

ITEM # 241-0471

**CITY OF SANTA FE
SANTA FE HOMES PROGRAM
FEE-IN-LIEU OF RENTAL AGREEMENT**

***“Verdot at Las Soleras”
Las Soleras Tract 11-B-1, 4820 Rail Runner Road and 4603 Beckner Road
Santa Fe, New Mexico***

This Santa Fe Homes Program (“SFHP”) Agreement (“Agreement”) is made and entered into this 31st day of July, 2024, by and between the City of Santa Fe, New Mexico, a New Mexico Municipal Corporation (“City”) and Verdot Las Soleras 1, LLC, a New Mexico limited liability company (“SFHP Developer”) and/or its Assignees.

RECITALS

A. **WHEREAS**, the City has duly adopted the Santa Fe Homes Program and administrative procedures (collectively, the “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.

B. **WHEREAS**, in accordance with the requirements of the SFHP, the SFHP Developer has submitted an SFHP proposal (“SFHP Proposal”), which provides the procedural prerequisite for this Agreement;

C. **WHEREAS**, the SFHP Developer is the developer of Verdot at Las Soleras, and in its SFHP Proposal, the SFHP Developer has proposed to develop the property as described in the document attached hereto as **Exhibit 1** (development plan), incorporated herein by reference, and hereinafter referred to as the “Property”.

D. **WHEREAS**, the SFHP Developer desires to develop the Property subject to and upon the terms and conditions hereinafter set forth and in compliance with Sections 14-9.11 and 26-1 *et seq.* Santa Fe City Code (SFCC) 1987.

E. **WHEREAS**, pursuant to Ordinance 2016-09, the Governing Body approved amending the Santa Fe Homes Program requirement to allow developers of rental housing to pay a fee-in-lieu instead of seeking an alternate means of compliance. Incentives for SFHP developers, as set forth in subsection 14-8.11 SFCC 1987, will not be available for these projects.

F. **WHEREAS**, it is understood that all representations made herein are material to the City and that the City will rely upon these representations in permitting or approving development of the Property.

AGREEMENTS

NOW, THEREFORE, in consideration of the premises, the following agreements and undertakings of the parties, 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 hereby agree as follows:

1. DEVELOPMENT REQUEST

A. SFHP Developer received final development plan approval from the Planning Commission to build 183 rental units, priced at market rates.

B. The Developer agrees to comply with the Santa Fe Homes Program Ordinance through the payment of a fee, established on an “affordability gap” measure as per SFHP Administrative Procedures.

2. OBLIGATIONS

A. No SFHP Homes Required. Because the project meets the criteria outlined in Ordinance 2016-09, the SFHP does not require construction of any SFHP Homes on-site.

B. Fee Agreement. The SFHP Developer agrees to make a payment of \$559,562 (the SFHP Payment), as calculated pursuant to the SFHP and as described in **Exhibit 2**. The payment shall be made payable to the City of Santa Fe and dedicated to the Affordable Housing Trust Fund (AHTF). The fee revenues will be used to provide tenant based, scattered site rental assistance to income-qualified renters or to provide capital support for an off-site affordable rental housing project.

C. Payment Deadline. The amount set forth in paragraph 2.B above shall be made to the City’s Office of Affordable Housing as follows:

1) The amount due will be calculated according to the SFHP pricing schedule in place when payment is made. The full payment is due at the time of building permit application.

2) A copy of this Agreement and a receipt that the fee has been paid shall be included with the application for a building permit.

3. ENFORCEMENT

A. Remedies. Failure to make the full payment required under this agreement by the time of building permit issuance 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:

- a) Withholding the recording of plats or plans,
- b) Withholding or revoking building permits,
- c) Issuing stop work orders, and
- d) Withholding or revoking certificates of occupancy.

B. 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.

C. 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 party thirty days to cure any violation or alleged violation of this Agreement.

City of Santa Fe:
Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909

SFHP Developer:
Verdot Las Soleras 1, LLC
1101 W. 34th Street, Suite 111
Austin, TX 78705
Attn: Robert Wall, Manager

4 SUCCESSORS IN TITLE/COVENANTS TO RUN

In the event that SFHP Developer sells, assigns, leases, conveys, mortgages, or encumbers the Property to any third party, the third party shall be provided with a copy of this Agreement and shall be required to comply with this Agreement. The terms and conditions of this Agreement run with the land and are binding upon all heirs, successors, and assigns.

5. 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 in full the required SFHP Payment. If paid in full, the City will not record the Agreement and will return the check. .

6. 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.

7. CAPTIONS

The captions and paragraph headings of this Agreement are not necessarily descriptive or intended or represented to be descriptive, of all the provisions thereunder, and in no manner shall such captions and paragraph headings be deemed or interpreted to limit the provisions of this Agreement.

8. FURTHER ASSURANCES

The parties agree to execute such documents as may be required to show the satisfactory compliance with SFHIP Ordinance (SFCC 26-1) and this Agreement.

9. SEVERABILITY

If any provision of this Agreement, or the application of such provisions to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

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.

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.

12. GOVERNING LAW; VENUE; INTERPRETATION

SFHP Developer shall abide by all applicable federal and state laws and regulations, and all ordinances, rules, and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the SFHP Developer agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

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.

13. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. This Agreement shall not relieve the SFHP Developer from complying with present or future City ordinances, duly adopted resolutions, or regulations applicable to the development.

14. 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.

15. TERM

This Agreement shall remain in force until the full payment of the SFHP Payment obligation set forth herein.

16. 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.

WHEREFORE, the parties set their hands and seals this 31st day of July, 2024.

ATTEST:

CITY OF SANTA FE:



GERALYN CARDENAS, CITY CLERK
OCW



John Blair (Jun 20, 2024 11:01 CDT)
JOHN BLAIR, CITY MANAGER

APPROVED AS TO FORM:

CITY OF SANTA FE:



ASSISTANT CITY ATTORNEY



FINANCE DIRECTOR

SFHP DEVELOPER/SUCCESSOR IN INTEREST:

VERDOT LAS SOLERAS¹ LLC₁

By: Robert Wall
Robert Wall

Its: Manager
Manager

ACKNOWLEDGEMENTS

STATE OF TEXAS)

) ss.

COUNTY OF TRAVIS)

The foregoing instrument was acknowledged before me this 29 day of June,
2024, by Robert Wall

Micah Connally Alvarez

NOTARY PUBLIC

My Commission Expires:



March 15, 2027

Attach: Exhibit 1 - Development plan
Exhibit 2 - SFHP Pricing & Rental schedule

SFHP RENTAL UNIT CALCULATION WORKSHEET

The project has **R-21** zoning district, permitting **21** units / acre. The project has an area of approximately **± 19.18** acres. The project is proposing **183** rental homes; **0** studio, **46** one-bedroom units, **90** two-bedroom units, and **47** three-bedroom units. There are **no** additional land use requirements for this site as identified in Ch. 14.

The SFHP requirement is calculated below:

= Total # of units multiplied by (0.15) = the # of SFHP rental units required
 = 183 total units x 0.15 = 27.45 SFHP unit(s) is/are required.

In lieu of providing affordable rental units, the Developer proposes to comply with SFHP through the payment of a fee as per Ordinance 2016-09.

2023 Affordability Gap Voucher

	HUD FMR	SFHP Avg	Base Gap	Base Gap before 6/30/23	Base Gap as of 7/1/24
Studio	\$ 952	\$ 723	\$ 230	\$ 413	\$ 459
1 BR	\$ 1,087	\$ 723	\$ 365	\$ 656	\$ 729
2 BR	\$ 1,249	\$ 825	\$ 424	\$ 763	\$ 848
3 BR	\$ 1,597	\$ 928	\$ 669	\$ 1,204	\$ 1,338
4 BR	\$ 1,775	\$ 1,031	\$ 744	\$ 1,340	\$ 1,488

*As of July 1, 2024, fees will increase by an additional 20%

Proposed Project

Unit Type	% of Total	# of Units
Studio	0%	0
1 BR	25.1%	46
2 BR	49.2%	90
3 BR	25.7%	47
	100%	183

Steps for Calculation

1. enter # of each unit type
2. multiply # of units by 15%
3. multiply # of affordable units by fee/unit/month
4. multiply fee/month by 24 (months) = Project Fee
5. Sum Project Fee to get Total Project Fee

2023 Affordability Gap Voucher Calculation

Bedrooms	# Units	Aff'd Units	Fee/Unit	Total Fee	Fee After 7/1/22
Studio	0	0	\$ 413	\$ -	\$ -
1	46	6.9	\$ 656	\$108,633.60	\$120,722
2	90	13.5	\$ 763	\$247,212	\$274,752
3	47	7.05	\$ 1,204	\$203,716.80	\$226,390
	183	27.45		\$559,562.40	\$621,864

Total Fee = \$559,562

Fee per market rate unit = \$3,058

NOTE: The rental fee schedule is 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 fees are paid determines the actual amount of the fee. The prices are updated annually.



City of Santa Fe, New Mexico

Memorandum



DATE: April 29, 2024
TO: John Blair, City Manager John Blair
John Blair (Jun 26, 2024 11:01 CDT)
VIA: Alexandra Ladd, Director, Office of Affordable Housing Alexandra Ladd
Alexandra Ladd (Apr 30, 2024 10:47 AM DT)
FROM: Toniette Candelaria Martinez, Office of Affordable Project Specialist
RE: Santa Fe Homes Agreement – Verdot at Las Soleras

ACTION REQUESTED:

Please sign the attached Santa Fe Homes Program (SFHP) Agreement between the City of Santa Fe and Verdot Las Soleras 1, LLC, the developer of Casa Verde Apartments. This agreement stipulates that pursuant to Ordinance 2016-09, a fee in the amount of **\$559,562** will be paid into the City of Santa Fe’s Affordable Housing Trust Fund (AHTF).

ITEM AND ISSUE

Verdot Las Soleras 1, LLC is approved as a 183-unit rental complex, located on 4820 Rail Runner and 4603 Beckner Road. According to the Santa Fe Homes Program regulation, the following process is used to determine the obligation. First, the “affordability gap” is established, based on difference between the subsidized rent (SFHP Avg) from the HUD Fair Market Rent (HUD FMR). The base gap is increased by 20% annually.

- 1) Use the “affordability gap” which is based is based on subtracting the subsidized rent (SFHP Avg) from the HUD Fair Market Rent (HUD FMR) as illustrated below to determine a “fee per unit”:

	HUD FMR	SFHP Avg	Base Gap	Base Gap before 6/30/24	Base Gap as of 7/1/24
Studio	\$ 952	\$ 723	\$ 230	\$ 413	\$ 459
1 BR	\$ 1,087	\$ 723	\$ 365	\$ 656	\$ 729
2 BR	\$ 1,249	\$ 825	\$ 424	\$ 763	\$ 848
3 BR	\$ 1,597	\$ 928	\$ 669	\$ 1,204	\$ 1,338
4 BR	\$ 1,775	\$ 1,031	\$ 744	\$ 1,340	\$ 1,488

*As of July 1, 2024, fees will increase by an additional 20%

- 2) Enter how many market rate units are in each bedroom size; multiply by 15% to get the number of affordables; multiply the # of affordables by the Fee/Unit to get the Fee/Month; and then multiply that amount by 24 (= two years of assistance for the tenant who would otherwise live in that unit):

Bedrooms	# Units	Aff'd Units	Fee/Unit	Fee/Month	Project Fee	Fee After 7/1/24
0	0	0	\$ 413		\$	\$
1	46	6.9	\$ 656	\$ 4,526	\$108,633.60	\$120,722
2	90	13.5	\$ 763	\$10,301	\$247,212	\$274,752
3	47	7.05	\$ 1,204	\$ 8,488	\$203,716.80	\$226,390
TOTAL	183	26.25			\$559,562.40	\$621,864



City of Santa Fe

Summary of Contract, Agreement, Amendment & Lease

All applicable fields to be completed by department (complete 1.b only if you are processing an amendment):

1.a Munis Contract: 3204707 Procurement # (RFP/ITB# If any): _____

Contractor: Verdot at Las Soleras 1, LLC

Procurement Method/Vehicle: Small Purchase RFP ITB Sole Source GSA Cooperative Exempt SWPA/Existing

Description/Title: Verdot Las Soleras 1, LLC is the developer of Casa Verde Apartments and approved as a 183-unit rental complex, located on 4820 Rail Runner and 4603 Beckner Road. A fee in the amount of \$559,562 will be paid into the City of Santa Fe's Affordable Housing Trust Fund (AHTF).

Contract: Agreement: Lease/Rent: Amendment:

Term Start Date: Upon approval Term End Date: xx/xx/xxxx Total Contract Amount: _____

Approved by Council (if over the City Manager's approval threshold, you must go through GB) _____

Contract / Lease: _____

1.b Amendment #: _____ to the Original Contract/Lease # _____

Increase/(Decrease) Amount \$: _____

Extend Expiration Date to: _____

Approved by Council (If the original went through GB, all amendments must go through GB regardless of the amendment reason) Date: _____

Amendment is for: _____

2. HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)

3. Procurement History: REVENUE - NO SIGNATURE REQUIRED

N/A

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. Funding Source: REVENUE Org / Object: 2400223/430253

Andy Hopkins

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: E1: 21504.430253

5. Grant History (if applicable): N/A

Grants Administrator Approval: _____ Date: _____

Staff Contact who Completed This Form: Toniette Candelaria Martinez Phone #: 505-955-6607

To be recorded by City Clerk: _____ Email: tocandelariamartinez@santafenm.gov

Clerk # _____ Date of Execution: _____

ITT Representative (attesting that all information is reviewed) _____ Title _____ Date _____

CANDELARIA MARTINEZ, TO

From: TH
Sent: Fr
To: C/
Cc: B/
Subject: RI

7/26/2024
X- Need E's signature

Please let me know when this is ready. A \$559, S&E fee will be paid once fully executed. Developer will take to SF County for recordation. -Toni

Hi Toni,
This is non grant funded, please c
Thanks,

ccess.

Cathy M. Thompson
Accounting Financial Analyst/Interim Grant Manager
Work Phone: (505) 955-6558
Email: cmthompson@santafenm.gov

From: CANDELARIA MARTINEZ, TONINETTE O. <tocandelariamartinez@santafenm.gov>
Sent: Friday, July 26, 2024 10:46 AM
To: THOMPSON, CATHY M. <cmthompson@santafenm.gov>
Cc: BONIFER, MATTHEW T. <mtbonifer@santafenm.gov>
Subject: RE: Verdot at Las Soleras SFHP Agreement

Hi Cathy,
Attached is the packet.

Thank you,
Toniette Candelaria Martinez



Office of Affordable Housing
Desk: 505-955-6607 Mobile: 505-316-4634
P.O. Box 909, Santa Fe, NM 87504-0909

From: THOMPSON, CATHY M. <cmthompson@santafenm.gov>
Sent: Friday, July 26, 2024 8:38 AM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>; CANDELARIA MARTINEZ, TONINETTE O. <tocandelariamartinez@santafenm.gov>
Cc: BONIFER, MATTHEW T. <mtbonifer@santafenm.gov>
Subject: RE: Verdot at Las Soleras SFHP Agreement

Travis, Toni,
I don't have the packet either-it this grant funded. Contracts that utilize Grant funds (Federal, State, other) must be reviewed by Grants division, approved by Accounting Officer. If so, enter grant info, Procurement division will forward to grants division to sign.