

## GRANT AGREEMENT

THIS GRANT AGREEMENT (this “**Agreement**”), made this \_\_\_\_ day of \_\_\_\_\_, 2013, is by and between NUEVA ESPERANZA, INC., a Pennsylvania non-profit corporation having an address of 4261 North 5th Street, Philadelphia, PA 19140 (“**Grantee**”) and THE REINVESTMENT FUND, INC., a Pennsylvania non-profit corporation having an address of 1700 Market Street, 19<sup>th</sup> floor, Philadelphia, PA 19103 (“**TRF**”).

### BACKGROUND

TRF is the recipient of funds from the Commonwealth of Pennsylvania, to be used by TRF to make grants to nonprofit housing developers to cover certain predevelopment costs, sometimes referred to as soft costs, for planned affordable housing developments.

The Grantee is a nonprofit housing developer whose proposal to TRF for a grant of \$50,000 with respect to an affordable housing development to be known as the Roberto Clemente Homes (the “**Grant**” and the “**Project**”) has been approved by TRF subject to the execution of this Agreement.

With intent to be legally bound, Grantee and TRF agree:

### AGREEMENT

1. Advances. TRF will disburse the grant in periodic installments, but (a) not more frequently than monthly, (b) not for an amount less than \$10,000 and (c) not later than 12 months from the date of this agreement against submission by the Grantee of acceptable documentation with respect to the Project costs set forth in Exhibit A (the “**Grant Budget**”). Acceptable documentation means any documentation reasonably requested by TRF, including, but not limited to, invoices, expense vouchers, cancelled checks and other proofs of payment made or cost incurred, along with any other information reasonably requested by TRF. Eligible costs cannot include costs incurred prior to July 1, 2011.

2. Grantee agrees that TRF will not advance for predevelopment costs already paid for by other predevelopment grant funding. Grantee will provide TRF with an accounting of uses of other predevelopment grant funds prior to the disbursement of grant funds to Grantee.

3. Grantee’s Representations and Warranties. As of the date of this Agreement, Grantee represents and warrants to TRF that:

- (a) Grantee is a duly organized Pennsylvania non-profit organization in good standing of the laws of the Commonwealth;
- (b) There has been no material change in Grantee's management personnel, project staff or board membership from that previously disclosed to TRF;

- (c) to Grantee's best knowledge, it is in compliance with all applicable federal, state and local laws and regulations, and without limiting the generality of the foregoing the requirements of the Commonwealth of Pennsylvania set forth in Exhibit B with respect to Nondiscrimination and Sexual Harassment, the State Contractor Responsibility Program, the federal Americans with Disabilities Act, and the Pennsylvania Right to Know Law;
- (d) the execution and delivery of this Agreement by Grantee does not violate any provision of Grantee's constituent documents or the provision of any contract to which Grantee is a party or by which Grantee is bound;
- (e) to Grantee's best knowledge, there are no actions, suits or proceedings pending or threatened against Grantee or any of Grantee's property, real or personal, and Grantee is not in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority or under the terms of any contract to which Grantee is a party;
- (f) to Grantee's best knowledge, Grantee has taken all action required by law to make this Agreement enforceable against Grantee; and
- (g) there has been no material adverse change in Grantee's financial condition between the date Grantee last submitted its financial statements or internally-prepared financial reports to TRF and the date of this Agreement, and that all financial information submitted to TRF by Grantee to the date of this Agreement has been true and correct in all material respects.

4. Renewal of Grantee's Representations and Warranties. Each request by Grantee for a disbursement of grant funds shall be deemed to a new representation and warranty, as of the date of the request, with respect to all matters contained in Section 2.

5. Grantee's Covenants.

- (a) Grantee will permit TRF from time to time to use Grantee's name, the name of the Project and photographs of the project as built publicize TRF's community development lending activities;
- (b) Grantee will receive all disbursements of the proceeds of the Grant in trust, to be used solely to pay for the costs shown on the Grant Budget;
- (c) Grantee will submit a closeout report ("**Closeout Report**") 12 months from the date of this Agreement or April 1, 2014, whichever is the earlier date. The Closeout Report will include, but not be limited to:
  - i. Description of how the grant funds were used and benefitted the development project
  - ii. Number of housing units under development or planned to be developed at this project
  - iii. Budget (estimated) for project construction, if applicable

iv. Schedule for project completion, if applicable

(d) Grantee will keep accurate and complete records of all uses of the proceeds of the Grant for a period of five years after the Closeout Report. Grantee will allow TRF or its authorized representative to audit or otherwise review Grantee's use of the Grant Funds and cooperate in any such audit or review.

6. Nonperformance by Grantee.

(a) TRF may terminate this Agreement in the event of a failure by Grantee to perform any of its obligations which remains uncorrected for 20 days after notice from TRF that a failure to perform has occurred. If this Agreement is terminated by TRF or if there is a notice of material nonperformance by Grantee, even if corrected, Grantee will be excluded from consideration by TRF for future loans or grant awards.

**(b) Indemnification: Grantee shall indemnify, defend with counsel acceptable to TRF and hold harmless TRF against any claims arising out of Grantee's nonperformance of any aspect of this Agreement, material or otherwise, including but limited to its compliance with the requirements of the Commonwealth set forth in Exhibit B, as well as the untruthfulness of any representation or warranty of Grantee set forth in this Agreement. This agreement to indemnify, defend and hold harmless shall survive termination of this Agreement.**

7. Notices. Should there be a need, formal notices shall be sent to the Grantee at Grantee's address set forth in the heading, attention: Pita Oxholm, Executive Director of Nueva Esperanza Housing and Economic Development (poxholm@esperanza.us), and to TRF at its address set forth in the heading, attention: Robert Cox, Loan Officer (robert.cox@trfund.com).

IN WITNESS WHEREOF, Grantee and TRF have caused this Agreement to be executed and delivered by their duly authorized officers as of the date hereof.

Witness:

\_\_\_\_\_  
Name:

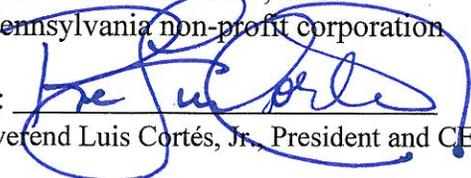
THE REINVESTMENT FUND, INC.  
a Pennsylvania non-profit corporation

By: \_\_\_\_\_  
Don Hinkle-Brown, President and CEO

Witness:

\_\_\_\_\_  
Name:

NUEVA ESPERANZA, INC.  
a Pennsylvania non-profit corporation

By:   
Reverend Luis Cortés, Jr., President and CEO

**EXHIBIT A**

<b>PREDEVELOPMENT BUDGET</b>					
<b>SOURCES</b>			<b>USES</b>		
Source	Amount	%	Use	Amount	%
TRF Predevelopment Grant	\$50,000	64%	Architectural Design	\$30,000	38%
Other predevelopment grants	\$28,000	36%	Environmental Inspection	\$15,000	19%
			Survey and Engineering	\$10,000	13%
			Market Analysis	\$8,000	10%
			Physical Inspection	\$5,000	6%
			Appraisal	\$5,000	6%
			Zoning & Land Use	\$5,000	6%
<b>Total</b>	<b>\$78,000</b>	<b>100%</b>	<b>Total</b>	<b>\$78,000</b>	<b>100%</b>

TRF will pay the first \$50,000 of \$78,000 in eligible predevelopment soft costs not otherwise paid for by other predevelopment grants. Nueva Esperanza, Inc. will provide TRF with an accounting of uses of other predevelopment grant funding.

**EXHIBIT B**  
**COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS**

All activities authorized by this Contract shall be performed in accordance with applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be provided by the Grantor. The Grantee acknowledges that this Contract is subject to all requirements set forth herein and further agrees that it will comply with future requirements determined by the Grantor as necessary.

(a) Compliance with State Statutes and Regulations:

The Grantee also agrees to comply with all applicable state statutes and regulations.

(b) Nondiscrimination/Sexual Harassment Provisions:

The Grantee agrees:

- (1) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2) The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate against or intimidate any of its employees on account of gender, race, creed, or color.
- (3) The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- (4) The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of gender, race, creed, or color against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the contract relates.
- (5) The Grantee, any subgrantee, any contractor or any subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the Grantor and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- (6) The Grantee, any subgrantee, contractor or any subcontractor shall include the provision of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.

(7) The Commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Grantor may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

(c) Compliance with the State Contactor Responsibility Program:

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- (1) The contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, authority and, if the contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
- (2) The contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- (3) The contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the contractor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- (4) The failure of the contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, and other state, or the federal government shall constitute an event of default of the contract with the Commonwealth.
- (5) The contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the contractor's compliance with the terms of this or any other agreement between the contractor and the Commonwealth, which results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The contractor shall not be responsible for investigative costs for investigations that do not result in the contractor's suspension or debarment.

- (6) The contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/debarment.htm> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717)783-6472  
FAX No: (717)787-9138

(d) Compliance with The Americans with Disabilities Act:

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Grantee agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth through contracts with outside contractors.

The Grantee shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Grantee's failure to comply with the provisions of the above paragraph.

(e) Right to Know Law Provisions

- (1) The Grantee or Subgrantee understands that the Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL"). For the purpose of these provisions, the term "the Commonwealth" shall refer to the Department of Community and Economic Development.
- (2) If the Commonwealth needs the Grantee's or Subgrantee's assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the commonwealth.
- (3) Upon written notification from the Commonwealth that it requires Grantee's or Subgrantee's assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee's or Subgrantee's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), Grantee or Subgrantee shall:

- (A) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in Grantee's or Subgrantee's possession arising out of this Grant Agreement that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  - (B) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Grant Agreement.
- (4) If Grantee or Subgrantee considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL
  - (5) The Commonwealth will rely upon the written statement from Grantee or Subgrantee in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
  - (6) If Grantee or Subgrantee fails to provide the Requested Information within the time period required by these provisions, Grantee or Subgrantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth.
  - (7) The Commonwealth will reimburse Grantee or Subgrantee for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
  - (8) Grantee or Subgrantee may file a legal challenge to any Commonwealth decisions to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, Grantee or Subgrantee shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any dealings, penalties, cost, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, Grantee or Subgrantee agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

- (9) The Grantee's or Subgrantee's duties relating to the RTKL are continuing duties that survive the expiration of this Grant Agreement and shall continue as long as the Grantee or Subgrantee has Requested Information in its possession.

