

**MEMORANDUM OF AGREEMENT  
BETWEEN THE CITY OF SALINAS AND COMMUNITY HOUSING IMPROVEMENT SYSTEMS AND  
PLANNING ASSOCIATION (CHISPA)**

***Acosta Plaza Basketball Project***

This Memorandum of Agreement (“Agreement”) is entered into this 26th day of August 2014, by and between the City of Salinas, a California municipal corporation hereinafter referred to as “the City,” and Community Housing Improvement Systems and Planning Association, a California non-profit corporation hereinafter referred to as “CHISPA,” both of which are hereinafter collectively referred to as “the Parties.”

**RECITALS**

WHEREAS, the City is a charter city organized pursuant to Article XI, Section 3(a) of the California constitution; and

WHEREAS, CHISPA, in association with the Center for Community Advocacy (CCA) and Communities Organized for relational Power in Action (COPA) have worked to promote leadership development within the community and to increase the capacity of community leaders to represent the interests of the residents; and

WHEREAS, CHISPA, CCA, and COPA are working with the neighborhood youth and adults in the Acosta Plaza community to construct a basketball court and other improvements (the “Basketball Project”) which will provide a safe place for youth by expanding access to sports and recreation facilities and enhance the Acosta Plaza neighborhood’s defensible space by providing a safe place for families to gather and to recreate; and

WHEREAS, the City Council finds that assisting with the development of the Basketball Project at Acosta Plaza is consistent with the City Council’s goals of promoting a safe, livable community; and promoting a high quality of life.

NOW, THEREFORE, in mutual consideration of the covenants, terms, and conditions set forth herein, the Parties agree as follows:

**TERMS**

1. **Term.** This Agreement shall commence on August 26, 2014, and shall remain in full force and effect until construction of the Basketball Project is complete and open for use by the public.

2. **Funding.** The City shall provide funding to CHISPA, in a total amount not to exceed forty thousand dollars (\$40,000), related to the construction of the Basketball Project in the Acosta Plaza

neighborhood. A copy of the site plan proposed for the Basketball Project is attached to this Agreement as Attachment A and is incorporated herein by this reference. The funding provided by the City pursuant to this Agreement shall be used by CHISPA to provide technical assistance to adult and youth residents of Acosta Plaza regarding the design, fundraising, and construction of the Basketball Project.

No other funds owned or controlled by the City shall be paid under this Agreement unless specifically permitted by the Salinas City Council. It is specifically understood and agreed by CHISPA that the funds herein authorized constitute all of the money presently available for the purpose of this Agreement; that future additional funding by any new agreement or amendment or extension of this Agreement will depend not only upon the satisfactory performance of this Agreement by CHISPA, but also upon the availability of funds to the City; and that neither the City, nor any employee or officer of the City, has made any promise or commitment, expressed or implied, that any additional funding will be provided or made available to CHISPA over and above the funding expressly allocated under the terms of this Agreement.

Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible to the City upon reasonable request.

Improperly Expended Funds. If the City has reason to believe that any funds disbursed to CHISPA under this Agreement were not expended in accordance with the terms hereof, the City shall notify CHISPA in writing of the facts or conduct which warrant(s) such belief, and shall provide CHISPA a reasonable opportunity to demonstrate or achieve compliance with the terms of this Agreement. If CHISPA fails to demonstrate such compliance to the satisfaction of the City within the time specified in the City's notice, upon request by the City, CHISPA shall immediately refund to the City the amount determined to be improperly expended.

**3. Indemnification and Hold Harmless.** CHISPA shall indemnify, defend, and hold the City and its officers and employees harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of the City's performance of the obligations imposed upon it under this Agreement and arising out of CHISPA's performance of the obligations imposed upon it under this Agreement, or any violation of any federal, state, or local law or ordinance, or other cause in connection with this Agreement. CHISPA shall reimburse the City for all costs and expenses including, but not limited to, fees and charges of attorneys and other professionals and court costs, incurred by the City in enforcing the provisions of this section.

**4. Termination.** If CHISPA fails to comply with any term of this Agreement, the City may terminate this Agreement in whole or in part. Consistent with this Agreement, in no event shall any provision of funds hereunder by the City constitute a waiver by the City of any breach of this Agreement or any default which may then exist on the part of CHISPA, nor shall such provision of funding impair or

prejudice any remedy available to the City with respect to such breach or default. The City expressly reserves the right to demand of CHISPA the repayment to the City of any funds disbursed to CHISPA under this Agreement which were not expended in accordance with the terms of this Agreement and CHISPA agrees to promptly refund any such funds upon demand.

**5. Audit and Examination of Accounts.**

a. CHISPA shall keep accurate books and records of accounts in accordance with sound accounting principles, which records pertain to the subject of this Agreement.

b. The City shall have the right at any time to commission an audit of CHISPA, which audit shall be at CHISPA's sole cost and expense. Any audit conducted of books and records of accounts shall be in accordance with generally accepted professional standards and guidelines for auditing.

c. CHISPA hereby agrees to disclose and to make available any and all information, reports or books of records of accounts pertaining to this Agreement to City and any other federal, state, or local agency which provides support or funding to CHISPA for the purposes contemplated under this Agreement.

d. All records provided for in this section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than three (3) years after full completion of services hereunder, except that any and all such records which pertain to actual disputes, litigation, appeals or claims shall be maintained and made available for a period of not less than three (3) years after final resolution of such disputes, litigation, appeals or claims.

**6. Compliance with Laws, Rules, and Regulations.** In its provision of technical assistance as contemplated by this Agreement and in its performance under this Agreement CHISPA shall perform in accordance and full compliance with all applicable federal, state, and local laws and any rules or regulations promulgated thereunder.

**7. Assignment.** There shall be no assignment of rights or obligations under this Agreement without the written approval of the City.

**8. Attachments and Exhibits Incorporated.** All attachments and exhibits referred to in this Agreement and attached to it are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this Agreement and any of the terms of any attachment or exhibit to this Agreement, the terms of the Agreement shall control the respective duties and liabilities of the parties.



**9. Integration and Agreement.** This Agreement represents the entire understanding of the City and CHISPA as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters contained herein. This Agreement may not be modified or altered except by amendment in writing signed by the Parties.

**10. Jurisdiction.** This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in the State of California, in the County of Monterey or the in appropriate federal court with jurisdiction over the matter.

**11. Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

**12. Notices.**

a. Written notices to the City hereunder shall, until further notice by City, be addressed to:

City Manager  
City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901

With a Copy to:

City Attorney  
City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901

b. Written notices to CHISPA shall, until further notice by CHISPA, be addressed to:

Alfred Diaz-Infante, Pres./CEO  
CHISPA  
295 Main Street, Suite 100  
Salinas, CA 93901

c. The execution of any such notices by the City Manager shall be effective as to CHISPA as if it were by resolution or order of the City Council, and CHISPA shall not question the authority of the City Manager to execute any such notice.

d. All such notices shall either be delivered personally to the other party's designee named above, or shall be deposited in the United States Mail, properly addressed as aforesaid, postage fully prepaid, and shall be effective the day following such deposit in the mail.

**13. Nondiscrimination.** During the performance of this Agreement, CHISPA shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability. CHISPA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability.

**14. Political Activity Prohibited.** None of the funds provided under this Agreement shall be used for any political activity or to further the defeat or election of any candidate for public office. CHISPA shall comply with all provisions of law which limit political activities of employees.

**15. Headings.** The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement.

**16. Attorney's Fees.** In case suit shall be brought to interpret or to enforce this Agreement, or because of the breach of any other covenant or provision herein contained, the prevailing party in such action shall be entitled to recover their reasonable attorneys' fees in addition to such costs as may be allowed by the Court. City's attorneys' fees, if awarded, shall be calculated at the market rate and shall cover City staff costs.

**17. Rights and Obligations Under Agreement.** By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**18. Licenses.** If a license or permit of any kind, which term is intended to include evidence of registration, is required of CHISPA, its representatives or agents, by federal, state or local law, CHISPA warrants that such license or permit has been obtained, is valid and in good standing, and that any applicable bond posted in accordance with applicable laws and regulations.

**19. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

**20. Legal Representation.** Each party affirms that it has been represented by legal counsel of its own choosing regarding the preparation and the negotiation of this Agreement and the matters and claims set forth herein, and that each of them has read this Agreement and is fully aware of its contents and its legal effect. Neither party is relying on any statement of the other party outside the terms set forth in this Agreement as an inducement to enter into this Agreement.

**21. Joint Representation.** The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party. No presumptions or rules of interpretation based upon the identity of the party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

**22. Warranty of Authority.** Each party represents and warrants that it has the right, power, and authority to enter into this Agreement. Each party further represents and warrants that it has given any and all notices, and obtained any and all consents, powers, and authorities, necessary to permit it, and the persons entering into this Agreement for it, to enter into this Agreement.

**23. No Waiver of Rights.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. The failure to provide notice of any breach of this Agreement or failure to comply with any of the terms of this Agreement shall not constitute a waiver thereof. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. A waiver by the City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

**IN WITNESS WHEREOF**, the undersigned, as authorized representatives of the Parties hereto, have made and executed this Agreement.

**CITY OF SALINAS**

\_\_\_\_\_  
Joe Gunter, Mayor

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher A. Callihan, City Attorney

\_\_\_\_\_  
Date

**COMMUNITY HOUSING IMPROVEMENT SYSTEMS AND PLANNING ASSOCIATION (CHISPA)**

\_\_\_\_\_  
By: Alfred Diaz-Infante  
Its: President/CEO

\_\_\_\_\_  
AUG 19 2014  
Date

\_\_\_\_\_  
By: Norm Kolpin  
Its: Chief Financial Officer

\_\_\_\_\_  
AUG 19 2014  
Date