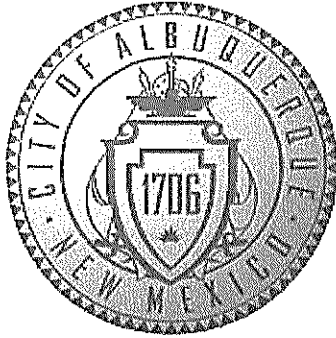


EC-22-90




Mayor Timothy M. Keller

**CITY OF
ALBUQUERQUE**
Albuquerque, New Mexico
Office of the Mayor

INTER-OFFICE MEMORANDUM

May 11, 2022

TO: Isaac Benton, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Approval of the Agreement with Sawmill Community Land Trust to Utilize Workforce Housing Trust Funds in the amount of \$1,625,000

Approval is requested for the proposed Agreement between the City of Albuquerque and Sawmill Community Land Trust (SCLT) to purchase up to seven (7) homes from existing homeowners on the Intent to Sell list of homes located on the land trust. SCLT will agree to a City Mortgage and Promissory Note to be recorded on each individual property at time of SCLT acquisition.

SCLT will re-sell the seven homes mentioned in (a) to income eligible households at or below 80% of the Area Median Income (AMI) utilizing the community land trust model of affordable housing delivery. The City Mortgage and Promissory Note will be released upon the sale to an income eligible household and re-payment of Workforce Housing Trust Funds, as mentioned below.

As each home is sold to an income eligible household, revenues will be used for re-payment to the City at Closing, to be used to replenish the City's Workforce Housing Trust Funds, and will be credited towards repayment of the total amount provided to SCLT through this Project.

This Request is forwarded to the Council for its consideration and approval.

DocuSigned by:
Carol M. Pierce
5/17/2022 | 9:09 AM MDT
Carol M. Pierce
Director, Dept. of Family & Community Services

Cover Analysis

1. What is it?

This legislation is for the Council approval of an Agreement with Sawmill Community Land Trust (SCLT) utilizing Workforce Housing Trust Funds (WHTF) in the amount of One Million Six Hundred Thousand Dollars (\$1,625,000).

What will this piece of legislation do?

The Agreement will approve SCLT to purchase up to seven (7) homes from existing homeowners on the Intent to Sell list of homes located on the land trust. SCLT will agree to a City Mortgage and Promissory Note to be recorded on each individual property at time of SCLT acquisition.

SCLT will re-sell the seven homes mentioned in (a) to income eligible households at or below 80% of the Area Median Income (AMI) utilizing the community land trust model of affordable housing delivery. The City Mortgage and Promissory Note will be released upon the sale to an income eligible household and re-payment of Workforce Housing Trust Funds, as mentioned below.

As each home is sold to an income eligible household, revenues will be used for re-payment to the City at Closing, to be used to replenish the City's Workforce Housing Trust Funds, and will be credited towards repayment of the total amount provided to SCLT through this Project.

3. Why is this project needed?

The home buyback project will allow will increase housing stability by improving housing for low and moderate income persons.

4. How much will it cost and what is the funding source?

The Agreement will be funded with Workforce Housing Trust Funds (WHTF) in the amount of \$1,625,000.

5. Is there a revenue source associated with this legislation? If so, what level of income is projected?

Revenues will be used for re-payment to the City at Closing, to be used to replenish the City's Workforce Housing Trust Funds, and will be credited towards repayment of the total amount provided to SCLT through this Project.

AGREEMENT

THIS AGREEMENT is made and entered into upon the date of the last signature below, by and between the City of Albuquerque, New Mexico, a municipal corporation (the "City"), and **Sawmill Community Land Trust (SCLT), 990 18th St NW**, Albuquerque, NM, 87104, a New Mexico non-profit corporation (the "Contractor").

RECITALS

WHEREAS, the City has determined that it will provide basic social services to ensure that its residents are afforded access to basic services required to maintain a reasonable quality of life; and

WHEREAS, these services enhance the health, wellness, education and public safety of the City of Albuquerque; and

WHEREAS, the City has appropriated Workforce Housing Trust Funds ("City Funds") for this purpose; and

WHEREAS, the Contractor is a land trust, a nonprofit corporation that holds land on behalf of the Sawmill community, while serving as the long-term steward for affordable housing, community gardens, commercial spaces and other community assets on behalf of the Sawmill community; and

WHEREAS, the Contractor is uniquely positioned to provide services as described herein on behalf of the City; and

WHEREAS, the City desires to engage the Contractor to render certain social services as described herein; and

WHEREAS, the Contractor represents that it has the expertise and resources to render such social services; and

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. Goals and Objectives: The Contractor agrees to accomplish the goals and objectives set out in Exhibit A to this Agreement in a satisfactory and proper manner, as determined by the City and within the financial resources provided.
2. Scope of Services: The Contractor shall perform the services set out in Exhibit A ("Services") in a satisfactory and proper manner as determined by the City and within the financial resources provided.
3. Time of Performance: Services of the Contractor designated herein are to commence upon execution of this Agreement, and shall be undertaken and completed in such sequence as

to assure their expeditious completion in light of the purposes of this Agreement but, in any event, all of the Services required here under shall be completed by December 31, 2022.

4. Compensation and Method of Payment:

- A. Maximum Compensation: For performing the Services specified in Section 2 of this Agreement, the City agrees to pay the Contractor a total amount not to exceed **ONE MILLION, SIX HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,625,000.00)**, which amount includes any applicable gross receipts taxes and which amount shall constitute full and complete compensation for the Contractor's Services under this Agreement, including all expenditures made and expenses incurred by the Contractor in performing the Services per the "City Budgets" attached hereto and made a part hereof as Exhibit B.
- B. Method of Payment:
- (1) The City agrees to pay such sum to the Contractor as needed to purchase homes available for sale on the Sawmill Community Land Trust, to be repaid to the Workforce Housing Trust Fund upon resale to a qualifying homeowner. All transactions will be in compliance with the budgetary and fiscal guidelines of the City. Only those costs which are allowable under the terms of this Agreement and Exhibit B shall be paid. The City shall withhold payment to the Contractor for failure to perform the Services described in this Agreement and for failure to meet any other requirements of this Agreement. Payment will be withheld until such time as the Contractor is in full compliance with all the terms of this Agreement.
 - (2) All requisitions for payment submitted by the Contractor must be supported by documentation of Services provided in the Contractor's files.
 - (3) Checks issued by the Contractor to pay obligations incurred under this Agreement shall be made payable to the vendor for services or materials and not to cash.
 - (4) The funds received by the Contractor under this Agreement shall be spent by the Contractor within three (3) days of the receipt of said funds unless such funds are for the reimbursement of costs for which Contractor funds have already been spent.
- C. Program Income: For the purposes of this Agreement, "Program Income" means gross income, including interest earned on City Funds, or received by the Contractor which is directly generated from the use of City Funds. When Program Income is generated by an activity that is only partially assisted with City Funds, the Program Income shall be prorated to reflect the percentage of said funds. Program Income received may be retained by the Contractor and will be used for

the purposes specified in the Goals and Objectives and Scope of Services of this Agreement and is subject to the same rules and regulations of this Agreement. Any Program Income on hand when the Agreement expires or is terminated as provided herein or received after the Agreement's expiration, shall be paid to the City.

5. Budget Revisions: The Contractor shall inform the City of any “line item” revisions to the City Budgets, within the Maximum Compensation shown in this Agreement and shall obtain the City’s prior written approval of any budget line item change that represents at least Five Hundred Dollars (\$500) or five percent (5%) or more of the line item amount, whichever is greater, pursuant to the latest approved budget. Provided, however, that any budget revisions must be eligible expenditures under this Agreement.
6. Amendment to Agreement: Amendments to this Agreement shall be in writing and signed by both parties.
7. Fiscal Agent, Purchasing Agent, and Personnel Agent:
 - A. The Contractor shall serve as its own fiscal agent, purchasing agent, and personnel agent.
 - B. The Contractor shall have and maintain financial policies and procedures, an accounting system, purchasing policies and procedures (including bid requirements) and personnel policies and procedures that adhere to generally accepted accounting and management standards and practices.
8. Performance Monitoring: The Contractor will from time to time provide assistance and information needed by staff of the City's Department of Family and Community Services to monitor and evaluate the performance of the above mentioned Scope of Services. It is understood that the City's Department of Family and Community Services staff, at its discretion, may perform periodic fiscal and program monitoring reviews on dates to be arranged. It is also understood that reviews by other officials may be required on dates to be arranged.
9. Restrictions on Use of Funds:
 - A. The Contractor must establish and use a set of written accounting policies which meet the minimum standards established by the City for contract accounting.
 - B. The funds provided by this Agreement are primarily intended to provide the Services called for by this Agreement to low and moderate income residents, defined as residents having 80% or below of the median income of the Albuquerque Standard Metropolitan Statistical Area (SMSA).
10. Reversion of Assets: Upon the expiration of this Agreement, the Contractor shall transfer to the City any City Funds on hand at the time of expiration and any accounts receivable attributed to the use of City Funds. The Contractor shall ensure that any property that was

acquired or improved in whole or in part with City Funds complies with the Scope of Services Section of this Agreement and must adhere to the Property Management Section of the *Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services, Social Services Program*, as amended.

11. Special Provisions: The availability of funds for the activities covered by the Scope of Services outlined herein and for performance of this Agreement, depends solely on the provision of said funds to the City, and the allocation of said funds to the Department of Family and Community Services. The City assumes the responsibility for payment of the compensation due to the Contractor under Sections 4A and 4B herein, to the extent funds for such compensation are made available to the City, and are allocated for use by the Department of Family and Community Services.
12. Independent Contractor:
 - A. Neither the Contractor nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. The Contractor is considered to be an independent contractor at all times in the performance of the Scope of Services described herein.
 - B. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the City under the provisions of the Merit System Ordinance as now enacted or hereafter amended.
 - C. The Contractor certifies that it will establish, publish and post a statement of its policies and requirements on maintaining a drug free workplace which complies with the Drug-Free Workplace Act of 1988 (P.L. 100-690), and shall require all providers of Services under this Agreement to comply with the workplace requirements of the Act.
13. Personnel:
 - A. The Contractor represents that it has, or will secure, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the City. Personnel salaries, benefits and other related costs may be paid for from City Funds as authorized in the City Budgets.
 - B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

- C. None of the work or the Services covered by this Agreement shall be subcontracted without prior written approval of the City. Any work or Services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.
 - D. The Contractor shall have in its possession a documented set of personnel policies and procedures, including fringe benefits, if any, available to the Contractor's employees and which has been formally adopted by its governing board. Such a document shall be made available for inspection and determination by the City as to its acceptability.
 - E. If the Services under this Agreement require the Contractor to work with or be in proximity to children or other vulnerable populations, the Contractor will comply with all applicable requirements contained in the *Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services, Social Services Program*, as amended.
14. Indemnity: The Contractor agrees to defend, indemnify and hold harmless the City and its officials, agents, and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties for or on account of any matter arising out of or resulting from the Services performed by the Contractor under this Agreement. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.
15. Insurance: The Contractor shall procure and maintain at its own expense until final payment by the City for Services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by the Contractor or its agents. Before commencing the Services, and on the renewal of all coverages, the Contractor shall furnish to the City a certificate or certificates in form satisfactory to the City showing that it has complied with this Section. All certificates of insurance shall provide that thirty (30) days written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico, 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. With respect to all applicable coverages, the City shall be named an additional insured by endorsement onto the policy. Proof of this additional insured relationship shall be evidenced on the Certificate of Insurance (COI) and on the insurance endorsement. All coverages afforded shall be primary with respect to operations provided. Kinds and amounts of insurance required are as follows:
- A. Commercial General Liability Insurance: A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$2,000,000 Per Occurrence (or \$1,000,000 CGL plus \$1,000,000 Umbrella coverage)

\$2,000,000 Policy Aggregate
\$1,000,000 Products Liability/Completed Operations
\$1,000,000 Personal and Advertising Injury
\$ 5,000 Medical Payments

Said policy of insurance must include coverage for all operations performed for the City by the Contractor and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

- B. Commercial Automobile Liability Insurance (“CAL”): A CAL policy with not less than a \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. The CAL policy must include coverage for the use of all owned, non-owned, and hired automobiles, vehicles and other equipment both on and off work. This CAL policy cannot be a personal automobile liability insurance policy as most personal automobile liability policies exclude coverage for work related losses.
 - C. Workers' Compensation Insurance: Workers' Compensation Insurance for the Contractor's employees when required by, and in accordance with, the provisions of the Workers' Compensation Act of the State of New Mexico (“Act”). The Contractor must have three (3) or more employees to trigger the Act's workers' compensation insurance requirement. Per the Act, this number includes the owner of the business.
 - D. Professional Liability (Errors and Omissions) Insurance: Professional liability (errors and omissions) insurance in an amount not less than \$1,000,000 combined single limit of liability per occurrence with a general aggregate of \$1,000,000.
 - E. Sexual Abuse Molestation Coverage: Sexual abuse molestation insurance in an amount not less than \$1,000,000 combined single limit of liability per occurrence with a general aggregate of \$1,000,000.
 - F. Cyber Liability Coverage: Cyber liability insurance in an amount not less than \$2,000,000 combined single limit of liability per occurrence with a general aggregate of \$2,000,000. This coverage should be required, unless specific circumstances that eliminate potential risks indicate otherwise, if the Contractor may have cybernetic access to the City's confidential information, taxpayer data, information technology, personnel, healthcare, accounting, or finance systems.
 - G. Increased Limits: If, during the term of this Agreement, the City requires the Contractor to increase the maximum limits of any insurance required herein, an appropriate adjustment in the Contractor's compensation will be made.
16. Other Attachments: The Contractor must have on file with the City current copies of:
- A. its certificate of nonprofit incorporation;

- B. the Contractor's articles of incorporation approved by the New Mexico Secretary of State Corporations Bureau;
 - C. a copy of the Contractor's corporate bylaws;
 - D. any license applicable to the Contractor's proposed activities;
 - E. a listing of the current governing board members;
 - F. a current organizational chart;
 - G. the Contractor's written personnel policies;
 - H. the Contractor's written accounting policies and procedures;
 - I. the Contractor's written procurement policies and procedures; and
 - J. a work plan which is based on the project narrative in Sections 1 and 2 of this Agreement and which specifies:
 - (1) the major tasks or activities to be performed under this Agreement;
 - (2) the measurable objectives for each task; and
 - (3) the time frame within which the tasks will be accomplished.
17. Representations in Proposal: The City has relied on all representations in the Contractor's proposal relevant to this Agreement in making its award, and the Contractor warrants the accuracy of all representations made by the Contractor in said proposal. Misrepresentation in the proposal shall be cause to terminate the contract and the Contractor shall owe all amounts paid to it as liquidated damages.
18. Notices, Addresses: Any notice hand-delivered or sent by mail (with a return receipt which indicates delivery) to the addresses below shall be deemed received for any purposes arising out of this Agreement, regardless of whether personally received by the Contractor.

For the City, notices may be sent to:

Director, Department of Family and Community Services
P.O. Box 1293
Albuquerque, NM 87103

or for hand delivery:

Director, Department of Family and Community Services

400 Marquette NW, 5th Floor, Room 504
Albuquerque, NM 87102

For the Contractor, notices may be sent to:

Nicole Smith
Board President
990 18th St NW
Albuquerque, NM 87104

19. Required Assurances: During the performance of this Agreement, the Contractor agrees as follows:

A. Non Discrimination; Americans with Disabilities Act:

- (1) In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual orientation, gender identity, national origin or ancestry, age, physical handicap or disability as defined in the Americans with Disabilities Act of 1990, as now enacted or hereafter amended.
- (2) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual preference, sexual orientation, gender identity, age, national origin or ancestry, physical or mental handicap, disability, or Vietnam era or disabled veteran status.
- (3) In performing the Services required hereunder, Contractor agrees to meet all the requirements of the Americans with Disabilities Act of 1990, as amended, and all applicable rules and regulations, which are imposed directly on the Contractor or which would be imposed on the City as a public entity. The Contractor will make reasonable accommodation to the known physical or mental handicap or disability of an otherwise qualified employee or applicant for employment.
- (4) The Contractor shall ensure and maintain a working environment free of sexual harassment and other unlawful forms of harassment, intimidation, and coercion in all facilities at which the Contractor's employees are assigned to work.
- (5) The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, sexual preference, sexual orientation, gender identity, age, national origin or ancestry, or physical or mental handicap or disability.

- B. Use of Funds for Sectarian Religious Purposes: The Contractor covenants and agrees that no funds awarded through this program will be used for sectarian religious purposes, and specifically that:
- (1) there will be no religious test for admission for services;
 - (2) there will be no requirement for attendance at religious services;
 - (3) there will be no inquiry as to a client's religious preference or affiliation;
 - (4) there will be no proselytizing; and
 - (5) the Services provided will be essentially secular.
- C. Lobbying: The Contractor understands that utilization of any federally appropriated funds provided to the Contractor by the City pursuant hereto to influence or attempt to influence any member or employee of the Executive or Legislative branches of the federal government with respect to a covered federal action is prohibited. The Contractor further agrees that it shall comply with the certification and disclosure requirements of the applicable regulations. *See Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services, Social Services Program*, as amended, for certifications and applicable rules.
- D. Accountability in Government: The Contractor understands and will comply with the City's Accountability in Government Ordinance, §2-10-1 *et seq.* ROA 1994 and Inspector General Ordinance, §2-17-1 *et seq.* ROA 1994.
- E. No Collusion: The Contractor covenants and warrants that this Agreement is entered into by the Contractor without collusion on the part of the Contractor with any person or firm, without fraud and in good faith. The Contractor also covenants and warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Agreement, will be offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view towards securing this Agreement or for securing more favorable treatment with respect to making any determinations regarding the performance of this Agreement.

20. Reports and Information:

- A. At such times and in such forms as the City and/or the appropriate funding entity may require, there shall be furnished to the Department of Family and Community Services of the City of Albuquerque, such statements, records, data and information as the appropriate funding entity or the City may request pertaining to matters covered by this Agreement. Unless authorized by the City, the Contractor will not release any information concerning any work product including any reports or other

documents prepared pursuant to this Agreement until the final product is submitted to the City.

- B. The Contractor will provide to the Department of Family and Community Services cumulative quarterly program performance reports covering the Services provided under this Agreement. Reports are due no later than fifteen (15) days after the end of the reporting quarter, and shall be in accordance with City of Albuquerque reporting instructions.
 - C. The Contractor will cooperate with any City, State or federal program data collection and evaluation efforts by providing the requested information for Services delivered. Failure to do so will result in the suspension and/or termination of this Agreement.
21. Open Meetings Requirements: Any nonprofit organization in the City which receives funds appropriated by the City, or which has as a member of its governing body an elected official, or appointed administrative official, as a representative of the City, is subject to the requirements of §2-5-1 *et seq.* ROA 1994, Public Interest Organizations. The Contractor agrees to comply with all such requirements, if applicable.
22. Active Board:
- A. The non-profit Contractor must document that its governing board is constituted in compliance with approved bylaws and that it actively fulfills its responsibilities for policy direction, including regularly scheduled meetings for which minutes are kept.
 - B. Project progress reports submitted by non-profit agencies must be approved and signed by the presiding officer of the board of directors. Reports submitted by a public agency must be reviewed and signed by an authorized official of that agency.
23. Debarment, Suspension, Ineligibility and Exclusion Compliance:
- A. The Contractor certifies that it has not been debarred, suspended or otherwise found ineligible to receive funds by any agency of the executive branch of the federal government.
 - B. The Contractor agrees that should any notice of debarment, suspension, ineligibility or exclusion be received by the Contractor, the Contractor will notify the City immediately.
24. Establishment and Maintenance of Records: Records shall be maintained in accordance with requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized by the Department of Family and Community Services of the City, such records shall be maintained for a period of five (5) years after the receipt of final payment under this Agreement.

25. Audits and Inspections:

- A. At any time during normal business hours and as often as the City and/or the appropriate funding entity may deem necessary, there shall be made available to the City for examination, all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the City and/or the appropriate funding entity to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.
 - B. Contractors who expend \$750,000 or more of federal funds during the year shall have an audit conducted in accordance with the federal government's Office of Management and Budget Circular A-133 as amended. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits on funds provided under this Agreement. Contractors who receive \$25,000 or more in funding from the City, and do not fall under A-133, shall have a financial statement audit conducted by an independent auditor in accordance with generally accepted government auditing standards.
26. Publication, Reproduction and Use of Material: No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
27. Identification of Documents: All reports, maps, and other documents completed as a part of this Agreement, other than documents exclusively for internal use within the City, shall contain the following information on the front cover or title page (or in the case of maps, in an appropriate block): Name of the City, month and year of the preparation, name of the Contractor and descriptive title.
28. Conflict of Interest: No member, officer, or employee of the Contractor, or any other persons who exercises any functions or responsibilities with respect to the programs of the Contractor during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. The Contractor shall incorporate, or cause to be incorporated in all such subsequent agreements or sub-agreements, a provision prohibiting such interest pursuant to the purposes of this Section.
29. Compliance with Laws: In performing the Services required hereunder, the Contractor shall comply with all applicable laws, ordinances, and codes of the federal, State and local governments. In addition, the Contractor shall comply with the *Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of*

Family and Community Services, Social Services Program, as amended, and understands that failure to comply with the *Administrative Requirements* shall constitute grounds for termination of this Agreement.

30. Assignability: The Contractor shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto.
31. Termination for Cause:
 - A. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, including all Exhibits thereto, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by the Contractor under this Agreement shall, at the option of the City, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
 - B. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the City from the Contractor is determined.
32. Termination without Cause by the City: The City may terminate this Agreement without cause at any time by giving at least forty-five (45) days notice in writing to the Contractor. If the Contractor is terminated by the City as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the Services actually performed bear to the total Services of the Contractor covered by this Agreement, less payments of compensation previously made. If this Agreement is terminated due to the fault of the Contractor, the preceding Section hereof relative to termination shall apply.
33. Force Majeure: The City shall not be liable for failure to perform its obligations under the Contract due to causes beyond the control and without the fault or negligence of either party. Such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless City shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit vendor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under the Contract.

34. Appropriations: Notwithstanding any provision in this Agreement to the contrary, the terms of this Agreement are contingent upon the City Council of the City of Albuquerque making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement may be terminated at the end of the City's then current Fiscal Year upon written notice given by the City to the Contractor. Such event shall not constitute an event of default. All payment obligations of the City and all of its interest in this Agreement will cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.
35. Construction and Severability: If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
36. Enforcement: The Contractor agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.
37. Entire Agreement: This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.
38. Applicable Law: This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque.
39. Forum Selection: Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall be brought only in a court located in Bernalillo County, New Mexico. The parties irrevocably submit themselves to and consent to the jurisdiction of such courts. The provisions of this Section shall survive the termination of this Agreement.
40. Ethics and Campaign Practices: The Contractor agrees to provide the Board of Ethics and Campaign Practices of the City of Albuquerque or its investigator (the "Board") or the City of Albuquerque's Inspector General with any records or information pertaining in any manner to this Agreement whenever such records or information are within the Contractor's custody, are germane to an investigation authorized by the Board and are requested by the Board. The Contractor further agrees to appear as a witness before the Board as required by the Board in hearings concerning ethics or campaign practices charges heard by the Board. The Contractor agrees to require that all subcontractors or sub-consultants employed by the Contractor for any of the Services performed under the terms of this Agreement shall agree in writing to comply with the provisions of this Section. The Contractor and its sub-consultants or subcontractors shall not be compensated for its time or any costs it incurs in complying with the requirements of this Section.

41. Approval Required: This Agreement shall not become binding upon the City until approved by the highest approval authority of the City required under this Agreement.
42. Electronic Signatures: Authenticated electronic signatures are legally acceptable pursuant to Section 14-16-7 NMSA 1978. The parties agree that this agreement may be electronically signed and that the electronic signatures appearing on the agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement upon the date of the last signature below.

CITY OF ALBUQUERQUE

Approved By:

Sarita Nair, JD, MRCP
Chief Administrative Officer

Date: _____

Carol M. Pierce, Director
Department of Family and Community
Services

Date: _____

CONTRACTOR: Sawmill Community Land Trust (Signature below must be that of a board member authorized to bind the corporation)

Approved By:

Signature: _____

Name: _____

Title: _____

Sawmill Community Land Trust

Date: _____

EXHIBIT A

FY2022 SCOPE OF SERVICES **Sawmill Community Land Trust**

A. Goals and Objectives:

1. To achieve the City of Albuquerque Goal Statement #1: People of all ages have the opportunity to participate in the community and economy and are well sheltered, safe, healthy, and educated.
2. To achieve the City of Albuquerque Goal Statement #2: Increase Housing Stability

B. Scope of Services: The contractor shall be responsible for administering a Workforce Housing Trust Fund Fiscal Year 2022 Home Buyback Project in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities:

1. Service Activities and Outputs:

- a) SCLT may purchase up to seven (7) homes from existing homeowners on the Intent to Sell list of homes located on the land trust, in accordance with the resale formula and SCLT's policies and procedures. SCLT will agree to a City Mortgage (Exhibit C) and Promissory Note (Exhibit D), to be recorded on each individual property at time of SCLT acquisition. SCLT will prioritize the acquisition of homes 1) on the intent to sell list based upon the order in which they are received 2) or other situation where it's in the best interest of the community, as approved by the City on a case-by-case basis.
- b) SCLT will re-sell the seven homes mentioned in (a) to income eligible households at or below 80% of the Area Median Income (AMI) utilizing the community land trust model of affordable housing delivery. The City Mortgage and Promissory Note will be released upon the sale to an income eligible household and re-payment of Workforce Housing Trust Funds, as mentioned below.
- c) As each home is sold to an income eligible household, revenues will be used for re-payment to the City at Closing, to be used to replenish the City's Workforce Housing Trust Funds, and will be credited towards repayment of the total amount provided to SCLT through this Project.

2. Service Outcomes/Performance Measures:

- a) 100% of the homes will be purchased in accordance with the resale formula.
- b) 100% of the homes purchased will be resold to income eligible households.
- c) 100% of the revenue from selling the homes will be returned to the City.

3. Service Implementation and Reporting:

- a) Quarterly Reports:
 - i. Project Progress Report – Part A
 - ii. Project Progress Report – Part B
 - iii. Project Progress Report – Part C
- b) Cooperate with any City, State or Federal program data collection and evaluation efforts by providing the requested information for services delivered

DRAFT

EXHIBIT B

City of Albuquerque
Department of Family and Community Services
APP #2: Expense Summary Form

1. Agency Name: Sawmill Community Land Trust

2. Project Title: Home Buyback Program

Expenditure Category	Project Total	City Funding Requested	Percent Request
Personnel Costs:			
Salaries & Wages	56,250.00	-	0.0%
Payroll Taxes & Benefits	4,303.00	-	0.0%
Total Personnel Costs	60,553.00	-	0.0%
Operating Costs- Direct			
Contractual Services	3,375.00		0.0%
Audit Costs	5,625.00		0.0%
Consumable Supplies	2,527.00		0.0%
Telephone	1,682.00		0.0%
Postage and Shipping	525.00		0.0%
Occupancy	-		
a. Rent	-		
b. Utilities	564.00		0.0%
c. Other	-		
Equipment Lease	2,520.00		0.0%
Equipment Maintenance	1,260.00		0.0%
Printing & Publications	3,000.00		0.0%
Travel			
a. Local Travel	-		
b. Out of Town Travel	-		
Conferences, Meetings, Etc.	900.00		0.0%
Direct Assistance to Beneficiaries	200,000.00		0.0%
Membership Dues	488.00		0.0%
Equipment, Land, Buildings	1,625,000.00	1,625,000.00	100.0%
Insurance	10,600.00		0.0%
Fuel and Vehicle Maintenance			
Total Operating Costs	1,858,066.00	1,625,000.00	87.5%
Total Direct Costs (Personnel & Operating)	1,918,619.00	1,625,000.00	84.7%
Indirect Costs (____ %; attach Rate Letter)			
TOTAL PROGRAM EXPENSES	1,918,619.00	1,625,000.00	84.7%

AML

City of Albuquerque
Department of Family and Community Services
APP #3: Revenue Summary Form

Agency Name: Sawmill Community Land Trust

Project Title: Home Buyback Program

Revenue Sources	Agency Total	% of Agency Budget
Government Revenues		
Revenues from Federal Government other than Medicaid Reimbursement. <i>(On separate lines, list each Federal Agency providing fees/funding and the amount of funding)</i>		
Fees from Federal Government Agencies:		
		0.00%
Grants from Federal Government Agencies:		
		0.00%
		0.00%
		0.00%
Medicaid Reimbursements:		0.00%
Subtotal Federal Agencies	-	0.00%
Revenues from State Government <i>(On separate lines, list each State Agency providing fees/funding and the amount of funding)</i>		
Fees from State Government Agencies:		
		0.00%
		0.00%
Grants from State Government Agencies:		
		0.00%
Subtotal State Agencies	-	0.00%
Revenues from County Government	5,000.00	0.24%
Revenues from the City of Albuquerque (including this proposal or contract)		
- HOME PROGRAM FUNDS	200,000.00	9.79%
City of Albuquerque - Home Buy Back funds	1,625,000.00	79.52%
Other Municipal Government Revenues		
Subtotal Local Government	1,830,000.00	89.55%
TOTAL GOVERNMENT REVENUES FROM ALL SOURCES	1,830,000.00	89.55%
Other Revenue:		
Contributions		0.00%
United Way Revenue		
Other Revenue	213,618.00	10.45%

EXHIBIT B

City of Albuquerque
Department of Family and Community Services
APP #4 - Project Budget Detail Form - Personnel
Page 1 of 1

1. Agency Name: Sawmill Community Land Trust

2. Project: Home Buyback Program

Personnel costs: Use this form to justify all salaries, wages, payroll taxes and fringe benefits shown on the Expense Summary Form. Add additional rows as necessary.

3. FTE on Project	Position Title	Salary for the Project	Amount Requested from the City	Percent Requested (Amount Requested / Salary to the Program)
0.75	Executive Director	56,250.00	-	0.0%
		-		
		-		
		-		
		-		
		-		
		-		
		-		
4. Salaries & Wages this Page		56,250.00	-	0.0%
5. Payroll Taxes and Employee Benefits *		4,303.00	-	0.0%
6. Total Personnel Costs		60,553.00	-	0.0%

* Payroll Taxes: FICA @ xx%; Unemployment Insurance @ xx%; Workers Comp @ xx%

Employee Benefits: Health Insurance @xx% Retirement @ xx%

Other @ xx%

AML

7.65% FICA
UI
WC
Benefits
7.65% Total

Cross Check	Cross Check	
60,553.00	-	Per App #2
60,553.00	-	Per Above
-	-	Variance should be zero

City of Albuquerque
Department of Family and Community Services
APP #5 - Project Budget Detail Form - Operating Costs

Land Trust

2. Project Title: Home Buyback Program

3. Direct and Indirect Costs:

Line Item and Basics (Non-Personnel)	Project Total	Amount Requested	Amount Other Sources	Percent Requested
Contractual Services				
List all costs and assumptions in this area		-		
	3,375.00	-		0.0%
Total Contractual Services	3,375.00	-		0.0%
Audit Costs				
	5,625.00	-		0.0%
Consumable Supplies				
	2,527.00	-		0.0%
Telephone				
	1,682.00	-		0.0%
Postage and Shipping				
	525.00	-		0.0%
Occupancy				
a. Rent	-	-		
b. Utilities	564.00	-		0.0%
c. Other	-	-		
Equipment Lease/Purchase				
	2,520.00	-		0.0%
Equipment Maintenance				
	1,260.00	-		0.0%

Subtotal Other Revenues	213,618.00	10.45%
TOTAL REVENUE FROM ALL SOURCES	2,043,618.00	100.00%

AML

City of Albuquerque
Department of Family and Community Services
APP #5 - Project Budget Detail Form - Operating Costs

Land Trust

2. Project Title: Home Buyback Program

3. Direct and Indirect Costs:

Line Item and Basics (Non-Personnel)	Project Total	Amount Requested	Amount Other Sources	Percent Requested
Printing & Publications	3,000.00	-		0.0%
Travel	-	-		
Conferences, Meetings, Etc.	900.00	-		0.0%
Direct Assistance to beneficiaries	200,000.00			0.0%
Membership Dues	488.00	-		0.0%
Equipment, Land, Buildings	1,625,000.00	1,625,000.00		100.0%
Insurance	10,600.00	-		0.0%
Fuel and Vehicle Maintenance				
TOTAL OPERATING COSTS	1,858,066.00	1,625,000.00		87.5%

AML

City of Albuquerque
Department of Family and Community Services
APP #6: Budget Detail Form: Projected Drawdown Schedule

Indicate the amount and percent of total requested funds which you anticipate expending on a quarterly basis, providing a written explanation of any projected drawdowns which exceed 25% of the total requested funds in any one quarter.

Quarter Ending	Amount to be Requested	Percent of Total
September 2021	\$ -	0.00%
December 2021	\$ 812,500.00	50.00%
March 2022	\$ 812,500.00	50.00%
June 2022	\$ -	0.00%
Total	\$ 1,625,000.00	100.00%

1,625,000.00

Explanation:

The project start date will begin at the end of Q1, with the majority of drawn down of funds anticipated in Q2 and Q3 to purchase homes. The homes to be bought have already been identified, supporting activity soon after program begins.

4. As applicable: Reimbursement Rate – only applicable to unit of service contracts: *AML*

Rate: \$ per (hour, client, etc.)	\$ per unit	unit of service
Annual units:		

5. As applicable: Rate Justification – only applicable to unit of service contracts:

EXHIBIT C

Sawmill Community Land Trust / Acquisition of Single-Family Home

(INSERT PROPERTY ADDRESS HERE)

MORTGAGE AND SECURITY AGREEMENT

(Not to Exceed the Principal Sum of \$_____)

KNOW ALL MEN BY THESE PRESENTS THAT this instrument ("Mortgage") made this ____ day of _____, 202_, between the Mortgagor, **Sawmill Community Land Trust**, a New Mexico nonprofit corporation, with address at **990 18th Street NW, Albuquerque, New Mexico, 87104** ("Borrower"), and the Mortgagee/Grantee, the **CITY OF ALBUQUERQUE**, a New Mexico municipal corporation, organized and existing under its charter and the Constitution and laws of the State of New Mexico, with address at P.O. Box 1293, Albuquerque, New Mexico 87103 ("Lender");

WITNESSETH:

WHEREAS, Borrower is indebted to Lender in the principal sum of up to _____ **Dollars and** ____ **Cents (\$_____)**, which indebtedness is evidenced by that certain Promissory Note of even date herewith (the "City Note), executed by **Sawmill Community Land Trust** a copy of which Note is attached hereto as Exhibit D;

WHEREAS, Borrower and Lender have entered into that certain Agreement, between the City of Albuquerque, New Mexico and **Sawmill Community Land Trust** dated _____, which Agreement provides for the Borrower to utilize funds to for the acquisition of a property ("Project"), as defined and described in said Agreement.

This Mortgage secures the performance of the following obligations: (i) the repayment of the indebtedness evidenced by the City Note as disbursed to Borrower from time to time, together with interest thereon, in accordance with the payment provisions set forth in the City Note and all renewals, extensions and modifications thereof, and the performance of all covenants contained therein, and the payment of such amounts, if any, advanced, or costs incurred by Lender in accordance herewith to protect the security of this Mortgage or in connection with the enforcement of this Mortgage or City Note; (ii) the performance of the covenants, agreements and obligations of Borrower herein contained and is upon the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law. No interest shall accrue or be payable on the principal balance except in the event of default, as provided in the Promissory Note.

For consideration paid, Borrower does hereby MORTGAGE, GRANT, BARGAIN, SELL, ASSIGN, GRANT A SECURITY INTEREST IN and CONVEY TO Lender, its successors and assigns, all of Borrower's estate, right, title and interest in, to and under any and all of the

following described property, whether now owned or hereafter held or acquired, with mortgage covenants.

(a) All of Borrower's fee simple estate and interest in those certain parcels of real property situated in the City of Albuquerque, County of Bernalillo, and State of New Mexico, and containing

Legal Description

(INSERT LEGAL DESCRIPTION HERE)

(b) All and singular the buildings and improvements, structures, additions, tenements, easements, hereditament, and appurtenances belonging or in anywise appertaining to the aforesaid real property ("Real Property"), now existing or hereafter acquired, installed, or constructed and the revision or reversions, remainder and remainders rents, issues, and profits thereof and also all the estate, right, title, interest, property, claim and demand whatsoever of Borrower of, in, and to the same, and of, in and to every part and parcel thereof;

(c) All right, title and interest of Borrower, if any, in and to the land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Real Property to the centerline hereof;

(d) All right, title and interest of Borrower in all fixtures, fittings, appliances, apparatus, equipment, machinery, building materials, inventory and other articles of personal property and replacements thereof, now or at any time hereafter affixed to, attached to, placed upon or used in anyway in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Real Property or the Project, together with any proceeds realized from the sale, transfer or conversion of any of the above (subject to the right of replacement described in the City Note);

(e) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards or judgments, and any unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by Borrower;

(f) To the extent assignable, any and all plans, specifications, site plans, drawings renderings and schematics, however characterized, from time to time prepared for use in connection with the construction and operation of the Project;

(g) To the extent assignable, all contracts, agreements and understandings now or hereafter entered into, relating to or involving the performance of any work, the rendering of any services, the supply of any materials or the conduct of operations in the management of the Real Property or the Project including without limitation, construction contracts, architect agreements, development agreements, management agreements with respect to hotel operations, franchise agreements and other similar agreements;

(h) To the extent assignable, any and all permits, certificates, approvals and authorizations, however characterized, issued or in any way furnished, whether necessary or not, for the operation and use of the Real Property and/or the Project, including, without limitation, building permits, environmental certificates, certificates of occupancy, certificates of operation, room permits, bar or restaurant permits, liquor or cabaret licenses, food service operation licenses, elevator licenses, warranties and guaranties; and

(i) All municipal or utility deposits made by or on behalf of Borrower or made in connection with the Real Property or the Project, together with all escrow accounts or reserves maintained or required to be maintained by Borrower hereunder, and any and all other assets revenues and profits of any kind of the Project.

All of the property described in the foregoing subparagraphs (a) through (i) shall sometimes hereinafter be collectively referred to as the "Property". All of the assignments hereinabove referenced are subject to the right of the Borrower to collect, receive, apply, manage, and use the rights assigned until the occurrence of an event of default hereunder. The maximum amount of unpaid loan indebtedness, exclusive of interest thereon and the City's equity share in the property, which may be outstanding at any time, is _____ **Dollars and** ____ **Cents** (\$_____).

In addition to the other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of advances made for the payment of taxes, tax increment payments, assessments, insurance premiums, and other costs incurred for the protection of the Real Property or the Project, if not paid by Borrower as required by law or this Mortgage.

Borrower represents and warrants that it has full right and authority to grant this Mortgage, and that it shall warrant and defend the lien and interest of the Lender in the Property against all claims and demands whatsoever, except any encumbrances acceptable to Lender, and that Borrower shall maintain the priority of the lien of and the security interest granted by this Mortgage upon the property until the Mortgage is deceased as provided herein.

The Borrower, at its expense, shall cause this Mortgage and instruments supplemental hereto and financing statements and all necessary supplements appropriate continuation statements, to be recorded, registered, and filed in such manner and in such places as may be directed from time to time by Lender as required in order to establish, preserve, and protect the lien of this Mortgage as a valid second mortgage lien on all real property, fixtures, and interests therein included in the Property, and a valid, perfected second priority security interest in all personal property, fixtures and interest therein included in the Property, including in each such case and without limitation, any such properties acquired after the execution hereof.

All property of every kind acquired by the Borrower after the date hereof which, by the terms hereof, is intended to be subject to the lien of this Mortgage, shall immediately upon the acquisition thereof by the Borrower, and without further mortgage or assignment, become subject to the lien of this Mortgage as fully as though now owned by the Borrower and specifically described herein. Borrower shall take such actions and execute such additional

instruments as the Lender shall reasonably require to further evidence or confirm the subjection to the lien of this Mortgage of any such after-acquired property.

This Mortgage constitutes a security agreement as to all or any part of the Property which is of a nature that a security interest therein can be perfected under the Uniform Commercial Code. This Mortgage also constitutes a financing statement with respect to any and all property included in the Property which is or may become fixtures.

Borrower shall pay promptly when due all taxes, tax increment payments, assessments, and other governmental charges on the property which, if not paid, may become a lien on the Property or any part thereof.

During construction of the Project, if applicable, a letter of acceptance by the City for public infrastructure, Borrower, at its expense, shall keep or cause to be kept, the Property fully insured by a policy or policies of Builder's Risk and Fire Insurance (in an amount not less than the outstanding balances of the loan evidenced by the City Note and of any mortgage to which this Mortgage is subordinate). During the term of the loan evidenced by the City Note, the Borrower, at its expense, shall keep or cause to be kept, the Property insured (in an amount not less than the outstanding balances of the loan evidenced by the City Note and of any mortgage to which this Mortgage is subordinate) against fire with extended coverage and in good order and condition, ordinary wear and tear excepted, and shall make all necessary or appropriate repairs, replacements, and renewals thereof. All policies of insurance required by this paragraph shall be endorsed to indicate Lender as an insured Mortgagee.

In the event of any damage or injury to the Project, the Borrower agrees that it shall either repay its obligations under the City Note in full, or it shall take any and all actions necessary to restore the Project substantially to its condition prior to the damage or injury, and shall apply any proceeds of such insurance coverage to the extent necessary to the costs of such restoration.

If the Borrower shall fail to make any payments or perform any act required to be paid or performed hereunder or under the City Note, Lender may (but shall be under no obligation to do so), upon five (5) days written notice to the Borrower and to the Lender of any mortgage loan to which this Mortgage is subordinate, make such payment or perform such act for the account of and at the expense of Borrower. All payments so made by the Lender and all costs, fees and expenses incurred in connection therewith shall, together with interest thereon as provided herein, be additional indebtedness secured by this Mortgage, to the extent permitted by law, and shall be paid by the Borrower to the Lender on demand. In any action brought to collect such indebtedness, or to foreclose this Mortgage, the Lender shall be entitled to the recovery of such expenses in such action except as limited by law or judicial order or decision rendered in any such proceedings.

Notwithstanding any other provisions of this Mortgage, the City Note, or the Agreement, upon any failure by Borrower to pay when due any installment of principal or interest under the City Note, or failure to pay any other obligation under the City Note, and such failure is not cured within five (5) business days after receipt of written notice from the Lender, such failure to pay or cure shall constitute an immediate default entitling the Lender to exercise any remedy

hereafter described in this paragraph, or elsewhere in this Mortgage, the City Note, or the Agreement. Upon any failure to observe or perform any other obligation under this Mortgage, which has not been remedied or cured within ten (10) days after receipt of written notice thereof from Lender, or for such longer period as the Lender shall agree to in writing, then the Lender at its option may declare a default to have occurred hereunder. Subject to the foregoing provisions, with respect to either a default in failure to make payment or any other default, the remedies available to Lender include its ability at any time at its election to exercise any or all or any combination of the remedies conferred upon or reserved to it under this Mortgage, the Agreement, the City Note, or now or hereafter existing at law or in equity. Without limitation, the Lender may declare the entire unpaid principal balance of the City Note immediately due and payable without notice or demand, the same being expressly waived by the Borrower; may proceed at law or equity to collect all amounts secured by this Mortgage and due hereunder, whether at maturity or by acceleration; may foreclose the lien of this Mortgage as against all or any part, of the Property; and may exercise any rights, powers, and remedies it may have as a secured party under the Uniform Commercial Code, or other similar laws in effect from time to time.

Each right, power, and remedy of the Lender provided for in the Agreement, the City Note, and Mortgage, or now or hereafter existing at law or in equity, shall be cumulative and concurrent and shall be in addition to every other rights, power, or remedy provided for this Mortgage, the Agreement, or the City Note, or now or hereafter existing at law or in equity, and the exercise or beginning of exercise or partial exercise by the Lender of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by the Lender of any or all such rights, power or remedies.

No failure by the Lender to insist upon the strict performance of any term whereof to exercise any right, power, or remedy consequent upon a breach hereof, shall constitute a waiver of any such term or of any such breach. No waiver of any breach shall affect or alter this Mortgage, and the Mortgage shall continue in full force and effect with respect to any other then existing or subsequent breach.

PROVIDED, however, that these presents are upon the condition that if the Borrower shall well and truly pay to Lender, its successors and assigns, not less than the total of the indebtedness secured hereby and shall fully keep and perform all the conditions, covenants and agreements to be kept and performed by Borrower under this Mortgage, then this Mortgage shall be void; otherwise to remain in full force and effect in law and equity forever.

The existence and lien of this Mortgage shall not impede or affect the right of Borrower from time to time with respect to all or a portion of the Premises, to dedicate public areas by subdivision plat or otherwise, including streets, easements and park areas, grant to public utilities and other agencies entitled thereto ordinary and necessary easements, and apply for and obtain zoning acceptable to Borrower.

Unless Lender or Borrower gives written instructions to the other party of a change in the person or address set forth below, all notices, demands or requests permitted or required to be

given under the provisions of this Mortgage or the City Note shall be hand-delivered or mailed, registered or certified mail, return receipt requested to the following addresses:

LENDER:

City of Albuquerque
P.O. Box 1293
Albuquerque, New Mexico 87103
Attn: Director, Family and Community Services Department

BORROWER:

Sawmill Community Land Trust
990 18th Street NW
Albuquerque, NM 87104

THIS SPACE INTENTIONALLY LEFT BLANK

In the event of foreclosure of this Mortgage, the period of foreclosure shall be one month in lieu of the statutory redemption period of nine months.

IN WITNESS WHEREOF, the said Borrower, hereunto duly authorized, has caused, this instrument to be executed on this the _____ day of _____, 202__.

Sawmill Community Land Trust
a New Mexico nonprofit corporation

By: _____

Its: _____

STATE OF NEW MEXICO)

)

COUNTY OF BERNALILLO)

 This instrument was acknowledged before me on ____day of _____, 202__, by
_____of Sawmill Community Land Trust, Inc., a New Mexico
nonprofit corporation.

Notary Public

My Commission Expires:

EXHIBIT D

Sawmill Community Land Trust / Acquisition of Single-Family Home

(INSERT PROPERTY ADDRESS HERE)

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned **Sawmill Community Land Trust**, ("Maker"), a New Mexico nonprofit corporation, with its address at **990 18th Street NW, Albuquerque, New Mexico, 87104**, promises to pay to the order of the **CITY OF ALBUQUERQUE** ("Holder"), a New Mexico municipal corporation, organized and existing under the Constitution and laws of the State of New Mexico and its charter, with address at P.O. Box 1293, Albuquerque, New Mexico 87103, or its assigns, the principal sum _____ **Dollars and ____ Cents (\$_____)**, or so much thereof as shall have been advanced to Maker by Holder from time to time, together with all charges as provided herein and in the Mortgage (as hereinafter defined) and accrued interest on the principal balance thereof outstanding from time to time at the applicable rate of interest as hereinafter specified.

On _____, the Maker and the Holder entered into a certain Agreement which provided for the loan by the Holder to the Maker of an amount not to exceed the Principal Sum of this Note. All capitalized terms used in this Note have the meaning provided in the Agreement.

A. **COMPLETE DISCHARGE.** Notwithstanding anything in this Note to the contrary, upon completion of the terms and conditions specified in the corresponding Agreement this Note shall be deemed fully discharged and repaid, and City shall indicate such full repayment on the face of this Note and deliver to Maker.

No interest shall accrue or be payable on the principal balance, except as provided herein in the event of default.

The proceeds of the loan evidenced by this City Note may be assigned to any successors, assignees or purchasers of the Project who agree in writing to assume all of the obligations of Maker, its successors and assigns under the Agreement, this City Note and the Mortgage and the Maker shall thereupon be released from all future liability hereunder, provided, however, that the City has agreed to such assignment in writing.

The entire principal balance shall become immediately due and payable upon: (1) the sale of the Real Property to an income-qualified household; or (2) the bankruptcy or reorganization of the Maker under the Bankruptcy Code or the Internal Revenue Code of 1954, as amended; or (3) the dissolution or liquidation of the Maker prior to the permitted assignment of Maker's rights and assumption of its obligations hereunder.

If at any time during the term of this City Note, any material portion of the improvements or equipment situated on the Project site shall be removed, demolished or materially altered without prior written consent of Holder, the entire principal balance of the loan, plus accrued and unpaid interest thereon, shall become immediately due and payable; provided, however, that Maker shall have the right, without such consent to remove and dispose of (free from any lien of Holder) such equipment as from time to time has become worn out or obsolete, provided that simultaneously with or prior to such removal, any such equipment shall be replaced with other equipment of value at least equal to that of the replaced equipment and free from any title retention or other encumbrance not otherwise permitted herein or in the Mortgage. By such removal and replacement, Maker shall be deemed to have subjected such equipment to the lien of Holder.

All cash payments hereunder shall be payable in lawful money of the United States, which shall be legal tender for public and private debts at the time of payment, at the office of the City Treasurer, or at such other place as the Holder hereof may from time to time give notice in writing to the Maker.

Prepayments of all or any part of the principal balance of this City Note may be made at any time and from time to time by Maker. No premium or penalty shall be charged in connection with such prepayment.

The proceeds of this City Note shall be disbursed or applied by the Holder to or for the benefit of the Maker for the acquisition of the Project site as provided in the Agreement, and for costs related thereto. Disbursements of principal hereon shall be made in accordance with the terms of the Agreement.

This City Note is secured by a mortgage and security agreement of even date herewith entitled "Agreement" between the **City of Albuquerque** and **Sawmill Community Land Trust** ("City Mortgage"), granted by the Maker to the Holder, conveying a mortgage and security interest in the Project and the real property constituting the site therefore, which Mortgage is to be filed for record in the Office of the Clerk of Bernalillo County, New Mexico. All of the provisions of the Mortgage are incorporated herein by reference.

If (i) default be made in the payment when due of any installment of principal hereunder and the same shall not be paid in the manner provided in this City Note within five (5) business days after receipt of written notice at once or at any time thereafter during the continuance of such default, at the option of the Holder, thereof, become due and payable, and thereafter all of the unpaid principal shall bear interest at an annual interest rate of twelve percent (12%), the undersigned Maker hereof shall pay on demand to the Holder of this Note all costs and expenses incurred by such Holder in pursuing remedies under this Note and the Mortgage to collect any sums due under this City Note, all of which shall include, without limitation, such reasonable attorney's fees incurred in taking any and all such actions.

If (ii) default be made, and not timely cured, under the terms of any mortgage loan to which the Mortgage is subordinate; (iii) Maker shall dissolve or otherwise fail to maintain its status as a New Mexico nonprofit corporation; (iv) Maker sells or conveys the Project to a third party who

does not agree in writing to assume all of obligations of Maker, its successors and assigns under the Agreement, this City Note and the Mortgage; or (v) default be made in the performance of any of the other covenants contained in this City Note or in the Mortgage, and such default shall continue for a period in excess of that time provided for remedy thereunder, then, in any such event, the whole unpaid principal balance hereof shall, upon ten (10) days written notice to the Maker, at once or at any time thereafter during the continuance of such default, at the option of the Holder thereof, become due and payable, and thereafter all of the unpaid principal shall bear interest until paid at an annual interest rate of twelve percent (12%), and the undersigned Maker hereof shall pay on demand to the Holder of this Note all costs and expenses incurred by such Holder in pursuing its remedies under this Note and the Mortgage to collect any and all sums due under this City Note, all of which shall include, without limitation, such reasonable attorney's fees incurred in taking any and all such actions.

The Maker waives presentment for payment, protest notice of protest and notice of dishonor. The Maker consents to any number of renewals or extensions of the time of payment hereof. Any such renewals or extensions may be made without notice to Maker and without affecting its liability.

Failure to accelerate the indebtedness evidenced hereby by reason of default in the payment of an installment of principal, interest, or principal and interest, or the acceptance of a past due installment of the same, shall not be construed as a novation of this City Note or as a waiver of the right of the Holder to thereafter insist upon strict compliance with the terms of this City Note without previous notice of such intention being given to the Maker. This City Note shall not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

As used herein, the terms "Maker" and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether voluntary by action of the parties or involuntary by operation of law. This City Note shall be construed according to the laws of the State of New Mexico.

Any and all references in the City Note to any other document or documents shall be references to such document or documents as the same may from time to time be modified, amended, renewed, consolidated or extended.

Subject to the qualification otherwise set forth herein, time is of the essence in the performance of this Note.

The representative of Maker subscribing below represents that he has full power, authority and legal right to execute and deliver this Note and that the debt evidenced hereby constitutes a valid and binding obligation of Maker.

THIS SPACE INTENTIONALLY LEFT BLANK

This note is executed in Albuquerque, New Mexico on the _____ day of
_____, 202__.

Sawmill Community Land Trust
a New Mexico non-profit corporation

By: _____