

Attachment 2

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Monterey County Board of Supervisors

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1st Floor
Salinas, CA 93901
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www.co.monterey.ca.us

Board Order

A motion was made by Supervisor John M. Phillips seconded by Supervisor Chris Lopez to:

Agreement No.: A-15568

- a. Approve an agreement with HouseKeys, Inc., for the period of November 1, 2021 through October 31, 2022 for the not to exceed amount of \$145,000 to provide services identifying, organizing, and communicating the County’s inclusionary programs housing inventory and procedures;
- b. Authorize the Contracts/Purchasing Officer to execute the Agreement and any amendments which do not alter the scope of work or increase the amount payable on the Agreement by more than 10%.

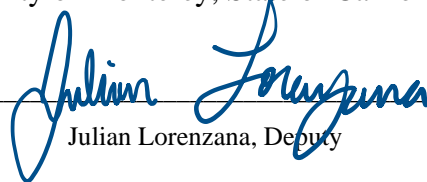
PASSED AND ADOPTED on this 19th day of October 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Askew and Adams
NOES: None
ABSENT: Supervisor Lopez
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting October 19, 2021.

Dated: October 22, 2021
File ID: A 21-501
Agenda Item No.: 37

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California


Julian Lorenzana, Deputy

COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California ("County") and: HouseKeys, Inc. ("CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 **GENERAL DESCRIPTION:**

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows: Provide a full and complete breakdown of the County's Housing program inventory for homeownership, rental and finance; suggest process and procedural workflows to tackle transactions; provide program collateral, including websites, guidelines, forms and templates, and a first-year report outlining a proposed go-forward budget with key metrics and performance measures how to successfully administer County Housing programs.

2.0 **PAYMENTS PROVISIONS:**

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$145,000 for Year One.

3.0 **TERM OF AGREEMENT.**

3.01 The term of this Agreement is from November 1, 2021 to October 31, 2022, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty (30) day written notice or with cause immediately.

4.0 **SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:**

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

5.0 **PERFORMANCE STANDARDS:**

5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County or immediate family of an employee of the County.

5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.

6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.

6.03 Invoice amounts shall be billed directly to the ordering department.

6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state, and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date

thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modify this Agreement.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents, and subcontractors.

9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor, upon request, shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the CONTRACTOR.

9.02 **Qualifying Insurers:** All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: Including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requester must check the appropriate Automobile Insurance Threshold box:

Agreement Under \$100,000.00 Business Automobile Liability Insurance: Covering all motor vehicles, including owned, leased, non-owned, and hired vehicles used in providing services under this Agreement with a combined single limit or Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000.00 Business Automobile Liability Insurance: Covering all motor vehicles, including owned, leased, non-owned, and hired vehicles used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Worker's Compensation Insurance: If CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident, and \$1,000,000 each disease.

(Note: Any proposed modifications to these worker's compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: If required for the professional services being provided (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: Any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:** All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty (30) days in advance of each endorsed reduction in coverage or limit, cancelation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under

this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR's work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR's insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's Contract Administrator and County's Contracts/Purchasing Division showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 RECORDS AND CONFIDENTIALITY:

- 10.01 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.02 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to

services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04 **Access to and Audit of Records:** The County shall have the right to examine, monitor, and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05 **Royalties and Inventions:** County shall have a royalty-free, exclusive, and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract to the extent applicable to CONTRACTOR as a subgrantee under said contract and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 COMPLIANCE WITH APPLICABLE LAWS:

- 13.01 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.
- 13.02 CONTRACTOR shall report immediately to County’s Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.
- 13.03 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers’ compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to directly pay all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR’s performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR’s failure to pay such taxes.

15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR’s contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Kathy Nielsen Management Analyst II <hr/> Name and Title	Julius Nyanda, Chief Executive Officer <hr/> Name and Title
Housing & Community Development 1441 Schilling Place, South 2 nd Floor Salinas, CA 93901-4527 <hr/> Address	409 Tennant Station #495 Morgan Hill, CA 95037 <hr/> Address
(831) 755-4832 194-HCD-Contracts@co.monterey.ca.us <hr/> Phone	(408) 684-8202 julius@housekeys.org <hr/> Phone

16.0 MISCELLANEOUS PROVISIONS:

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term “CONTRACTOR” as used in this Agreement includes CONTRACTOR’s officers, agents, and employees acting on CONTRACTOR’s behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11. **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.

- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represents the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

17.0 CONSENT TO USE OF ELECTRONIC SIGNATURES

- 17.01 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. section 7001 et seq.; California Government Code section 16.5; and California Civil Code section 1633.1 et seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).
- 17.02 **Counterparts:** The parties to this Agreement understand and agree that this Agreement can be executed in two or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.
- 17.03 **Form: Delivery by E-Mail or Facsimile:** Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

18.0 SIGNATURE PAGE:

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: DocuSigned by:
Debra R. Wilson
7B741937A0D41E5/Purchasing Officer

HouseKeys, Inc.
Contractor/Business Name*

Date: 10/28/2021

By: DocuSigned by:
Julius Nyanda
(Signature of Chair, President, or Vice President)

By: _____
Department Head (if applicable)

Julius Nyanda, President
Name and Title

Date: _____

Date: 9/29/2021

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: DocuSigned by:
Katarina Marusic
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

By: DocuSigned by:
Kristi Markey
C21D52A9D630410/County Counsel

Katarina Marusic, Treasurer
Name and Title

Date: 9/30/2021

Date: 9/29/2021

Approved as to Fiscal Provisions

By: DocuSigned by:
Gary Giboney
D3834BFEC1D8449.../Auditor/Controller

Date: 9/30/2021

Approved as to Liability Provisions
Office of the County Counsel

By: _____
Risk Manager

Date: _____

County Board of Supervisors' Agreement Number: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

¹ Approval by County Counsel is required for all Professional Service Agreements over \$100,000.

² Approval by Auditor-Controller is required for all Professional Service Agreements.

³ Approval by risk Management is required only if changes are made in paragraph 8 or 9.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
HouseKeys, Inc., hereinafter referred to as “CONTRACTOR”**

A. SCOPE OF SERVICES

This first-year engagement CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

A.1 Support the tasks outlined by the County:

#	Scope Area	Description
1	Transaction Management	<ul style="list-style-type: none"> • Process refinance transactions of inclusionary units, receive, analyze and sign off on loan documents. Prepare County’s Subordination Agreement, Request for Notice and Escrow Instructions. • Process loan payoff requests; prepare lien reconveyances, payoff letters. • Coordinate loan payoffs and/or refinance transactions with Lenders and Escrow Officers. • Assist inclusionary homeowners with resale of inclusionary unit. • Prepare deed restriction reconveyances/ releases when an inclusionary unit resells to another eligible buyer. • Assist housing staff with review and analysis of real estate transactions associated with inclusionary units in unincorporated Monterey County.
2	Inventory Management	Research previously recorded deed restriction agreements on inclusionary units; determine current status of deed restrictions; automate loan schedule calculations and related loan documentation.
3	Monitoring, Compliance Management and Enforcement	<ul style="list-style-type: none"> • Review rental monitoring packets for inclusionary units’ rental program. • Review successor agency monitoring packets for Cynara Court, Geil Street and Sea Garden.
4	Reporting	Assist staff with preparation and submittal of required grant reporting (e.g., BEGIN, CalHOME, and HOME) to the State.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

A.2 CONTRACTOR’S Services: Using CONTRACTOR’S standards, tools, software, and templates to establish a clear accounting of the Program Inventory, Program Pipeline, and to create a refined Program Scope:

A.2.1 Inventory Management:

- CONTRACTOR maintains a database management team supported by three full-time engineers and five part-time team members.
- Establish database records containing information on Inventory for the Homeownership, Rental, and Finance Programs. Approximately 2,133 units in 13 projects.
- Homeowner and Rental Projects approved and under constructions.
- HOME, Cal Home, and other programs.

A.2.2 Monitoring, Compliance Management, and Enforcement:

Develop a Monitoring and Compliance Plan for ownership and rental units.

A.2.3 Transaction Management:

Requests for payoffs, recons, refinances and resales real estate brokerage and escrow coordination needs as County engages in purchase/sale activity.

NOTE: CONTRACTOR understands that there is a Legacy Fee (Attachment A) schedule in place and will work with staff to assist with any needed updates. Real estate commissions are not paid by the County and are charged to the seller as part of the transaction.

A.2.4 Reporting:

Assist staff with the preparation and submittal of the BEGIN, CalHOME, and HOME grant reports to the State, or others as needed.

A.2.5 At the end of Year One a proposed go-forward budget for Years Two and Three outlining key metrics and performance measures will be provided by the CONTRACTOR for review and consideration by the County.

A.3 As-Needed Services: Listed below are other services that may be needed and requested throughout the contract. Such services are included in the agreed not-to-exceed compensation amount in Section B.1.

A.3.1 CONTRACTOR will build and maintain a group of qualified and eligible Program homebuyers and renters at a minimum Buyer/Renter-to-Property ration of 5:1; For Agencies that maintain an accruing Waitlist based on registration timestamp, CONTRACTOR will assign Application ID using the Timestamp and assign a “Legacy Applicant” Preference Assignment.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- A.3.2 CONTRACTOR will partner with the County to update Program legal templates for documents required for signature by the Program participants.
- A.3.3 CONTRACTOR will maintain a list of approved vendors, including but not limited to loan officers and lending operations eligible to provide mortgage lending for purchase and refinance transactions, real estate agents and brokers, appraisers, and escrow officers.
- A.3.4 CONTRACTOR will review individual program restrictions for terms and requirements as needed including shared equity programs, down payment assistance loans and any resale restriction agreements.
- A.3.5 CONTRACTOR will provide training, analysis and suggested improvements to the Affordability Program.
- A.3.6 CONTRACTOR will assist with staff reports and presentations.
- A.3.7 CONTRACTOR will assist on handling inquiries, requests, and all other unanticipated transactions during Year One. CONTRACTOR will put forth best efforts to deliver on shared outcomes while supporting staff on the day-to-day program responsibilities.
- A.4 Additional Tasks.** The provision of additional tasks is subject to prior written authorization by the Director of Housing and Community Development or his designee and should be within the approved budget for this project.
- A.5** All written reports required under this Agreement shall be delivered electronically and/or in hardcopy to the following individual, in accordance with the Schedule in Section B.1 below.

Melanie Beretti, HCD Services Manager
County of Monterey, Housing and Community Development Department
1441 Schilling Place, South 2nd Floor
Salinas, CA 93901-4527
Email: BerettiM@co.monterey.ca.us
Phone: 831-755-5285

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$145,000 for the performance of all things necessary for or incidental to the performance of work as set forth in the

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

#	Description	Proposed Pricing
1	1 Program Asset Handling	One-time fee billed at the start of the Contract (up front) \$25,000. These are final deliverables that are targeted for one year from the start of the contract.
	2 Program Record Handling	
	3 Setup New Program Website	
	4 Applicant File System	
	5 Program Forms	
	6 Program Orientation Deck and Orientation Schedule 2021	
	7 Database of Affordable Ownership Units	
	8 Database of Affordable Rental Units	
	9 Letters to Existing Program Owners (Draft for County Signature)	
	10 Letter to Existing Rental Tenants (Draft for County Signature)	
	11 Email and Mailer Communications to Applicants and Participants	
	12 Updated Program Guidelines, Applicant Guide and Participant Compliance Guide	
	13 All services under Sections A.2 and A.3 are included here.	
Programs		\$120,000/Year Billed monthly at \$10,000/month.
2	Year One fee shall include services for the Homeownership, Rental, and Finance programs, finalizing the total number of units involved and proposed future services will be determined.	
3	Total First Year Cost	\$145,000
4	Annual Cost for Subsequent Years	CONTRACTOR will work with Staff to establish a proposed Go-Forward Budget beyond Year One. This requires a new agreement.

CONTRACTOR will follow the County's Inclusionary Housing Service Fees as per Ordinance No. 5175 adopted by the County's Board of Supervisors on April 26, 2011 (Attachment A). These fees are subject to change.

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

B.2 CONTRACTORS BILLING PROCEDURES

Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

CONTRACTOR shall provide a quarterly program summary. An abbreviated monthly report will accompany each monthly invoice.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

ATTACHMENT A

Before the Board of Supervisors in and for the County of Monterey, State of California

- a. Consider adoption of an Ordinance that revises Chapter 10.40, the County's Inclusionary Ordinance, to clarify certain regulations and procedures to improve the Program and establish fees for services;
- b. Approve a resolution to adopt Inclusionary Housing Service Fees related to processing sales, refinances, and tenant qualifying of Inclusionary Housing Units; and
- c. Direct the Redevelopment and Housing Office to make the necessary revisions to the adopted Inclusionary Housing Administrative Manual, consistent with the recommended Ordinance revisions.

Upon motion of Supervisor Calcagno, seconded by Supervisor Salinas, and carried by those members present, the Board of Supervisors hereby:

- a. Adopted Ordinance 5175 that revises Chapter 10.40, the County's Inclusionary Ordinance, to clarify certain regulations and procedures to improve the Program and establish fees for services;
- b. Approved Resolution No. 11-117 to adopt Inclusionary Housing Service Fees related to processing sales, refinances, and tenant qualifying of Inclusionary Housing Units; and
- c. Directed the Redevelopment and Housing Office to make the necessary revisions to the adopted Inclusionary Housing Administrative Manual, consistent with the recommended Ordinance revisions.

PASSED AND ADOPTED this 26th day April 2011, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Potter
 NOES: Supervisor Parker
 ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on April 26, 2011.

Dated: April 28, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
 Deputy

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 11-117

Resolution approving and adopting)
Inclusionary Housing Service Fees, to offset)
the costs of the Redevelopment and Housing)
Office for the processing of services related to)
the initial sale, re-sale, rental or refinancing of)
Inclusionary Housing Units.....)

WHEREAS, the County of Monterey ("County") adopted an Ordinance relating to the provision of Inclusionary Housing for the County known as the "Inclusionary Housing Ordinance of the County of Monterey" and found in Chapter 18.40 of the Monterey County Code; and

WHEREAS, the Inclusionary Housing Ordinance was originally adopted in 1994 and has been amended from time to time, including by Ordinance No. 5175 adopted on April 26, 2011; and

WHEREAS, as part of Ordinance No. 5175, the County has authorized the assessment of a fee to cover a portion of the costs incurred by the County to qualify potential buyers, to qualify proposed tenants of inclusionary units permitted to be rented, and to qualify and process requests for re-financing made by existing owners of inclusionary units; and

WHEREAS, based on the information presented to the Board of Supervisors, it has been determined that the following processing charges are fair, appropriate and do not exceed the costs of such services:

- a. Initial sales: \$500.00
- b. Re-sales: \$500.00
- c. Re-financing: \$200.00
- d. Re-sale value: \$ 35.00
- e. Qualify tenants: \$200.00

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors does hereby Approve and adopt the following fees for the servicing of initial sales, re-sales and re-financing of Inclusionary Housing Units:

- a. Initial sales: \$500.00
- b. Re-sales: \$500.00
- c. Re-financing: \$200.00
- d. Re-sale value: \$ 35.00
- e. Qualify tenants: \$200.00

These fees shall become effective on the day Ordinance No. 5175 becomes effective.

PASSED AND ADOPTED on this 26th day of April, 2011, upon motion of Supervisor Calcagno, seconded by Supervisor Salinas, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, and Potter
NOES: Supervisor Parker
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on April 26, 2011.

Dated: April 28, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

ORDINANCE NO. 5175

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING CHAPTER 18.40 OF THE MONTEREY COUNTY CODE RELATING TO
THE PROVISION OF INCLUSIONARY HOUSING**

County Counsel Summary

This ordinance revises the existing County Inclusionary Housing Ordinance which requires certain new residential development projects to contribute to the provision of housing for very low, low, and moderate income households. This ordinance provides specific procedures for agriculturally zoned lands being subdivided for financing purposes, authorizes service fees for processing sales, refinancing and rentals of inclusionary units, and changes the manner in which children or step-children may inherit inclusionary units. This ordinance also provides authority for the Director of Redevelopment and Housing to act to relieve certain hardship situations, based upon standards adopted by the Board of Supervisors.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Section 18.40.020 of the Monterey County Code is amended as follows:

18.40.020 Findings.

A. Monterey County Goals and General Plan. The Board of Supervisors finds that a decent home and suitable living environment for all is a priority of the highest order; this priority conforms with State and Federal policies. The goal of the County is to achieve a balanced community with housing available for persons of all economic levels, with priority given to those persons currently residing or working within the County.

The Board of Supervisors finds there is an inadequate supply of housing in Monterey County which is affordable to very low, low and moderate income households. Federal and State housing finance and subsidy programs are not sufficient in themselves to meet that need.

The Board of Supervisors finds that the cost of housing in new developments has increased and will continue to perpetuate this housing shortage. Further, land for residential development in the County is limited, and the amount of land which can be used for development of housing for very low, low, and moderate income households is being depleted by development of high cost housing.

The Board of Supervisors finds that the provision of housing affordable to very low, low, and moderate income households is a countywide responsibility, and the provision of such housing is a goal of the Housing Element of the County General Plan.

B. Provide for Workforce. The Board of Supervisors finds that the housing shortage for persons of very low, low, and moderate income is detrimental to the public health, safety and welfare, and particularly finds that provision of very low, low, and moderate income housing is fundamental to the maintenance of an adequate, growing workforce and market place for the local economy, as well as to provide housing for additional employees whose jobs serve the increasing population living in new market-rate housing.

The Board of Supervisors acknowledges that if very low, low, and moderate income workers cannot find housing in the County, then employers will have difficulty in securing a labor force, and employees will be forced to commute. Employee commutes use limited gasoline resources and increase air pollution.

C. Benefit to the County. The Board of Supervisors finds that a Countywide Inclusionary Housing Program will benefit the County as a whole. Each property which contributes to inclusionary housing augments the housing mix, increases the supply of housing for all economic segments of the community, and thereby provides for a balanced community which is deemed to be in the public interest.

D. Resale Restrictions. The Board of Supervisors finds that the effect of an Inclusionary Housing Program is severely diminished if it benefits only the first occupants of very low, low, and moderate income housing, and inclusionary units are resold at market prices. Therefore, the Board of Supervisors recognizes that resale control, to ensure the continuing availability of inclusionary units to very low, low, and moderate income households, is a necessary consideration in order to prevent undermining of the credibility of the whole program, particularly because of the loss of the unit itself as an affordable unit.

E. Public Purpose. The Board of Supervisors finds that public housing programs and housing subsidy programs can meet only a small portion of the need for very low, low, and moderate income housing. The vast majority of housing units has been and will continue to be produced by the private housing industry. This industry has the knowledge and ability to produce housing affordable to very low, low, and moderate income households given supportive government policies, including incentives and public investment as appropriate. Therefore, the Board of Supervisors finds it is a public purpose of the County to seek assistance and cooperation from the private sector and non-profit agencies in making available an adequate supply of housing for persons of all economic segments of the community.

F. Benefits of the Application of This Chapter. Application of this Chapter may benefit the public through increased housing opportunities in all areas of the County, an increased supply of very low, low, and moderate income housing, and an increased availability of funds for very low, low, and moderate income housing projects.

G. Collection of Fees. The Board of Supervisors finds that the fees required or permitted by this Chapter are appropriate and permissible. The fees permitted by this Chapter will be fair and effective because:

1. The fee amount will be based on the amount necessary to make possible construction of an affordable unit or affordable units as called for by this Chapter, so that when a developer elects to pay an in-lieu fee, funds will be available to reach the County's overall affordability target, without excessive payments and without setting varying fee standards on a case-by-case basis;
2. The fee amount necessary to construct units at the affordability levels specified by this Chapter will be based on land, construction and other costs of units in the County;
3. Payment of in-lieu fees will be within a specific period of time, thereby allowing a predictable and stable flow of in-lieu fees;
4. The fees collected will be used in a specific time frame for the provision of very low, low, and/or moderate income housing; and
5. Fees imposed for services related to the initial sale, re-sale, rental or refinancing of inclusionary units recover only a portion of the costs of such services.

H. Other Objectives. The Board of Supervisors finds that an objective of this Chapter is to meet the housing needs of all types of very low, low, and moderate income groups in a manner

~~that is economically feasible and consistent with their needs.~~

The Board of Supervisors further finds that an objective of this Chapter is to provide housing opportunities in all planning areas of the County for very low, low, and moderate income households.

The Board of Supervisors further finds that an objective of this Chapter is to provide housing opportunities for very low, low, and moderate income household members currently residing or working in Monterey County, on a priority basis.

This Chapter, as amended, continues a successful program which the County began in 1980.

SECTION 2. Section 18.40.050 of the Monterey County Code is amended as follows:

18.40.050 Development requiring inclusionary contribution.

A. The requirements of this chapter are minimum requirements and shall not preclude a residential development from providing additional affordable units and/or affordable units with lower rents or sales prices. Except as expressly provided in paragraphs B and C of this subsection, all residential developments shall contribute to the provision of housing for very low, low, and moderate income households in the County of Monterey as provided in this Chapter. "Residential Development," as that term is defined by this Chapter, means any project requiring any subdivision of land, including subdivisions of agriculturally zoned land, use permit, discretionary permit or building permit, or combination thereof, for which an application or applications are submitted to the County and which would by construction or alteration of structures create three or more new or additional dwelling units and/or lots.

B. Residential developments which meet one of the following criteria shall not be required to comply with this Chapter:

1. Residential developments which form part of a larger residential development as to which the requirements of this Chapter have previously been fully satisfied and as to which there is no default in continuing obligations under this Chapter, where the new residential development results in no increase in the number of previously approved lots or units.

2. Development as to which the applicant demonstrates during consideration of a first approval that there is no reasonable relationship between the development and the requirements imposed by this Chapter, that the requirements of this Chapter would take property in violation of the federal or California Constitution, or that as a result of unusual or unforeseen circumstances, it would not be appropriate to apply, or would be appropriate to modify, the requirements of this Chapter, provided that the Appropriate Authority who makes the determination to approve or disapprove an exemption or modification makes written findings, based on substantial evidence, supporting that determination.

- 3. Development for farm workers;
- 4. Mobile home park development.

C. Pending developments, as that term is defined by this Chapter, shall not be required to meet the requirements of this Chapter as amended by Ordinance No.04185, but shall be subject to the requirements of the Inclusionary Housing Ordinance in effect when the application for the development's first approval was deemed complete, unless the developer elects in writing to be subject to this Chapter as amended.

SECTION 3. Section 18.40.060 of the Monterey County Code is amended as follows:

18.40.060 Inclusionary requirements.

A. All residential development consisting of five (5) or more units or lots in Monterey County shall provide inclusionary units on-site or off-site, except that a fee may be paid in-lieu of providing fractional units and in other circumstances specified in Section 18.40.090. All new residential development consisting of three (3) or four (4) additional units or lots in Monterey County shall provide inclusionary units on-site or off-site, or pay a fee in-lieu pursuant to Section 18.40.090. The size, design, and location of inclusionary units shall be consistent with the County General Plan, Local Coastal Plan as applicable, Zoning Ordinances, and other County ordinances and building standards. Compliance may be accomplished by the developer alone or in combination with others, including without limitation the Housing Authority or a non-profit housing corporation. The owner-occupied unit in an owner-occupied development of four units or less shall not be counted in applying the requirements of this Chapter.

B. Subdivisions of eligible agriculturally zoned land as described below are subject to this subsection. These eligible agricultural subdivisions may comply with the Inclusionary Requirements by paying a fee in-lieu of supplying units pursuant to Section 18.40.090. The entire in-lieu fee may be secured on the entire subdivision to the satisfaction of the Redevelopment and Housing Director until such time that a residential building permit is issued for any lot within the subdivision, at which time the entire in-lieu fee is due and payable. In order to be eligible under this subsection, agricultural subdivisions must meet all of the following:

1. Be zoned "Farmlands" under the Monterey County Code;
2. Result in subdivided parcels of not less than 40 acres in size. Further subdivision of the parcels will not be eligible under this subsection and will require compliance with the remaining provisions of the Inclusionary Housing Ordinance, as applicable; and
3. Applicant must submit a request in writing stating that the purpose of the subdivision is for financing and/or agricultural operation purposes, not for residential development and must provide documentation establishing that purpose, to the satisfaction of the Redevelopment and Housing Director.

SECTION 4: Section 18.40.090 of the Monterey County Code is amended as follows:

18.040.090 Fees.**A. In-Lieu Fees.**

1. **Projects of Three or Four Units.** All developers of new residential development projects of three (3) or four (4) units or lots may elect to contribute to the provision of housing for low and moderate income households by payment of a fee calculated pursuant to this section, in lieu of constructing units on-or off-site.
2. **Agricultural Subdivisions.** Subdivisions eligible under Section 18.040.060.B may elect to contribute to the provision of housing for low and moderate income households by payment of a fee, calculated pursuant to this section, in lieu of constructing units on or off-site. An Inclusionary Housing Agreement may be executed to provide for the deferment of the payment of the fee as provided for in Section 18.040.060.B.
3. **Fractions of Units.** Residential developments required to construct fractions of a unit under this Chapter may pay an in-lieu fee in an amount corresponding to the fractional unit, computed by multiplying the in-lieu fee amount determined under subsection D below by the fraction.

4. ~~Qualification for In-Lieu Fee.~~ The developer of a residential development containing five (5) or more units may elect to pay a fee in-lieu of providing some or all of the required inclusionary units if the developer demonstrates, in connection with the first approval for the residential development, that specific characteristics of the development site, such as lack of access to services, zoning which requires large lot development, or potentially high site maintenance costs, make the site unsuitable for households at the required income levels.

5. ~~Fee Amount.~~ For residential developments which are permitted to satisfy the requirements of this Chapter in whole or part by payment of in-lieu fees, the fee amount shall be determined and approved by the Appropriate Authority as follows: for each market-rate unit in the residential development, the fee shall be one-fifth of the difference between the affordable sales price for a four-person household at 100% of median income and the cost of developing an average market-rate three-bedroom home. The Director shall prepare an annual table which identifies in-lieu fee amounts based on criteria stated in the administrative manual. The Annual In-Lieu Fee Table shall be adopted by the Board of Supervisors. In the event that the Director does not prepare a revised annual table, or the Board of Supervisors does not approve one, the previous year's table shall remain in effect.

6. ~~Time of Payment.~~ Payment of in-lieu fees shall be made in full to the County prior to recordation of parcel or final maps or, where the residential development is not subject to subdivision approval, prior to issuance of the first building permit for the development, unless an inclusionary housing agreement otherwise provides.

B. ~~Service Fees.~~ A service fee, as established by County Resolution, shall be charged for the costs associated with processing the initial sales, re-sales, rentals and refinancings of inclusionary units as provided for in the administrative manual and/or approved documents.

SECTION 5: Section 18.40.110 of the Monterey County Code is amended as follows:

18.40.110 Occupancy and continuing availability of units. The occupancy and continuing availability of inclusionary units shall be provided for in the following manner:

A. ~~Rental Inclusionary Units.~~ For rental inclusionary units, eight percent (8%) of the total units in the residential development shall be set aside for moderate income households, six percent (6%) of the total units in the development shall be set aside for low income households and an additional six percent (6%) of the total units in the development shall be set aside for very low income households. On-site rental inclusionary units shall be rented only to eligible households, and off-site inclusionary units only to very low income households, at affordable rents for the relevant income category, and pursuant to further requirements set forth in any applicable inclusionary housing agreement, regulatory agreement and/or other documents in effect pursuant to this Chapter. Where the number of required very low income units is not a whole number, the fractional units required shall be added to the number of low income inclusionary units required. If the resultant number of low income units is not a whole number, the fractional units required shall be added to the number of moderate units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall include the next higher whole number of moderate inclusionary units, or may elect to pay a fractional unit in-lieu fee for the fractional unit in the amount provided in Section 18.040.090 of this Chapter. All leases or rental agreements for rental inclusionary units shall require annual certification by the Director of tenant household income and shall contain a provision prohibiting subletting or assignment of the inclusionary unit to an unqualified tenant.

B. For Sale Inclusionary Units.

1. For for-sale inclusionary units, eight percent (8%) of the total units in the development shall be set aside for moderate income households, six percent (6%) of the total units in the development shall be set aside for low income households and an additional six percent (6%) of the total units in the development, shall be set aside for very low income households. On-site for-sale inclusionary units shall be sold only to eligible households and off-site inclusionary units only to low income households, at prices affordable to such households, and pursuant to further requirements of resale restrictions, a promissory note, second deed of trust naming the County of Monterey as beneficiary, deed restrictions, and/or other documents pursuant to this Chapter. Where the number of required very low income units is not a whole number, the fractional units required shall be added to the number of low income inclusionary units required. If the resultant number of low income units is not a whole number, the fractional units required shall be added to the number of moderate income inclusionary units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall include the next higher whole number of moderate income inclusionary units, or may elect to pay a fractional unit in-lieu fee in the amount provided in section 18.040.090 of this Chapter. The initial maximum sale price of the inclusionary unit to the first purchaser shall be determined by the Director, pursuant to a method set forth in the administrative manual. Similar restrictions shall be required of subsequent owners at the time they acquire the unit.

2. The maximum resale price shall be determined under the approved documents, consistent with the administrative manual and the following:

a. The maximum permitted resale price shall be the initial sale price of the inclusionary unit, increased at the same rate as the median income has increased, with the following modifications.

b. The otherwise allowable maximum resale price shall be increased by ten percent (10%) of the initial sale price of the unit as an allowance for improvements made by the selling owners during their ownership. This allowance shall not be increased or decreased based on the value of improvements actually made to a particular home, provided that the allowance shall be reduced to the extent the unit has been adversely affected in value by deficient or deferred maintenance. To facilitate a determination by the Director concerning maintenance prior to sale, the seller shall comply with any applicable requirements in the administrative manual.

c. Where an owner has lawfully added a bedroom to a for-sale inclusionary unit, the maximum resale price of the unit shall be calculated based on an assumed household size corresponding to the total number of bedrooms, including the added bedroom.

d. The administrative manual and/or approved documents may provide for a ceiling which limits the resale price increases resulting from the modifications in subsections b. and c.

3. As provided in Section 18.40.090, a service fee shall be charged by the County for the costs associated with processing the initial sales, re-sales, rentals and refinancings of inclusionary units as described in the administrative manual and/or approved documents.

4. In the event of the death of all owners of an inclusionary unit, the transfer of a for-sale inclusionary unit to a child or step-child upon the death of the remaining prior owner shall be permitted without payment of any amount otherwise due to the County based on the sales price or appreciation of the unit, and without regard to any otherwise applicable preferences or waiting list priority for eligible purchasers, regardless of the income eligibility of the child or step-child. All terms of the recorded inclusionary agreement, including the remaining term of affordability, shall remain in effect upon such transfer; however a new agreement with the new owners (the

child or step-child inheriting the unit) shall be executed and recorded in order to effectuate a transfer under this provision. Otherwise, the unit shall be offered for sale in conformity with this Chapter.

5. All resale restrictions shall authorize the County or its designee to purchase any affordable for-sale inclusionary unit at the maximum resale price which could be charged to a purchaser household (less an allowance for the real estate commission avoided by the County's purchase), at any time the owner proposes sale, prior to any sale to another party.

6. For sale inclusionary units may be refinanced or used as security for additional financing, to the extent provided in the administrative manual.

7. Resale restriction documents may prohibit or limit leasing of inclusionary units. The Redevelopment and Housing Director shall have the authority to allow for the temporary rental of for sale units upon a determination of hardship, based on standards established by County Resolution, and provided that the units remain affordable at the same income level.

C. Terms of Affordability; New and Existing Inclusionary Units. For both for sale and rental inclusionary units, affordability and occupancy restrictions shall remain in effect in perpetuity and shall apply to any replacement structure or structures constructed if a structure containing an inclusionary unit or units is demolished or destroyed, provided that if demolition or destruction of a structure containing inclusionary units occurs 55 years or more after recording of the restrictions and said demolition or destruction was unintentional, restrictions on the units in the structure shall terminate on demolition or destruction. For-sale and rental inclusionary units approved before an amendment to this Chapter shall remain subject to the terms of this Chapter at the time the units were approved, and for-sale and rental inclusionary units in pending developments shall remain subject to the terms of this Chapter at the time the pending development application was deemed complete, subject in all cases to section 18.40.100.D. of this Chapter and further provided that, where a for-sale inclusionary unit is transferred and the new owner is required to enter into new regulatory documents under this Chapter, the new regulatory documents will provide for affordability in perpetuity.

D. Maintenance. Regulatory agreements and resale restriction documents shall include maintenance and insurance requirements for affordable units.

E. Approval and Recording of Documents. The Director, in consultation with County Counsel, shall establish the form and content of documents required or authorized under this section, 18.40.110. Regulatory agreements and resale restriction documents may provide for specific affordability and/or occupancy requirements for particular affordable units, consistent with this Chapter and with the terms of the project's inclusionary housing agreement. These documents shall be executed by the record owners of affected property, approved as to form by County Counsel, and recorded in the official records of the County.

F. Occupancy. Initial and subsequent occupancy of inclusionary units shall be in accord with conditions and requirements stated in the administrative manual.

G. Marketing; Selection of Participants. The administrative manual shall set forth marketing and selection policies and/or procedures for inclusionary units and identify County staff responsible for supervising marketing. The manual shall contain policies favoring making inclusionary units available to households with members who live or work in Monterey County or those with household members who work near the units. The Housing Authority may be designated to review the income qualifications of potential applicants. If the County maintains a list or lists of eligible households, it may require that households newly occupying affordable units shall be selected first from one or more of those lists.

H. ~~Administrative Manual.~~ The Board of Supervisors shall adopt and may from time to time amend an administrative manual, approved as to form by County Counsel, to establish guidelines to interpret and implement this Chapter, including without limitation income and maximum asset guidelines for inclusionary units and units assisted by in-lieu fee proceeds. All mandatory provisions of such manual, when adopted, shall bind applicants and other private parties subject to this Chapter. Maximum permitted sales prices shall be governed by the administrative manual. The Board of Supervisors shall conduct a duly noticed public hearing prior to the adoption or any amendment of the administrative manual.

SECTION 6: Section 18.40.130 of the Monterey County Code is amended as follows:

18.40.130 Collection and Use of In-Lieu Fees.

A. Use of In-Lieu Fees. Any monies received by the County as in-lieu fees pursuant to this Chapter shall be used to provide very low, low and/or moderate income housing except to the extent allocated to monitoring, enforcement and administrative costs. Any monies collected as in-lieu fees pursuant to this Chapter, and the interest accrued thereon, shall be committed within five (5) years after the payment of such fees or the approval of the residential development, whichever occurs later. All such monies on deposit with the County shall be separately accounted for and shall not be used for purposes not authorized by this section 18.40.130. Any monies generated as in-lieu fees as a result of this Chapter shall be used by the County for assistance in the development of affordable housing within the County.

B. Funding Proposals. At least once a year, the County shall advertise by notice in newspapers of local circulation, and other such written notice as deemed necessary by the Housing Advisory Committee, availability of funds for the provision of very low, low and/or moderate income housing in the County. Included in such notice shall be an invitation to submit proposals and requests for funds to provide such housing in the County. Proposals submitted for funding shall be in accordance with the Board of Supervisors' housing priorities set for the year. Availability and use of funds for projects in an amount of less than \$25,000 shall be in accordance with Over the Counter Grant and Loan Program Guidelines and Procedures approved by the Board of Supervisors. Proposals involving funding in excess of \$25,000, shall be reviewed by the Housing Advisory Committee to be submitted with its recommendations to the Board of Supervisors for final approval.

The requests may be for grants, low interest loans, and other funding mechanisms deemed appropriate to secure the purpose of this Chapter. The proposals may be for pre-development projects and services, projects to promote very low, low, or moderate income housing unit(s), rehabilitation, land acquisition, unit purchase, development of infrastructure, or other projects deemed appropriate to secure the purpose of this Chapter.

C. Director's Authority. All proposals and requests for funding shall be referred initially to the Director. For requests less than \$25,000, the Director shall review the proposals and submit them with a recommendation on funding to the Housing Advisory Committee, which shall have funding authority in accordance with the procedures in this section and the Over the Counter Grant and Loan Program Guidelines and Procedures, subject to appeal to the Board of Supervisors. An appeal of the decision may be filed with the Clerk to the Board of Supervisors by any interested person within 10 days after notice of the decision is given. For requests in excess of \$25,000, the Director shall make recommendations for funding to the Housing Advisory Committee, who shall make a funding recommendation to the Board of Supervisors in accordance with the procedures in this section. For proposals which have received final approval in accordance with the procedures set forth in this section, the Director shall have the authority to execute all documents necessary to implement the approval on behalf of the County.

D. Grant Contract. Upon authorization for funding, the Director on behalf of the County and the grantee shall enter into a contract to assure to the greatest extent possible that the approved proposals and requests are satisfactorily completed. No warrant shall be issued until such contract is completed and signed by the appropriate parties.

E. Household Eligibility. The Director and the Housing Authority, or their authorized designees, shall establish standards for eligibility of very low, low and/or moderate income households in units assisted with the proceeds of in-lieu fees. Priority for occupancy shall be granted to residents of Monterey County and those employed in Monterey County.

SECTION 7: This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED this 26th day of ^{April} ~~January~~, 2011, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Potter

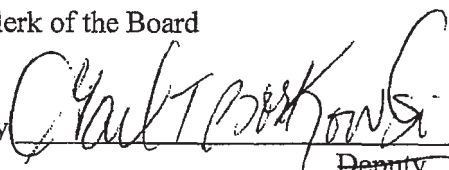
NOES: Supervisor Parker

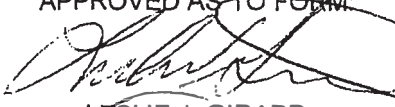
ABSENT: None


Chair, Monterey County Board of Supervisors

ATTEST:

GAIL T. BORKOWSKI
Clerk of the Board

By 
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
Assistant County Counsel