



Good Neighbors

San Diego
Housing Commission

- 1625 Newton Avenue
- San Diego, California 92113-1038
- 619/231 9400
- FAX: 619/544 9193

REPORT

DATE: For the Agenda of October 4, 2002 **ITEM 104**

REPORT NO.: HCR02-089

SUBJECT: Administering Funds Donated to Support Becky's House
(Council District 6)

SUMMARY

Issue: Should the Housing Commission authorize the Chief Executive Officer to administer funds donated to the City to help support Becky's House, a facility built by the YWCA of San Diego County to provide transitional housing for women and children victims of domestic violence?

Recommendation: That the Housing Commission ratify an agreement with the City executed by the Chief Executive Officer and authorize an amendment to an agreement with the YWCA, which would enable the Housing Commission to administer \$84,092 of funds donated to the City on behalf of Becky's House.

Certificate of Funding Availability:

Certificate No.: 03-071
Amount: \$84,092
Revenue Source: City – Local Donations
Department: Resident Services
Line Item: Grants

Affordable Housing Impact: Approval of the recommendation will provide a portion of the funds the YWCA needs to operate transitional housing for low income women and their children fleeing domestic violence.

Environmental Review: Not applicable to grants funding operations.

Previous Related Action: In 2000, the Housing Commission approved a three-year, \$300,000 Housing Trust Fund operating grant to the YWCA for Becky's



House. The agreement under which that grant is administered runs through November 2003.

BACKGROUND

Becky's House is a nine-unit facility in Council District 6 where the YWCA of San Diego County operates a transitional housing program for women and their children who are victims of domestic violence. Typically, the program serves 27 individuals – mothers and children – at a time. (Specific locations of facilities that harbor victims of domestic violence are kept confidential for the victims' protection.)

In 1999, when development of Becky's House was in the planning stage, FM Radio Station Star 100.7 launched a fund-raising campaign for the facility. Donations were deposited with the City and placed in a dedicated fund set up at City Council's direction. Some donated funds were used in the development of the facility, but it was the City's intention that funds remaining after development would be used towards the facility's operating expenses and administered by the Housing Commission.

DISCUSSION

Slightly more than \$84,000 remains in the City's special Becky's House fund. The \$84,000 would supplement the Housing Commission's \$100,000 annual grant during the current fiscal year, substituting for other operating support funds the YWCA would otherwise have to raise to meet its total FY03 Becky's House operating budget of approximately \$225,000.

An Agreement with the City (Attachment 1) has been processed through the City. However, Housing Commission ratification of the Agreement is needed before it can become operational.

It is proposed that the Housing Commission administer this money under the terms of the Housing Commission's existing Agreement with the YWCA, except that the donated funds would not need to be subject to the Housing Trust Fund (HTF) requirement that at least 75 percent of an HTF operating grant must be used for "occupancy expenses," such as rent, utilities, minor building repairs, building maintenance, and building insurance. Exempting the donated funds from this HTF restriction will give the YWCA the flexibility needed to pay for other budgeted costs associated with operating the facility.

An Agreement with the City (Attachment 1) and an amendment to the Housing Commission's agreement with the YWCA (Attachment 2) are needed for the Housing Commission to administer the donated funds.

ALTERNATIVE

Deny approval of the recommended actions.

Respectfully submitted,

**Signature on File
With Original Document**

Approved by,

Jack D. Farris
Housing Finance & Development Manager

Elizabeth C. Morris
Chief Executive Officer

Attachments: 1. Agreement with City
2. Amendment to Agreement with YWCA

MANASTER: HCRbecky's.doc

ATTACHMENT 1

**MEMORANDUM OF AGREEMENT
REGARDING THE OPERATION
AND MAINTENANCE OF
TRANSITIONAL HOUSING
KNOWN AS BECKY'S HOUSE**

THIS MEMORANDUM OF AGREEMENT regarding the operation and maintenance of transitional housing known as Becky's House ["MOA"] is made and entered into this _____ day of _____, 2002, between THE SAN DIEGO HOUSING COMMISSION, a state agency ["Housing Commission"] and THE CITY OF SAN DIEGO, a municipal corporation ["City"].

RECITALS

WHEREAS, "Becky's House" is in operation as transitional housing for spouses and children who are victims of domestic violence; and

WHEREAS, The City of San Diego, through Council District 5 and FM Radio Station Star 100.7, pledged to build Becky's House in partnership with the community and the private sector; and

WHEREAS, Becky's House serves victims of domestic violence, primarily women and children, significantly enhancing the current number of beds available in the community to victims of domestic violence; and

WHEREAS, the San Diego City Council has approved Resolution Number R-292135 authorizing the City Auditor to create a special fund, designated "Becky's House, Fund No. 10591" to receive and dispense all private donations and contributions designated and received for the purpose of implementing "Becky's House"; and

WHEREAS, the Housing Commission has a special familiarity, experience, and expertise in providing transitional housing for spouses and children of domestic violence; and

WHEREAS, the Housing Commission has an ongoing contractual relationship with the Young Women's Christian Association [YWCA] to facilitate and deliver the necessary shelter, services, and related support to such spouses and children;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

ARTICLE I - TERMS OF AGREEMENT

1.1 DURATION OF CONTRACT

The services to be performed by the Housing Commission as set forth in this MOA will begin on the date of execution and end on June 30, 2003 unless terminated sooner in accordance with these terms, except for submission of a final report. Contingent on certification of funds, the City Manager may, with approval of the Housing Commission, extend the period of performance from one to five months beyond June 30, 2003.

1.2 TERMINATION OF MOA

Notwithstanding the duration of this MOA as specified above, the City or the Housing Commission may terminate this MOA by giving written notice to the other party thirty days prior to the effective date of termination. The City may terminate this MOA at any time if the Housing Commission fails to meet or fulfill its obligations under this MOA.

ARTICLE II - OBLIGATIONS AND DUTIES OF HOUSING COMMISSION

2.1 SCOPE OF SERVICES

The Housing Commission agrees to administer the Scope of Services to be provided by the YWCA as described in Exhibit A, including Exhibit A-1, attached hereto and incorporated herein by reference, in accordance with the Project Budget, as set forth in Exhibit B, attached hereto and incorporated herein by reference, and all other terms and conditions contained in this MOA. A portion of those services provided by the YWCA shall be funded under this MOA. Funding provided under this MOA shall pay for costs that the YWCA incurs to provide those services that exceed the funding provided by the Housing Commission under its Agreement with the YWCA.

2.2 COMPLIANCE WITH CITY'S OPERATING MANUAL

The Housing Commission agrees to operate in substantial conformity with the Operating Manual of the City, including but not limited to those provisions related to fiscal accountability, eligible and ineligible project expenditures, and procedures for financial management, accounting, budgeting, record keeping, reporting, and other administrative functions.

2.3 AUDIT

If the Housing Commission is subject to an audit from a source or sources other than the City, the Housing Commission shall provide a copy of that audit to the City within sixty days of completion of the audit.

2.4 REIMBURSEMENT OR REINVESTMENT OF REVENUE

Revenues, if any, generated by the Housing Commission in connection with Becky's House through imposition of fees may be used to improve the services being performed by the Housing Commission, if the amount and schedule of such fees and reinvestment are approved in writing by the Community Services Program. The Housing Commission shall submit to the City, for prior approval, a written budget detailing how generated fees will be used. An accounting of fee expenditures will be included in the Housing Commission's monthly reports submitted to the City. If approval for expenditure of funds is not granted, these funds shall revert to the City within thirty days after the end of the contract period, or on earlier termination of this MOA.

2.5 CITY ACCESS TO RECORDS

The Housing Commission shall maintain detailed administrative and fiscal records during the term of this MOA as required by the Operating Manual. The Housing Commission shall allow authorized City employees or authorized agents of the City to inspect its premises, books, accounting documents, payrolls, and other records in connection with Becky's House for the purpose of auditing, monitoring, or evaluating the project. The Housing Commission shall store such records and documents for a period of three years after submission of the final report for the contract period, or three years after submission of the final report on earlier termination of this MOA, or until all audit findings have been resolved, whichever is longer. During this period, the City or its authorized agents shall have access to such records and documents at any time. In no case shall the Housing Commission dispose of project records without first informing the City of its intent to do so.

2.6 INDEPENDENT CONTRACTOR STATUS

The Housing Commission is an independent contractor under this MOA, and nothing contained in this MOA shall be construed as creating a relationship of employer and employee between the parties. The City shall not be liable for any act or acts of the Housing Commission. The Housing Commission shall notify all prospective subcontractors of its independent status under this MOA.

2.7 INSURANCE

The Housing Commission shall obtain and keep in force during the period of this MOA a policy of comprehensive public liability insurance, which insures the Housing Commission against any and all claims of liability, including accident, injury, or death, arising from the provision of services to Becky's House, or from the ownership, use,

operation, maintenance, or administration of Becky's House premises and all areas appurtenant thereto. Such insurance shall be in an amount of not less than one million dollars for any injury to or death of any person or persons in any accident or occurrence, and shall name the City as an additional insured.

ARTICLE III - CITY PAYMENT TERMS

3.1 TOTAL PAYMENT

The total payment to be paid to the Housing Commission under this MOA shall not under any circumstances exceed the contributions and deposits contained in "Becky's House, Fund No. 10591." The total contract amount is EIGHTY-FOUR THOUSAND NINETY-TWO AND NINETY-THREE HUNDREDTHS DOLLARS (\$84,092.93). It is expressly understood that any expenditures by the Housing Commission that are not within the prescribed limitations of this paragraph, Exhibit B, the Operating Manual, and all applicable laws, rules, and regulations governing this MOA are not chargeable to Becky's House and shall be borne solely by the Housing Commission.

3.2 ADVANCED PAYMENT

The City may, at its sole discretion, make an advance payment to the Housing Commission in an amount of TWELVE THOUSAND NINE HUNDRED THIRTY-SEVEN DOLLARS (\$12,937.00), which totals eight weeks of operation expenses, on the day of execution of this MOA to meet any eligible costs previously incurred for Becky's House. This advance shall be charged against the costs of the last eight weeks of the operations. Any unexpended funds from the advanced payment shall be returned to the City within thirty days after the end of the contract period, or on earlier termination of this MOA.

3.3 PAYMENT SCHEDULE

The City shall reimburse the Housing Commission each month for eligible expenditures, subject to the limitation in Section 3.1 above, provided that the reports required by the City on such forms as the City may require are received within ten days after the end of each month. The final payment to the Housing Commission shall be withheld until the cash advance has been accounted for and the final report has been received by the City.

3.4 SUSPENSION OR TERMINATION OF PAYMENTS

Other provisions of this MOA notwithstanding, the City may suspend one or more payments to the Housing Commission or terminate this MOA on the occurrence or as a result of any of the circumstances specified below in subparagraphs 3.4.1 through 3.4.5. After receiving written notice from the City of suspension or termination of

payments pursuant to this section, the Housing Commission agrees not to expend any funds related to or connected with any area of controversy or conflict that shall have resulted in the suspension of payment or termination of funding.

3.4.1 Noncompliance. The City may suspend payments or terminate this MOA for the Housing Commission's failure to comply with any terms or conditions of this MOA.

3.4.2 Misrepresentation. The City may suspend payments or terminate this MOA for any material misrepresentation by the Housing Commission in regard to information furnished to the City pursuant to this MOA, irrespective of whether the Housing Commission had knowledge or intent with respect to the misrepresentation.

3.4.3 Unauthorized Actions. The City may suspend payments or terminate this MOA for any action taken by the Housing Commission concerning Becky's House that required approval by the City or the Community Services Program without obtaining such approval.

3.4.4 Litigation. The City may suspend payments or terminate this MOA should the Housing Commission become subject to pending litigation with respect to the performance of its duties and obligations under this MOA, including any court action or proceeding involving the Federal Bankruptcy Act, which litigation may jeopardize or adversely affect the understanding of and carrying out of this project.

3.4.5 Reports. The City may suspend payments or terminate this MOA if the Housing Commission fails to submit any report and supporting documentation to the City as required by this MOA and the Operating Manual, or fails to submit any other report as may be required by the City, or fails to submit any report and supporting documentation on the dates specified by the City.

ARTICLE IV - MISCELLANEOUS

4.1 ORAL REPRESENTATIONS

This MOA and the exhibits and the references incorporated herein fully express all understandings of the parties concerning the matters covered herein. No change, alteration, or modification of terms or conditions of this MOA, and no verbal understanding of the parties, their officers, agents, or employees, shall be valid unless made in the form of a written change or amendment to this MOA which has been duly approved and executed in accordance with the procedures described herein.

4.2 CHANGES OR AMENDMENTS

Should circumstances require that any of the terms or conditions of this MOA be changed or amended, such change or amendment shall be accomplished only in the following manner:

4.2.1 Any non-substantive change that does not affect the total compensation specified herein shall be approved in writing by the Community Services Program and the Housing Commission's authorized representative.

4.2.2 Any substantive change to any of the terms or conditions of this MOA, or a change that affects the total compensation specified herein, shall be accomplished by a written amendment to this MOA, which shall be approved by the City Council and signed by the authorized representatives of the City and the Housing Commission.

4.3. EMPLOYMENT OF CITY PERSONNEL

This MOA shall be unilaterally and immediately terminated by the City if the Housing Commission employs an individual who within twelve months immediately preceding such employment did, in the individual's capacity as a City officer or employee, participate in, negotiate with, or otherwise have an influence on the recommendations made to City Council in connection with the selection of the Housing Commission.

4.4 NOTICE

Notices required or permitted pursuant to this MOA shall be sufficiently given in writing and either served personally or mailed by certified mail; however, invoices, payments, and other communications according to this MOA may be served by first class U.S. mail to:

Cissy Fisher
San Diego Housing Commission
1625 Newton Avenue
San Diego, CA. 92113

Ernie Linares
City of San Diego Community Services
1200 Third Avenue, Suite 900
San Diego, CA. 92101

or such other person and address as either party shall advise the other, in writing, in conformity with this section.

4.5 PREVAILING LAW

In the event of litigation with respect to this MOA or the interpretation thereof, and in respect to all disputes or controversies arising hereunder, this MOA shall be construed in accordance with, and governed by, the laws of the State of California. Venue in respect to any suit or proceeding brought under or in connection with this MOA shall be the County of San Diego, State of California.

4.6 RIGHTS AND OBLIGATIONS

This MOA and all rights and obligations contained herein shall be in effect whether or not either of the parties to this MOA have been succeeded by another entity, and all rights and obligations of the parties to this MOA shall be vested and binding on their successor of interest.

IN WITNESS WHEREOF, this MOA is executed by the Housing Commission, acting by and through its Chief Executive Officer, and the City, acting by and through its City Manager, pursuant to Resolution Number R-292135 of the City Council authorizing said execution.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

**Signatures on File
With Original Document**

By _____
Elizabeth C. Morris
Chief Executive Officer

By _____
Michael T. Uberuaga
City Manager

I HEREBY APPROVE the form and
legality of the foregoing MOA
on _____, 2002.

I HEREBY APPROVE the form and
legality of the foregoing MOA
on _____, 2002.

CHRISTENSEN, SCHWERDTFEGER
& SPATH

By: _____
Charles Christensen
General Counsel,
San Diego Housing Commission

CASEY GWINN, City Attorney

By: _____
Ted Bromfield
Deputy City Attorney

Attachments: Exhibits A and B

EXHIBIT A

SCOPE OF SERVICE

1. PROJECT GOAL

To assist victims of domestic violence in identifying resources and support systems to help them in becoming self-sufficient; and to provide general support to them, while housing them in a nurturing environment.

2. SERVICE DELIVERY SYSTEM AND REQUIREMENTS

- (a) The Housing Commission has contracted with the San Diego YWCA to provide services to operate and service transitional housing for victims of domestic violence consisting, at a minimum, of a shelter and facilities, comprising ten apartments for women and their children, an activity/storage recreation/laundry room, a courtyard, and a mini-park on the premises, open to the public.
- (b) Additional requirements are as shown in: 1. Specific Grant Provisions, and 2. General Grant Provisions that are part of the Housing Commission's contract/agreement with the San Diego YWCA and are incorporated herein as Exhibit A-1. However, the following provisions of Exhibit A-1 shall not apply to this MOA:
- The grant amount and term stated in Section 1.1;
 - The requirement that at least 75 percent of the funds be expended for "occupancy expenses" referenced in Section 1.1;
 - The "Time of Performance" provision, Section 1.3; and
 - The "Maximum Compensation" provision, Section 1.4.1

EXHIBIT A - 1

1 SPECIFIC GRANT PROVISIONS

1.1 DESCRIPTION OF WORK

Contractor shall provide Housing Services to the Commission in conformity with the San Diego Housing Trust Fund Ordinance (San Diego City Ordinance Number 0-17454).

Services shall include provision of Transitional Housing at the Facility. This grant shall provide for of up to ONE HUNDRED THOUSAND DOLLARS per year for three (3) years (THREE HUNDRED THOUSAND DOLLARS maximum), of which no more than twenty five percent (25%) may be used for administrative expenses. At least seventy-five percent (75%) of the Grant must be used for occupancy expenses. Occupancy expenses shall include expenses such as rent, utilities, minor building repairs, building maintenance, and building insurance. Examples of administrative expenses include salaries, program supplies, administrative costs, and janitorial supplies.

Contractor shall make a good faith effort to include members of its service population in an advisory capacity in its client referral and selection process whenever and wherever appropriate. Contractor shall report annually on this matter and on the other provision of services required under this Contract.

1.2 CONTRACT (GRANT) ATTACHMENTS

The above services shall be performed in strict accordance with the following listed documents, which are made a part hereof, whether or not attached:

1.2.1 Housing Commission Report 99-111 and Housing Authority Report HAR00-006.

1.3 TIME OF PERFORMANCE

All services shall begin on December 1, 2000, and continue through and including November 30, 2003.

1.4 COMPENSATION AND METHOD OF PAYMENT

1.4.1 Maximum Compensation

For services performed under this Agreement the Commission shall pay the Contractor the total maximum compensation of up to ONE HUNDRED THOUSAND DOLLARS per year for three (3) years (THREE HUNDRED THOUSAND DOLLARS maximum), according to the terms and conditions of this Agreement.

1.4.2 Method of Payment

The Commission shall reimburse Contractor for services as invoiced. To receive payment, the Contractor shall provide to the Commission, a requisition which will specify the amount due. Such requisition shall include such supporting documentation as may be required by the Commission, in its sole discretion. Payment will be made to the Contractor at the address given below.

1.5 NOTICES

Notices to the parties shall, unless otherwise requested in writing, be sent to the Commission and the Contractor at the following addresses:

Commission: SAN DIEGO HOUSING COMMISSION
 ATTENTION: Housing Finance and Development
 1625 Newton Avenue
 San Diego, CA 92113

Copy to: CHRISTENSEN, SCHWERTFEGER & SPATH
 ATTENTION: Charles B. Christensen, Esq.
 444 West C Street, Suite 200
 San Diego, CA 92101

CONTRACTOR: YWCA of San Diego County
 1012 C Street
 San Diego, CA 92101

1.6 DEFAULT

A default shall consist of any use of grant funds for a purpose other than for services listed in Section 1.1, or failure of the Contractor to provide the transitional housing for the period of this contract.

Upon notice to the Contractor of the occurrence of a default and the provision of a reasonable opportunity to respond, the Commission may take one or more of the following actions:

1.6.1 Direct the Contractor to submit progress schedules for completing approved activities; or

1.6.2 Issue a letter of warning advising the Contractor of the default, establishing a date by which corrective actions must be completed and putting the Contractor on notice that more serious actions will be taken if the default is not corrected or is repeated; or

- 1.6.3 Direct the Contractor to establish and maintain a management plan that assigns responsibilities for carrying out remedial actions; or
- 1.6.4 Reduce or recapture the grant. In the event of a recapture of the grant, it will bear interest at the rate of ten percent (10%) per annum from the date of the default; or
- 1.6.5 Direct the Contractor to reimburse the Commission for costs inappropriately charged; or
- 1.6.6 Other appropriate action including, but not limited to, any remedial action legally available such as affirmative litigation seeking declaratory relief, specific performance, damages, temporary or permanent injunctions and any other available remedies.

1.7 ANNUAL CERTIFICATIONS

The Contractor shall file annual certifications with the Commission, on a date specified by the Commission, that the transitional housing has been provided in accordance with the requirements of this Agreement. The certifications shall include the accomplishments of the program, identify the number housed, the services provided and the success of the transitional housing program.

1.8 MONTHLY CERTIFICATIONS

In addition to the certifications required by the Contractor under the provisions of Section 1.7 of this Agreement, the Contractor shall provide the Commission with monthly certifications including the following information:

- 1.8.1 The number of beds being provided for the month; and
- 1.8.2 A survey, on a daily basis, of the beds that were actually occupied.

This certification must be provided by the fifth day of each month during the term of the Agreement. Time is of the essence in providing these certifications. Failure to provide the certifications in a timely fashion shall result in no payment by the Commission for the month(s) in which certifications are not provided.

1.9 SUBSEQUENT FUNDING

The Contractor acknowledges that funds may not be available for the year following the termination of this Agreement. Contractor agrees and shall seek substitute funding for its services for the years following the term of this Agreement.

2 GENERAL GRANT PROVISIONS

2.1 OWNERSHIP OF MATERIALS AND DOCUMENTS

Any and all sketches, drawings, tracing, field survey notes, computations, details and other materials and documents prepared by or on behalf of the Contractor shall be the property of the Commission upon the default of the Contractor and the Contractor shall deliver such materials and documents to the Commission whenever requested to do so by the Commission. The Commission shall have the right to have duplicate copies of such materials and documents for their file, upon written request even if Contractor is not in default under the terms of this agreement.

2.2 NON-DISCLOSURE

The Contractor shall not disclose to any other public or private person or entity any information regarding the activities of the Commission except as authorized by the Commission.

2.3 CONFLICT OF INTEREST

For the duration of this Agreement, the Contractor will not engage in any business pursuits that are adverse, hostile or incompatible positions to the interests of the Commission without the prior written consent of the Commission.

Under no circumstances may Contractor convey, utilize, or permit to be utilized, confidential information gained through its association with Commission for the benefit of any other person or entity.

2.4 CONTRACTOR'S LIABILITY

The Contractor shall be responsible for all injuries to persons and for all damage to real or personal property of the Commission or others, caused by or resulting from the negligence of itself, its employees, or its agents during the progress of or connected with the rendition of services hereunder. Contractor shall defend and hold harmless and indemnify the Commission, the Housing Authority of the City of San Diego, the City of San Diego, and all officers and employees of each public agency from all costs and claims to any third party resultant from the negligence of itself, its employees, or its agents, arising out of the Contractor's performance of work under this contract. It is the intent of the parties that this indemnity agreement be construed and integrated as a Type I Indemnity Agreement in favor of the Commission, the Housing Authority of the City of San Diego and the City of San Diego, and each of them, as defined in the California cases entitled *McDonald & Kruse, Inc. v. San Jose Steel Company, Inc.* (1972) 29 Cal.App.3d 413, and *CI Engineering & Construction v. Johnson* (1983) 140 Cal.App.3d 1011, 1015.

2.5 INSURANCE

Unless otherwise expressly waived in writing by the Chief Executive Officer of the Commission, the Contractor, at its sole cost and expense, shall purchase and maintain public liability and property damage insurance with limits of not less than \$1,000,000 for injury to or death of one or more persons and/or property damage arising out of a single accident or occurrence, insuring against all liability of Commission, the Housing Authority of The City of San Diego, the City of San Diego, Contractor, its Subcontractors and its Authorized Representatives, arising out of or in connection with Contractor's performance of work under this contract. Said insurance shall be obtained from a company having a Best's rating of B+ or better. Said policy must provide that it may not be canceled without at least thirty (30) days written notice to the Chief Executive Officer of the Commission. All public liability insurance and property damage insurance shall insure the performance of Contractor of the indemnity provisions set forth in Section 2.4. Further, in all such insurance required to be purchased and maintained by Contractor, Commission shall be named as an additional insured, and the policy shall contain cross-liability endorsements. Contractor further agrees to purchase and maintain in full force and effect such policies of worker's compensation insurance as may be required to cover all employees of Contractor during the term of this Agreement, in form and amount acceptable to Commission. Certificates of insurance acceptable to the Chief Executive Officer of the Commission shall be filed with the Chief Executive Officer of the Commission prior to the payment of the first draw pursuant to the Scope of Services set forth in paragraph 1.1 of this Agreement.

2.6 EQUAL OPPORTUNITY PROGRAMS

During the performance of this Contract, the Contractor agrees as follows:

2.6.1 Contractor shall comply with all applicable local, state and federal Equal Opportunity Programs, as well as any other applicable local, state and federal law. Each month, the Contractor will report to the project manager, payments made to all vendors by month, contract to date and percentage of overall contract value.

2.6.2 Contractor and each Subcontractor, if any, shall fully comply with and shall submit a **Certificate of Compliance** with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable Federal and State law and regulations hereinafter enacted.

2.6.3 Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, gender, disability or national origin. Contractor shall ensure that applicants for employment and employees are treated equally without regard to their race, color, religion, ancestry, gender, disability or national origin.

2.6.4 Contractor shall complete, sign and submit an **Analysis of San Diego County Nonprofit Corporation** identifying the ethnic and gender

representation of the governing board and/or officers and an **Analysis of San Diego County Workforce Report**.

2.6.5 If any underrepresentation is found after submission of contractor's workforce report, the Commission may request an equal employment opportunity plan (EEO). An acceptable plan to correct the identified underrepresented categories must be submitted within 30 days. Once the EEO has been approved by the Commission, the contractor must adhere to said plan. In the case of multi-year contracts, the contractor will be required to submit annual workforce reports and EEO updates as requested.

2.6.6 Contractor understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in penalties provided for in State and Federal law. In addition, the Contractor may, at the election of the Commission, be barred from participating in Commission projects for not less than one (1) year.

2.7 COST RECORDS

In accordance with generally accepted accounting principles, the Contractor shall maintain full and complete records of the cost of services performed under this Agreement. Such records shall be open to the inspection of the Commission or to the appropriate federal agencies at all reasonable times.

2.8 SUBCONTRACTING

None of the services covered by this Contract shall be subcontracted without the prior written consent of the Commission. The Contractor shall be as fully responsible to the Commission for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. The Contractor shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of this Contract.

2.9 ASSIGNABILITY

The Contractor shall not assign or transfer any interest in this Contract (whether by assignment or novation) without the prior written approval of the Commission; provided, however, that claims for money due or to become due to the Contractor from the Commission under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Commission.

2.10 CHANGES

The Commission may, from time to time, request changes in the Description of Services to be performed hereunder. Such changes, including any increase or

decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Commission and the Contractor, shall be incorporated into this Contract.

2.11 DOCUMENTS AND WRITTEN REPORTS

The Contractor or its subcontractors, when preparing any document or written report for or under the direction of the Commission, the Housing Authority, or the City of San Diego, shall comply with the provisions of Government Code Section 7800; to wit,

- "(a) Any document or written report prepared for or under the direction of a state or local agency, which is prepared in whole or in part by non-employees of such agency, shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report; provided, however, that the total cost for work performed by non-employees of the agency exceeds five thousand dollars (\$5,000). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.
- "(b) When multiple documents or written reports are the subject or product of the contract, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports."

2.12 TERMINATION

This Agreement may be terminated by Commission on thirty (30) days written notice to Contractor, the effective date of cancellation being the 30th day of said written notice with no further action required. Notwithstanding the above, Contractor shall not be relieved of any liability to Commission for damages sustained by the Commission by virtue of cancellation or any other breach of Agreement by Contractor.

2.13 ATTORNEYS' FEES AND COSTS

If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing Party or Parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

2.14 ENTIRE AGREEMENT

This Agreement contains the entire understanding between the Parties concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, between or among the

parties hereto, relating to the subject matter of this Agreement, which are not fully expressed herein.

2.15 CONTRACT GOVERNED BY LAW OF STATE OF CALIFORNIA

This Agreement and its performance and all suits and special proceedings under this Agreement shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceeding that may be brought arising out of, under, or because of this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which the action or special proceeding may be instituted.

2.16 WARRANTY OF AUTHORIZATION TO EXECUTE AGREEMENT

Contractor hereby warrants that it has full authority and power to execute this Agreement and shall, concurrently with the execution, deliver appropriate resolution(s) of Board of Directors or other governing body and/or certification(s) of said authority, satisfactory to the Chief Executive Officer of the Commission.

2.17 PARTICIPATION

Contractor shall cause the fact that the Commission has provided funds to the Project to be referenced in all advertisement(s), press release(s), brochure(s), information sheet(s), and all Project Designation Placards placed on the Project site or other site(s), if any, as approved in advance, by the Commission. The design, content and format of the press release(s), advertisement(s), information sheet(s), brochure(s), and Project Placard(s) are subject to the written approval of the Chief Executive Officer of the Commission.

Commission, at its sole option, reserves the right to request that the references to the participation of the Commission in the Project not be included in any, or all, advertisements, press releases, brochures, information sheets, and/or Project Designation Placards.

2.18 NON PROFIT STATUS

Contractor warrants that it is a valid nonprofit entity as determined by the Internal Revenue Service and the Franchise Tax Board of the State of California, and is in good standing in the State of California, and that Contractor does now, and will during the term of this Contract maintain such non profit status.

2.19 CONFLICT OF INTEREST

Contractor represents, warrants and covenants that no member, officer, or employee of the Contractor, no member of the governing body of the locality in which the Commission was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to this Agreement, shall,

during his or her tenure, or for one year thereafter, have any interest direct or indirect, in this Agreement or the proceeds thereof. Any violation of this section may, at the option of the Commission, result in unilateral and immediate termination of this Agreement by the Commission.

2.20 ACCESSIBILITY STANDARDS

Contractor represents and warrants that it will comply with all federal, state and local requirements and regulations concerning access to the units by the disabled and handicapped persons.

2.21 DRUG FREE WORKPLACE

Contractor shall certify to the Commission that it will provide a drug-free workplace and do each of the following:

- (a) Publish a statement notifying its employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance as defined in schedules IV of Section 202 of the Controlled Substance Act (21 U.S.C. 812) is prohibited in Contractor's workplace and specify the actions that will be taken against employees for violation of the prohibition.
- (b) Establish a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The Contractor's policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation and employee assistance programs.
 - (4) The penalties that may be imposed upon employees for drug abuse violations.
- (c) Post the statement required by subdivision 1 in a prominent place at Contractor's main office and at any job site large enough to necessitate an on-site office.

2.22 LOBBYING PROHIBITION

BORROWER hereby certifies to the COMMISSION, under penalty of perjury, under the terms of applicable federal law, that at all applicable times before, during and after the term of the AGREEMENT, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement;
- (2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (3) BORROWER will require that the above stated language be included in the award documents for all subawards at all tiers, including subcontracts, subgrants, loans, contracts, and cooperative agreements concerning the subject matter of this Agreement; and
- (4) Further, BORROWER and all subrecipients, at all times, shall certify compliance with the provisions of 31 USC 1352 and any and all terms and conditions of the Byrd Anti-Lobbying Amendment, as amended from time to time.

2.23. SECTION 3 CONTRACT CLAUSES

(a) The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this Agreement agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

(c) The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The Contractor agrees to include the Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

(e) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 135.

(f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

(g) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment subcontracts shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

EXHIBIT B

PROJECTED BUDGET

FUNDING SOURCE: Becky's House, Fund No. 10591
OPERATING AGENCY: Housing Commission
PROJECT: Becky's House
CONTRACT PERIOD: From Date MOA is signed, to June 30, 2003

Salaries & Wages	\$ 42,856.00	
Fringe Benefits	7,144.00	
TOTAL PERSONNEL		\$ 50,000.00
Supplies	\$ 12,000.00	
Postage	1,000.00	
Contractual Services	4,000.00	
Maintenance/Repair	2,000.00	
Equipment Rental	1,800.00	
Telephone	1,176.00	
Equipment Purchase	5,693.00	
Parking	2,340.00	
Other Expenses	4,083.93	
TOTAL NON-PERSONNEL		\$ 34,092.93
TOTAL PROGRAM		\$ 84,092.93

NOTE: Line-item budget allocation is approximate. Housing Commission, at its sole discretion, may consent, in writing, to revisions requested by the YWCA.

ATTACHMENT 2

AMENDMENT NUMBER 1

TO

SAN DIEGO HOUSING COMMISSION

**AGREEMENT FOR SAN DIEGO HOUSING TRUST FUND SERVICES
WITH
YWCA OF SAN DIEGO COUNTY, A NONPROFIT ORGANIZATION**

WHEREAS, the San Diego Housing Commission ("Commission") and the YWCA of San Diego County ("Contractor") have previously executed an Agreement whereby Commission is providing a Transitional Housing Grant, over a period of three years, to assist Contractor in operating a transitional housing program for women and children fleeing from domestic violence, in a facility known as "Becky's House;" and

WHEREAS, additional funds for Becky's House were raised from private sources through the efforts of the City of San Diego's ("City") Council District 5 and FM Radio Station Star 100.7, which funds have been deposited and maintained in a special City fund for the benefit of Becky's House; and

WHEREAS, in view of the Commission's preexisting Agreement with Contractor to provide financial assistance for the operation of Becky's House, the City requested that the Commission administer these additional funds for Becky's House on behalf of the City.

NOW, THEREFORE, the Commission and Contractor amend their Agreement as follows:

1. The funds available to Contractor for operating Becky's House shall be increased by EIGHTY-FOUR THOUSAND NINETY-TWO AND NINETY-THREE HUNDREDTHS DOLLARS (\$84,092.93).
2. These additional funds shall be available for Contractor's expenses incurred in operating Becky's House between August 15, 2002 and June 30, 2003.
3. The term of availability stated above may be extended for up to five months, solely at the discretion of the Commission.
4. Contractor shall submit requests for reimbursement to the Commission on a monthly basis. These requests shall be separate from requests for funding under the preexisting Agreement and shall be consistent with the line-item budget attached here as "Exhibit A." Contractor may, from time to time, request changes in the line-item budget ("Exhibit A"). It is solely at the discretion of the Commission whether to grant any such change.

NOTE: "Exhibit A" is not, and need not be, in conformity with the San Diego Housing Trust Fund requirement that at least seventy-five percent (75%) of Transitional Housing Grant funds must be used for occupancy expenses (rent, utilities, minor building repairs, building maintenance, and building insurance).

- 5. Contractor's requests for reimbursement shall be on the form attached here as "Exhibit B" or on a similar format.
- 6. Contractor shall provide supporting documentation satisfactory to the Commission for each item for which reimbursement is requested.

IN ALL OTHER RESPECTS, AGREEMENT IS UNCHANGED.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to Agreement to be executed on the _____ day of _____, 2002.

CONTRACTOR: YWCA OF SAN DIEGO COUNTY, a nonprofit organization,

By: _____ and By: _____

Its: _____ Its: _____

COMMISSION: SAN DIEGO HOUSING COMMISSION, a public agency,

By: _____
Elizabeth C. Morris
Chief Executive Officer

Approved as to form:

CHRISTENSEN, SCHWERDTFEGER & SPATH

By: _____
Charles B. Christensen, Esq.
General Counsel,
San Diego Housing Commission

EXHIBIT A
PROJECTED BUDGET

FUNDING SOURCE: City Fund No. 10591
PROJECT: Becky's House
CONTRACT PERIOD: August 15, 2002 to June 30, 2003

Salaries & Wages	\$ 42,856.00	
Fringe Benefits	7,144.00	
TOTAL PERSONNEL		\$ 50,000.00

Supplies	\$ 12,000.00
Postage	1,000.00
Contractual Services	4,000.00
Maintenance/Repair	2,000.00
Equipment Rental	1,800.00
Telephone	1,176.00
Equipment Purchase	5,693.00
Parking	2,340.00
Other Expenses	4,083.93

TOTAL NON-PERSONNEL	\$ 34,092.93
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TOTAL PROGRAM	\$ 84,092.93
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NOTE: Line-item budget allocation is approximate. Housing Commission, at its sole discretion, may consent, in writing, to revisions requested by the YWCA.

EXHIBIT B

REQUEST FOR PAYMENT

YWCA - Becky's House

Month of _____, 200__

Line Item	Amount Budgeted	Received to Date	Current Balance	Amount This Request	Balance after Payment
Salaries & Wages	\$ 42,856.00				
Fringe Benefits	\$ 7,144.00				
Supplies	\$ 12,000.00				
Postage	\$ 1,000.00				
Contractual Services	\$ 4,000.00				
Maintenance/Repair	\$ 2,000.00				
Equipment Rental	\$ 1,800.00				
Telephone	\$ 1,176.00				
Equipment Purchase	\$ 5,693.00				
Parking	\$ 2,340.00				
Other Expenses	\$ 4,083.93				
Total: \$ 84,092.93					
Full documentation required for all requests.					