

Project Management Contract

The following agreement is a covenant entered into willingly between Solar Community Housing Association (SCHA) and Ben Pearl (Project Manager).

1. Terms of Agreement

The services called for under this Agreement shall commence on August 1st, 2011 and terminate on August 31st, 2011, subject to renewal monthly by the SCHA board.

2. Project Scope

- i. Project manager will aid SCHA in developing a contract for, creating “mock-up” domes, and assessing the reasonable risk associated with, the leasing and performance of necessary improvements at the Baggins End property at UC Davis for a period of 5 years.

3. Board Assistance & Technical Direction

The SCHA Board of Directors shall maintain a sub-committee (‘Baggins End Committee’) of individuals committed to the successful completion of the project. Baggins End Committee shall assist the Project Manager in organizing input from the SCHA community on the Project. Project Manager shall remain open to input from the SCHA Board, Baggins End Committee, and SCHA community.

4. Independent Contract Status

SCHA and Project Manager intend Project Manager to act as an independent contractor in the performance of the Services. Project Manager shall have the right to control and determine the methods and means of performing the Services. Project Manager shall use his own expertise and judgment in performing the Services, recognizing that SCHA is

relying on Project Manager to consult, when appropriate, the SCHA Board of Directors and the Baggins End Committee.

5. Equipment and Supplies

Project Manager shall provide all equipment, tools and supplies necessary to perform the Services.

6. Services To Be Performed By Project Manager

1) Project Manager shall perform or otherwise coordinate the negotiations of a Contract with University of California Regents for the Management of the properties known as Baggins End for a period of at least 5 years. Project Manager shall present the Contract to the SCHA board for approval together with Items 2 and 3.

2) Project Manager shall perform or otherwise coordinate a written Risk Management Assessment of the proposed contract, to be presented to the SCHA Board for approval. The assessment will include elements such as financial scenarios, project pro forma, insurance summary, liability scenario analysis, and a list of professional consultants that have ~~approved~~reviewed the assessment.

3) Project manager shall draft or otherwise coordinate the drafting of a contract and conduct the search for a long-term project manager.

See Attachment A for project details and milestones.

4) If agreed upon by the University of California Regents and the Project Manager, Manager shall conduct the mock-up renovation and habitation of three domes residential structures under the terms agreed upon by the Manager, University, and the SCHA Board.

5) Project manager shall negotiate a loan scenario to fund necessary project improvements at Baggins End for review/consideration by the SCHA board.

7. Reporting

Project Manager shall keep the SCHA Board duly apprised of the Project's progress:

- i. Project Manager shall regularly and upon request update the Baggins End Committee Chair on the status of the project.
- ii. Project Manager shall update the SCHA Board of Directors on a weekly basis in the form of a written report, or upon request by the Baggins End Committee Chair.
- iii. Project manager shall keep a daily work log, made available on request to the SCHA Board of Directors.

8. Terms of Compensation

SCHA shall pay the Project Manager \$3500 in two (twice-monthly) payments.

9. Project Expenditures & Reimbursement of Expenses

Project expenditures of \$750 or less shall be made at the sole discretion of the Project Manager; expenditures of \$750 to \$5000 shall be made by consensus of the Project Manager and the Baggins End Committee Chair; expenditures exceeding \$5000 shall require authorization by the SCHA Board of Directors. Monthly project budget for operating expenses is \$1,500

SCHA shall reimburse the Project Manager for any such expenses as apply directly to the completion of the project, as subject to the authority of the Baggins End Committee Chair. Project Manager shall account for these expenses in the form of receipts, and shall furnish the Baggins End Committee Chair with a receipt summary when submitting a request for reimbursement.

10. Benefits

Project Manager shall not be eligible to receive any employee benefits from SCHA, including, but not limited to, medical, dental, vision, long-term disability, accidental death and dismemberment, flexible spending account, mental health services, family and medical care leave benefits, vacation benefits and participation in any 401 (k) plan.

11. Federal, State, and Local Payroll Taxes

Project Manager shall assume full responsibility for the payment of any taxes (or any other obligations or payments) that may be claimed as owed by any unit of government, as a result of remuneration paid to Project Manager for the performance of the Services. This includes income, Social Security, Medicare and self-employment taxes. Project Manager shall also pay all unemployment contributions related to the performance of the Services. Project Manager shall defend and indemnify SCHA with regard to any such payments.

12. Contract Termination

SCHA and the Project Manager each have the right to terminate this Agreement at any time, effective upon written notice to the other party. In the event this Agreement is terminated before completion of the project, SCHA shall pay Project Manager, at the rate agreed to herein, for all services rendered and related costs incurred up to the date such written notice is received by Project Manager.

13. Notice

All notices, requests, and demands to Project Manager or to SCHA, to be effective, shall be in writing and sent via certified or registered mail or by personal delivery. Notices shall be addressed as follows:

Ben Pearl,
Project Manager
[336 K St.](#)
Davis, Ca 95616

Solar Community Housing Association
ATTN: Board of Directors
P.O. Box 72408
Davis, Ca 95617

14. Mediation

Any and all disputes, in excess of small claims, arising out of or related to this agreement, or the parties' performance hereunder shall be submitted to mediation administered by the City of Davis Fair Housing and Community Mediation Services prior to initiation of

litigation or any other binding or adjudicative dispute resolution process, except small claims court. The parties shall:

- a.** Mediate in good faith;
- b.** Exchange all documents which each believes to be relevant and material to the issue(s) in dispute;
- c.** Exchange written position papers stating their position on the dispute(s) and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the dispute(s), and;
- d.** Engage and cooperate in such further discovery as the parties agree or mediator suggests may be necessary to facilitate effective mediation.

Mediator, venue and related costs shall be shared equally by the parties. The prevailing party in any action to enforce in whole or in part this mediation clause shall be entitled to reimbursement of attorneys fees and costs incurred in said action. If, and to the extent that any such dispute, controversy or claim has not been settled pursuant to the mediation within 90 days of the commencement of the mediation, or if before the expiration of the said period of 90 days, either party fails to participate or to continue to participate in the mediation, the parties may terminate mediation proceedings.

15. Attorneys Fees

If any party to this Agreement, following compliance with the Mediation provisions agreed to herein, resorts to litigation to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled. This provision applies to this entire contract.

16. Governing Law

The validity of this Agreement and its terms and provisions, as well as the rights and duties of the parties, will be interpreted and construed pursuant to and in accordance with the laws of the State of California.

17. Venue

In any action to enforce or interpret any provision of this Agreement, the parties agree that venue shall be in the Superior Court of the County of Yolo, State of California.

18. Assignment of the Agreement; Successors and Assignees

Project Manager shall not assign any of its rights under this Agreement without the prior written consent of SCHA, which may be exercised in its sole discretion. This Agreement binds and benefits the heirs, successors and assignees of SCHA and Project Manager to this Agreement, subject to the prohibition on assignments contained in this Section.

19. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to be one and the same agreement.

20. Waiver

If SCHA or Project Manager waives any term or provision of this Agreement at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either SCHA or Project Manager fails to exercise or delays exercising any of its rights or remedies under this Agreement, that party retains the right to enforce that term or provision at a later time

21. Entire Agreement

This Agreement contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any oral representations or modifications concerning this Agreement will be of no force or effect unless evidenced by a subsequent written modification, signed by the party to be charged.

22. Severability

If any court determines that any provision of this Agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any

other provision of this Agreement invalid or unenforceable, and such provision shall be modified, amended or limited only to the extent of necessary to render it valid and enforceable.

Justin Ellerby
President, Board of Directors
Solar Community Housing Association

Date

Benjamin Pearl
Project Manager,
Solar Community Housing Association

Date

ATTACHMENT A

BE Project Manager Position Notes: Section Areas and Timelines

o Risk Management Assessment

- § Financial
- § Budget and Pro Forma Update: by next Board Meeting (around 8/9)
- § Rental Income Scenario
- § Construction Loan Scenario
- § Jim Jones Review: by ~8/16
- § Liability
- § Updated Draft: (incl. review with Berkeley Student Co-op/NDS): by 8/9
- § Accident Scenarios Analysis (reviewed by NASCO, Cummins Insurance)
- § Staffing Scenarios Analysis (reviewed by NASCO, Cummins Insurance)
- § Legal Review (included in final legal review by Kopper; see below)
- § Negotiate loan terms for project, with approval by SCHA board.

o UCD Contract Development

- § Outline draft: by 8/9
- § SCHA confirms outline: by 8/16
- § Legal review between SCHA (Kopper) and UCOP: by 9/15

o Managing “Mock-up” Construction of 3 Domes

- § Present terms, mock-up plan to SCHA board prior to proceeding
- § Completed by signing of ground lease, 9/15

o Organizational Structure/Representation: agreed upon by all stakeholders: by 9/15

§ Entails deciding upon: expanded SCHA membership vs. Domes distinct memberships (representation on SCHA Board committee new Domes legal entity)

o Managing Relationships with non-SCHA Entities (ongoing)

§ UC Davis, Vice Chancellor, Design and Construction Management, Real Estate Services, UC President

- § Domes Residents (engaging/enrolling returning Domie participation)
- § Baggins End Stewardship Committee (academics, resident Domies, SCHA Board members, BE Project Manager, alumni/community): responsible for designing resident leases, etc.)

o Coordinating design Long-Term BE Manager Position (in conjunction with and approved by BES Committee and SCHA Board)

§ Defining duties, compensation, oversight, hiring

o Securing additional financing

§ By [date determined by Project Manager and BE Chair]

Contracted Short-Term Position (Itself)

o Personnel/ Staffing

§ Duties (enumerated above)

§ Compensation: \$3,500 monthly, 2 installments

§ Operating budget \$1,500 monthly

§ Oversight: Weekly Progress Report to SCHA Board (Exec/ Supervisory Committee) and Baggins End Stewardship Committee

§ Employee vs. Independent Contract (decided among Rosemarie, 2 Board members, and Ben by 8/12)

o Sharing of position

§ Position will be held full-time by Project Manager for August

§ Starting September, will have option of splitting position to two 75-25% positions if position is extended.