



SAN DIEGO
HOUSING
COMMISSION

HOUSING AUTHORITY REPORT

DATE ISSUED: February 2, 2011

REPORT NO: HAR 11-007

ATTENTION: Members of the Housing Authority
For the Agenda of February 8, 2011

SUBJECT: Award of Contract to NorthMarq Realty Services, Inc.

COUNCIL DISTRICT: Citywide

REQUESTED ACTION: Approve a contract with NorthMarq Realty Services, Inc. ("NorthMarq") as service provider/broker for procurement of permanent financing on any of the San Diego Housing Commission's ("Housing Commission") current or to be acquired properties. Allow NorthMarq to work with any financial institution listed in their response to the Housing Commission's Request for Proposal ("RFP") according to the proposed payment terms.

STAFF RECOMMENDATION:

- 1) Approve NorthMarq as service provider/broker for procurement of permanent financing on any Housing Commission current or to be acquired properties.
- 2) Allow NorthMarq to engage any of the financial institutions listed in their response to the Housing Commission's RFP according to the proposed payment terms referenced in Exhibit 1.
- 3) Authorize the President and Chief Executive Officer of the Housing Commission ("CEO"), or designee, to execute the contract prepared by General Counsel (Attachment 1), and all other necessary documents. In addition, the CEO, or designee, is authorized to execute engagement letters with any lender selected for any particular loan, as approved by the CEO and General Counsel, based upon the parameters referenced within Exhibit 1.

SUMMARY:

In October 2009, the Housing Authority approved the Finance Plan for Acquisition of New Affordable Housing Units ("Finance Plan," HAR 09-030). The Finance Plan authorized the Housing Commission to utilize loan proceeds generated by placing debt on the Housing Commission's real estate portfolio (formerly public housing) to satisfy a mandate by HUD to add a minimum of 350 new units of affordable housing in exchange for transitioning out of the Public Housing Program. Additionally, authorization was given to the Housing Commission to refinance that new affordable housing, when acquired as 100% cash acquisitions, by placing mortgages on these new affordable units to further leverage the cash purchases to acquire additional affordable housing. The Housing Commission has acquired eight (8) separate properties per the terms of the Finance Plan. Two of these properties were purchased as 100% cash acquisitions by the Housing Commission and are debt free. As part of the Finance Plan, it is the intent of the Housing Commission to further leverage those recent acquisitions to expand the number of affordable housing units.

Through a competitive Request For Proposal process (RFP), the Housing Commission sought suitable institutions to provide refinancing options. NorthMarq was selected and approval is requested to execute the attached contract.

Following Financing Plan parameters, the recent acquisitions being considered for refinance include the Courtyard Apartments, a 37-unit development located at 4395 El Cajon Boulevard, San Diego and Mariner's Village Apartments, a 172-unit development located at 6847 Potomac Street, San Diego. The purchase price of the Courtyard Apartments was \$7,913,580 and Mariner's Village was \$31,509,000. Both of the above mentioned properties are debt-free. The Housing Commission anticipates withdrawal of an estimated \$4,000,000 and \$20,000,000 from the Courtyard Apartments and Mariner's Village Apartments, respectively. These funds will be used to acquire additional affordable housing in the City of San Diego. All underwriting will be in conformance with the Finance Plan

In addition, the Housing Commission's Maya Linda property located at 10101 Maya Linda Road has a \$3,033,645 (as of December 17, 2010) mortgage loan which is due and payable on July 1, 2011. This property is not a new acquisition for the Housing Commission and the current mortgagee on the Maya Linda property is with JP Morgan Chase & Co. If approved, NorthMarq's broker services will be utilized during the refinance of the mortgage loan on the Maya Linda property.

The contract with NorthMarq can be canceled with a ninety day written notice by the Housing Commission without any further action on the part of either the Housing Commission or NorthMarq. Additionally, the contract may be terminated for cause with a seven day written notice from the Housing Commission if NorthMarq is not making reasonable progress toward obtaining the required loan commitments. Unless terminated for cause, if the Housing Commission closes a loan that was procured by NorthMarq for the refinance of any considered property within one year of the date of the termination of NorthMarq's contract, NorthMarq shall be entitled to the financing fee due under the contract.

FISCAL CONSIDERATIONS:

The contemplated equity refinance of the properties mentioned above will include the costs of financing fees, due diligence expenses and origination fees to selected lenders, therefore there is no financial impact to the FY11 operating budget. The loan origination fee payable to the selected lender and compensation to NorthMarq will be paid at closing from loan proceeds.

Depending on the capital loan provider(s) and the structure of the financing transactions, a refundable deposit may be required to lock the rate for the refinancing ("Rate Lock Deposit"). If any, the Rate Lock Deposit will be due prior to closing the loan. The average industry's Rate Lock Deposit is approximately two percent of the loan amount. The Rate Lock Deposit will be paid directly to the capital loan provider. The Rate Lock Deposit is typically refunded at loan closing or shortly thereafter.

Upon the acceptance of the loan commitment(s) by the Housing Commission and upon the closing of the loan(s), the Housing Commission shall pay to NorthMarq a finance fee of one percent of the loan principal amount on loans less than \$15,000,000 and three quarters of a percent on loans over \$15,000,000. The financing fee to NorthMarq will be paid through the disbursement of funds from loan proceeds by escrow, at the close of escrow. In addition, the origination fees for any of the individual lenders will also be paid by the Commission for any loan obtained by the Commission. In addition,

lenders fees such as lender's counsel fees, ALTA surveys, condition reports, etc. will be paid by the Commission. Please see Exhibit 1 at the end of this report for a Schedule of Estimated Fees.

EQUAL OPPORTUNITY/CONTRACTING:

NorthMarq is not certified as a Disadvantaged, Woman Owned or Disabled Veteran Business Enterprise. A Certificate of Compliance and a Workforce Analysis has been provided and shows that NorthMarq is in compliance with the Housing Commission Equal Opportunity Program, Federal, State and local laws.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item is scheduled for Housing Commission Board approval on January 21, 2011. Staff will be available for any outcome information.

On August 18, 2010, the Housing Authority approved the Award for Contract to NorthMarq Realty, Inc for the refinance of the Housing Commission's Smart Corner office building (HAR 10-052).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 22, 2010 a Request for Proposal was issued for this work. Proposal advertisements were placed in the San Diego Daily Transcript, San Diego Union Tribune, Voice and Viewpoint and La Prensa. During the bid period, bid packages were provided to 168 interested contractors.

At the closing date on July 12, 2010, NorthMarq was the sole responsive respondent. Staff analysis indicates that NorthMarq has provided an advantageous proposal and is capable of performing this service as evidenced by their performance on the original Finance Plan. We believe the proposed fees to be reasonable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include the Housing Commission, NorthMarq, the potential lender(s) selected to refinance the properties and the clients of the Housing Commission.

ENVIRONMENTAL REVIEW:

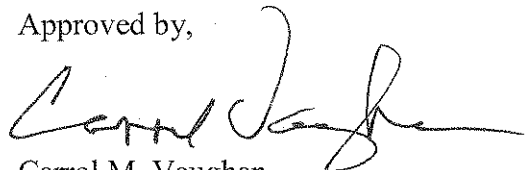
This activity is not a project pursuant to Section 15060 (c) (3) of the State of California Environmental Quality Act Guidelines. Processing under the National Environmental Policy Act is not required as no federal funds are implicated in this action.

Respectfully submitted,



Emmanuel Arellano
Senior Program Analyst

Approved by,



Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

SAN DIEGO HOUSING COMMISSION
AGREEMENT FOR
FINANCIAL AND LOAN BROKER SERVICES
WITH
NORTHMARQ REALTY SERVICES, INC. dba NORTHMARQ CAPITAL

Contract No. FAS-10-2

THIS AGREEMENT, entered into this ____ day of _____ 2011,

between the Commission:

SAN DIEGO HOUSING COMMISSION
1122 Broadway, Ste 300
San Diego, California 92101
(619) 231-9400

and the Contractor:

NORTHMARQ REALTY SERVICES, INC.
dba NORTHMARQ CAPITAL
11440 West Bernardo Court, Suite 390
San Diego, California 92127
(858) 675-7600

101. DESCRIPTION OF WORK

Contractor shall arrange and obtain permanent financing for the Commission's affordable housing portfolio as generally described in the specifications/scope of services attached hereto.

102. CONTRACT ATTACHMENTS

The above services shall be performed in accordance with the following listed documents which are attached hereto and made a part hereof:

1. General Provisions, Contract Attachment No. 1
2. Specifications/Scope of Service, Contract Attachment No. 2
3. Certificate of Compliance, Contract Attachment No. 3
4. Workforce Report, Contract Attachment No. 4

103. TIME OF PERFORMANCE

All services required pursuant to this Agreement shall commence effective _____ for a one (1) year period. The Commission will have the option to renew the Agreement for two (2) additional one (1) year periods at the option of the Commission.

104. COMPENSATION AND METHOD OF PAYMENT

- a. Rates

The amounts payable from the Commission to the Contractor as set forth in this Section 104 shall be earned by the Contractor upon the acceptance of loan commitments by the Commission. Upon the closing of such loans, the Commission shall pay to Contractor a financing fee of one percent (1%) of the loan principal amount on loans less than or equal to fifteen million dollars (\$15,000,000) and three quarters of a percent (0.75%) on loans over fifteen million dollars (\$15,000,000). Notwithstanding the foregoing, in the event such fee, when calculated on all new loans to be secured by any single property, would be less than fifty thousand dollars (\$50,000), then the cumulative fee to be paid from the Commission to the Contractor with respect to all such new loans shall be fifty thousand dollars (\$50,000). The financing fee to Contractor will be paid through the disbursement of funds by escrow, at the close of escrow. Contractor shall not share any portion of the financing fee with any capital provider in connection with the loan.

b. Maximum Compensation

The Commission will seek approval of this Agreement from the Board of Commissioners of the San Diego Housing Commission and the Housing Authority of the City of San Diego in connection with the Board of Commissioners' and Housing Authority's approval of the financing plan for the portfolio. No compensation under this Agreement shall exceed the sum of One Hundred Thousand Dollars (\$100,000.00) unless and until this Agreement is approved by the Board of Commissioners of the San Diego Housing Commission. No compensation under this Agreement shall exceed the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) unless and until this Agreement is approved by the Housing Authority of the City of San Diego.

c. Deposits

During the due diligence phase of acquiring financing for the portfolio, Contractor will request an initial deposit for third party inspections and reports ("Third Party Reports Deposit"). The Third Party Reports Deposit will be requested by Contractor approximately six to eight weeks after this Agreement is signed. The Third Party Reports Deposit will be paid directly to Contractor. The Third Party Reports Deposit amount in excess of actual third party costs incurred, if any, will be refunded to Commission at the earlier of loan closing or termination of this Agreement. Contractor shall not share any portion of the deposits with the capital provider selected by Commission.

Depending on the capital provider selected by the Commission and the structure of the financing transaction, a refundable deposit may be required at the time of locking the rate for the financing ("Rate Lock Deposit"). If any, the Rate Lock Deposit will be due during the few weeks prior to closing. Contractor estimates the Rate Lock Deposit will be 2% of the loan amount. The Rate Lock Deposit would likely be paid directly to the capital provider, but could be structured to flow through Contractor. The Rate Lock Deposit is typically refunded at loan closing or shortly thereafter.

d. Additional Costs

Commission shall be required to pay due diligence and closing costs associated by the financing, as further described in the Scope of Services attached to this Agreement. Commission

may also be required to pay an origination fee to the selected capital provider at the closing of the loan. Contractor anticipates that the origination fee to the capital loan provider will be 0% to 1% of the total loan amount. No portion of the origination fee to the capital provider shall be shared with Contractor. The origination fee to the capital loan provider, if any, will be paid through the disbursement of funds by escrow, at the close of escrow. Contractor and Commission shall select a capital provider from the list included in the Scope of Services, Contract Attachment No. 2.

e. Method of Payment

Contractor's financing fee will be paid at the close of escrow through the disbursement of funds by the escrow account, for the loans for which Contractor provided services pursuant to this Agreement.

105. NOTICES

Notices to the parties shall, unless otherwise requested in writing, be sent to the Commission and the Contractor at the addresses given above.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

COMMISSION:

SAN DIEGO HOUSING COMMISSION

By: _____
Richard C. Gentry
President & Chief Executive Officer

Date: _____

CONTRACTOR:

NORTHMARQ REALTY SERVICES, INC.
dba NORTHMARQ CAPITAL

By: William Gardiner Champlin Jr.
William Gardiner Champlin Jr.
Senior Vice President

Date: February 10, 2011

Approved as to Form:
Christensen & Spath, LLP

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

Date: _____

CONTRACT ATTACHMENT NO. 1

200. GENERAL PROVISIONS

201. Status of Contractor

This Agreement calls for the performance of the services of the consultant as an independent contractor. Contractor will not be considered an employee of the Commission for any purpose.

202. Ownership of Materials and Documents

Any and all sketches, drawings and other materials and documents prepared by the Contractor shall be the property of the Commission from the moment of their preparation, and the Contractor shall deliver such materials and documents to the Commission whenever requested to do so by the Commission. However, the Contractor shall have the right to make duplicate copies of such materials and documents for his own file, or for other purposes as may be authorized in writing by the Commission.

203. Non-Disclosure

The designs, plans, reports, investigations, materials, and documents prepared or acquired by the Contractor pursuant to this Agreement (including any duplicate copies kept by the Contractor) shall not be shown or disclosed to any other public or private person or entity directly or indirectly, except as authorized by the Commission. The Contractor shall not disclose to any other public or private person or entity directly or indirectly, any information regarding the activities of the Commission during the term of this Agreement or at any time thereafter except as authorized by the Commission. Notwithstanding the foregoing, Contractor is permitted to disclose information that is reasonably necessary in order to solicit indications of interest from prospective capital sources.

204. Conflict of Interest

(a) For the duration of this Agreement, the Contractor will not act as a consultant or perform services of any kind for any person or entity which would conflict with the services to be provided herein, without the written consent of the Commission. Commission acknowledges that Contractor may solicit services of the capital source provider utilized by Commission for loans under this Agreement in connection with unrelated financings for other clients of Contractor.

(b) A conflict occurs when circumstances, known to the Contractor, place the Commission and the Contractor's new client in adverse, hostile or incompatible positions wherein the interests of the Commission, the Authority, or the City of San Diego may be jeopardized. Contractor shall promptly notify the Commission in the event that such a conflict occurs.

(c) In the event of such a conflict, Contractor shall meet and confer with the Commission to agree upon modifications of its relationship with said new client or Commission in order to continue to perform services for said client and/or Commission without compromising the interests of either. Should no agreement regarding modification be reached, Commission may

terminate this Agreement with Contractor.

(d) When consent has been given, Contractor shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Contractor for 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 client.

(e) Contractor agrees to alert every client for whom consent is required, to the existence of this conflict of interest provision and to include language in its agreement with said client which would enable Contractor to comply fully with its terms. This last paragraph shall not apply to existing clients of the Contractor for which Contractor has previously received the Commission's consent.

(f) This Agreement may be unilaterally and immediately terminated by the Commission if Contractor employs an individual who, within twelve months immediately preceding such employment, in their capacity as a Commission employee, participated in negotiations with or otherwise had an influence on the selection of the Contractor.

205. Contractor's Liability

(a) The Contractor shall be responsible for all injuries to persons and for all damages 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.

(b) Contractor shall indemnify, hold harmless and defend the Commission, the Housing Authority of the City of San Diego, the City of San Diego, and all officers and employees of each agency from any and all liability, claims, costs (including reasonable attorney's fees), damages, expenses and causes of action:

(i) for damages to real or personal property, or personal injury to any third party resulting from the negligence of Contractor, its employees or its agents; or

(ii) for any breach of any obligations, duties or covenants of Contractor under this Agreement or transactions related to it.

206. Insurance

Contractor shall not commence work until Contractor has obtained, at its sole cost and expense, all insurance required under this Section. The insurance obtained must be approved by the Commission. Contractor agrees to the following:

(a) Contractor shall provide public liability and property damage insurance in the minimum amount of \$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 the Commission, Contractor, its Subcontractors and its authorized representatives, arising out of or in

connection with the Contractor's performance of work under this Agreement.

(b) Contractor shall purchase and maintain in full force and effect worker's compensation insurance for contractors, subcontractors, employees and agents in form and amount acceptable to the Commission during the full term of this Agreement.

(c) Contractor shall provide automobile liability insurance on owned and non-owned motor vehicles used in the performance of services as detailed in the Scope of Services, both on site or in connection therewith for a combined single limit for bodily injury and property damage of no less than \$500,000 per occurrence.

(d) All insurance required to be purchased and maintained by the Contractor shall name the Commission, the Housing Authority and the City of San Diego as additional insureds and shall contain cross-liability endorsements.

(e) For any claims arising out of or in connection with Contractor's performance under this Agreement, the insurance required to be purchased and maintained by the Contractor shall be primary and non-contributory to any insurance carried by the Commission, the Housing Authority and/or the City of San Diego.

(f) The Contractor shall furnish to the Commission Certificates of Insurance evidencing the insurance carried in compliance with this Section. This Certificate shall contain a provision that at least 30 days prior written notice will be given to the Commission in the event of cancellation, reduction or nonrenewal of the insurance.

(g) All insurance required to be purchased and maintained by the Contractor shall be endorsed with a waiver of subrogation. Contractor's insurers, in their endorsements, agree to waive all rights of subrogation against the Commission, the Housing Authority, the City of San Diego, and their employees and agents for losses paid by Contractor's insurers that arise out of or in connection with Contractor's performance under this Agreement.

207. Correction of Work

The performance of services by the Contractor shall not relieve the Contractor from any obligation to correct any incomplete, inaccurate or defective work at no further cost to the Commission, when such inaccuracies are due to the negligence of the Contractor, provided such work has not been accepted in writing by an authorized representative of the Commission.

208. Equal Opportunity Programs

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

(a) Contractor shall comply with all applicable local, state and federal Equal Opportunity Programs, as well as any other applicable local, state and federal law.

(b) Contractor and each Subcontractor, if any, shall fully comply with and shall submit a Report of San Diego County Workforce Report and 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.

(c) Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, gender, disability or national origin or any other basis prohibited by law. 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 or any other basis prohibited by law.

(d) Intentionally Omitted.

(e) 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 disbarred from participating in Commission projects for not less than one (1) year.

209. Intentionally Omitted.

210. Subcontracting

No services covered by this Agreement shall be subcontracted without the prior written consent of the Commission. Third party consultants required by capital providers are not subcontractors of Contractor.

211. Assignability

(a) The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the Commission.

(b) Claims for money due or to become due to the Contractor from the Commission under this Agreement may be assigned to a bank, trust company, or other financial institutions, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Commission.

212. Changes

The Commission may, from time to time, request changes in the Scope of Services of the Agreement 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 Agreement.

213. Intentionally Omitted

214. Termination

This Agreement shall be in full force and effect until the Commission provides Contractor with a ninety (90) day written notice of this termination. Upon the expiration of said ninety (90) day period this Agreement shall be terminated without further action on the part of any party hereto. In addition, the Agreement may and shall be terminated for cause with a seven (7) day written notice from the Commission to Contractor if, in the opinion of the Commission, Contractor is not making reasonable progress toward obtaining the required loan commitment(s). Unless terminated for cause, if Commission closes a loan that was procured by Contractor within one (1) year of the date of Contractor's termination, Contractor shall be entitled to the entire financing fee due to Contractor under this Agreement.

215. Attorney's 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.

216. Entire Agreement

This Agreement represents the sole and entire agreement between the Commission and Contractor and supersedes all prior negotiations, representations, agreements, arrangements or understandings, either oral or written, between or among the parties hereto, relating to the subject matter of this Agreement, which are not fully expressed herein. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both the Commission and Contractor.

217. Partial Invalidity

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

218. Contract Governed by Laws 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.

219. Interest of Member of Congress

No member or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

220. Interest of Current or Former Members, Officers, Employees

No member, officer or employee of the Commission, no member of the governing body of the locality in which the work is situated, no member of the governing body 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 the assignment of work, 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 shall result in unilateral and immediate termination of this Agreement by the Commission.

221. 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 I-V 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:

(i) The dangers of drug abuse in the workplace.

(ii) The Contractor's policy of maintaining a drug-free workplace.

(iii) Any available drug counseling, rehabilitation and employee assistance programs.

(iv) 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.

222. Plan of Operation

The Contractor shall submit to the President and CEO or designee (the "Contracting Officer") a complete plan of operations consisting of regular and frequent communication of

progress. The Contractor is responsible for notifying the Contracting Officer of any changes to the plan of operations.

223. Labor Provisions

It is the responsibility of the Contractor to be fully aware of and comply with every requirement under Federal and State law pertaining to labor provisions.

224. Extension of Contract Term

(a) Provided, that the Contractor is not in default under the terms of this Agreement, the Chief Executive Officer of the Housing Commission, may extend the terms of the Agreement for a period, not to exceed ninety (90) days, on the same payment schedule, terms and conditions, in effect on the date that the Agreement would otherwise have terminated, including the option periods. The option to extend the Agreement shall be at the Commission's discretion only, and may not be exercised by the Contractor.

(b) The Agreement may not be extended for an aggregate period of more than ninety (90) days, but may be exercised in multiple "Notices of Extension", of not less than seven (7) days in duration, for each such notice. The Agreement may be extended by the Commission by delivery of a Notice of Extension in writing to the Contractor and that the stated terms and conditions of the Agreement shall be adhered to by the Contractor and the Commission during the term of the extension.

(c) Nothing contained herein, however, shall require the Commission to exercise any option to extend the Agreement. During the extension of the Agreement, the Contractor shall provide the Commission with additional certificates of insurance, if necessary, covering the term(s) of the extension.

(d) Notice of Extension may be served by the Commission upon the Contractor not earlier than sixty (60) days before the original termination date of the Agreement and not later than eighty-three (83) days after the original termination date of the Agreement. Nothing contained herein shall be construed as granting the Contractor a right to compel the Chief Executive Officer of the Commission to exercise the option to extend the Agreement.

(e) The Commission and Housing Authority of the City of San Diego hereby delegate the authority to the Chief Executive Officer of the Commission to pay compensation to Contractor, during the option period, on a prorata basis, for any extension period, based upon the contract rate in effect on the date of the exercise of the extension.

(f) All contracts which are approved by the Commission and/or Authority and include options for renewal may be renewed by the Chief Executive Officer or his/her designee at the previously stated terms for renewal. The Chief Executive Officer's authority to execute the option for renewal includes authorization to execute the required documents, identify appropriate funding source and authorize payment of funds for the continuation of services identified in the Scope of Services.

225. Intentionally Omitted

226. Conflict between Agreement and Attachments

To the extent that the provisions of the Agreement and the Attachments and Schedules conflict, the following order of construction shall apply:

(a) To the extent that the Agreement and any Attachments or Schedules conflict, the terms and conditions of the Agreement shall prevail; and,

(b) To the extent that any Contract Attachment and any Schedule conflicts, the Contract Attachment shall prevail.

227. 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 Agreement 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).

228. HUD Program-Specific Audit Requirement

24 CFR 45-1 require that nonprofit institutions with combined receipts of Federal financial assistance and outstanding Federal direct, guaranteed or insured loan balances totaling \$300,000 or more a year shall have an audit conducted in accordance with the requirement of OMB Circular A-133 or a program specific financial audit, depending on the amount of funds received and the number of programs. Nonprofit institutions having only outstanding HUD direct, guaranteed or insured loans that were made guaranteed or insured prior to the effective date of the part, are required to conduct audits in accordance with HUD program specific audit requirements.

229. Lobbying Provisions

Contractor 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:

(a) 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;

(b) 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;

(c) Contractor 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

(d) Further, Contractor 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.

Indicate Approval by Initials Below:

Housing Commission _____

NorthMarq Realty Services, Inc. dba NorthMarq Capital WJS

General Counsel _____

CONTRACT ATTACHMENT NO. 2

SPECIFICATIONS/SCOPE OF SERVICES

When and as directed by the Commission, the Contractor shall:

- Be accessible and available to work closely with the Commission in arranging and closing of loans on Commission's properties, as necessary to organize a thorough review of the full range of available capital sources and to assist and advise relative to selecting the best capital provider. Negotiate the best terms available; professionally manage the execution of lender due diligence and closing of the financing.
- Be available to provide such other and further services as may be requested by the Commission, under applicable law, to obtain the financing and the costs for any such ancillary services. If requested, appear before the Commission and the Commission's Board to present the pricing and structure of the loans.
- Provide a list of lenders or financing sources Contractor intends to utilize. Contractor envisions a financing structure for the loans that would be attractive to a variety of capital providers, including but not limited to the following: Federal Home Loan Mortgage Corporation ("Freddie Mac") through lender NorthMarq Capital, LLC; Federal National Mortgage Association ("Fannie Mae") through lenders Greystone Servicing Corporation, Inc. and AmeriSphere Multifamily Finance, LLC; Federal Housing Administration ("FHA") through lender PNC Bank, N.A.CUNA (Members Capital Advisors, Inc.), Amerifund Commercial Corp, Aviva Investors, 40|86 Mortgage Capital, UNUM, Americo Life, Inc., PPM Finance, Inc., Modern Woodmen, Farm Bureau Life, Teachers Insurance (TIAA), Principal Financial, Quad Capital Advisors, LesMark Capital, LLC, , Prudential Life Insurance Company, Metlife, Deutsche Bank, GE Capital, Nationwide Insurance, AUL/One America, American Fidelity Assurance Company, , Aegon, Aetna, AEW, ACRE (Area and CIBC), AIG, Allianz, Allstate, American National, Apollo, Bank of the West, BlackRock, Bridger, Bank of America, Business Partners, CB&T, CorAmerica, CIGNA, Citibank, Cornerstone/Mass Mutual, Fundcore, Goldman Sachs, Guardian, Hartford, ING, JP Morgan, KBS, Ladder Capital, Lincoln, Morgan Stanley, Natixis, New York Life, Northwestern Life, NXT Capital, ORIX, Pacific Life, Piper Jaffray, Prima Capital Advisors LLC, Quadrant, RBS Starwood, Sentinel/National Life of Vermont, State Bank of India, Sun Life, Symetra, US Bank, Wells Fargo.
- Develop and present specific recommendations as to the details of possible bond issuances, including but not limited to issue amounts, dates of issue, interest rates, maturity schedules, call features, revenues, flow of funds, underwriting fees, debt-service coverage and parity requirements, security provisions and other covenants to be included for the maximum benefit for the Commission.
- Contractor estimates customary transaction charges for securing the loans to be approximately two percent (2%) of the total of the loan amount and will be determined at closing. The charges are anticipated to include, but are not limited to the following:

Schedule of Estimated* Fees

Principal Loan Amount	Cost (Percentage of total loan amount)	Description
\$ 0 - \$ 14,999,999	1.00%	Financing fee payable to contractor
≥ \$ 15,000,000	0.75%	Financing fee payable to contractor
≥ \$ 0	0.00% - 1.50%*	Loan Origination fee to Lender chosen-no part of this is to be shared by NorthMarq Realty
≥ \$ 0	TBD*	Mortgagee's legal fees per loan, provided by lender and verified by Housing Commission
≥ \$ 0	\$ 5,000*	Mortgagee's processing fee per loan-Non refundable
≥ \$ 0	\$50,000*	Industry Standard Third Party Costs per loan, including but not limited to policies of title insurance, ALTA surveys, appraisals, property condition costs, etc.
≥ \$ 0	0.30%*	HUD Mortgage Insurance application fee per loan
≥ \$ 0	1.00%*	First year mortgage insurance premium
≥ \$ 0	\$30 per unit*	Inspection fee; if repairs are over \$ 3,000 per unit, fee will be 1.00% of total required repairs.
≥ \$ 0	TBD*	Repairs (based on Property Condition Report)
≥ \$ 0	TBD*	Annual Insurance Premium Escrow

*Estimated- Amounts estimated above will be adjusted as the loans are acquired based upon actual required expenditures as verified by the Commission and further based upon prevailing industry standards.

Note:

- *2.00% is the estimated amount of a deposit that will be required for a Good Faith Deposit. The Good Faith Deposit will be refunded at closing.

Indicate Approval by Initials Below:

Housing Commission _____

NorthMarq Realty Services, Inc. dba NorthMarq Capital WHE

General Counsel _____

CONTRACT ATTACHMENT NO. 3

CERTIFICATE OF COMPLIANCE

The City of San Diego, The San Diego Housing Commission and Housing Authority are committed to an Equal Opportunity Program pursuant to applicable Federal and State laws and regulations, which provides Equal Opportunity in all activities of the State and its agencies, including the employment of individuals and firms which contract with the San Diego Housing Commission.

CERTIFICATE OF COMPLIANCE

NorthMarq Realty Services, Inc., dba NorthMarq Capital

(Name of Firm)

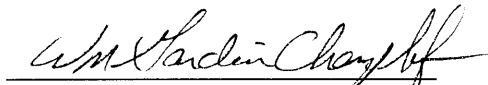
As an authorized official for the above named firm, I hereby certify by the signature affixed to this document that said firm will comply with Executive Order 11246, Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act and any other applicable Federal and State laws and regulations hereinafter enacted. Further, I am submitting a current Report of San Diego County Workforce.

William Gardiner Champlin, Jr.

Name of Authorized Official

Senior Vice President

Title



Signature of Authorized Official

February 10, 2011

Date

CONTRACT ATTACHMENT NO. 4.

SAN DIEGO HOUSING COMMISSION

1122 Broadway, Ste 300 San Diego, CA 92101

Name of Firm NorthMarq Realty Services, Inc. dba NorthMarq Capital **Payroll Ending Date** 02/04/2011

WORK FORCE REPORT OF SAN DIEGO COUNTY

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (4) American Indian, Eskimo |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (5) Caucasian |
| (3) Asian, Pacific Islander | (6) Other ethnicity; not falling into other groups |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian Pacific Islander		(4) American Indian		(5) Caucasian		(6) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial												
Professional Specialty												
Engineers/Architects												
Technicians and Related Support									2			
Sales									6			
Administrative Support/Clerical									1			
Services												
Precision Production, Craft and Repair												
Machine Operators, Assemblers, Inspectors												
Transportation and Material Moving												
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*												
TOTALS EACH COLUMN												
DISABLED (by ethnicity & gender)												
GRAND TOTAL OF ALL EMPLOYEES	9											

NON PROFIT AGENCIES ONLY

President												
Vice President												
Secretary												
Treasurer												
TOTALS EACH COLUMN												

Indicate the gender and minority composition of the board as required above. Please substitute titles of officers or board members as necessary.

OCCUPATIONAL CATEGORY LIST

Executive, Administrative and Management

Executive, Administrative Management Related

Professional Specialty

Engineers, Architects, Surveyors
Mathematical and Computer Scientists
Health Diagnosing
Health Assessment and Treating
Teachers, Postsecondary
Teachers, Except Postsecondary
Counselors, Educational and Vocational
Librarians, Archivists, Curators
Social Scientists and Urban Planners
Social, Recreation and Religious Workers
Lawyers and Judges

Technicians and Related Support

Health Technologists and Technicians
Engineering and Related Technologists and Technicians
Technicians, Except Health, Engineering and Service

Sales

Supervisors and Proprietors
Sales Representatives, Finance and Business Services
Sales Representatives, Commodities Except Retail
Sales Workers, Retail and Personal Services

Administrative Support

Supervisors, Administrative Support
Computer Equipment Operators
Secretaries, Stenographers, Typists
Information Clerks
Records, Processing Except Financial
Financial Records Processing
Duplicating and Other Office Machine Operators
Communications Equipment Operators
Mail and Message Distributing
Material Recording and Distributing Clerks
Adjusters and Investigators
Other Administrative Support

Precision Production, Craft and Repair

Supervisors, Mechanics and Repairers
Vehicle and Mobile Equipment Mechanics and Industrial
Machinery Repairer
Machinery Maintenance
Electrical and Electronic Equipment Repairers

Heating, Air Conditioning, Refrigeration Mechanics
Other Mechanics and Repairers
Supervisors Construction
Construction Trades, Except Supervisors
Extractive Occupations
Precision Production Occupations

Machine Operators, Assemblers and Inspectors

Metalworking and Plastic Working Machine Operator
Metal and Plastic Processing Machine Operators
Woodworking Machine Operators
Printing Machine Operators
Textile, Apparel and Furnishing Machine Operators
Machine Operators, Assorted Materials
Fabricators, Assembler & Hand Working Occupations

Transportation and Material Moving

Motor Vehicle Operators
Rail Transportation Occupations
Water Transportation Occupations
Material Moving Equipment Operators

Handler, Equipment Cleansers, Helpers and Laborers

Handlers
Equipment Cleaners
Helpers
Laborers

Services

Private Households
Protective Services
Supervisors, Protective Services
Firefighting and Fire Prevention
Police and Detectives
Guards
Supervisors, Food Preparation and Services
Health Services
Cleaning and Building Services
Personal Services

NAME OF COMPANY: NorthMarq Realty Services, Inc. dba NorthMarq Capital

TELEPHONE: (858) 675-7600

ADDRESS: 11440 West Bernardo Court, Suite 390

San Diego

CA

92065

CITY

STATE

ZIP

PREPARED BY: William Gardiner Champlin, Jr. DATE: February 10, 2011