

ITEM # 19-0898

**CITY OF SANTA FE  
SANTA FE HOMES PROGRAM AGREEMENT  
To pay FRACTIONAL FEE (10 OR FEWER UNITS)  
"Rael Subdivision Tract 3", 5670 Rufina Street, Santa Fe, New Mexico**

This Santa Fe Homes Program Agreement ("Agreement") is entered into on this 6<sup>th</sup> day of December, 2019 by and between **SRRLML, LLC** (the "SFHP Developer/Successor in Interest") and the City of Santa Fe, New Mexico, a municipal corporation, (the "City").

**WHEREAS**, the City has duly adopted the Santa Fe Homes Program and administrative procedures (collectively "SFHP") and other regulatory structures in order to ensure that private development bears its fair share of the burden of housing affordability in the Santa Fe community; and

**WHEREAS**, the City and the SFHP Developer have entered into a SFHP proposal in accordance with the requirements of the SFHP; and

**WHEREAS**, pursuant to Ordinance 2014-10, the Governing Body approved paying a fee as determined in accordance with the SFHP Administrative Procedures for a project of two to ten (2 – 10) units and making the 70% reduction in fees associated with such development permanent; and

**WHEREAS**, because of the size of the development, the SFHP Developer is not required to provide any housing units but is required to pay a fractional unit fee under the terms of the SFHP; and

**NOW THEREFORE**, the City and the SFHP Developer, for themselves and their heirs, successors and assigns, hereby agree to be bound by the following terms in order to ensure SFHP compliance and long-term affordability in the City.

**1. Definitions.** All terms capitalized herein shall have the meanings given to them in this Agreement or the meanings as defined in the Santa Fe City Code sections regarding the SFHP. In this Agreement the following words and phrases have the following meaning:

- A. "Agreement" means this SFHP Agreement.
- B. "Fractional Unit Fee" means the fee charged to developers where to satisfy the required housing obligation in the event that the formulas provided in the SFHP result in a fraction or the proposed development will result in ten (10) or fewer homes.
- C. "SFHP Developer" means each legal and equitable SFHP Developer of all or any portion of a SFHP Home on the Property during the term of this Agreement, including without limitation the SFHP Developer identified above, and any subsequent SFHP Developer by sale, conveyance or other transfer of any legal or beneficial interest in a SFHP Home or the Property. Unless the context otherwise requires, SFHP Developer shall mean the SFHP Developer at the time in question. SFHP Developer and SFHP Developers are used interchangeably.

D. "SFHP Home" shall mean the units of housings to be marketed and sold by SFHP Developer at the affordable price pursuant to the SFHP and this Agreement.

## 2. The Project.

2.1 Property. The SFHP Developer/Successor in Interest is or will become the owner of certain property situated in the County of Santa Fe, New Mexico, located at **5670 Rufina Street** and known as "*Rael Subdivision Tract 3*" which property contains more or less **2.98** acres and is more particularly described in Exhibit A attached hereto (The "Property").

2.2. Number of Units. The Property is to be developed and the manufactured lots thereon marketed as for sale housing. There will be a total of **EIGHT (8)** manufactured home lots available for sale/or rent.

2.3 Development Incentives. SFHP Developer/Successor in Interest also **does not request** a 15% density bonus as set forth in section 13.2 of the Administrative Procedures. No other incentives provided under SFCC 14-8(G) apply to small projects.

## 3. Obligations.

3.1 No SFHP Homes Required. Because the development is comprised of ten (10) or fewer units, the SFHP does not require construction of any SFHP Homes.

3.2 Fractional Unit Fee Agreement. The SFHP Developer agrees to make a payment of **\$10,850** for the fractional portion of a SFHP Manufactured Home Lot, as calculated pursuant to SFHP. The payment shall be made to the City of Santa Fe Affordable Housing Trust Fund (AHTF) for affordable housing.

3.3 Payment Deadline. The amount set forth in paragraph 3.2 above shall be fully paid to the City's Office of Affordable Housing at the time this agreement and the annexation plat, rezoning ordinance, final subdivision plat, or final development plan is recorded at the Santa Fe County Clerk. If none of the previous documents are required, a copy of this agreement and a receipt that the fee has been paid shall be included with the submittal for a building permit. .

## 4. Enforcement.

4.1 Remedies. Failure to make the full payment required under this agreement within 180 calendar days of the date of the SFHP Developer's execution of this Agreement will result in any or all of the following sanctions, depending upon which the Office of Affordable Housing judges to be the most effective and appropriate given the circumstances:

4.1.1 Withholding the recording of plats or plans,

4.1.2 Withholding or revoking building permits,

4.1.3 Issuing stop work orders, and

4.1.4 Withholding or revoking certificates of occupancy.

4.2 Other Remedies Available. It is understood and agreed by the SFHP Developer that the remedies provided under Section 4.1 of this Agreement are non-exclusive. This agreement shall not restrict the City's recourse to any remedy available under the law including, but not limited to, liens and litigation.

4.3 Notice. The City agrees to provide written notice pursuant to the SFHP of any violation or alleged violation of the terms and conditions of this Agreement. The SFHP Developer will give the City written notice of any violation or alleged violation of the terms and conditions of this Agreement. Both parties will give the other thirty days to cure any violation or alleged violation of this Agreement.

**5. Miscellaneous Provisions.**

5.1 Recordation. The SFHP Developer agrees to put into escrow a check payable to the Santa Fe County Clerk's office to pay for recording this Agreement in the amount of \$25.00. The City will record the Agreement within ten days after the date of the last signature obtained unless the SFHP developer pays the fractional fee in full. If paid in full, the City will not record the Agreement and will return the check.

5.2 Successors and Assigns; Covenants to Run. This Agreement shall be legally binding on, as the obligations of, the parties and their respective successors and assigns, including without limitation, successors in title or interest to the Property or this Agreement, who by their acceptance of any interest in the Property or this Agreement shall be deemed to have agreed to perform and observe all the SFHP Developer's obligations under, and to be bound by all the terms and conditions of, this Agreement.

5.3 City's Zoning Authority Unimpaired. The City's rights to enforce any and all provisions of the Santa Fe City Code shall be the same as its rights generally to enforce any other ordinance, which shall in no way be diminished by this Agreement. The SFHP Developer acknowledges that this Agreement is included within the zoning authority and charter authority of the City, which is, and is hereby, accepted by the SFHP Developer as a sufficient but additional basis for this Agreement.

5.4 Notices. Any demand, notice or request by either party to the other shall be sufficiently given if in writing delivered to the party intended to receive the same, or if mailed by certified mail, return receipt requested, or delivered to a recognized national courier, or if given in a manner sufficient for legal process. Each notice to the SFHP Developer named above shall be addressed to such party, or to such other address as may be stated in a notice given as herein provided.

5.5 Public Purpose. The City declares, and the SFHP Developer acknowledges, that this Agreement as well as all restrictions contained in this Agreement are for public purposes.

5.6 Sanctions. The City has the right to impose sanctions or take other actions as set forth in the SFHP Ordinance after notice of violation has been given and not complied with.

5.7 Headings Not Part of Agreement. Section headings have been inserted for convenient reference only and are not to be construed as part of this Agreement.

5.8 Severability. If any provision of this Agreement or the application thereof to any person or circumstances is held to be invalid or unenforceable by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable.

5.9 Interpretation. This Agreement shall be enforceable according to its terms and New Mexico law. This Agreement is subject to the general principles of equity, fairness and reasonableness irrespective of whether such enforcement or interpretation is considered in a proceeding at equity or in law and shall be construed according to its purpose of fostering and preserving affordable housing. Any benefit to private parties arising under this Agreement is purely incidental to the purpose of creating affordable housing.

5.10 No Waiver. No actions taken by the parties following a breach of any of the terms contained in this Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.

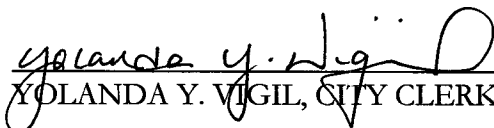

5.11 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

5.12 Agreement. This Agreement states the entire agreement of the parties. This Agreement shall not relieve SFHP Developer from complying with present or future City ordinances, duly adopted resolutions or regulations applicable to the development.


5.13 Amendments. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto. Any amendments to this Agreement shall be reviewed by the Office of Affordable Housing and sent, if applicable, to the appropriate review body as set forth in the SFHP Ordinance and then to the City Manager for approval.

WHEREFORE, the parties set their hands and seals this 6<sup>th</sup> day of December, 2019.

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK 

CITY OF SANTA FE:

  
JAREL LAPAN HILL  
INTERIM CITY MANAGER

APPROVED:

ERM  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED AS TO FORM:

Mary McCoy  
MARY MCCOY, FINANCE DIRECTOR

SFHP DEVELOPER/SUCCESSOR IN INTEREST:

By: Louie Rael, Jr  
Louie Rael, Jr on behalf of Louie Rael

Its: \_\_\_\_\_ Member \_\_\_\_\_

ACKNOWLEDGEMENTS

STATE OF NEW MEXICO    )  
  ) ss.  
COUNTY OF SANTA FE    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, by \_\_\_\_\_.

SEE CALIFORNIA NOTARY, ATTACHED →

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

Oct 17 2020

Attachments: Exhibit A: The Property  
Exhibit B: SFHP Plan

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange

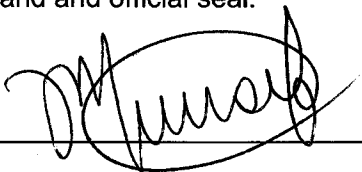
On November 21st 2019 before me, Tejal Munsif, Notary Public  
(insert name and title of the officer)

personally appeared Louie Anthony Rael  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



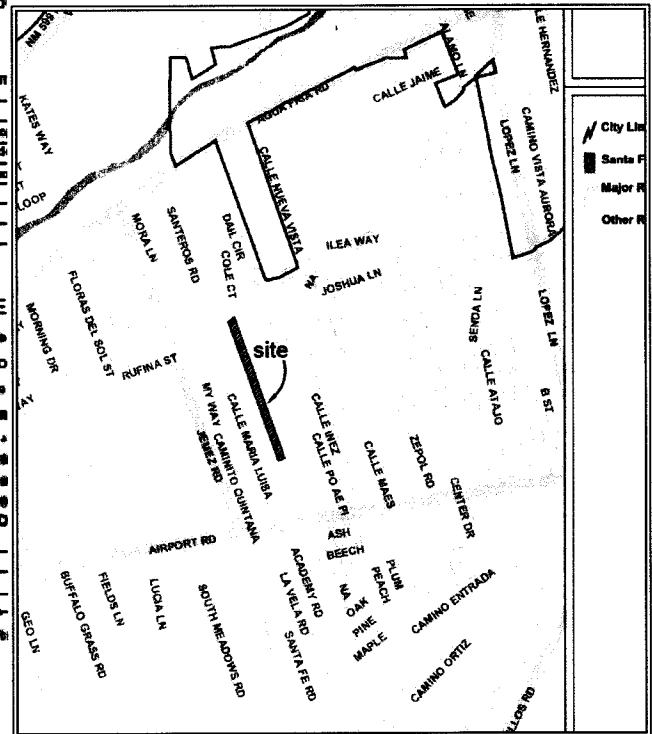
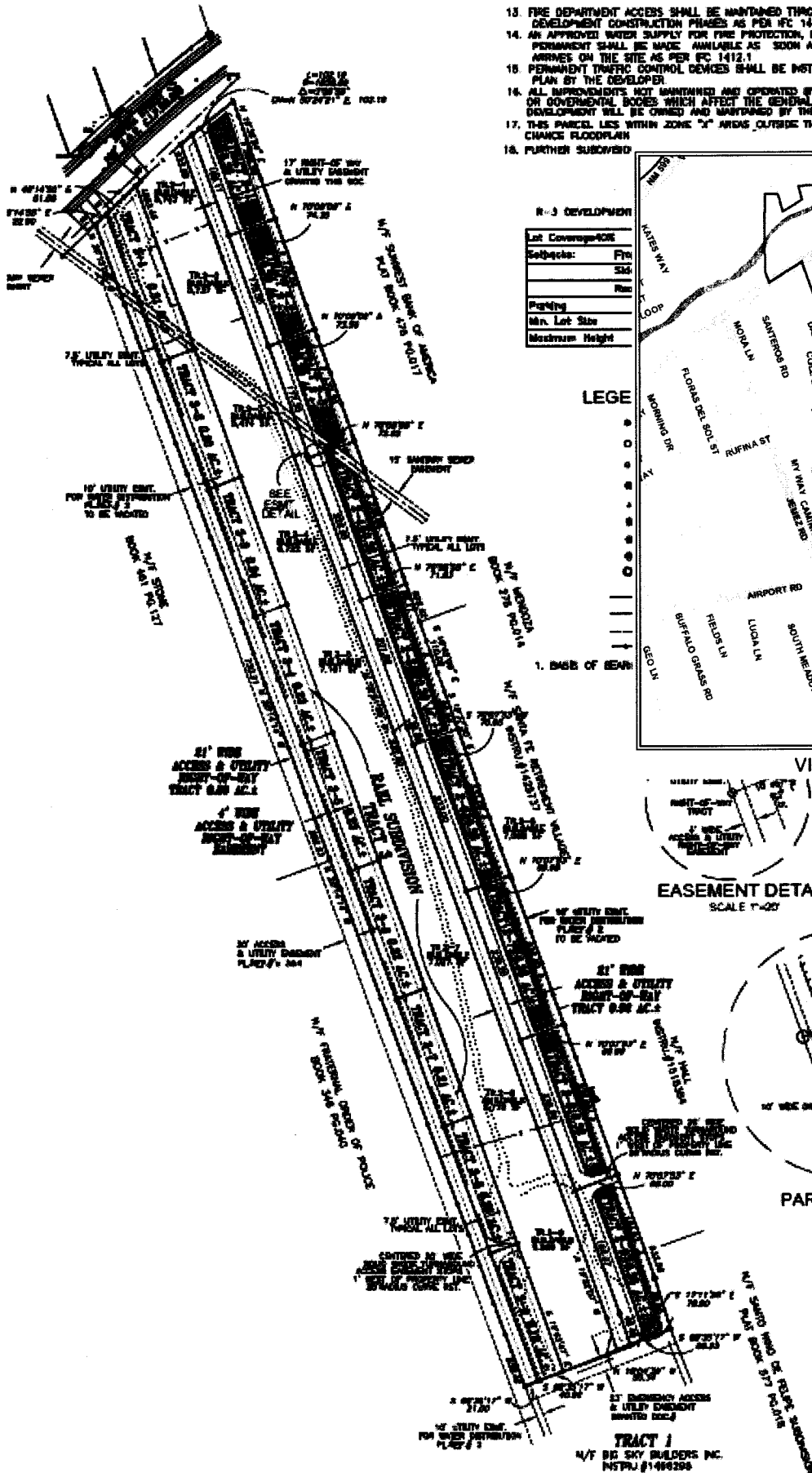
(Seal)



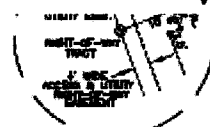
Attached - City of Santa Fe  
Home Program Agreement.

## EXHIBIT A

13. FIRE DEPARTMENT ACCESS SHALL BE MAINTAINED THROUGHOUT ALL DEVELOPMENT CONSTRUCTION PHASES AS PER FC 1412.1
14. AN APPROVED WATER SUPPLY FOR FIRE PROTECTION, EITHER TEMPORARY OR PERMANENT SHALL BE MADE AVAILABLE AS SOON AS COMBUSTIBLE MATERIALS ON THE SITE AS PER FC 1412.1
15. PERMANENT TRAFFIC CONTROL DEVICES SHALL BE INSTALLED PER APPROVED BY THE DEVELOPER
16. ALL AREAS MAINTAINED AND OPERATED BY PUBLIC UTILITIES OR GOVERNMENTAL BODIES WHICH AFFECT THE GENERAL WALK BEING DEVELOPED WILL BE OWNED AND MAINTAINED BY THE HOMEOWNER.
17. THE PARCELS, LESS WITHIN ZONE "C" AREAS, OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN
18. FURTHER SUBDIVISION

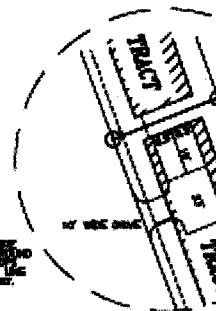


**VICINITY MAP (NTS)**



### EASEMENT DETAILS

SCALE 1"=20'

**PARKING TYPE**

## Santa Fe Homes Program (SFHP) Pricing Schedule – 2018

<i>Income Range</i>	<i>Two Bedrooms 1-2 person HH (900 sq min)</i>	<i>Three Bedrooms 3-4 person HH (1,150 sq ft min)</i>	<i>Four Bedrooms 4-5 person HH (1,250 sq ft min)</i>
<b>1 (&lt;50% AMI)</b>	<b>Rental Pricing Tier (not applicable)</b>		
<b>2 (50-65%AMI)</b>	Max. Price: \$125,000 _0_ Units	Max. Price: \$140,750 _0_ Units	Max. Price: \$156,000 _0_ Units
<b>3 (65-80%AMI)</b>	Max. Price: \$162,500 _0_ Units	Max. Price: \$182,750 _0_ Units	Max. Price: \$203,000 _0_ Units
<b>4 (80-100%AMI)</b>	Max. Price: \$200,000 _0_ Units	Max. Price: \$225,000 _0_ Units	Max. Price: \$249,750 _0_ Units

Prices reflect 2018 HUD median incomes.

## FRACTIONAL FEE SCHEDULE (2 – 10 Units)

# of units	2	3	4	5	6	7	8	9	10
Unit Fraction	0.4	0.6	0.8	1	1.2	1.4	1.6	1.8	2
<b>Fractional Fee</b>	<b>\$ 7,900</b>	<b>\$ 11,800</b>	<b>\$ 15,800</b>	<b>\$ 19,700</b>	<b>\$ 23,700</b>	<b>\$ 27,600</b>	<b>\$ 31,600</b>	<b>\$ 35,500</b>	<b>\$ 39,500</b>
<b>Manu. Home Fractional Fee</b>	<b>\$ 2,750</b>	<b>\$ 4,100</b>	<b>\$ 5,500</b>	<b>\$ 6,850</b>	<b>\$ 8,200</b>	<b>\$ 9,600</b>	<b>\$ 10,950</b>	<b>\$ 12,350</b>	<b>\$ 13,700</b>

### Formula

= # of Units X .20 (SFHP % required) = Unit Fraction

= ½ Effective home sales price for Tier 2, 3 BR home = \$140,750 X .50 = \$70,375

= \$70,375 X unit fraction X 0.3 (70% fee reduction made permanent in 2014)

### Calculation

(Manufactured Home Lot)

= 8 units X .20 = 1.6

= ½ Effective lot sales price for Tier 3 = \$45,688 X .50 = \$22,844 X 1.6

= 36,550 X 0.3 (70% fee reduction made permanent in 2014)

= \$10,965

= \$10,950 (Rounded to nearest \$50)

**NOTE:** The home prices and fractional fee schedule are modified by the City according to Section 8.7.3 of the SFHP Administrative Procedures to reflect annual changes in the median income levels. The current SFHP prices that are in effect at the time the SFHP Home is made available for sale or the fractional fees are paid, determines the actual SFHP Home Price and/or amount of fractional fee. The prices are updated annually.