

MEMORANDUM OF UNDERSTANDING

**Between County of Santa Clara and
Charities Housing Development Corporation
Re: Mental Health Services Act Funding for Kings Crossing Housing Project
in the City of San José**

This is a Memorandum of Understanding (MOU) between the County of Santa Clara (County) and Charities Housing Development Corporation, a not for profit California Corporation (CHDC), to establish Project roles and responsibilities for CHDC's development of the Kings Crossing Housing Project, to be located at 686 North King Road, San José, CA (Project).

Recitals

The Project is a proposed 94-unit residential complex to be constructed and including a community room, laundry, and public restrooms. The Project will offer 1-bedroom units for low-income households (at 30-50% of Area Median Income).

The parties acknowledge that, during or after full development of the Project, one or more of CHDC's obligations under this MOU may be carried out by an entity related to CHDC, although CHDC will be the managing partner or agent of any such entity.

The Project is eligible for funding as a "mixed population development" under the Mental Health Services Act (MHSA) funding provided for in Proposition 63, passed by the California voters in November 2004. If the application for MHSA funding is successful, the Project will include ten (10) newly constructed housing units set-aside for extremely low income (30% Area Median Income) households that meet the criteria for MHSA Housing Program target population, as defined in the Program regulations.

This MOU is binding on the parties in connection with their application for MHSA funds, and for the life of the MHSA loan that may result from such application.

I. MHSA Loan

The parties will apply for MHSA Project funding as follows: ONE MILLION DOLLARS (\$1,000,000) loan for CHDC 's development of ten (10) MHSA units and an additional NINE HUNDRED FIFTY THOUSAND DOLLARS (\$950,000) of MHSA funds to be set aside in a capitalized operating subsidy for at least 20 years to ensure continued affordability to the MHSA-targeted households who will reside in the 10 units.

II. Term

This agreement is effective as of the date it is fully executed, and will continue thereafter until the occurrence of the earliest of the following events:

1. Either party terminates for convenience in writing;

2. Failure to secure necessary funding for this Project and either party terminates in writing;
3. Expiration or termination of the MHSA Loan; or
4. The sale of the Project.

If this agreement is terminated, the tenancy of any and all MHSA tenants will be governed by the fully executed lease and lease addendum for the rented MHSA units

III. CHDC Responsibilities

- A. CHDC will assist County in County's preparation of an application for MHSA funds for the Kings Crossing Project. CHDC will provide, among other things, all required project financial and architectural design information, as well as details of environmental, local government, funding approvals and the Property Management Plan for all Project units, including the ten (10) MHSA units. CHDC will coordinate with County in County's drafting of the MHSA Tenant Selection Plan, and Supportive Services Plan. CHDC will secure all other predevelopment, construction, and permanent funding required for development and operation of the Project.
- B. If the application is successful and MHSA funding is secured, CHDC will document and make demands for payment for MHSA allocated funds, and such funds would be disbursed, as required. In connection with such disbursement requests, CHDC will confirm that the request is only for eligible expenses, that the expenses are reasonable, and indicate whether the Project is within budget and the work is proceeding in a timely manner. CHDC will maintain and make all Project records available to County upon County's request.
- C. CHDC will review and execute County-prepared legal documents required for the MHSA funding and County administration of same.
- D. CHDC will enter into long-term regulatory agreements as required for MHSA funding. Such regulatory agreements will, among other things, specify the MHSA eligible population, operational standards, income and rents for the MHSA units.
- E. CHDC will comply with Housing and Community Development, California Housing Finance Agency, and Office of Affordable Housing oversight of any MHSA units during the loan term.
- F. CHDC will comply with applicable federal, state and local laws in administering the Project, including but not limited to, fair housing, disability, prevailing wages and confidentiality of medical information.
- G. CHDC confirms that development of the Project is in conformance with requirements under State Article 34(b) of the California Constitution.

IV. COUNTY Responsibilities

- A. COUNTY will provide a dedicated Housing Support Liaison who will be a single point of contact to CHDC, ensure 24-hour support for emergencies, provide orientation and application support, periodically meet with client and service provider(s), and be the ongoing contact between other service providers and the County Mental Health Department.

- B. COUNTY will serve as the primary liaison between the County and the State Department of Mental Health (SDMH).
- C. COUNTY will maintain and update the County's Community Services and Support Plan as required by SDMH and meet all other SDMH requirements of county mental health agencies for MHSA funding.
- D. COUNTY will inform CHDC of new SDMH policies and guidelines.
- E. COUNTY has and will participate in CHDC's public meetings for the Project, including but not limited to, developing written background materials on MHSA.
- F. COUNTY will collaborate with CHDC in assembling the application for MHSA funds for the Project. Among other things, COUNTY will provide, with CHDC support, the Tenant Selection Plan, the Supportive Services Plan, the Plan for Collecting and Submitting Outcome Data, and the Analysis of Stakeholder input.
- G. COUNTY will make application for MHSA funds for the Project on behalf of CHDC.

V. Communication

- A. Upon execution of this MOU, CHDC will, on at least quarterly intervals, advise the COUNTY Housing Coordinator of accomplishments to date, including summary of tasks performed, status of financing, project design, permitting and construction, and activities to lease up following completion of construction. CHDC will, after occupancy, continue to coordinate with the County's Housing Coordinator about Project management issues, tenant outcomes, service needs and similar pertinent topics.
- B. Each party will designate, in writing, a point of contact for the Project. For the County, the contact person is the Deputy Director, Mr. Bruce Copley. For CHDC, the project manager is Kathy Robinson.

VI. Confidentiality of Individual Medical Information

- A. Each party agrees that it will not at any time disclose confidential information or material without the consent of the tenant/client and any other party to this agreement unless such disclosure is authorized or required by law. Unauthorized disclosure of confidential information shall be considered a material breach of this agreement. Where appropriate, tenant/client releases will be secured before confidential information is exchanged. Confidential information will be handled with the utmost discretion and judgment.
- B. Each party agrees to maintain confidentiality of medical and psychiatric records of MHSA tenants as required by law, including, but not limited to:
 1. California Welfare and Institutions Code section 5328 et seq.;
 2. California Evidence Code section 1010 et seq.;
 3. Health Insurance Portability and Accountability Act ("HIPAA"), 45 C.F.R., Parts 160 & 164.

VII. Miscellaneous

- A. Notices. All notices under this Agreement shall be in writing, shall be effective upon delivery by certified or express U.S. Mail or an express delivery service

which shall show the location and the delivery date and shall be addressed as follows:

Santa Clara County Health and Hospital System
Mental Health Department
828 South Bascom Avenue, Suite 200
San José, CA 95128
Attn: Director

Charities Housing Development Corporation
Sobrato Center for Nonprofits-San José
1400 Parkmoor Ave., Suite 190
San José, CA 95126
Attn: Interim Executive Director

- B. Binding Effect. This Agreement shall inure to and bind the parties, their respective representatives, successors and assigns.
- C. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be deemed one original agreement.
- D. Captions. Sections, titles, or captions in no way define, limit, extend or describe the scope of this Agreement nor the intent of any of its provisions, and are for convenience of reference only.
- E. Governing Law. This Agreement shall be construed in accordance with and be governed by the provisions of the laws of the State of California.
- F. Waiver. No waiver of any right under this Agreement shall be deemed effective unless contained in a writing signed by the party charged with the waiver. No waiver of any breach or any failure to perform shall be deemed to be a waiver of any future breach or failure to perform or of any other right arising under this Agreement.
- G. Entire Agreement. This Agreement between the parties sets forth the entire agreement of the parties and this Agreement may not be modified except in writing signed by authorized signatories of COUNTY and CHDC.

Nancy Peña, Ph.D.
Director, Mental Health Department
County of Santa Clara County Health
and Hospital System

Date _____

Daniel Wu
Interim Executive Director
Charities Housing Development Corporation

Date _____

Approved as to form and legality:

Theresa J. Fuentes
Deputy County Counsel

Approved:

Gary A. Graves
Acting County Executive