on the 13th day of January, 2021 by the following vote:

AYES:	AGENCY BOARD MEMBERS:
NOES:	AGENCY BOARD MEMBERS:
ABSENT:	AGENCY BOARD MEMBERS:

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

XXX, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary the Successor Agency to the Orange Cove Redevelopment Agency and that the foregoing resolution was duly adopted at a regular meeting of the Successor Agency held on the 13th day of January, 2021.

June Bracamontes
Agency Secretary

EXHIBIT "A"
RSG, INC. PROPOSAL FOR
ORANGE COVE HOUSING SUCCESSOR
CONSULTING SERVICES IN FISCAL YEAR 2021-22