



SAN DIEGO
HOUSING
COMMISSION

REPORT TO THE CITY COUNCIL & HOUSING AUTHORITY

DATE ISSUED: July 12, 2012

REPORT NO: HAR12-036

ATTENTION: Members of the City Council and Housing Authority of the City of San Diego
For the Agenda of July 31, 2012

SUBJECT: Renewal and Amendment of Memorandum of Understanding between City of San Diego and San Diego Housing Commission for Provision of Homeless Shelter Services

COUNCIL DISTRICT: Citywide

REQUESTED ACTION:

Housing Authority of the City of San Diego and San Diego City Council approve the renewal and execution of the Second Amendment to the Homeless Shelter Services Memorandum of Understanding between the City of San Diego and the San Diego Housing Commission.

STAFF RECOMMENDATION:

That the Housing Authority of the City of San Diego ("Housing Authority") and San Diego City Council ("City Council") approve renewal and amendment of the Memorandum of Understanding ("MOU") between the City of San Diego ("City") and San Diego Housing Commission ("Commission" or "Housing Commission") regarding the provision of homeless shelter services, and approve revision and amendment of specific terms of the MOU, as well as the following actions:

Recommended City Council Actions

- 1) That paragraph 16 of Council Policy 700-02 is waived so that a portion of future allocations of CDBG funding from HUD pertaining to public services shall be set aside to cover the expense of operating the Center, Cortez Family Shelter, Veterans Winter Shelter, and Connections Housing, without any requirement of matching funds to the extent such funds are available each fiscal year and approved for such use by the City Council.
- 2) That the Second Amendment to the MOU between the City and the Commission in the form attached to the City Council Report is approved.
- 3) That the Chief Financial Officer is authorized to appropriate and expend \$550,000 from the General Fund to the San Diego Housing Commission in Fiscal Year 2013 for the oversight and management of the operation of the Neil Good Day Center as set forth in Section 2 of the MOU, which amount is to be provided to the San Diego Housing Commission as an advance on the first quarterly payment with subsequent quarterly advances provided only upon proper submittal of adequate documentation of expenditures for the prior quarter as determined by the City's Community Development Block Grant ("CDBG") program staff, which payment procedure is set forth in more detail in the Second Amendment to the MOU, contingent upon the Comptroller certifying that funds are available.

- 4) That the Chief Financial Officer is further authorized to appropriate and expend revenue to the San Diego Housing Commission from the General Fund appropriated by the City Council for the purposes set forth in Section 2 of the MOU, contingent upon approval of the Appropriations Ordinance for the given fiscal year and the Chief Financial Officer certifying that funds are available.
- 5) That the Mayor or a designee is authorized to execute the Second Amendment to the MOU, a copy of which is attached hereto as Document No. _____.
- 6) That so long as the only change to the MOU is an amendment renewing the MOU, that renewal may be executed by the Mayor or a designee. Should either party propose additional changes, those changes shall be subject to approval of the San Diego City Council.

Recommended Housing Authority Actions

- 1) That the Second Amendment to the MOU between the City and the Commission in substantially the form attached hereto is approved.
- 2) That the President & Chief Executive Officer ("President & CEO") of the Housing Commission, or designee, is authorized to execute the Second Amendment to the MOU, a copy of which is attached hereto, in a form approved by General Counsel.
- 3) That the Commission is authorized to enter into a month-to-month contract effective July 1, 2012, as approved by General Counsel with Alpha Project in an amount not to exceed \$500,000 for the operation of the Neil Good Day Center in Fiscal Year ("FY") 2013, but only until such time as an operator for the Neil Good Day Center has been procured by the Commission using a competitive bid process, at which time the month-to-month contract with Alpha Project will terminate.
- 4) That the President & CEO of the Housing Commission, or designee, is authorized to execute the month-to-month contract, with Alpha Project, in a form as approved by the General Counsel of the Housing Commission.
- 5) That the President & CEO of the Housing Commission is authorized to enter into a contract with the operator selected as a result of the Commission's RFP for the balance of FY 2013, using the balance of the funds appropriated for the operation of Neil Good Day Center for FY 2013 and that such contract shall contain four (4) one-year options, exercisable by the Commission in its sole discretion, to extend services for subsequent fiscal years, dependent upon funding availability.
- 6) Approving this action will further give the President & CEO, or designee, the authority to make funding reallocations from SDHC reserves to SDHC Local Funds in the amount of \$402,000 to fund the Single Adult Winter Shelter and that the \$550,000 in General Funds are substituted for \$550,000 CDBG Funds in the FY 2013 Housing Authority Approved Budget, and the President & CEO is further authorized to substitute the planned funding sources with other funding sources available, should the operational need arise and/or should such action be to the benefit of the San Diego Housing Commission and its mission. Any funding substitutions will be memorialized and ratified in an Informational Report at the next Housing Commission Board Meeting.

SUMMARY:

On June 29, 2010, the Housing Authority and City Council approved an MOU between the City and Housing Commission transferring responsibility to administer the City's homeless shelter services from the City to the Housing Commission. On May 27, 2011, the Housing Authority and City Council

approved the First Amendment to the MOU. The original executed MOU and First Amendment are Attachment 1.

This action proposes a Second Amendment (Attachment 2) to the MOU containing the following:

Clarification of Funding

- The City shall dedicate and expend funding from the City's General Fund in the amount of \$550,000 for FY2013 operation of the Neil Good Day Center ("NGDC"). This will replace the original funding source requested from CDBG that was not awarded.
- The Housing Commission's regular financial contribution continues at \$400,000, plus \$45,000 for the Homeless Management Information Services ("HMIS"). In addition, the Housing Commission has agreed to make a one-time contribution not to exceed \$402,000 in FY2013 for the Single Adult Downtown Winter Shelter Program.

The City will appropriate and expend Community Development Block Grant ("CDBG") funds for the shelter and service programs itemized in the MOU, and will seek a waiver of the matching funds requirement of City Council Policy 700-02. To the extent that Community Development Block Grant funds are made available to the City by HUD each year, the Commission and City Staff are requesting that the City shall set aside a portion of such funds related to public services to cover the cost of the operation of the Neil Good Day Center, Cortez Hill Family Shelter, Veterans Winter Shelter and Connections Housing, which funding shall be appropriated for such purposes contingent upon and at the discretion of the City Council each fiscal year.

Neil Good Day Center

The Housing Commission agrees to enter into a month-to-month contract with Alpha Project, the current operator of the NGDC, until the Housing Commission completes a competitive solicitation process to select the next operator. The Housing Commission will then enter into a contract with the selected operator for the remainder of FY2013, with four additional option years, which may be exercised at the Commission's option.

Emergency Solutions Grant

The Second Amendment acknowledges HUD's change from the Emergency Shelter Grant to the Emergency Solutions Grant ("ESG") under the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 ("HEARTH"), and how this change applies to the City's homeless programs. The new regulations allow only 60 percent of the allocation to be used for shelter activities, not 100 percent as stated in the First Amendment. Under the new ESG rules, 40 percent of the grant must be used for prevention and re-housing activities, similar to the Homeless Prevention and Rapid Re-housing grant Program ("HPRP").

Although it was the intent to pass on the administration of ESG to the Housing Commission, the City will continue to be the administrator of the program due to a determination made by HUD. The City will reimburse the Housing Commission for all approved and eligible ESG contracted activities.

July 12, 2012

Renewal & Amendment of City/SDHC MOU for Provision of Homeless Shelter Services

Page 4

Term of the MOU

The term of the MOU will be extended for one fiscal year ending June 30, 2014; all future amendments renewing the Original MOU must be approved no less than one fiscal year prior to the expiration of the then current term or extension to ensure availability and allocation of funding.

FISCAL CONSIDERATIONS:

The proposed funding sources and uses approved by this action were partially approved in the Fiscal Year 2013 Housing Authority-Approved Budget. Approving this action will not change the Fiscal Year 2013 Total Budget.

Funding sources approved by this action will be as follows:

The CDBG application to the City for the Neil Good Day Center for \$550,000 was submitted but was not awarded for funding for FY13. The City's General Fund will be funding operations and administration costs for the project. The Housing Commission will revise the FY13 Budget to reflect the change in the sources of funding.

The Housing Commission will be funding the Single Adult Homeless Emergency Winter Shelter from its Local funds. The Housing Commission will revise the FY13 Budget to reflect the change by transferring Local reserves to Local operations and administration costs.

Approving this action will further give the President & Chief Executive Officer, or his designee, the authority to substitute the above funding sources with other funding sources available, should the operational need arise or should such action be to the benefit of the San Diego Housing Commission and its mission. Funding substitutions will be memorialized and ratified in an Informational Report at the next Housing Commission Board Meeting, as necessary.

Expenditures approved in this action are allocated as follows: \$902,000 in Loans and Grants and \$50,000 in Administration in the Fiscal Year 2013 Budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was unanimously approved at the regular Housing Commission meeting of July 20, 2012.

On July 11, 2012 the Consolidated Plan Advisory Board voted 4-2 against recommending automatic set-asides of future allocations of CDBG funding as referenced in the Second Amendment to the MOU. The Housing Commission strongly disagrees with this recommendation and continues to seek a waiver of the provisions of Paragraph 16 of Council Policy 700-02 to set aside CDBG funds off the top for the purposes referenced in the draft Second Amendment to the MOU, without requiring any matching funds in order to insure future funding of homeless services.

On May 27, 2011, the Housing Authority and City Council approved the First Amendment to the MOU.

ENVIRONMENTAL REVIEW:

This activity including the amendment of the MOU and waiver of Council Policy 700-02 is not a project pursuant to Section 15060(c)(3) of the State of California Environmental Quality Act Guidelines and section 15378. In addition, other activities are categorically exempt under various provisions of CEQA including, without limitation, Sections 15301, 15302, 15304 (e), 15323 and/or 15327. In addition, the

July 12, 2012

Renewal & Amendment of City/SDHC MOU for Provision of Homeless Shelter Services

Page 5

operation of the facility is categorically excluded pursuant to Section 58.35(b)(2) and (3) and exempt per 58.34(a)(3) and (4) of the National Environmental Policy Act.

Respectfully submitted,

Approved by,



Mathew Packard
Vice President
Housing Innovations Department



Richard C. Gentry
President & Chief Executive Officer
San Diego Housing Commission

Attachment 1: MOU and First Amendment

Attachment 2: Draft Second Amendment [subject to modification]

Hard copies are available for review during business hours in the main lobby of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
SAN DIEGO HOUSING COMMISSION
FOR THE PROVISION OF HOMELESS SHELTER AND SERVICES**

This Memorandum of Understanding (MOU) between the SAN DIEGO HOUSING COMMISSION, a public agency (Commission) and the CITY OF SAN DIEGO, a municipal corporation (City), shall become effective upon signature of both parties.

The term of this MOU is two fiscal years, beginning July 1, 2010 and ending June 30, 2012; the MOU must be renewed one year prior to the end of each fiscal year to ensure availability and allocation of funding. This MOU shall terminate on June 30, 2012 unless extended by the Commission and the City no later than June 30, 2011.

RECITALS

WHEREAS, The City's Consolidated Plan estimates there are 6,500 homeless persons located within the City's jurisdictional limits; and

WHEREAS, The City's Homeless Programs included in the Consolidated Plan, seek to continue to expand the involvement of nonprofit entities in the provision of shelter and services to the homeless and further recognizes the need to increase the availability of shelter beds to effectively serve homeless persons with special needs in an efficient and effective manner; and

WHEREAS, pursuant to the City's Consolidated Plan, the City has provided temporary shelter and services for homeless persons (e.g., Emergency Winter Shelter, Cortez Hill Family Shelter, Neil Good Day Center, Homeless Data Management referred to as "Shelter and Service Programs") through a series of contractual arrangements with shelter and service providers; and

WHEREAS, the City desires to transfer the management of the contracts for operation of the Shelter and Service Programs;

NOW, THEREFORE, the Commission and the City agree as follows:

1. On July 1, 2010, the Commission will take responsibility for the management and oversight of the City's contracts for provision of shelter and services for homeless persons as awarded by the City prior to July 1, 2010 and as awarded by the Housing Commission and/or Housing Authority for the remaining term of this MOU.
2. To provide temporary shelter, services and assistance to alleviate homelessness:
 - The Housing Commission will use City appropriated funds (and other sources as available) to support the shelter program.


- The Housing Commission will manage the contracts to operate the Neil Good Day Center as awarded by the City to provide walk-in and referral services for homeless.
 - The Housing Commission will continue to fund data management services through the Regional Task Force on the Homeless at current level (\$45,000/year) if services and funding are deemed necessary.
 - To assist families with access to transitional housing, case management, and support services: the Housing Commission will use Emergency Shelter Grant (ESG), Community Development Block Grant (CDBG) and any other funds available to support assistance to a minimum of 100 families through the Cortez Hill Family Center.
 - The City staff will facilitate utility hook ups for shelter tent operations (Facilities Maintenance, Water, Streets). Commission will be responsible for payment of service hook ups, utility payments, and costs associated with set-up/tear down of shelter program(s).
3. Sources of Funds: the City will dedicate 100% of funds received from the HUD ESG and will dedicate CDBG funding in accordance with Council Policy 700-02 to shelter and service programs during the term of the MOU. City and Housing Commission acknowledge that the current rate of City funding does not cover the entire cost of the shelter program and is contingent upon the ESG entitlement amount, other funding sources confirmed, and Council approval during the CDBG Application process. It is expressly understood that the Commission may terminate this MOU, upon ninety (90) days written notice to the City, if regular funding sources adequate to cover the provision of a tent and social services at a level of service equal or greater than that provided by the City's winter shelter program in FY2010 are not made available.
 4. To ensure the Commission's ability to manage the operational contracts, the City agrees to work with the Commission and HUD to facilitate the Commission's ability to directly access the ESG funds through the Integrated Disbursement and Information System (IDIS). It is understood that this MOU will not be effective until arrangements have been completed to ensure the Commission can directly access ESG funds.
 5. The Commission shall ensure compliance with CDBG, ESG, and/or other federal regulations and requirements with regard to administration and utilization of the CDBG and ESG funds and ensure all subcontract compliance through monitoring reviews are conducted by Commission staff and documented.
 6. Funding available through CDBG will be subject to the City's reimbursement process. Prior to July 1, 2010 the City will provide a detailed description of the documentation that will be required from the Commission for the reimbursement of funds provided through CDBG. The City agrees reimbursement requests from the Commission will be paid within 30 days of receipt, provided said documentation is included with the reimbursement request.

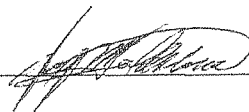
7. Commission shall, in a timely manner, provide City with all ESG and CDBG data and narrative as requested to complete the Annual Action Plan , Consolidated Annual Performance Evaluation Report, and monitoring reports, and any other reports and documents required by the CDBG Program office
8. The City agrees to store, at no cost, up to two sprung tent structures used for the purpose of the Winter Shelter Program at the City's General Services storage facility located at 1950 B Street, San Diego, CA 92102 or alternative location if deemed necessary by the City. The Housing Commission and City will enter into an agreement with the San Diego Unified Port District for storage and use of the sprung tent structures.
9. In no event shall the Housing Commission's financial contribution for the programs and services covered by the MOU exceed a total of \$400,000 in any fiscal year during the term of this MOU.

Either the Commission or the City may terminate this MOU for any reason by providing 90 days written notice to the other.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

BY: 

BY: 

DATE: 11/29/10

DATE: 12-6-10

APPROVED:

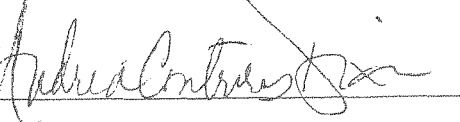
OFFICE OF THE CITY ATTORNEY

CHRISTENSEN & SPATH LLP

Andrea Dixon Contreras ^{pro}

A California Limited Liability Partnership

BY: 

BY: 

General Counsel

City Attorney

San Diego Housing Commission

City of San Diego

12.7.10

**FIRST AMENDMENT
TO
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
SAN DIEGO HOUSING COMMISSION**

FOR THE PROVISION OF HOMELESS SHELTER AND SERVICES

This First Amendment to the Memorandum of Understanding (MOU) between the SAN DIEGO HOUSING COMMISSION, a public agency (Commission) and the CITY OF SAN DIEGO, a municipal corporation (City), shall become effective upon signature of both parties.

RECITALS

WHEREAS, on June 29, 2010, by Resolution No. R-305962, the San Diego City Council authorized the execution of an MOU transferring responsibility for operation of the City's Shelter and Services Programs for Homeless Persons from the City to the Commission, effective July 1, 2010 through June 30, 2012 (Original MOU); and

WHEREAS, the Original MOU requires renewal of its term annually, starting no less than one fiscal year prior to the end of the then-current expiration date; and

WHEREAS, a mutual indemnification clause was unintentionally omitted from the Original MOU; and

WHEREAS, the Commission and City agree to clarify certain other provisions of the Original MOU;

NOW, THEREFORE, the Commission and the City agree as follows:

1. This First Amendment to the MOU shall extend the term of the Original MOU one fiscal year, beginning July 1, 2012 (the expiration date of the Original MOU) and ending June 30, 2013. In order to ensure availability and allocation of funding, all future amendments renewing the Original MOU must be approved no less than one fiscal year prior to the expiration of the then-current term or extension.

2. Section 2 of the MOU is deleted in its entirety and replaced with the following language:

“The Commission shall oversee and manage those City programs which provide temporary shelter, services and assistance to alleviate homelessness including, but not limited to, the following elements of the City’s Shelter and Service Program:

- A winter shelter and ancillary services for 200 homeless adults, operating at least from December 1 of each year through March 31 of the following year;
- A winter shelter and ancillary services for 150 veterans, operating during the same time period as above;
- Set-up and tear-down of the above shelters when sprung structures are used;
- City-facilitated utility hook-ups for shelter operations;
- Assistance for a minimum of 100 families through the Cortez Hill Family Center;
- Operation of the Neil Good Day Center, providing walk-in and referral services for homeless families;
- Funding for County’s hotel/motel voucher program for homeless families; and
- Commission funding of \$45,000 per year to the Regional Task Force on the Homeless for data management services, if such services and funding are deemed necessary.

3. Section 3 of the MOU, “Sources of Funds”, is hereby amended to read in its entirety as follows:

“The City will dedicate 100% of funds received from the HUD ESG program and will dedicate CDBG funds in accordance with Council Policy 700-02 to the shelter and service programs itemized herein during the term of this MOU. City and Housing Commission acknowledge that the current rate of City funding does not cover the entire cost of the shelter and service program as currently constituted and is contingent upon the ESG entitlement amount, confirmation of other funding sources, and City Council approval during the CDBG application process. It is expressly understood the Commission may terminate this MOU upon ninety (90) days written notice to the City, if regular funding sources adequate to cover the provision of a sprung structure and social services at a level of service equal or greater than that provided by the City’s winter shelter program in FY2010 are not made available. It is expressly understood that the City will endeavor

to make funds available for each Fiscal Year that this MOU is in place at a level no less than that of the previous Fiscal Year. However, if the specified level of funding is not available and/or if program elements are changed, Commission's responsibilities under the MOU will be changed accordingly as mutually agreed to by the parties in writing.

Commission's financial contribution for the programs and services covered by the MOU shall not exceed \$400,000, in addition to the \$45,000 previously referenced in Section 2, during any fiscal year during the term of this MOU. This financial contribution is intended to be separate and apart from the one-time \$500,000 contribution the Commission has agreed to make to the City for the operation of the Neil Good Day Center for Fiscal Year 2012."

4. Section 10 is added to read as follows:

Indemnification To the fullest extent provided by law, City and Commission agree to indemnify, protect, and hold harmless one another, including their elected officials, departments, representatives, agents, officers or employees, from and against any and all claims, demands, actions, proceedings, suits, liabilities, damages, costs (including reasonable attorneys' fees) or expenses for, including damage to property, the loss or use thereof, or injury or death to any person, caused by, arising out of, or related to the performance of services under this MOU by City and/or Commission, their elected officials, officers, agents, representatives, departments, subcontractors and employees. The City's and Commission's duty to indemnify and hold harmless one another shall not include any claim or liability arising from the established sole negligence or willful misconduct of the other, or its elected officials, officers agents, representatives, departments, subcontractors, and employees.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

By: 

Carrol Vaughan
Executive Vice President and Chief
Operating Officer

By: 


Jay Goldstone
Chief Operating Officer

Date: _____

Date: 8/4/11

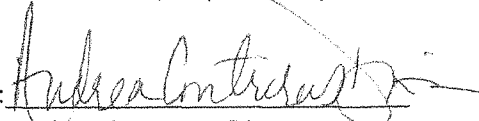
APPROVED AS TO FORM AND LEGALITY:

CHRISTENSEN & SPATH LLP
A California Limited Liability Partnership

By: 
Charles Christensen
General Counsel

Date: 7/25/11

OFFICE OF THE CITY ATTORNEY
Jan I. Goldsmith, City Attorney

By: 
Andrea Contreras Dixon
Deputy City Attorney

Date: 8.3.11

**SECOND AMENDMENT
TO THE MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
SAN DIEGO HOUSING COMMISSION
FOR THE PROVISION OF HOMELESS SHELTER AND SERVICES**

This Second Amendment to the Memorandum of Understanding between the City of San Diego, a municipal corporation (City) and the San Diego Housing Commission, a public agency (Commission), shall become effective upon signature of both parties.

RECITALS

WHEREAS, on June 29, 2010, by Resolution No. R-305962, the Council of the City of San Diego authorized the execution of that certain Memorandum of Understanding transferring responsibility for operation of the City's shelter and services for homeless persons from the City to the Commission effective July 1, 2010 through June 30, 2012 (Original MOU); and

WHEREAS, on June 27, 2011, the Council of the City of San Diego adopted Resolution No. R-306884 and the Housing Authority of the City of San Diego adopted Housing Authority Resolution (HAR) No. 1527, approving the First Amendment to the MOU between the City and the Commission extending the term of the Original MOU until June 30, 2013; and

WHEREAS, the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH) consolidates three of the separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single grant program, and replaces the Emergency Shelter Grants program with the Emergency Solutions Grant program; and

WHEREAS, previously 100 percent of the Emergency Shelter Grant funds could be used towards shelter and services for the homeless, HEARTH only allows 60 percent of the Emergency Solutions Grant to be used for such activities with the other 40 percent to be used for homeless prevention and re-housing activities; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has determined that only grantees such as the City, not the Commission, may draw down Emergency Shelter Grant and Emergency Solutions Grant funds from HUD's Integrated Disbursement and Information System (IDIS); and

WHEREAS, the City has budgeted and intends to appropriate \$550,000 in revenue from the General Fund for the operation of the Center in the Fiscal Year 2013 Appropriations Ordinance;

WHEREAS, with regard to the \$550,000 in revenue from the General Fund budgeted for the operation of the Center, the Commission will execute a month-to-month agreement with Alpha Project for the Homeless

(Alpha Project), the current operator of the Center, pursuant to a sole source justification in an amount not to exceed \$500,000 with the remaining balance of \$50,000 to be used for the Commission's staffing and administrative expenses related to its oversight of the Center; and

WHEREAS, in light of the Commission's commitment to utilize its own funds in the amount of \$402,000 to exclusively fund the Single Adult Winter Shelter and the need also for the Commission to provide upfront payment for the operation of the Veterans Winter Shelter, Cortez Hill Family Shelter, and Connections Housing for Fiscal Year 2013, the Commission is seeking an advance of the General Fund monies for Fiscal Year 2013 for the oversight and operation of the Center in the total amount of \$550,000 to be advanced on a quarterly basis as set forth in paragraph 7 below, in order to administer these programs efficiently and to ensure the ability to pay for the operation of these various programs and services in a timely manner; and

WHEREAS, such a month-to-month agreement for the operation of the Center will allow the Commission to procure an operator for the Center pursuant to a competitive bid process at the earliest possible opportunity; and

WHEREAS, upon the receipt of responses to the RFP the Commission intends to enter into a contract for the operation of the Center for the balance of FY 2013 with the selected operator using the balance of the funds appropriated for FY 2013. In addition, the contract shall have four (4) one year options, in favor of the Commission, exercisable only by the Commission, to extend the services in subsequent fiscal years, dependent upon funding availability; and

WHEREAS, to ensure future funding for the operation of the Center, City staff is seeking a waiver of paragraph 16 of Council Policy 700-02 in order to have future Community Development Block Grant (CDBG) funding set aside off the top from each of the City's fiscal year allocations from HUD to cover the expense of operating and overseeing the operation of the Center, Cortez Hill Family Shelter, Veterans Winter Shelter, and Connections Housing without requiring any matching funds; and

WHEREAS, the City and the Commission wish to extend the term of the MOU and clarify other provisions of the Original MOU and the First Amendment related to the foregoing recitals; and

NOW, THEREFORE, the City and Commission agree as follows:

1. The Second Amendment to the MOU shall extend the term of the Original MOU as amended an additional fiscal year, beginning July 1, 2013 (the expiration of the date of the Original MOU as amended) and ending June 30, 2014. In order to ensure the availability and allocation of funding, all future amendments renewing the Original MOU must be approved no less than one fiscal year prior to the expiration of the then-current term or extension.
2. Notwithstanding anything to the contrary in the Original MOU and the First Amendment, any and all references therein to the term "ESG" shall mean "Emergency Solutions Grant".

3. Section 3 of the Original MOU as amended by the First Amendment shall be replaced in its entirety and shall read in its entirety as follows:

“The City will appropriate and expend 60 percent of funds received from the HUD ESG program for shelter and service programs and 40 percent of such funds for homeless prevention and re-housing activities as required under the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). The City will appropriate and expend CDBG funds in accordance with Council Policy 700-02 to the shelter and service programs itemized herein during the term of this MOU, contingent upon the City’s Chief Financial Officer certifying availability of such funds. City and Commission acknowledge that the current rate of City funding does not cover the entire cost of the shelter and service program as currently constituted and is contingent upon the ESG entitlement amount, confirmation of other funding sources, and City Council approval during the CDBG application process. In addition, the City shall dedicate and expend revenue from the General Fund appropriated by the City Council for the purposes set forth in Section 2 of the MOU, contingent upon the City’s Chief Financial Officer certifying availability of such funds. It is expressly understood the Commission may terminate this MOU upon ninety (90) days written notice to the City, if regular funding sources adequate to cover the provision of a sprung structure and social services at a level of service equal or greater than that provided by the City’s winter shelter program in FY 2010 are not made available. It is expressly understood that the City will endeavor to make funds available for each Fiscal Year that this MOU is in place at a level no less than that of the previous Fiscal Year. However, if the specified level of funding is not available and/or if program elements are changed, Commission’s responsibilities under the MOU will be changed accordingly as mutually agreed to by the parties in writing.

Commission’s financial contribution for the programs and services covered by the MOU shall not exceed \$400,000, in addition to the \$45,000 previously referenced in Section 2, during any fiscal year during the term of this MOU. This financial contribution is intended to be separate and apart from the one-time not to exceed \$402,000 contribution the Commission has agreed to make to administer the Single Adult Downtown Winter Shelter Program for Fiscal Year 2013.”

4. Section 4 of the Original MOU shall be replaced in its entirety and shall read in its entirety as follows:

“Per HUD’s direction, administration of the ESG funds must remain with the City, as HUD’s grantee, and the City will retain access to the Integrated Disbursement and Information System (IDIS). The City will reimburse the Commission for all approved and eligible ESG contracted activities.”

5. Section 11 is added to read as follows:

“11. The Commission will adhere to an appropriate procurement process for selecting the operator of the Neil Good Day Center (Center). The City and the Commission agree that the Commission will enter into a month-to month agreement in an amount not to exceed \$500,000 with a selected operator for FY 2013 for the operation of the Center utilizing revenue from the General Fund

appropriated by the City for Fiscal Year (FY) 2013, until such time as an operator for the Center is procured using a competitive bid process which shall be done at the Commission's earliest opportunity. After issuance of the RFP the Commission, through the President and Chief Executive Officer of the Commission, shall be authorized to enter into a contract for the operation of the Center for the balance of FY 2013 with the selected operator using the balance of the funds appropriated for FY 2013. In addition, the contract shall have four (4) one year options, in favor of the Commission, exercisable only by the Commission, to extend the services in subsequent fiscal years, dependent upon funding availability. The remaining balance of up to \$50,000 of revenue from the General Fund appropriated by the City for FY 2013 for the operation of the Center shall be expended for the Commission's staffing and administrative expenses related to such purpose. The Commission shall seek approval of the contracts with the selected operator from both the San Diego Housing Commission Board and the Housing Authority of the City of San Diego, at a Joint City Council/Housing Authority meeting at the earliest possible time, currently anticipated to be in late July of 2012. In addition, the Commission will seek the approval of the San Diego Housing Commission Board and the Housing Authority of the City of San Diego and the City Council of the City of San Diego to enter into a contract with the selected operator for the balance of FY 2013 with the contract having four (4) one year options, exercisable by the Commission, to extend services for subsequent fiscal years, dependent upon funding availability."

6. Section 12 is added to read as follows:

"12. To the extent that Community Development Block Grant (CDBG) funds are made available to the City by HUD each year, the City shall set aside a portion of such funds related to public services to cover the cost of the operation of the Neil Good Day Center, Cortez Hill Family Shelter, Veterans Winter Shelter and Connections Housing, which funding shall be appropriated for such purposes contingent upon and at the discretion of the City Council each fiscal year.

7. Section 13 is added to read as follows:

"13. For Fiscal Year 2013, the City shall provide an advance to the Commission of \$137,500 (\$125,000 for the operation of the Neil Good Day Center and \$12,500 for the Commission's costs in overseeing and managing such operation) and reimbursements on a quarterly basis up to the amount of \$137,500 for a total amount of up to \$550,000 to be paid to the Commission by the end of Fiscal Year 2013. The advance of \$137,500 shall be processed within thirty (30) calendar days of the execution of this Second Amendment to the MOU. Within thirty (30) calendar days of the end of each quarter, the Commission shall submit request for reimbursement (RFR) forms with supporting documentation including a request for reimbursement of the Commission's administrative expenses to the City's CDBG fiscal unit. The end of the first quarter shall be September 30, 2012; the end of the second quarter shall be December 31, 2012; the end of the third quarter shall be March 31, 2013; and, the end of the fourth quarter shall be June 30, 2013. Prior to the Commission receiving any reimbursement to the advance, the Commission must submit RFR forms with all supporting documentation to the City's satisfaction to substantiate the Commission's expenditures for the prior quarter. Within thirty (30) calendar days of receipt of the RFR forms and all supporting documentation from the Commission, CDBG staff shall review and ensure any and all expenditures are eligible based on the San Diego Housing Commission Agreement for Shelter and Services for Homeless Persons- Neil Good Day Center with Alpha Project for the Homeless or any subsequent agreement executed for Fiscal Year 2013 pursuant to the award of a competitive bid (collectively, "Neil Good Day Center Operating Agreement"). If any expenditure is deemed ineligible by CDBG staff, a

disallowance form will be submitted by CDBG staff reducing the Commission's RFR payment for the subsequent quarter. The reimbursement amount of payment shall be determined by CDBG staff and will be processed by the City Comptroller's Department. CDBG staff shall notify the Commission of any disallowances by email before the Commission's receipt of the reimbursement payment. The Commission shall submit to CDBG staff any and all final documents supporting expenditures related to the operation and management of the Neil Good Day Center no later than July 31, 2013. If any disallowance is found in the last quarter's submission or if any advanced funds are remaining at year end, the Commission shall reimburse such funds to the City within fifteen (15) calendar days after the Commission is notified by CDBG staff. CDBG staff reserves the right to review, and the Commission must promptly provide at the City's request, original documents at any time during the term of the Neil Good Day Center Operating Agreement for Fiscal Year 2013.

This Second Amendment shall affect only the pages and sections and terms and conditions referred to herein. All other terms and conditions of the Original MOU as amended shall remain in full force and effect.

IN WITNESS WHEREOF, this Second Amendment is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to San Diego City Charter Section 265 authorizing such execution, and by the Commission.

I HEREBY CERTIFY that I can legally bind the San Diego Housing Commission and that I have read all of this Amendment this _____ day of _____, 20__.

SAN DIEGO HOUSING COMMISSION

CITY OF SAN DIEGO

By: _____
Name:
Title:

By: _____
Jeffrey Baer
Director of Purchasing & Contracting

Date: _____

Date: _____

I HEREBY APPROVE the form and legality of the foregoing Amendment this _____ day of _____, 20__.

JAN I. GOLDSMITH, City Attorney

By _____
Kenneth R. So
Deputy City Attorney