

**AGREEMENT BETWEEN CORPUS CHRISTI COMMUNITY IMPROVEMENT CORPORATION
AND COMMUNITY DEVELOPMENT CORPORATION OF BROWNSVILLE,
DBA COME DREAM. COME BUILD.**

This Agreement for the Type A Affordable Housing Program – 4017 Capitol Drive Redevelopment (“Agreement”) is entered into between the Corpus Christi Community Improvement Corporation (“CCCIC”) and the Community Development Corporation of Brownsville, dba come dream. come build. (the “Developer”).

WHEREAS, the CCCIC, formerly known as the Corpus Christi Housing Improvement Corporation, was organized as an instrument of the City of Corpus Christi to benefit the citizens by promoting and facilitating programs permissible under the federal Community Development Block Grant Program, the federal HOME Program and the Texas Community Development Act of 1975;

WHEREAS, the Board of the CCCIC has expressed interest in funding affordable housing projects in the City of Corpus Christi;

WHEREAS, the City and the Corpus Christi Business & Job Development Corporation (“CCBJDC”) worked together to create Request for Proposals (“RFP”) No. 2354 seeking the services of a developer to create affordable housing units on a decommissioned City park located at 4017 Capitol Drive (“Project”).

WHEREAS, the Board has determined that it is in the best interests of the residents of the City that the Developer be awarded CCCIC affordable housing funds not to exceed \$150,000 by execution of this Agreement, to accomplish the affordable housing project described in the Scope of Work, which is attached hereto as **Exhibit A** and incorporated herein by reference as if laid out here in its entirety and the Developer’s Proposal response to RFP No. 2354, which is incorporated hereto by reference as if laid out here in its entirety;

In consideration of the covenants, promises, and conditions stated in this Agreement, the CCCIC and Developer agree as follows:

- 1. Agreement to Provide Affordable Housing Services.** This Agreement between the CCCIC and the Developer is executed to implement the promotion and development of the Project. In performance of the Agreement, Developer will:
 - a. Provide a detailed project concept and specific scope for the Project, including a project schedule to CCCIC, CCBJDC and the City within 60 days following the Effective Date. The City Manager for the City, or his designee, as an agent of the CCCIC, must approve the project concept prior to the start of any work, including preparation of the property. The Project must be an affordable housing project, as described by 42 U.S.C. Section 12745, and must create homes for homeownership by qualified individuals.
 - b. Complete construction of the project within two years following the approval and recordation of the plat with the City. Developer will comply with all laws, rules, and ordinances in the construction of the Project and will obtain all required permits.
 - c. Restrict the use of all units constructed as part of the Project to affordable housing, as described by 42 U.S.C. Section 12745, for a period of 20 years (the “Affordability Period”).

2. **Compensation.** In exchange for the services needed to develop the Project, the CCCIC will provide the following compensation to the Developer:
 - a. Following the approval of the project concept, specific scope, and design, and a request from the Developer, the CCCIC will pay the Developer the amount not to exceed \$150,000. Payments will be made within 30 days of confirmation by City staff that the requisite work has been properly completed.
 - b. If the Developer fails to construct the Project within two years following the recordation of the plat with the City, the Developer will, within 90 days following that end of that two year period, reimburse to the CCCIC (or the City if the CCCIC no longer exists at that time) all funds paid to the Developer in accordance with this Agreement.
3. **City Council Approval.** This Agreement is subject to the approval of the City Council and shall not be effective unless approved by City Council.
4. **Property Sale Limited to Affordable Housing.** During the term of this Agreement and the Affordability Period, Developer may only sell the property or the Project to qualified individuals for use as affordable housing. If, during the term of this Agreement or the Affordability Period, the Developer sells or transfers the property or any units constructed thereon without the restriction that such property be restricted to qualifying individuals for use as affordable housing, the Developer shall, within 90 days following the transfer or sale, reimburse to CCCIC (or the City if the CCCIC no longer exists at that time) all funds paid to the Developer in accordance with this Agreement.
5. **Effective Date.** The effective date of this Agreement is the date on which the City Council grants approval to the Corporation for this Project, so long as all parties have executed this Agreement.
6. **Term.** The term of this is for four years beginning on the Effective Date. The term may be extended by mutual agreement in writing if additional time is needed to complete the Project.
7. **Termination.** CCCIC may terminate this Agreement 30 days' written notice of Developer's failure to comply with any terms of the Agreement.
8. **Amendments or Modifications.** No amendments or modifications to this Agreement or to the Project may be made, nor any provision waived, unless the amendment or modification is made in writing and signed by persons duly authorized to sign agreements on behalf of all parties.
9. **Notices.** Any required written notices shall be sent, certified mail, return receipt requested, addressed as follows:

If to CCCIC:

c/o Housing & Community Development
1201 Leopard Street
Corpus Christi, Texas 78401

With a copy to:

City of Corpus Christi
Attn.: City Attorney
P.O. Box 9277
Corpus Christi, Texas 78469-9277

If to Developer:

Community Development Corporation of Brownsville, dba come dream. come build.
Attn.: Nick Mitchell-Bennett
901 E. Levee St.
Brownsville, Texas 78520

Notice is effective upon deposit in the United States mail in the manner provided above.

10. Relationship of Parties. In performing this Agreement, the CCCIC and the Developer shall act in an individual capacity, and not as agents, representatives, employees, employers, partners, joint-venturers, or associates of one another. The employees or agents of either party may not be, nor be construed to be, the employees or agents of the other party for any purpose.

11. Insurance; Bonds.

- a. Before performance can begin under this Agreement, the Developer must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contracts and Procurement Department. Additionally, the COI must state that the City or the CCCIC will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City and the CCCIC must be named as additional insureds. The City Attorney must be given copies of all insurance policies within 10 days of the City's written request. Insurance requirements are as stated in **Exhibit B**, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
- b. In the event that a payment bond, a performance bond, or both, are required of the Developer to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFP or as may be added to **Exhibit B**, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

12. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City and CCCIC, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council and the CCCIC's Board to determine whether or not to fund this Agreement. The CCCIC does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

13. Waiver. No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.

- 14. Taxes.** The Developer covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the Corporation shall be provided proof of payment of these taxes within 15 days of such request.
- 15. DEVELOPER SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, the CCCIC, THE CORPUS CHRISTI BUSINESS AND JOB DEVELOPMENT CORPORATION, AND THEIR RESPECTIVE OFFICERS, EMPLOYEES AND AGENTS (“INDEMNITEES”) FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS’ FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE DEVELOPER OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE DEVELOPER OR ITS EMPLOYEES, CONTRACTORS, OR AGENTS. DEVELOPER MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF DEVELOPER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**
- 16. Assignment.** No assignment of this Agreement by the Developer, or of any right or interest contained herein, is effective unless the Manager of the CCCIC, or the Manager of the City if the CCCIC no longer exist, first gives written consent to such assignment. The performance of this Agreement by the Developer is of the essence of this Agreement, and the Manager’s right to withhold consent to such assignment is within the sole discretion of the Manager on any ground whatsoever.
- 17. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.

18. Governing Law. Developer agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.

19. Undocumented Workers. Developer does not and agrees that it will not knowingly employ any undocumented workers. If, after receiving payments under this Agreement, Developer is convicted of a violation under 8 U.S.C. Section 1324a(f), Developer shall repay the payments received under this Agreement, including the cost of property acquisition, to the CCCIC, with interest at the Wall Street Journal Prime Rate, not later than the 120th day after the date Developer has been notified of the violation.

20. Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

[Signature Page Follows]

**CORPUS CHRISTI COMMUNITY IMPROVE-
MENT CORPORATION**

**COMMUNITY DEVELOPMENT CORPORATION OF
BROWNSVILLE, DBA COME DREAM. COME BUILD.**

Peter Zanoni
Manager

Date: _____

Nick Mitchell-Bennett
Executive Director

Date: _____

ATTEST:

Rebecca Huerta
City Secretary

Date: _____

APPROVED AS TO FORM:

Assistant City Attorney