

NORTH CAROLINA  
ORANGE COUNTY

2017-2018  
PERFORMANCE AGREEMENT

THIS AGREEMENT, made and entered into the \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the TOWN OF CARRBORO, a North Carolina Municipal Corporation, 310 West Main Street, Carrboro, North Carolina, hereinafter referred to as “Town” and CASA, a North Carolina non-profit corporation, 624 West Jones Street, Raleigh, North Carolina, hereinafter referred to as “CASA”.

**W I T N E S S E T H:**

WHEREAS, the Town has established an Affordable Housing Special Revenue Fund (the “Fund”) to fund affordable housing development and preservation projects and program; and

WHEREAS, the Town has committed to providing \$357,208 from the Fund to CASA for use in developing an affordable housing community in the Town (the “Project”), which will serve qualifying households earning up to 60% of the AMI as determined at the time of application. A conceptual plan depicting the proposed Project is attached to this Agreement as Attachment A.

NOW, THEREFORE, in consideration of the above and mutual covenants and conditions hereinafter set forth, the Town and CASA agree as follows:

1. Town Support

The Town will contribute a total of \$357,208 (the “Town Funds”) from the Fund to CASA for the Project, specifically for land banking for two (2) contiguous parcels (the “Property”) to be used in conjunction with an adjacent lot in Chapel Hill at 800 South Merritt Mill Road, for the development of an affordable housing development intended to serve qualifying households earning up to 60% of the AMI as determined at the time of application.

The Town shall provide the Town Funds at or prior to closing of CASA’s purchase of the Property, provided that (a) the Town has received a written notice from CASA of the closing date at least ten (10) business days prior to closing; and (b) the deed conveying title of the Property to CASA shall include a clause or deed restriction providing that (i) the Property may only be used for affordable housing purposes for qualifying households earning up to 60% of AMI and (ii) should the Property be used for any other purpose without the Town’s prior written approval, title to the Property shall vest in the Town; and (c) the Town’s obligation to contribute the Town Funds shall expire on June 30, 2019 (the “Expiration Date”) if CASA has not purchased the Merritt Mill Road property for the Project by that date. The Expiration Date may be extended by written agreement of the parties.

The Town does not obligate itself to provide any other support to CASA this fiscal year or continued support in succeeding years.

2. Time of Performance

The Project shall be completed by December 31, 2019. In the event CASA is unable to complete its obligations as described above within this time or extensions approved by the Town Manager under the terms of this Agreement, the Town may determine that CASA is in default of this Agreement and request repayment of the Town Funds.

### 3. Terms

The Project, when completed, shall serve eligible applicants, with a preference for existing Orange County residents, earning up to 60% of the AMI as determined at the time of application, and meeting the requirements of the Fund. If the homes are not used for the purpose described in the proposal, CASA will be required to repay the Town Funds.

### 4. Documentation

CASA will provide the Town with the closing statement for the land acquisition, as well as documentation of any other costs for which Town Funds have been used.

### 5. Financial Records

CASA agrees to allow the Town to inspect its financial books and records upon reasonable notice during normal working hours.

CASA shall submit a copy of its annual audit to the Town.

### 6. Work Statement

CASA agrees to provide facilities and services which are parts of the Project as described in this Agreement to residents of Orange County and to maintain a high level of professionalism in the provision of these services.

### 7. E-Verify

CASA shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, should CASA utilize a subcontractor(s), CASA shall require the subcontractor(s) to comply with the requirements of Article 2, Chapter 64 of the General Statutes. Pursuant to North Carolina General Statutes § 143-133.3(c)(2), contracts solely for the purchase of apparatus, supplies, materials, and equipment are exempt from this E-Verify provision.

### 8. Iran Divestment Act Certification

Pursuant to § 143C-6A-5(a) of the Iran Divestment Act (the "Act"), CASA hereby certifies that, as of the date of this Contract, CASA is not identified in either the Final Divestment List ("List") or Iran Parent and Subsidiary Guidance ("Guidance") created and maintained by the North Carolina State Treasurer ("Treasurer") as published on the Treasurer's website currently located at <https://www.nctreasurer.com/inside-the-department/OpenGOVERNment/Page/Iran-Divestment->

[Act-Resources.aspx](#). Further, in compliance with § 143C-6A-5(b) of said Act, CASA certifies that it will not utilize in performing this Contract any subcontractor identified in the List or Guidance. This provision applies only to contracts for which the total amount, including sales tax, is \$1,000 or more.

9. Amendment

This Contract may be amended in writing by mutual agreement of the Town and CASA.

10. Termination for Cause or Convenience

In the event that CASA shall cease to exist as an organization or shall enter bankruptcy proceedings, or be declared insolvent, or liquidate all or substantially all of its assets, or shall significantly reduce its services or accessibility to Carrboro residents during the term of this Agreement, in the event that CASA shall fail to render a satisfactory accounting as provided herein, then and in that event the Town may terminate this Agreement.

Either the Town or CASA may terminate this Contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In the event of any termination for convenience, all unfinished documents, data, reports, or other materials prepared by CASA under this Agreement shall, at the option of the Town, become the property of the Town and CASA shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

11. Nondiscrimination

CASA shall administer all functions without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identify or gender expression. CASA will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CASA agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

12. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed in their respective names.

**CASA**

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME & TITLE

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
PRINTED NAME & TITLE

**TOWN OF CARRBORO**

\_\_\_\_\_  
TOWN MANAGER

ATTEST BY TOWN CLERK:

\_\_\_\_\_  
TOWN CLERK

TOWN SEAL

**Town Clerk** attests date this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved as to Form and Authorization

\_\_\_\_\_  
TOWN LEGAL STAFF

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

\_\_\_\_\_  
DATE