

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

344



**FROM:** Economic Development Agency

**SUBMITTAL DATE:**  
September 24, 2015

**SUBJECT:** Loan Agreement for the Use of Neighborhood Stabilization Program Funds for Single Family Infill Homes in the City of Perris with Habitat for Humanity Inland Valley, District 5, [\$645,000]; Neighborhood Stabilization Program Funds 100%; Project is Exempt Under CEQA

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15303 and Section 15061(b)(3);
2. Affirm the Finding of No Significant Impact adopted by the Board of Supervisors on June 16, 2015 for the project concluding that the project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations at 24 CFR Parts 50 and 58;
3. Approve the attached Loan Agreement for the use of Neighborhood Stabilization Program funds, including all attachments thereto, in the amount of \$645,000, between the County of Riverside and Habitat for Humanity Inland Valley, for the construction of two single family homes in the City of Perris;

*Robert Field*

Robert Field  
Assistant County Executive Officer/EDA

(Continued)

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 645,000	\$ 0	\$ 645,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

**SOURCE OF FUNDS:** Neighborhood Stabilization Program Funds 100%  
**Budget Adjustment:** No  
**For Fiscal Year:** 2015/16

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Rohini Dasika*  
Rohini Dasika

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

FORM APPROVED COUNTY COUNSEL  
BY: *Anita C. Willis* 9-17-15  
DATE

FISCAL PROCEDURES APPROVED  
PAUL ANGULO, CPA, AUDITOR-CONTROLLER  
BY: *Susana Garcia-Bocanegra* 9/24/15  
Susana Garcia-Bocanegra  
Municipal Concurrence

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: Item 3-25 6/16/2015 | District: 5 | Agenda Number:

3-17

# **SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

Economic Development Agency

**FORM 11:** Loan Agreement for the Use of Neighborhood Stabilization Program Funds for Single Family Infill Homes in the City of Perris with Habitat for Humanity Inland Valley, District 5, [\$645,000]; Neighborhood Stabilization Program Funds 100%; Project is Exempt Under CEQA

**DATE:** September 24, 2015

**PAGE:** 2 of 3

## **RECOMMENDED MOTION: (Continued)**

4. Authorize the Chairman of the Board of Supervisors to execute the attached Loan Agreement for the use of Neighborhood Stabilization Program Funds (Loan Agreement);
5. Authorize the Assistant County Executive Officer/EDA, or designee, to take all necessary steps to implement the Loan Agreement, including but not limited to, signing subsequent necessary and relevant documents, subject to approval by County Counsel; and
6. Direct the Clerk of the Board to file the Notice of Exemption within five working days.

## **BACKGROUND:**

### **Summary**

Habitat for Humanity Inland Valley, a nonprofit public benefit corporation and an affordable housing developer (Habitat), is requesting a loan from the County of Riverside (County) in the not to exceed amount of \$645,000 from Neighborhood Stabilization Program (NSP1) funds for the development and construction of 2 infill single-family homes in the City of Perris. The NSP1 funds were obtained by the County from the United States Department of Housing and Urban Development (HUD). The proposed project will be located on real property already owned by Habitat consisting of 0.28 acres, each lot comprised of approximately 0.14 acres, located along South Boulevard, easterly of B Street and westerly of Park Street with Assessor's Parcel Numbers 313-255-008 and 313-255-009. Each single family home will be approximately 1,088 square feet and have 3-bedrooms and 2 bathrooms. The homes will be sold to and occupied by qualified very-low and/or low-income first time homebuyers with a preference for veterans. The occupancy of the NSP-assisted units will be income restricted for a period of at least 15 years. Each home is estimated to sell for \$205,000.

The terms of the proposed NSP1 loan are set forth in the attached proposed Loan Agreement for the Use of Neighborhood Stabilization Program Funds to be entered into between the County and Habitat (Loan Agreement). The term of proposed Loan Agreement is 12 months. The proposed NSP1 loan will be evidenced by a Promissory Note and secured by a Deed of Trust, forms of which are attached as exhibits to the Loan Agreement. Provided Habitat is not in default under the Loan Agreement, the Promissory Note and/or the Deed of Trust, once each single family home is sold, the NSP1 loan will convert to a grant.

Pursuant to the California Environmental Quality Act (CEQA), the project is determined to be categorically exempt from CEQA under State CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures, and State CEQA Guidelines Section 15061(b) (3), General Rule or "Common Sense" Exemption. In urbanized areas, up to three single-family residences may be constructed under the State CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures exemption. The project as proposed is the loan of NSP1 funds and the development and construction in a residential zone of two infill single-family residential homes to be sold to qualified very low and/or low-income households with a preference for veterans.

(Continued)

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
Economic Development Agency

**FORM 11:** Loan Agreement for the Use of Neighborhood Stabilization Program Funds for Single Family Infill Homes in the City of Perris with Habitat for Humanity Inland Valley, District 5, [\$645,000]; Neighborhood Stabilization Program Funds 100%; Project is Exempt Under CEQA

**DATE:** September 24, 2015

**PAGE:** 3 of 3

**BACKGROUND:**

**Summary** (Continued)

Further, the loan of NSP1 funds and the construction and development of the two infill single-family residential homes to be sold to qualified very low and/or low-income households with a preference for veterans is also exempt under State CEQA Guidelines Section 15061(b) (3), General Rule or "Common Sense" Exemption in that it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment as the use of the site will be substantially similar to the existing surrounding residential units and will not create any new environmental impacts to the surrounding area. The infill housing will improve the surrounding community. A Notice of Exemption will be filed with the County Clerk upon approval of the Project.

A Finding of No Significant Impact was adopted by the Board of Supervisors on June 16, 2015 for the Project concluding that the Project is not an action which may affect the quality of the environment pursuant to the provisions of the National Environmental Policy Act of 1969 (NEPA) and under the implementing regulations at 24 CFR Parts 50 and 58.

County Counsel has reviewed and approved as to form the attached Loan Agreement, including all exhibits. Staff recommends that the Board approve the attached Loan Agreement.

**Impact on Citizens and Businesses**

Approving this item will have a positive impact on the citizens and businesses of the City of Perris and the County of Riverside. The proposed project is expected to generate temporary construction jobs, and provide affordable housing for residents of the City of Perris and the County of Riverside.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

No impact upon the County's General Fund; the County's contribution to the project will be fully funded with NSP1 funds from the U.S. Department of Housing and Urban Development.

**ATTACHMENTS:**

- A. Loan Agreement for the Use of Neighborhood Stabilization Program Funds
- B. CEQA Notice of Exemption



## NOTICE OF EXEMPTION

**Project Name:** County of Riverside, Single-Family Infill in Perris

**Project Number:** NSP1.5-15-001-5th

**Project Location:** South Boulevard, Perris, CA 92570, easterly of "B" Street and westerly of Park Street with Assessor's Parcel Numbers 313-255-008 and 313-255-009 (See attached Exhibit A).

**Description of Project:** The County of Riverside is proposing to provide Neighborhood Stabilization Program (NSP) funds obtained from the United States Department of Housing and Urban Development (HUD) for the purpose of providing decent, safe, sanitary, and affordable housing for low-income families. The proposed project involves the development and construction of two infill single-family homes in the City of Perris. In urbanized areas, up to three single-family residences may be constructed under this exemption. Any existing impacts related to noise, traffic, or utilities will remain similar to existing conditions.

**Name of Public Agency Approving Project:** County of Riverside, Economic Development Agency

**Name of Person or Agency Carrying Out Project:** County of Riverside, Economic Development Agency

**Exempt Status:** California Environmental Quality Act (CEQA) Guidelines, Section 15303, New Construction or Conversion of Small Structures, and Section 15061 (b) (3), General Rule Exemption.

**Reasons Why Project is Exempt:** The project is exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified below. The project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The project will not cause any impacts to scenic resources, historic resources, or unique sensitive biological environments. Further, no unusual circumstances or potential cumulative impacts would occur that may reasonably create an environmental impact. The development and construction of residential units will not have an effect on the environment and no significant physical environmental impacts are anticipated to occur.

- Section 15303 – Class 3-Construction and location of limited numbers of new, small facilities or structures. In urbanized areas, up to three single-family residences may be constructed under this exemption. The project as proposed is the development and construction of two infill single-family residential homes to be sold to qualified low-income households with a preference for veterans. The development and construction of the residential units will not have an effect on the environment and no significant physical environmental impacts are anticipated to occur, and would not result in any physical impacts related to air quality, traffic, noise, biological or historic resources, or any other potential physical environmental impacts. Once the

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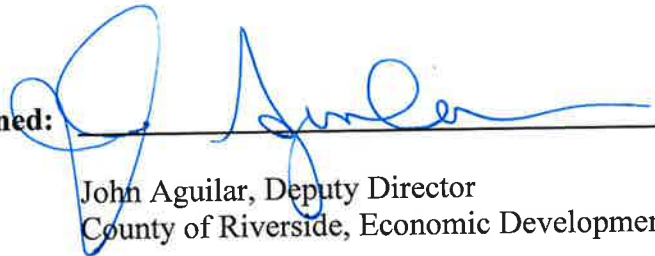
Parking  
Project Management  
Purchasing Group  
Real Property  
Redevelopment Agency  
Workforce Development



residential units are constructed, the property will remain as affordable residential units for a period of 15 years. Therefore, the project meets the scope and intent of the Class 3 Exemption.

- Section 15061 – General Rule or “Common Sense” Exemption. The State CEQA Guidelines provides this exemption based upon the general rule that CEQA only applies to projects with the potential to cause a significant effect on the environment. The development and construction of residential units will not have an effect on the environment. The use of the site will be substantially similar to the existing surrounding residential units and will not create any new environmental impacts to the surrounding area. In fact, the infill housing will improve the surrounding community. Therefore, the project as proposed will not have the potential to cause a significant environmental impact and the project is exempt from further CEQA analysis.

Based upon the identified exemptions above, the County of Riverside, Economic Development Agency hereby concludes that no physical environmental impacts are anticipated to occur and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

Signed:  \_\_\_\_\_ Date: 8/26/15

John Aguilar, Deputy Director  
County of Riverside, Economic Development Agency

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2 **LOAN AGREEMENT FOR THE USE OF**  
**NEIGHBORHOOD STABILIZATION PROGRAM FUNDS**

3 This Loan Agreement for the use of Neighborhood Stabilization funds  
4 (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 by and  
5 between the COUNTY OF RIVERSIDE, a political subdivision of the State of California  
6 (“COUNTY”) and HABITAT FOR HUMANITY INLAND VALLEY, a California nonprofit  
7 public benefit corporation (“DEVELOPER” or “HFHIV”).

8 **WITNESSETH:**

9 **WHEREAS**, the Neighborhood Stabilization Program (“NSP1”), which  
10 was enacted under Title III of Division B of the Housing and Economic Recovery Act of  
11 2008 (“HERA”) and appropriated under Community Development Block Grant  
12 (CDBG), was created under the heading of Emergency Assistance for Redevelopment  
13 of Abandoned and Foreclosed Homes for the purpose of assisting in the  
14 redevelopment of abandoned or foreclosed homes. The intent of NSP1 is to stabilize  
15 neighborhoods in areas with greatest need and stem the decline of house values of  
16 neighboring homes;

17 **WHEREAS**, COUNTY has qualified as an “Urban County” for purposes of  
18 receiving CDBG funds, including NSP1 funds, which are to be used to assist and  
19 undertake essential community development and housing assistance activities  
20 pursuant to the Housing and Community Development Act of 1974, Title I, as  
21 amended, Public Law 93-383 (“Act”);

22 **WHEREAS**, DEVELOPER is eligible under NSP1 to apply and receive  
23 NSP1 funds to perform those activities described herein;

24 **WHEREAS**, program income is defined as, proceeds from the sale,  
25 minus transaction costs, fees, and purchase price assistance for the first-time  
26 homebuyer (“Program Income”);

27 **WHEREAS**, DEVELOPER has proposed to utilize NSP1 Program Income  
28 funds for the acquisition, construction and sale of two (2) single-family homes to

1 qualified low, moderate, and middle-income (collectively, "LMMI") and very low-income  
2 ("VLI") first-time homebuyers in the County of Riverside ("Project") as described in  
3 **Exhibit A** which is attached hereto and by this reference incorporated herein;

4 **WHEREAS**, construction of single family infill homes ("Assisted Units")  
5 must occur inside areas of greatest need within the designated Target Areas of the  
6 County of Riverside as defined in the COUNTY's 2008-2009 One Year Action Plan  
7 ("Action Plan") and its amendments;

8 **WHEREAS**, Assisted Units must be sold to Qualified Homebuyers (as  
9 defined in **Section 23**);

10 **WHEREAS**, the NSP1-assisted activities described herein comply with  
11 the objectives in the Action Plan as required under NSP1;

12 **WHEREAS**, the NSP1-assisted activities described herein are consistent  
13 with the COUNTY's Consolidated Plan and Action Plan;

14 **WHEREAS**, COUNTY desires to lend Developer up to \$645,000 in  
15 Program Income to be used to pay project costs, as more specifically set forth below.

16 **NOW, THEREFORE**, the COUNTY and DEVELOPER mutually agree as  
17 follows:

18 1. PURPOSE. The COUNTY agrees to lend up to Six Hundred Forty-  
19 Five Thousand Dollars (\$645,000.00) ("NSP1 Loan") of NSP1 Program Income funds  
20 to DEVELOPER upon the terms and conditions set forth herein. DEVELOPER will  
21 borrow the NSP1 funds from the COUNTY for individual financing of acquisition, new  
22 construction and disposition of each Assisted Unit of the Project. DEVELOPER  
23 promises and agrees to undertake and assist with the NSP1-assisted activities by  
24 utilizing such NSP1 Program Income funds as identified in **Exhibit A**.

25 2. DEVELOPER'S OBLIGATIONS. DEVELOPER hereby agrees to  
26 undertake and complete the following activities, subject to its receipt of the NSP1  
27 funds:

28 a. Timeline. Carry out the Project in accordance with the

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timeline set forth in **Exhibit A**.

b. Recordation. DEVELOPER shall, for each Assisted Unit (defined in **Section 22** below) of the Project, execute and record a Deed of Trust and execute a promissory note ("Note") for that portion of the NSP1 Loan applicable to the Assisted Unit. The Note shall substantially conform in form as substance to the form of Note attached hereto as **Exhibit C** and incorporated herein by this reference and is subject to County Counsel approval. The Note shall be secured by a deed of trust ("Deed of Trust") substantially conforming in form as substance to the form of Deed of Trust attached hereto as **Exhibit B** and incorporated herein by this referenced and is subject to County Counsel approval.

c. Permits and Environmental Compliance. Before commencement of construction or other works of improvement upon an Assisted Unit, DEVELOPER shall secure or cause to be secured any and all permits and approvals which may be required for construction of such Assisted Unit pursuant to the applicable rules and regulations of the County and any other governmental agency affected by such construction of work. DEVELOPER shall comply with all applicable environmental laws including, but not limited to the California Environmental Quality Act; National Environmental Policy Act, apply for and secure any and all necessary studies required for environmental review, as described in **Section 19**, and pay all costs, charges and fees associated therewith.

d. Performance. Acquire and complete construction of the



1 Assisted Units in accordance with the timeline set forth in  
2 **Exhibit A** and **Section 26**.

3 e. Approval of Assisted Units. Submit each Assisted Unit for  
4 COUNTY review and approval of such Assisted Unit.

5 f. Compliance. Project shall remain in compliance with all  
6 applicable Federal, State and local codes, laws, regulations  
7 and ordinances as described in **Section 19**.

8 3. COUNTY'S OBLIGATIONS. The COUNTY agrees to undertake  
9 and complete the following activities, subject to its receipt of NSP1 funds from the U.S.  
10 Department of Housing and Urban Development ("HUD"):

11 a. Provide a total amount identified in **Section 1** in NSP1  
12 Program Income funds to DEVELOPER for financing  
13 acquisition, new construction and disposal costs of each  
14 Assisted Unit of the Project.

15 b. Comply with all of its obligations as participating recipient  
16 under the applicable regulations set forth under HUD  
17 regulations.

18 4. PRIOR COUNTY APPROVAL. DEVELOPER shall obtain  
19 COUNTY'S approval, through its Economic Development Agency ("EDA"), of all items  
20 requiring such approvals as described in this Agreement.

21 5. NSP1 Loan. DEVELOPER shall borrow the NSP1 Program  
22 Income funds from the COUNTY for individual financing of each Assisted Unit of the  
23 Project under the following terms and conditions:

24 a. Term. This Agreement shall become effective upon the  
25 Effective Date, as defined in **Section 53**, and shall continue  
26 in full force and effect for a period of twelve (12) months  
27 (the "Term").

28 b. Principal. The principal of that portion of the NSP1 Loan

1 attributable to an Assisted Unit shall be the amount of NSP1  
2 funds provided for acquisition, construction and disposition  
3 of such Assisted Unit evidenced by a Note, as shown in  
4 **Exhibit C**, which is attached hereto and by this reference  
5 incorporated herein, executed by DEVELOPER in favor of  
6 the COUNTY in a form satisfactory to the COUNTY.

7 c. Interest. The interest rate shall be zero percent (0%) per  
8 annum.

9 d. Repayment. Each Note shall provide the following:

10 1) The NSP1 Loan attributable to an Assisted Unit shall  
11 be: (1) due and payable in an Event of Default by  
12 DEVELOPER which has not been cured as provided  
13 for in this Agreement, and (2) convert to a grant upon  
14 sale and transfer of title to a Qualified Homebuyer.

15 2) Notwithstanding the above, DEVELOPER's  
16 obligation to repay the full amount of the NSP1 Loan  
17 attributable to a particular Assisted Unit will be  
18 reduced by the sum of the Development Subsidy, the  
19 Homebuyer Subsidy, and Closing Costs, as defined  
20 below:

21 (a) Development Subsidy. The Development  
22 Subsidy is the amount of the NSP1 Loan  
23 attributable to the Assisted Unit minus the  
24 Selling Price of the Assisted Unit (as defined  
25 in **Section 22**).

26 (b) Homebuyer Subsidy. The Homebuyer Subsidy  
27 is the amount of the Selling Price of the  
28 Assisted Unit minus the Qualified

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Homebuyer's home loan (the "Homebuyer Loan"). For LMMI first-time homebuyers, the Homebuyer Subsidy is limited to thirty percent (30%) of the Selling Price and capped for a maximum amount of \$75,000. For VLI first-time homebuyers, the Homebuyer Subsidy is limited to fifty percent (50%) of the Selling Price. The Homebuyer Subsidy is an amount which will be assumed by the Qualified Homebuyer in the form of silent second mortgage assistance to Qualified Homebuyer, which will be secured by deed of trust recorded on the property ("Homebuyers Deed of Trust") approved to form by County Counsel; and

(c) Closing Costs. Closing Costs include all costs payable by DEVELOPER in connection with the sale of the Assisted Unit to a Qualified Homebuyer;

3) The NSP1 Loan less the Development Subsidy, Homebuyer Subsidy and Closing Costs for such Assisted Unit shall be converted to a grant upon the sale and transfer of title of the Assisted Unit to a Qualified Homebuyer evidenced by recordation of a grant deed in the official records of the County of Riverside. At the time of each sale of the Assisted Unit to a Qualified Homebuyer, as defined herein, COUNTY shall cause to be delivered to

1 DEVELOPER a partial reconveyance of the Deed of  
2 Trust from such Assisted Unit as a lien on such  
3 Assisted Unit, which termination does not affect the  
4 Affordability Period, as defined in **Section 13**, for  
5 each Assisted Unit.

6 4) DEVELOPER will be the primary lender to provide  
7 the Qualified Homebuyer a minimum 30-year fixed  
8 rate mortgage loan to purchase the home.

9 5) Upon sale of an Assisted Unit prior to the expiration  
10 of the Affordability Period, DEVELOPER will utilize  
11 proceeds from the sale towards eligible NSP1  
12 activities, as defined in the County of Riverside's  
13 2008-2009 One Year Action Plan and its  
14 amendments.

15 6) Annual financial statements providing for the status  
16 of the NSP1 proceeds shall be submitted to  
17 COUNTY within 60 days of July 1st for COUNTY  
18 review and approval commencing on July 1, 2016.

19 e. Security. Each NSP1 Loan shall be secured by a "Deed of  
20 Trust" as shown in **Exhibit B** recorded against each  
21 Assisted Unit. DEVELOPER agrees that each Deed of Trust  
22 shall be in the first position until the home has been sold to  
23 the Qualified Homebuyer.

24 6. TERM OF AGREEMENT. This Agreement shall become effective  
25 upon the Effective Date, as defined in **Section 53**, and shall continue in full force and  
26 effect for a period of twelve (12) months (the "Term").

27 7. DEVELOPER REPRESENTATIONS. DEVELOPER represents  
28 and warrants to COUNTY as follows:

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- a. Authority. DEVELOPER is a duly organized non-profit corporation under the laws of the State of California and is certified to conduct business in the State of California by the California Secretary of State. The copies of the documents evidencing the organization of DEVELOPER, which have been delivered to the COUNTY, are true and complete copies of the originals, amended to the date of this Agreement. DEVELOPER has full right, power and lawful authority to accept the conveyance of eligible properties for the Project and undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by DEVELOPER has been fully authorized by all requisite actions on the part of DEVELOPER.
- b. No Conflict. To the best of DEVELOPER's knowledge, DEVELOPER's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under contract, agreement or order to which DEVELOPER is a party or by which it is bound.
- c. No Bankruptcy. DEVELOPER is not the subject of a bankruptcy proceeding.
- d. Prior to Closing. DEVELOPER shall upon learning of any fact or condition which would cause any of the warranties and representations in this Agreement not to be true as of Closing, immediately give written notice such fact or condition to COUNTY. Such exception(s) to a representation shall not be deemed a breach by DEVELOPER hereunder, but shall constitute an exception which COUNTY shall have the right to approve or

1 disapprove if such exception would have an effect on the  
2 value or operation of the Project.

3 8. COMPLETION SCHEDULE. DEVELOPER shall proceed  
4 consistent with the completion schedule set forth in **Exhibit A**, as the same may be  
5 amended in writing by the parties from time to time, and subject to force majeure  
6 delays.

7 9. Not used.

8 10. REALLOCATION OF FUNDS.

- 9 a. Funds in the amount used to acquire, construct and sell an  
10 Assisted Unit shall become encumbered on the date escrow  
11 closes for that particular Assisted Unit and results in a  
12 recorded deed of trust and promissory note in the Riverside  
13 County Clerk's office. In the event DEVELOPER does not  
14 close escrow on the Assisted Units within four (4) months of  
15 the Effective Date, as defined in Section 53, ("Acquisition  
16 Deadline"), the COUNTY will reallocate the balance of  
17 unencumbered NSP1 funds (the "Unused Balance").
- 18 b. The reallocation of the Unused Balance shall be evidenced  
19 by a written amendment to this Agreement agreed upon by  
20 both parties, which decreases the NSP1 Loan by the  
21 Unused Balance (the "Effective NSP1 Loan"). The Assistant  
22 County Executive Officer/EDA or designee is authorized to  
23 execute, subject to County Counsel approval, the  
24 amendment reducing the NSP1 Loan amount by the  
25 Unused Balance pursuant to **Section 10(a)**.
- 26 c. In the event DEVELOPER is unable to close escrow on an  
27 Assisted Unit due to force majeure conditions, the  
28 COUNTY, in its sole and absolute discretion, may extend



1 the Acquisition Deadline up to thirty (30) days. The  
2 extension on the Acquisition Deadline shall be in writing and  
3 executed by the parties. The COUNTY's Assistant County  
4 Executive Officer/EDA or designee is authorized to execute  
5 the amendment to extend the Acquisition Deadline.

- 6 d. If COUNTY reallocates the Unused Balance pursuant to  
7 **Section 10(a)**, DEVELOPER shall remain responsible for  
8 the completion of construction of DEVELOPER acquired  
9 properties under the Effective NSP1 Loan and sale of  
10 Assisted Units in accordance with this Agreement.

11 11. CONDITIONS FOR DISPOSITION OF FUNDS. COUNTY, through  
12 its EDA, shall: (1) make payments of the NSP1 Loan to DEVELOPER as specified in  
13 **Exhibit A**, and (2) monitor the Project to ensure compliance with applicable federal,  
14 state and local laws, regulations, ordinances, including environmental compliance, and  
15 the terms of this Agreement.

16 There will be no disbursement of funds for acquisition costs for each  
17 Assisted Unit until the following conditions precedent are satisfied:

- 18 a. DEVELOPER shall execute this Loan Agreement.  
19 b. DEVELOPER shall provide the Data Universal Number as  
20 assigned by the Data Universal Number System (DUNS)  
21 assigned to DEVELOPER as required by the Federal  
22 Funding Accountability and Transparency Act of 2006.  
23 c. DEVELOPER shall provide documentation to support  
24 compliance with eligibility requirements for each Assisted  
25 Unit.

26 There will be no disbursement of funds for construction costs for each  
27 particular Assisted Unit until the following conditions precedent are first satisfied with  
28 respect to each Assisted Unit:

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- d. DEVELOPER shall provide at its expense an updated Preliminary Title Report for the Assisted Unit evidencing the recordation of all documents to COUNTY.
- e. If Davis Bacon wages are required to be paid, then DEVELOPER must hire a qualified professional firm or assign experienced staff to review and monitor Davis-Bacon prevailing wage compliance for all submissions of contractors certified payrolls to the COUNTY.
- f. DEVELOPER must provide satisfactory evidence that it has secured any and all permits and approvals which may be required for construction of the Assisted Unit pursuant to the applicable rules and regulations of the county and cities where the properties are located and any other governmental agency affected by such construction of work.
- g. DEVELOPER shall provide a detailed construction plan and timetable to complete the acquisition, construction and sale of the Assisted Unit in accordance with the completion schedule shown in **Exhibit A** including a detailed line item construction cost budget per unit for review and approval by COUNTY.
- h. DEVELOPER provides duly executed documents and instruments showing the ownership of the Assisted Units.
- i. DEVELOPER agrees to pay all costs incurred due to the ownership and development of the Assisted Unit in a timely manner. DEVELOPER shall pay all incurred costs on or before the date such incurred cost becomes delinquent. COUNTY shall not reimburse DEVELOPER for late payments or penalties incurred by DEVELOPER due to

1 non-timely payment. In the event that COUNTY has  
2 inadvertently paid for a late payment penalty, the amount of  
3 the penalty shall be deducted from the developer's fee,  
4 unless otherwise authorized by the COUNTY.

- 5 j. Pursuant to 24 CFR, Part 5, DEVELOPER agrees to verify  
6 in writing that DEVELOPER, and its principals, or any/all  
7 persons, contractors, consultants, businesses, etc.  
8 ("Developer Associates"), that DEVELOPER is conducting  
9 business with, are not presently debarred, proposed for  
10 debarment, suspended, declared ineligible, or voluntarily  
11 excluded from participation or from receiving federal  
12 contracts or federally approved subcontracts or from certain  
13 types of federal financial and nonfinancial assistance and  
14 benefits with the System for Award Management (SAM) at  
15 [www.sam.gov](http://www.sam.gov). DEVELOPER must provide a single  
16 comprehensive list of Developer Associates (individuals and  
17 firms) and print and maintain evidence of the search results  
18 of each Developer Associate as verification of compliance  
19 with this requirement as provided in **Exhibit F**, attached  
20 hereto and incorporated herein by this reference.

21 COUNTY shall release final draw down of NSP1 funds for construction  
22 applicable to each Assisted Unit following receipt of all of the following closing  
23 documents from DEVELOPER with respect to such Assisted Unit:

- 24 1) unconditional lien release from general contractor  
25 and any subcontractors;  
26 2) recorded Notice of Completion;  
27 3) if applicable, all remaining Davis Bacon  
28 documentation, if any, including, but not limited to,

1 complete certified payrolls, Section 3 certifications,  
2 fringe benefit forms, and certificates of authorization  
3 and understanding;

4 4) final Contract and Subcontract Activity report,  
5 Minority Business Enterprise/Women Business  
6 Enterprise (MBE/WBE) report, HUD form 2516;

7 5) final development costs and project budget; and

8 6) final sources and uses of funds.

9 12. DISTRIBUTION OF FUNDS. The Disaster Recovery Grant  
10 Reporting (DRGR) system was developed by HUD's Office of Community Planning  
11 and Development and will be utilized for NSP1. The DRGR system is a computerized  
12 system which manages, disburses, collects, and reports information on the use of  
13 NSP1 funds in the United States Treasury Account.

14 Any disbursement of funds is expressly conditioned upon the  
15 satisfaction of conditions set forth in **Section 11**. Subsequent to acquisition of each  
16 Assisted Unit, COUNTY shall pay DEVELOPER for construction costs on a "cost-as-  
17 incurred" basis for all NSP1-eligible approved costs on a monthly basis. All  
18 disbursements of NSP1 funds for construction will be made within thirty (30) days after  
19 DEVELOPER has submitted its invoice identifying payments made and requesting  
20 reimbursement.

21 The Developer's fee will be disbursed according to the following  
22 schedule: fifty percent (50%) upon sale of each Assisted Unit evidenced by the  
23 recordation of a Grant Deed in the Official Records of the County of Riverside  
24 Recorder's Office ("Official Records") and fifty percent (50%) upon sale of all Assisted  
25 Units to be sold pursuant to Exhibit A as evidenced by the recorded of each Grant  
26 Deed in the Official Records. Should DEVELOPER not be successful in selling an  
27 Assisted Unit within the allotted time under **Section 26**, DEVELOPER will only be  
28 entitled to 50% of the Developer fee for each unit not sold and the other half of the

1 developer fee shall be forfeited. In order to receive reimbursement of NSP1 funds,  
2 DEVELOPER shall comply with timely drawdown of funds by submitting monthly  
3 requests for reimbursement. COUNTY shall release final draw down of NSP1 funds  
4 following timely receipt of all of the items listed in **Section 11**.

5 13. TERMS OF AFFORDABILITY. The period of affordability for each  
6 Assisted Unit (the "Affordability Period") shall be fifteen (15) years from the date a  
7 Grant Deed is recorded in the Official Records conveying title from the Developer to  
8 the Qualified Homebuyer.

9 14. DEVELOPER'S FEE AND REAL ESTATE SALE COMMISSIONS.  
10 The developer's fee cannot exceed 10% of total Project costs identified in **Exhibit A**.  
11 COUNTY will allow for real estate commissions up to 3% of the resale price for each  
12 Assisted Unit. Developer fee shall be disbursed in accordance with Section 12. The  
13 real estate commission fee shall not be calculated as part of the Project Cost in  
14 determining the developer's fee.

15 15. INSURANCE. Without limiting or diminishing the DEVELOPER'S  
16 obligation to indemnify or hold the COUNTY harmless, DEVELOPER shall procure  
17 and maintain or cause to be maintained, at its sole cost and expense, the following  
18 insurance coverage's during the term of this Agreement. As respects to the insurance  
19 section only, the COUNTY herein refers to the County of Riverside, its Agencies,  
20 Districts, Special Districts, and Departments, their respective directors, officers, Board  
21 of Supervisors, employees, elected or appointed officials, agents or representatives as  
22 Additional Insureds.

23 a. Worker's Compensation Insurance.

24 If Developer has employees as defined by the State of  
25 California, Developer shall maintain statutory Workers'  
26 Compensation Insurance (Coverage A) as prescribed by the  
27 laws of the State of California. Policy shall include  
28 Employers' Liability (Coverage B) including Occupational

1 Disease with limits not less than \$1,000,000 per person per  
2 accident. The policy shall be endorsed to waive  
3 subrogation in favor of The County of Riverside, and, if  
4 applicable, to provide a Borrowed Servant/Alternate  
5 Employer Endorsement.

6 b. Commercial General Liability Insurance.

7 Commercial General Liability insurance coverage, including  
8 but not limited to, premises liability, contractual liability,  
9 products and completed operations liability, personal and  
10 advertising injury, and cross liability coverage, covering  
11 claims which may arise from or out of DEVELOPER'S  
12 performance of its obligations hereunder. Policy shall name  
13 the County of Riverside, its Agencies, Districts, Special  
14 Districts, and Departments, their respective directors,  
15 officers, Board of Supervisors, employees, elected or  
16 appointed officials, agents or representatives as Additional  
17 Insured. Policy's limit of liability shall not be less than  
18 \$1,000,000 per occurrence combined single limit. If such  
19 insurance contains a general aggregate limit, it shall apply  
20 separately to this agreement or be no less than two (2)  
21 times the occurrence limit.

22 c. Vehicle Liability Insurance.

23 If vehicles or mobile equipment are used in the performance  
24 of the obligations under this Agreement, then DEVELOPER  
25 shall maintain liability insurance for all owned, non-owned  
26 or hired vehicles so used in an amount not less than  
27 \$1,000,000 per occurrence combined single limit. If such  
28 insurance contains a general aggregate limit, it shall apply



1 separately to this agreement or be no less than two (2)  
2 times the occurrence limit. Policy shall name the County of  
3 Riverside, its Agencies, Districts, Special Districts, and  
4 Departments, their respective directors, officers, Board of  
5 Supervisors, employees, elected or appointed officials,  
6 agents or representatives as Additional Insured or provide  
7 similar evidence of coverage approved by COUNTY's Risk  
8 Manager.

9 d. Fire Insurance.

10 DEVELOPER shall furnish new fire insurance prior to the  
11 close of escrow of Assisted Unit with sufficient coverage on  
12 the dwelling for replacement of subject property.  
13 DEVELOPER will deposit sufficient funds as called for by  
14 escrow to pay first year premium at close of escrow.  
15 COUNTY shall be listed as additional insured on the  
16 property's fire insurance, title insurance, and flood  
17 insurance, if applicable. The loss payee shall read: County  
18 of Riverside, its successors and/or assigns, 5555 Arlington  
19 Ave, Riverside, CA 92504, Attention: EDA Housing.

20 e. General Insurance Provisions – All Lines.

21 1) Any insurance carrier providing insurance  
22 coverage hereunder shall be admitted to the State of  
23 California and have an A M BEST rating of not less than A:  
24 VIII (A:8) unless such requirements are waived, in writing,  
25 by COUNTY Risk Manager. If COUNTY's Risk Manager  
26 waives a requirement for a particular insurer such waiver is  
27 only valid for that specific insurer and only for one policy  
28 term.

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2) DEVELOPER'S insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of COUNTY Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to COUNTY, and at the election of COUNTY's Risk Manager, DEVELOPER's carriers shall either: (a) reduce or eliminate such self-insured retention as respects this Agreement with COUNTY, or (b) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) DEVELOPER shall cause DEVELOPER's insurance carrier(s) to furnish the County of Riverside with copies of the Certificate(s) of Insurance and Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by COUNTY Risk Manager, provide copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another

1 Certificate of Insurance and copies of endorsements,  
2 including all endorsements and attachments thereto  
3 evidencing coverage's set forth herein and the insurance  
4 required herein is in full force and effect. DEVELOPER  
5 shall not commence operations until COUNTY has been  
6 furnished Certificate(s) of Insurance and copies of  
7 endorsements and if requested, copies of policies of  
8 insurance including all endorsements and any and all other  
9 attachments as required in this Section. An individual  
10 authorized by the insurance carrier to do so, on its behalf,  
11 shall sign the original endorsements for each policy and the  
12 Certificate of Insurance.

13 4) It is understood and agreed to by the parties  
14 hereto that DEVELOPER's insurance shall be construed as  
15 primary insurance, and COUNTY's insurance and/or  
16 deductibles and/or self-insured retention's or self-insured  
17 programs shall not be construed as contributory.

18 5) If, during the term of this Agreement or any  
19 extension thereof, there is a material change in the scope of  
20 services; or, there is a material change in the equipment to  
21 be used in the performance of the scope of work which will  
22 add additional exposures (such as the use of aircraft,  
23 watercraft, cranes, etc.); or, the term of this Agreement,  
24 including any extensions thereof, exceeds five (5) years  
25 COUNTY reserves the right to adjust the types of insurance  
26 required under this Agreement and the monetary limits of  
27 liability for the insurance coverage's currently required  
28 herein, if, in COUNTY Risk Manager's reasonable

1 judgment, the amount or type of insurance carried by  
2 DEVELOPER has become inadequate.

3 6) DEVELOPER shall pass down the insurance  
4 obligations contained herein to all tiers of subcontractors  
5 working under this Agreement.

6 7) The insurance requirements contained in this  
7 Agreement may be met with a program(s) of self-insurance  
8 acceptable to the COUNTY.

9 8) DEVELOPER agrees to notify COUNTY of any  
10 claim by a third party or any incident or event that may give  
11 rise to a claim arising from the performance of this  
12 Agreement.

13 16. FINANCIAL RECORDS. DEVELOPER shall establish and  
14 maintain financial, programmatic, statistical, and other supporting records of its  
15 operations and financial activities in accordance with 24 CFR Part 84 or 85 or 2 CFR  
16 Part 200 as applicable and 24 CRF Part 570 and OMB Circular Nos. A-102, revised,  
17 A-110, A-87, and A-122, as applicable and as they relate to the acceptance and use of  
18 federal funds under this Agreement. Records shall be open to inspection and audit by  
19 authorized representatives of the COUNTY, HUD, and the Comptroller General of the  
20 United States or any of their authorized representatives, at any time during normal  
21 business hours, as often as deemed necessary, to audit, examine, and make excerpts  
22 or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully  
23 cleared by DEVELOPER within thirty (30) days after receipt by DEVELOPER. Failure  
24 of DEVELOPER to comply with the above audit requirements will constitute a violation  
25 of this contract and may result in the withholding of future payments. COUNTY, HUD,  
26 and the Comptroller General, or any of their representatives, have the right of access  
27 to any pertinent books, documents, papers, or other records of DEVELOPER, in order  
28 to make audits, examinations, excerpts, and transcripts. Said records shall be retained

1 for such time as may be required by the regulations of the Neighborhood Stabilization  
2 Program, but in no case for less than five (5) years after the Project completion date;  
3 except that records of individual tenant income verifications, project rents, and project  
4 inspections must be retained for the most recent five (5) year period, until five (5)  
5 years after the Affordability Period terminates. If any litigation, claim, negotiation,  
6 audit, or other action has been started before the expiration of the regular period  
7 specified, the records must be retained until completion of the action and resolution of  
8 all issues which arise from it, or until the end of the regular period, whichever is later.

9 17. PROJECT MONITORING AND EVALUATION. Except as  
10 otherwise provided for in this Agreement, DEVELOPER shall maintain and submit  
11 records to the COUNTY within ten (10) business days of the COUNTY's request which  
12 clearly documents DEVELOPER's performance under each requirement of NSP1. A  
13 list of document submissions and timeline are shown in **Exhibit A** and such list may  
14 be amended from time to time subject to HUD and COUNTY reporting requirements.

15 18. ACCESS TO PROJECT SITE. The COUNTY and HUD shall have  
16 the right to visit the Project site at all reasonable times, and upon completion of the  
17 Project upon reasonable written notice to DEVELOPER, to review the operation of the  
18 Project in accordance with this Agreement.

19 19. COMPLIANCE WITH LAWS AND REGULATIONS. By executing  
20 this Agreement, DEVELOPER hereby certifies that it will adhere to and comply with all  
21 federal, state and local laws, regulations and ordinances. In particular, DEVELOPER  
22 shall comply with the following as they may be applicable to DEVELOPER of funds  
23 granted pursuant to the NSP1 Program:

- 24 a. NSP1 regulations as set forth under HERA, as it now exists  
25 and may hereafter be amended, and Federal Register / Vol.  
26 73, No. 194 / Monday, October 6, 2008 / Docket No. FR-  
27 5255-N-01, Notice of Allocations, Application Procedures,  
28 Regulatory Waivers Granted to and Alternative

1 Requirements for Emergency Assistance for  
2 Redevelopment of Abandoned and Foreclosed Homes  
3 Grantees Under the Housing and Economic Recovery Act,  
4 2008.

- 5 b. CDBG statutory and regulatory provisions, including those  
6 at 24 CFR Part 570 subpart A, C, D, J, K, and O, as  
7 appropriate, shall apply.
- 8 c. Other Federal requirements and non-discrimination. As set  
9 forth in 24 CFR Part 5, subpart A, DEVELOPER is required  
10 to include the following requirements: non-discrimination  
11 and equal opportunity; disclosure; debarred, suspended, or  
12 ineligible contractors; and drug-free workplace.
- 13 d. Environmental Review. Each Assisted Unit will be subject to  
14 environmental review prior to acquisition, demolition,  
15 rehabilitation or new construction. The environmental  
16 effects of each activity carried out with NSP1 funds must be  
17 assessed in accordance with the provisions of the National  
18 Environmental Policy Act of 1969 (NEPA) and related  
19 authorities listed at HUD's implementing regulations at 24  
20 CFR Parts 50 and 58. The Project is required to comply  
21 with 24 CFR Section 58.5 (related federal laws and  
22 authorities) including but not limited to §58.5: historic  
23 properties, floodplain management & wetlands protection,  
24 coastal zone management, aquifers, endangered species,  
25 rivers, air, farmlands, HUD environmental standards and  
26 environmental justice. Developer shall also comply with the  
27 California Environmental Quality Act (CEQA).
- 28 e. Displacement, Relocation, and Acquisition. Each Assisted



1 Unit not owner occupied at time of foreclosure must be  
2 vacant for a minimum period of ninety (90) days prior to the  
3 Developer making an initial offer to buy an Assisted Unit.  
4 The Project is subject to relocation requirements of Title II  
5 and the acquisition requirements of Title III of the Uniform  
6 Relocation Assistance and Real Property Acquisition  
7 Policies Act of 1970, and the implementing regulations at 24  
8 CFR Part 42.

9 1) Prevailing Wages and Compliance with Davis-Bacon  
10 Act. DEVELOPER shall comply with any applicable  
11 labor regulations and all other State and Federal Laws  
12 in connection with the construction of the  
13 improvements which comprise the Project, including if  
14 applicable, requirements relating to the Davis-Bacon  
15 Act (40 U.S.C. 3141 et seq.). DEVELOPER agrees  
16 and acknowledges that it is the responsibility of  
17 DEVELOPER to obtain a legal determination, at  
18 DEVELOPER's sole cost and expenses as to whether  
19 prevailing wages must be paid during the construction  
20 of the Project. DEVELOPER agrees to identify, defend,  
21 and hold COUNTY harmless from and against any and  
22 all liability arising out of and related to DEVELOPER's  
23 failure to comply with any and all applicable prevailing  
24 wage requirements.

25 f. Lead-based Paint. Housing assisted with NSP1 funds is  
26 subject to the lead-based paint regulations of 24 CFR Part  
27 35, subparts A, B, J, K, and R, issued pursuant to the Lead-  
28 Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et

1 seq.). All homes built prior to 1978 shall be tested for lead  
2 based paint.

3 g. Conflict of Interest. In the procurement of property and  
4 services by DEVELOPER, the conflict of interest provisions  
5 at §570.611 shall apply.

6 h. Section 3 of the Housing and Urban Development Act of  
7 1968. To the greatest extent feasible, opportunities for  
8 training and employment arising from NSP1 funds will be  
9 provided to low-income persons residing in the Target Area.  
10 To the greatest extent feasible, contracts for work to be  
11 performed in connection with NSP1 funds will be awarded  
12 to business concerns that are located in or owned by  
13 persons residing in the Target Area. Contracts funded from  
14 Section 3 must abide by the Section 3 Clause prescribed at  
15 24 CFR 135.38, as shown in **Exhibit D** which is attached  
16 hereto and by this reference incorporated herein.

17 i. Compliance with anti-discrimination laws. Conformity with  
18 title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the  
19 Fair Housing Act (42 U.S.C. 3601-3619), and implementing  
20 regulations.

21 j. Affirmative marketing and minority outreach program.  
22 DEVELOPER must adopt affirmative marketing procedures  
23 and requirements. These should include:

- 24 1) Methods for informing the public, owners, and  
25 potential tenants about Federal fair housing laws and  
26 the affirmative marketing policy.  
27 2) Requirements and practices that DEVELOPER must  
28 adhere to in order to carry out the affirmative

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marketing procedures and requirements.

- 3) Procedures to be used by DEVELOPER to inform and solicit applications from persons in the housing market areas that are not likely to apply without special outreach.
- 4) Records will be kept describing actions taken by DEVELOPER to affirmatively market units and to assess the results of these actions.
- 5) A description of how DEVELOPER will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.
- 6) DEVELOPER should prescribe procedures to establish and oversee a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by DEVELOPER with such persons or entities, public and private, in order to facilitate the activities of the County to provide affordable housing authorized under this Act or any other Federal housing law. Affirmative steps to assure that minority business enterprises and women business enterprises are used when possible in the

1 procurement of property and services are at 24 CFR  
2 85.36(e).

3 7) Anti-lobbying. DEVELOPER must comply with  
4 restrictions on lobbying required by 24 CFR Part 87.

5 k. Model Energy Code published by the Council of American  
6 Building Officials.

7 l. Consultant Activities. Pursuant to 24 CFR 570.200(d), no  
8 person providing consultant services in an employer-  
9 employee type of relationship shall receive more than a  
10 reasonable rate of compensation for personal services paid  
11 with CDBG funds.

12 m. Uniform Administrative Requirements of 24 CFR Part 84 or  
13 85 as applicable, Part 570 and OMB Circular Nos. A-102,  
14 revised, A-110 (implemented at 24 CFR Part 84), A-87, and  
15 A-122, as applicable and as they relate to the acceptance  
16 and use of federal funds under this Agreement.

17 n. DEVELOPER shall include written agreements that include  
18 all provisions of this section if DEVELOPER provides NSP1  
19 funds to for-profit owners or developers, non-profit owners  
20 or developers, sub-recipients, homeowners, homebuyers,  
21 tenants receiving tenant-based rental assistance, or  
22 contractors.

23 20. Not used.

24 21. INCOME TARGETING REQUIREMENTS. DEVELOPER shall  
25 expend a minimum of 25% of the NSP1 funds to assist Very Low Income (VLI)  
26 households whose incomes are at or below fifty percent (50%) of the Area Median  
27 Income (AMI), adjusted by family size at the time of occupancy for the County of  
28 Riverside. The balance of 75% or less of the NSP1 funds shall be expended to assist

1 Low, Moderate or Middle Income (LMMI) households whose incomes are at or below  
2 one hundred twenty percent (120%) of the AMI, adjusted by family size at the time of  
3 occupancy for the County of Riverside.

4 22. DISPOSAL REQUIREMENTS DEVELOPER is required to sell  
5 each Assisted Unit to a Qualified Homebuyer. The Selling Price of each Assisted Unit  
6 shall not exceed (a) the fair market value or (b) the total costs to acquire, construct  
7 and dispose of each Assisted Unit pursuant to NSP1. Each Qualified Homebuyer, as  
8 defined in Section 23 herein, may obtain a home loan from a financial institution for up  
9 to the Selling Price (the "Homebuyer Loan"). If the Homebuyer Loan is less than the  
10 Selling Price, then the Qualified Homebuyer will receive the difference as a "Silent  
11 Second Mortgage" or Homebuyer Subsidy from COUNTY; provided, however, the  
12 Homebuyer Subsidy is limited to (a) thirty percent (30%) of the Selling Price capped  
13 for a maximum amount of \$75,000 for LMMI households or (b) fifty percent (50%) of  
14 the Selling Price capped for a maximum amount of \$75,000 for VLI households. Upon  
15 transfer of title to the Qualified Homebuyer evidenced by recording of the Grant Deed  
16 in the Official Records, the amount of the Homebuyer Loan less the sum of the  
17 Development Subsidy, the Homebuyer Subsidy and closing costs and Subsidy  
18 Amount will be returned to COUNTY and a Homebuyer Deed of Trust shall be  
19 recorded to secure this second mortgage loan, and to require its repayment if the  
20 Assisted Unit is no longer the principal residence or the Assisted Unit is sold prior to  
21 the expiration of the Affordability Period in violation of the Homebuyer Deed of Trust.

22 23. QUALIFIED HOMEBUYER. DEVELOPER shall provide to EDA  
23 evidence to support the following listed information for EDA's review and approval in  
24 its sole and absolute discretion, the approval of which shall qualify a household as a  
25 "Qualified Homebuyer":

- 26 a. Income Limits. In order for homebuyers to be eligible to  
27 purchase an Assisted Unit the proposed homebuyer's annual  
28 income shall be as follows, (1) LMMI homebuyer annual

1 incomes must not exceed one-hundred twenty percent (120%)  
2 of the AMI, as determined by HUD, adjusted for family size for  
3 the County of Riverside and (2) VLI homebuyer annual  
4 incomes must not exceed fifty percent (50%) of the AMI, as  
5 determined by HUD, adjusted for family size for the County of  
6 Riverside. The income and assets of all persons age eighteen  
7 (18) and older who will reside in the home must be included in  
8 the calculation to determine income eligibility.

- 9 b. Co-owners. Co-owners are only permitted if they will occupy  
10 the home as their principal residence and qualify as first time  
11 buyers. The income of all co-owners will be included in  
12 determining if the household qualifies as moderate income, as  
13 noted above. Co-signers are not permitted.
- 14 c. First-time homebuyer. In order to qualify as a first-time  
15 homebuyer, the homebuyer cannot have owned a home for  
16 the previous three years from the date the homebuyer enters  
17 into a purchase agreement. DEVELOPER shall cause the  
18 homebuyer to sign a sworn affidavit attesting that they have  
19 not owned a home and tax returns from the last three (3) years  
20 will be reviewed to ascertain that no mortgage interest or real  
21 estate tax deductions have been claimed.
- 22 d. Principal Residence. The Assisted Unit shall be the principal  
23 residence of the Qualified Homebuyer during the Affordability  
24 Period.
- 25 e. Occupancy Standard. All homebuyers must meet the  
26 occupancy standard as defined in the Housing Quality Act  
27 under 982.401 that states, "The dwelling unit must have at  
28 least one bedroom or living/sleeping room for each two



1 persons.” Children of opposite sex, other than very young  
2 children, may not be required to occupy the same bedroom or  
3 living/sleeping room.

4 f. Homebuyer Education. Each homebuyer must receive a  
5 certificate of completion evidencing at least eight (8) hours of  
6 homebuyer counseling from a HUD-approved housing  
7 counseling agency before obtaining a mortgage loan.

8 g. Long Term Affordability. NSP1 assisted units must meet the  
9 affordability requirements for fifteen (15) years after  
10 recordation of the Grant Deed from Developer to Qualified  
11 Homebuyer in the Official Records. Affordability requirements  
12 apply regardless of the term of any loan, mortgage or the  
13 transfer of ownership. Affordability requirements are imposed  
14 by deed restrictions, but may terminate upon foreclosure or  
15 transfer in lieu of foreclosure.

16 h. Creditworthiness. Qualified Homebuyers must be creditworthy  
17 and able to undertake traditional 30-year fixed rate loan FHA,  
18 VA, CalHFA, Fannie Mae or Freddie Mac insured loan  
19 products with fully amortized loan payments.

20 i. Equity Participation. In the event a Second Mortgage Loan is  
21 required, as discussed in **Section 4(d)**, repayment is required  
22 to COUNTY if the Assisted Unit is no longer the principal  
23 residence or upon sale, rental, refinance, conveyance, transfer  
24 or change in title of the Assisted Unit prior to the expiration of  
25 the Affordability Period in violation of the Homebuyer Deed of  
26 Trust. Sale, rental, refinance, conveyance, transfer or change  
27 in title of the Assisted Unit prior to the expiration of the  
28 Affordability Period in violation of the Homebuyer Deed of

1 Trust will cause the Qualified Homebuyer to be obligated to  
2 repay the COUNTY shared equity, in addition to the principal  
3 amount of the Homebuyer Subsidy, as provided in the  
4 Homebuyer Deed of Trust to COUNTY.

- 5 j. County Assistance. Only the County of Riverside's Mortgage  
6 Credit Certificate program can be used to further assist eligible  
7 first-time homebuyers buy an Assisted Unit. The following  
8 County of Riverside programs are not eligible: First Time  
9 Home Buyer Program, Neighborhood Stabilization  
10 Homeownership Program and Redevelopment  
11 Homeownership Program.

12 24. FEDERAL REQUIREMENTS. DEVELOPER shall comply with the  
13 provisions of NSP1 and any amendments thereto and all applicable federal  
14 regulations and guidelines now or hereafter enacted.

15 25. INDEPENDENT CONTRACTOR. DEVELOPER and its agents,  
16 servants and employees shall act at all times in an independent capacity during the  
17 Term of this Agreement, and shall not act as, shall not be, nor shall they in any  
18 manner be construed to be agents, officers, or employees of COUNTY.

19 26. PERFORMANCE REQUIREMENTS. DEVELOPER shall complete  
20 all the following activities within the time specified below or the COUNTY shall either  
21 reallocate unencumbered funds pursuant to **Section 10**, take title to the Assisted Unit,  
22 or foreclose on the County's Deed of Trust, as determined by the County in its sole and  
23 absolute discretion:

- 24 a. Construct the Assisted Units as set forth in **Exhibit A**, within  
25 eleven (11) months from the Effective Date; and  
26 b. Sell the Assisted Units within twelve (12) months from the  
27 Effective Date.

28 In the event DEVELOPER fails to comply with Clause (a) or Clause (b) of this

1 **Section 26**, upon COUNTY's request, DEVELOPER shall convey its fee interest in the  
2 Assisted Units to COUNTY, pursuant to a Grant Deed of Quit Claim Deed in a form  
3 approved by the County.

4 \_\_\_\_\_  
Signature

5 27. NONDISCRIMINATION. DEVELOPER shall abide by 24 CFR  
6 570.602 which requires that no person in the United States shall on the grounds of  
7 race, color, national origin, religion, or sex be excluded from participation in, be denied  
8 the benefits of, or be subjected to discrimination under any program or activity  
9 receiving Federal financial assistance title I of the Housing and Community  
10 Development Act of 1974 as amended (42 U.S.C. 5301 et seq.) ("Act") including  
11 NSP1. Under Section 109 of the Act directs that the prohibitions against discrimination  
12 on the basis of age under the Age Discrimination Act and the prohibitions against  
13 discrimination on the basis of disability under Section 504 of the Act shall apply to  
14 programs or activities receiving Federal financial assistance under Title I programs.  
15 The policies and procedures necessary to ensure enforcement of section 109 of the  
16 Act are codified in 24 CFR Part 6.

17 28. PROHIBITION AGAINST CONFLICTS OF INTEREST:

- 18 a. DEVELOPER and its assigns, employees, agents,  
19 consultants, officers and elected and appointed officials shall  
20 become familiar with and shall comply with the conflict of  
21 interest provisions in OMB Circular A-110, 24 CFR 570.611  
22 and Policy Manual #A-11, attached hereto as **Exhibit E** and  
23 incorporated herein by this reference.
- 24 b. DEVELOPER understands and agrees that no waiver or  
25 exception can be granted to the prohibition against conflict of  
26 interest except upon written approval of HUD pursuant to 24  
27 CFR 92.356(d). Any request by DEVELOPER for an  
28 exception shall first be reviewed by COUNTY to determine

1 whether such request is appropriate for submission to HUD.

2 c. Prior to any funding under this Agreement, DEVELOPER  
3 shall provide COUNTY with a list of all employees, agents,  
4 consultants, officers and elected and appointed officials who  
5 are in a position to participate in a decision-making process,  
6 exercise any functions or responsibilities, or gain inside  
7 information with respect to the NSP1 activities funded under  
8 this Agreement. DEVELOPER shall also promptly disclose to  
9 COUNTY any potential conflict, including even the  
10 appearance of conflict that may arise with respect to the  
11 NSP1 activities funded under this Agreement.

12 d. Any violation of this section shall be deemed a material  
13 breach of this Agreement, and the Agreement shall be  
14 immediately terminated by the COUNTY.

15 29. EVENTS OF DEFAULT. The occurrence of any of the following  
16 events shall constitute an "Event of Default" under this Agreement:

17 a. Monetary Default. (1) DEVELOPER's failure to pay when  
18 due any sums payable under the Note or any advances made  
19 by the COUNTY under this Agreement; (2) DEVELOPER's or  
20 any agent of DEVELOPER's use of NSP1 funds for costs  
21 inconsistent with terms and restrictions set forth in this  
22 Agreement; (3) DEVELOPER's failure to obtain and maintain  
23 the insurance coverage required under this Agreement; (4)  
24 DEVELOPER's or any agent of DEVELOPER's failure to  
25 make any other payment of any assessment or tax due under  
26 this Agreement.

27 b. Non-Monetary Default - Operation. (1) Discrimination by  
28 DEVELOPER or DEVELOPER's agent on the basis of

1 characteristics prohibited by this Agreement or applicable  
2 law; (2) the imposition of any encumbrances or liens on the  
3 Project without the COUNTY's prior written approval that are  
4 prohibited under this Agreement or that have the effect of  
5 reducing the priority or invalidating the NSP1 Deed of Trust;  
6 (3) any material adverse change in the financial condition of  
7 DEVELOPER or the Project or permanent financing or  
8 funding for the Project that gives the COUNTY reasonable  
9 cause to believe that the Project cannot be operated  
10 according to the terms of this Agreement.

11 c. General Performance of Loan Obligations. Any substantial or  
12 continuous or repeated breach by DEVELOPER or  
13 DEVELOPER's agents of any material obligations of  
14 DEVELOPER imposed in the NSP1 Agreement.

15 d. General Performance of Other Obligations. Any substantial  
16 or continuous or repeated breach by DEVELOPER or  
17 DEVELOPER's agents of any material obligations on the  
18 Project imposed by any other agreement with respect to the  
19 financing, development, or operation of the Project; whether  
20 or not the COUNTY is a party to such agreement; but only  
21 following any applicable notice and cure periods with respect  
22 to any such obligation.

23 e. Representations and Warranties. A determination by the  
24 COUNTY that any of DEVELOPER's representations or  
25 warranties made in this Agreement, any statements made to  
26 the COUNTY by DEVELOPER, or any certificates,  
27 documents, or schedules supplied to the COUNTY by  
28 DEVELOPER were untrue in any material respect when

1 made, or that DEVELOPER concealed or failed to disclose a  
2 material fact from the COUNTY.

3 f. Damage to Project. In the event that the Project is materially  
4 damaged or destroyed by fire or other casualty, and  
5 DEVELOPER receives an award or insurance proceeds for  
6 the repair or reconstruction of the Project, and DEVELOPER  
7 does not use such award or proceeds to repair or reconstruct  
8 the Project.

9 g. Bankruptcy, Dissolution and Insolvency. DEVELOPER (1)  
10 filing for bankruptcy, dissolution, or reorganization, or failure  
11 to obtain a full dismissal of any such involuntary filing brought  
12 by another party before the earlier of final relief or one (1) day  
13 after such filing; (2) making a general assignment for the  
14 benefit of creditors; (3) applying for the appointment of a  
15 receiver, trustee, custodian, or liquidator, or failure to obtain a  
16 full dismissal of any such involuntary application brought by  
17 another party before the earlier of final relief or forty-five (45)  
18 days after such filing; (4) insolvency; or (5) failure, inability or  
19 admission in writing of its inability to pay its debts as they  
20 become due.

21 30. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. Subject  
22 to the Force Majeure Delays, as provided in **Section 54**, failure or delay by either  
23 party to perform any term or provision of this Agreement constitutes a default under  
24 this Agreement. The party who fails or delays must immediately commence to cure,  
25 correct or remedy such failure or delay and shall complete such cure, correction or  
26 remedy with reasonable diligence.

27 The injured party shall give written notice of default to the party in default,  
28 specifying the default complained of by the injured party. Failure or delay in giving

1 such notice shall not constitute a waiver of any default, nor shall it change the time of  
2 default. Except as otherwise expressly provided in this Agreement, any failures or  
3 delays by either party in asserting any of its rights and remedies as to any default shall  
4 not operate as a waiver of any default or of any such rights or remedies. Delays by  
5 either party in asserting any of its rights and remedies shall not deprive either party of  
6 its right to institute and maintain any actions or proceedings which it may deem  
7 necessary to protect, assert or enforce any such rights or remedies.

8           If a monetary event of default occurs, prior to exercising any remedies  
9 hereunder, the injured party shall give the party in default written notice of such  
10 default. The party in default shall have a period of seven (7) days after such notice is  
11 given within which to cure the default prior to exercise of remedies by the injured  
12 party.

13           If a non-monetary event of default occurs, prior to exercising any  
14 remedies hereunder, the injured party shall give the party in default notice of such  
15 default. If the default is reasonably capable of being cured within thirty (30) days, the  
16 party in default shall have such period to effect a cure prior to exercise of remedies by  
17 the injured party.

18           Except for the performance obligations set forth in **Section 26**, for  
19 monetary and non-monetary Events of Default, the COUNTY shall give written notice  
20 to DEVELOPER of any Event of Default by specifying: (a) the nature of the Event of  
21 Default or the deficiency giving rise to the default, (b) the action required to cure the  
22 deficiency, if an action to cure is possible, and (c) a date by which such action to cure  
23 must be taken. Except for the performance obligations set forth in **Section 26**, the  
24 COUNTY agrees that the DEVELOPER shall have the right to cure defaults under this  
25 Agreement within the prescribed cure period.

26           31. COUNTY REMEDIES. Upon the happening of an Event of Default  
27 and a failure by DEVELOPER to cure said default within the time specified in the  
28 notice of default (if an action to cure is specified in said notice), the COUNTY's

1 obligation to disburse NSP1 funds shall terminate, and the COUNTY may also in  
2 addition to other rights and remedies permitted by this Agreement or applicable law,  
3 proceed with any or all of the following remedies in any order or combination the  
4 COUNTY may choose in its sole discretion:

5 a. Terminate this Agreement, in which event the entire amount  
6 as well as any other monies advanced to DEVELOPER by  
7 the COUNTY under this Agreement including administrative  
8 costs, shall immediately become due and payable at the  
9 option of the COUNTY.

10 b. Bring an action in equitable relief (1) seeking the specific  
11 performance by DEVELOPER of the terms and conditions of  
12 this Agreement, and/or (2) enjoining, abating, or preventing  
13 any violation of said terms and conditions, and/or (3) seeking  
14 declaratory relief.

15 c. Accelerate the NSP1 Loan, and demand immediate full  
16 payment of the principal payment outstanding and all accrued  
17 interest under the Note, as well as any other monies  
18 advanced to DEVELOPER by the COUNTY under this  
19 Agreement.

20 d. Reallocate unencumbered funds pursuant to Section 10.

21 e. Pursue any other remedy allowed at law or in equity.

22 32. Intentionally left blank.

23 33. DEVELOPER'S WARRANTIES. DEVELOPER represents and  
24 warrants (1) that it has access to professional advice and support to the extent  
25 necessary to enable DEVELOPER to fully comply with the terms of this Agreement,  
26 and to otherwise carry out the Project, (2) that it is duly organized, validly existing and  
27 in good standing under the laws of the State of California, (3) that it has the full power  
28 and authority to undertake the Project and to execute this Agreement, (4) that the



1 persons executing and delivering this Agreement are authorized to execute and  
2 deliver such documents on behalf of DEVELOPER and (5) that neither DEVELOPER  
3 nor any of its principals is presently debarred, suspended, proposed for debarment,  
4 declared ineligible, or voluntarily excluded from participation in connection with the  
5 transaction contemplated by this Agreement.

6 34. DEVELOPER'S CERTIFICATION. DEVELOPER certifies, to the  
7 best of its knowledge and belief, that:

8 a. No federally appropriated funds have been paid or will be paid,  
9 by or on behalf of the undersigned, to any person for  
10 influencing or attempting to influence an officer or employee of  
11 any agency, a member of Congress, an officer or employee of  
12 Congress, or an employee of a member of Congress in  
13 connection with the awarding of any federal contract, the  
14 making of any federal grant, the making of any federal loan, the  
15 entering into of any cooperative agreement, and the extension,  
16 continuation, review, amendment, or modification of any federal  
17 contract, grant, loan, or cooperative agreement.

18 b. If any funds other than federally appropriated funds have been  
19 paid or will be paid to any person for influencing or attempting  
20 to influence an officer or employee of any agency, a member of  
21 Congress, an officer or employee of Congress, or an employee  
22 of a member of Congress in connection with this federal  
23 contract, grant, loan, or cooperative agreement, the  
24 undersigned shall complete and submit Standard Form-LLL,  
25 "Disclosure Form to Report Lobbying," in accordance with its  
26 instructions.

27 c. The undersigned shall require that the language of this  
28 certification be included in the award documents for all sub-

1 awards at all tiers (including subcontracts, sub-grants, and  
2 contracts under grants, loans, and cooperative agreements)  
3 and that DEVELOPER shall certify and disclose accordingly.  
4 This certification is a material representation of fact upon which  
5 reliance was placed when this transaction was made or  
6 entered into.

7 35. HOLD HARMLESS AND INDEMNIFICATION. DEVELOPER shall  
8 indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special  
9 Districts and Departments, their respective directors, officers, Board of Supervisors,  
10 elected and appointed officials, employees, agents and representatives (individually  
11 and collectively hereinafter referred to as Indemnitees) from any liability whatsoever,  
12 based or asserted upon any services of DEVELOPER, its officers, employees,  
13 subcontractors, agents or representatives arising out of or in any way relating to this  
14 Agreement, including but not limited to property damage, bodily injury, or death or any  
15 other element of any kind or nature whatsoever arising from the performance of  
16 DEVELOPER, its officers, employees, subcontractors, agents or representatives  
17 Indemnitors from this Agreement. DEVELOPER shall defend, at its sole expense, all  
18 costs and fees including, but not limited, to attorney fees, cost of investigation,  
19 defense and settlements or awards, the Indemnitees in any claim or action based  
20 upon such alleged acts or omissions.

21 With respect to any action or claim subject to indemnification herein by  
22 DEVELOPER, DEVELOPER shall, at their sole cost, have the right to use counsel of  
23 their own choice and shall have the right to adjust, settle, or compromise any such  
24 action or claim without the prior consent of COUNTY; provided, however, that any  
25 such adjustment, settlement or compromise in no manner whatsoever limits or  
26 circumscribes DEVELOPER'S indemnification to Indemnitees as set forth herein.

27 DEVELOPER'S obligation hereunder shall be satisfied when  
28 DEVELOPER has provided to COUNTY the appropriate form of dismissal relieving

1 COUNTY from any liability for the action or claim involved.

2 The specified insurance limits required in this Agreement shall in no way  
3 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless the  
4 Indemnitees herein from third party claims.

5 In the event there is conflict between this clause and California Civil Code  
6 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
7 interpretation shall not relieve the DEVELOPER from indemnifying the Indemnitees to  
8 the fullest extent allowed by law.

9 36. TERMINATION.

10 a. DEVELOPER. DEVELOPER may terminate this Agreement  
11 consistent with the Act and the regulations implementing  
12 the Act.

13 b. COUNTY. In addition to any termination and/or suspension  
14 rights the COUNTY has under this Agreement, COUNTY  
15 shall have the right to suspend or terminate this Agreement  
16 upon written notice to DEVELOPER of the action being  
17 taken and the reason for such action; in the even any of the  
18 following occur:

19 (a) In the event DEVELOPER fails to perform the  
20 covenants herein contained at such times and in  
21 such manner as provided in this Agreement after the  
22 applicable notice and cure provision hereof; or

23 (b) In the event there is a conflict with any federal, state  
24 or local law, ordinance, regulation or rule rendering  
25 any of the provisions of this Agreement invalid or  
26 untenable; or

27 (c) In the event the funding from HUD, as referred to in  
28 **Section 1**, is terminated or otherwise becomes

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unavailable.

- c. This Agreement may be terminated or funding suspended in whole or in part in the event DEVELOPER fails to materially comply with the terms and conditions of this Agreement after the expiration of the applicable notice and cure provisions. Upon suspension of funding, DEVELOPER agrees not to incur any costs related thereto, or connected with, any area of conflict from which COUNTY has determined that suspension of funds is necessary. The COUNTY shall also have the rights, in its sole discretion, to terminate the award of NSP1 funds for convenience.
- d. Upon expiration of this Agreement, DEVELOPER shall transfer to the COUNTY any unexpended NSP1 funds in its possession at the time of expiration of the Agreement as well as any accounts receivable held by DEVELOPER which are attributable to the use of NSP1 funds awarded pursuant to this Agreement. If COUNTY so chooses it will also require DEVELOPER to transfer title of Assisted Units to COUNTY.

37. AFFORDABILITY RESTRICTIONS. The COUNTY and DEVELOPER hereby declare their express intent that the restrictions set forth in this Agreement for each Assisted Unit of the Project shall run with the land as a lien for a period of fifteen (15) years from the date the Grant Deed conveying title from Developer to Qualified Homebuyer is recorded in the Official Records, and shall bind all successors in title to the Assisted Unit until the expiration of the Affordability Period. Each and every contract, deed or other instrument hereafter executed covering and conveying the Assisted Unit or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such restrictions, regardless

1 whether such restrictions are set forth in such contract, deed or other instrument.

2 38. MECHANICS LIENS AND STOP NOTICES. If any claim of  
3 mechanics lien is filed against the Project or a stop notice affecting the NSP1 Loan is  
4 served on the COUNTY, DEVELOPER must, within thirty (30) days of such filing or  
5 service, either pay and fully discharge the lien or stop notice, obtain a release of the  
6 lien or stop notice by delivering to the COUNTY a surety bond in sufficient form and  
7 amount, or provide the COUNTY with other assurance reasonably satisfactory to  
8 COUNTY that the lien or stop notice will be paid or discharged.

9 39. ENTIRE AGREEMENT. It is expressly agreed that this Agreement  
10 embodies the entire agreement of the parties in relation to the subject matter hereof,  
11 and that no other agreement or understanding, verbal or otherwise, relative to this  
12 subject matter, exists between the parties at the time of execution.

13 40. AUTHORITY TO EXECUTE. The persons executing this  
14 Agreement or exhibits attached hereto on behalf of the parties to this Agreement  
15 hereby warrant and represent that they have the authority to execute this Agreement  
16 and warrant and represent that they have the authority to bind the respective parties to  
17 this Agreement to the performance of its obligations hereunder.

18 41. WAIVER. Failure by a party to insist upon the strict performance of  
19 any of the provisions of this Agreement by the other party, or the failure by a party to  
20 exercise its rights upon the default of the other party, shall not constitute a waiver of  
21 such party's rights to insist and demand strict compliance by the other party with the  
22 terms of this Agreement thereafter.

23 42. INTERPRETATION AND GOVERNING LAW. This Agreement and  
24 any dispute arising hereunder shall be governed by and interpreted in accordance with  
25 the laws of the State of California. This Agreement shall be construed as a whole  
26 according to its fair language and common meaning to achieve the objectives and  
27 purposes of the parties hereto, and the rule of construction to the effect that  
28 ambiguities are to be resolved against the drafting party shall not be employed in

1 interpreting this Agreement, all parties having been represented by counsel in the  
2 negotiation and preparation hereof.

3 43. JURISDICTION AND VENUE. Any action at law or in equity arising  
4 under this Agreement or brought by a party hereto for the purpose of enforcing,  
5 construing or determining the validity of any provision of this Agreement shall be filed  
6 in the Superior Courts of Riverside County, State of California, and the parties hereto  
7 waive all provisions of law providing for the filing, removal or change of venue to any  
8 other court or jurisdiction.

9 44. SEVERABILITY. Each paragraph and provision of this Agreement  
10 is severable from each other provision, and if any provision or part thereof is declared  
11 invalid, the remaining provisions shall nevertheless remain in full force and effect.

12 45. MINISTERIAL ACTS. The COUNTY's Assistant County Executive  
13 Officer/EDA or designee(s) are authorized to take such ministerial actions as may be  
14 necessary or appropriate to implement the terms, provisions, and conditions of this  
15 Agreement as it may be amended from time to time by both parties.

16 46. MODIFICATION OF AGREEMENT. The COUNTY or  
17 DEVELOPER may consider it in its best interest to change, modify or extend a term or  
18 condition of this Agreement. Any such change, extension or modification, which is  
19 mutually agreed upon by the COUNTY and DEVELOPER shall be incorporated in  
20 written amendments to this Agreement. The Assistant County Executive Officer/EDA  
21 or designee is authorized to execute, subject to County Counsel approval, the  
22 amendment to change, modify or extend a term or condition of this Agreement. Such  
23 amendments shall not invalidate this Agreement, nor relieve or release the COUNTY  
24 or DEVELOPER from any obligations under this Agreement, except for those parts  
25 thereby amended. No amendment to this Agreement shall be effective and binding  
26 upon the parties, unless it expressly makes reference to this Agreement, is in writing  
27 and is signed and acknowledged by duly authorized representatives of all parties.

28 47. ASSIGNMENT. DEVELOPER will not make any sale, assignment,

1 conveyance, or lease of any trust or power, or transfer in any other form with respect  
2 to this Agreement or the Project, other than the sale of Assisted Units to Qualified  
3 Homebuyers as set forth in this Agreement.

4 48. EXHIBITS AND ATTACHMENTS. Each of the attachments and  
5 exhibits attached hereto is incorporated herein by this reference.

6 49. MEDIA RELEASES. DEVELOPER agrees to allow COUNTY to  
7 coordinate all media releases regarding the Project, with prior approval of  
8 DEVELOPER. Any publicity generated by DEVELOPER for the Project must make  
9 reference to the contribution of COUNTY in making the Project possible. COUNTY's  
10 name shall be prominently displayed in all pieces of publicity generated by  
11 DEVELOPER, including flyers, press releases, posters, signs, brochures, and public  
12 service announcements. DEVELOPER agrees to cooperate with COUNTY in any  
13 COUNTY-generated publicity or promotional activities with respect to the Project.

14 50. NOTICES. All notices, requests, demands and other  
15 communication required or desired to be served by either party upon the other shall be  
16 addressed to the respective parties as set forth below or the such other addresses as  
17 from time to time shall be designated by the respective parties and shall be sufficient if  
18 sent by U.S. first class, certified mail, postage prepaid, or express delivery service with  
19 a receipt showing the date of delivery.

20 COUNTY  
21 Assistant Director of Housing  
22 Riverside County  
23 Economic Development Agency  
24 5555 Arlington Ave.  
25 Riverside, CA 92504

DEVELOPER  
Executive Director  
Habitat for Humanity  
Inland Valley  
41615 Winchester Rd, Suite 214  
Temecula, CA 92591

26 51. COUNTERPARTS. This Agreement may be signed by the different  
27 parties hereto in counterparts, each of which shall be an original but all of which  
28 together shall constitute one and the same agreement.

52. TIME OF THE ESSENCE. Time is of the essence with respect to  
all provisions of this Agreement that specify a time for performance.

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53. EFFECTIVE DATE. The effective date of this Agreement is the date the parties execute the Agreement. If the parties execute the Agreement on more than one date, then the last date the Agreement is executed by a party shall be the effective date.

54. FORCE MAJEURE DELAYS. Delay due to Force Majeure that, in each case, (i) materially adversely affects the performance by DEVELOPER of its obligations hereunder, (ii) is not reasonably foreseeable and is beyond DEVELOPER's reasonable control, (iii) despite the exercise of reasonable diligence, cannot be prevented, avoided or removed by DEVELOPER and is not attributable to the negligence, willful misconduct or bad faith of DEVELOPER, and (iv) is not the result of the failure of DEVELOPER to perform any of its obligations under this Agreement. Notwithstanding the foregoing, a Force Majeure Delay shall not be deemed to have occurred unless DEVELOPER has notified COUNTY in writing of such occurrence of Force Majeure within fifteen (15) days after such occurrence and has provided COUNTY with the details of such event and the length of the anticipated delay within an additional fifteen (15) days thereafter. DEVELOPER shall diligently attempt to remove, resolve, or otherwise eliminate such event, keep the COUNTY advised with respect thereto, and shall commence performance of its obligations hereunder immediately upon such removal, resolution or elimination. During the occurrence and continuance of a Force Majeure Delay, DEVELOPER shall be excused from performance of its obligations under this Agreement to the extent the Force Majeure prevents DEVELOPER from performing such obligations.

(Signatures follow next page)



1           **IN WITNESS WHEREOF**, the COUNTY and DEVELOPER have executed this  
2 Agreement as of the date written below.

3  
4 COUNTY:  
5 COUNTY OF RIVERSIDE, a political  
6 subdivision of the State of California

DEVELOPER:  
HABITAT FOR HUMANITY  
INLAND VALLEY,  
a California nonprofit public benefit corporation

7  
8 By: \_\_\_\_\_  
9 MARION ASHLEY, Chairman  
Board of Supervisors

By:  \_\_\_\_\_  
TAMMY MARINE,  
Executive Director

10  
11 Date: \_\_\_\_\_

Date: 9-17-15

12  
13 ATTEST:  
14 KECIA HARPER-IHEM  
15 Clerk of the Board

16  
17 By: \_\_\_\_\_  
18 Deputy

19  
20 APPROVED AS TO FORM:  
21 Gregory P. Priamos  
22 County Counsel

23 By:  \_\_\_\_\_  
24 Jhaila R. Brown, Deputy County Counsel

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Riverside  
On September 17, 2015 before me, Nicole Gasco, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Tammy Marine  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

# Exhibit A

**DEVELOPER:** Habitat for Humanity Inland Valley

**Address:** 41615 Winchester Rd, Suite 214, Temecula, CA 92590

**Project Title:** HFHIV NSP1-PI Single Family Infill Homes

## **Project Description:**

DEVELOPER will utilize up to \$645,000 in NSP1 funds for acquisition, construction and sale of single-family homes to low-, moderate- and middle-income ("LMMI") and very low-income ("VLI") first-time homebuyers within the designated NSP1 target area in the City of Perris as defined in the County of Riverside's 2008-2009 One Year Action Plan and its amendments.

DEVELOPER shall expend a minimum of 25% of the NSP1 funds to assist Very Low Income (VLI) households whose incomes are at or below fifty percent (50%) of the Area Median Income (AMI), adjusted by family size at the time of occupancy for the County of Riverside. The balance of 75% or less of the NSP1 funds shall be expended to assist Low, Moderate or Middle Income (LMMI) households whose incomes are at or below one hundred twenty percent (120%) of the AMI, adjusted by family size at the time of occupancy for the County of Riverside.

Qualified homebuyers must not have owned a home within the past 3 years and are required to attend an eight (8) hour home buyer counseling session certified by the United States Department of Housing and Urban Development (HUD). Developer will utilize NSP1 funds for acquisition, construction and disposal costs of properties for the Project. NSP1 Assisted Units shall be affordable for a period of at least 15 years from the transfer of title to qualified first-time homebuyers.

## **Eligible Properties ("Assisted Units")**

Each Assisted Unit will be subject to environmental review prior to acquisition, demolition, construction or new construction. The environmental effects of each activity carried out with NSP1 funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities listed at HUD's implementing regulations at 24 CFR Parts 50 and 58. The Project is required to comply with 24 CFR Section 58.5 (related federal laws and authorities) including but not limited to §58.5: historic properties, floodplain management & wetlands protection, coastal zone management, aquifers, endangered species, rivers, air, farmlands, HUD environmental standards and environmental justice. Developer shall also comply with the California Environmental Quality Act (CEQA).

## **Target Areas**

Assisted Units must reside inside areas of greatest need within the designated Target Areas of the County of Riverside as defined in the County's 2008-2009 One Year Action Plan and its amendments.

## **Maximum Purchase Price**

The maximum purchase price shall not exceed \$278,000 for new construction, \$262,000 for existing single family residence, \$204,000 for new/existing condominium or townhouse and \$114,000 for new manufactures home. In addition, the purchase price of property shall not exceed the appraised value of the property.

## **Resale Price Limitation**

The Selling Price of each Assisted Unit shall not exceed (a) the fair market value or (b) the total costs to acquire, construct and dispose of each Assisted Unit pursuant to NSP1.

**Project Sources and Uses of Funds:**

Sources:

County of Riverside NSP1 Loan	<u>\$ 645,000</u>
Total Sources	<u>\$ 645,000</u>

Uses:

Acquisition	\$80,000
Appraisals	\$1,800
Property Taxes	\$1,200
Fees	\$80,940
Land Development/House Design	\$62,400
Marketing	\$8,000
New Construction Costs	\$338,000
Insurance	\$1,000
Escrow	\$1,200
Title and Recording	\$3,000
Interim Maintenance	\$1,700
Inspections	\$1,000
Contingency	\$6,000
(Total Project Costs) Sub-Total	\$586,240
Developer Fee (10% of Total Project Costs)	\$58,624
Total Uses	\$644,864

**IMPLEMENTATION SCHEDULE**

Milestone	Completion Date
1. NSP Loan Agreement executed	(1 <sup>st</sup> month)
2. Acquisition of Land Completed	(1 <sup>st</sup> month)
3. Land Development & House Design	(4 <sup>th</sup> month)
4. Homeowner Recruitment/Selection & EDA Approval	(4 <sup>th</sup> month)
5. Marketing & Community Outreach	(Ongoing)
6. Construction of Houses*	(10 <sup>th</sup> month)
7. Transfer of titles to Qualified Homebuyers*	(11 <sup>th</sup> month)
8. Submission of Closing Documents	(12 <sup>th</sup> month)

\* Section 26 of the Loan Agreement for the use of Neighborhood Stabilization funds  
 – Performance Requirements

**DOCUMENT SUBMISSION SCHEDULE**

<b>Documents</b>	<b>Due Date</b>
1. NSP1 Activities Reporting and Project Photos	Monthly, due by the <b>15<sup>th</sup></b> of each month
2. Liability and Certificate of Workers' Compensation Insurance for DEVELOPER and General Contractor	DEVELOPER – At the execution of this Agreement. GC – Before start of construction. Copies of Certificates must be filed and up-to-date throughout the course of the Project with the COUNTY additionally insured.
3. Minority & Women Business Enterprise Report – HUD form 2516, and Section 3 Reporting	Semi-Annually <b>Sept 30th &amp; March 31<sup>st</sup></b> Completion of Project
4. Notice of Completion	End of Construction
5. Certificate of Occupancy	End of Construction
6. Conditional/Unconditional Release for Final from GC, and if applicable, Sub-contractors	Close of Construction
7. Construction Completion Report	Close of Construction
8. Final Development Cost - Sources and Uses	Close of Construction
9. Qualified Homebuyer Selection Policy	Marketing Stage
10. Flyers, Community Contacts, Outreach, Press Releases, Grand Opening info	Marketing Stage
11. Updated Preliminary Title Report showing Transfer of title to Qualified Homebuyer	Close of Escrow

# **EXHIBIT B**

Deed of Trust

EXEMPT RECORDING FEE CODE 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Riverside County  
Economic Development Agency  
5555 Arlington Avenue  
Riverside, CA 92504  
ATTN: Mervyn Manalo

SPACE ABOVE THIS LINE FOR RECORDER'S USE

### DEED OF TRUST WITH ASSIGNMENT OF RENTS

This DEED OF TRUST WITH ASSIGNMENT OF RENTS ("Security Instrument" or "Deed of Trust") is made on this \_\_\_\_ day of \_\_\_\_\_, 2015. The trustor is HABITAT FOR HUMANITY INLAND VALLEY, INC., a California nonprofit corporation ("Trustor"), whose address is 41615 Winchester Rd, Suite 214, Temecula, CA 92590. The trustee is <Leave Blank for Escrow Company> ("Trustee"). The beneficiary is the COUNTY OF RIVERSIDE ("Beneficiary"), a political subdivision of the State of California, and whose address is 5555 Arlington Ave., Riverside, CA 92504.

Pursuant to the terms of the Loan Agreement for the Use of Neighborhood Stabilization Funds ("NSP1 Loan Agreement"), dated \_\_\_\_\_, and entered into between Trustor and Beneficiary, Trustor owes Beneficiary the sum of \_\_\_\_\_ Dollars (U.S. \$) (the "NSP1 Loan") for acquisition, construction and disposition of the "Assisted Unit" at \_\_\_\_\_ with Assessor Parcel Number \_\_\_\_\_, as legally described in the legal description attached hereto as Exhibit A and incorporated herein by this reference:

This NSP1 Loan is evidenced by a Promissory Note dated \_\_\_\_\_ executed by Trustor in favor of Beneficiary in the amount of \$\_\_\_\_\_ ("Note"). Capitalized terms not defined herein shall have the meaning ascribed to them in the NSP1 Loan Agreement.

The NSP1 Loan is evidenced by the Note and secured by this Deed of Trust ("Security Instrument"). The Security Instrument secures the following: (a) the repayment of the NSP1 Loan evidenced by the Note, with interest as provided in the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest as provided in the Note, advanced under paragraph 10 to protect the security of this Security Instrument; and (c) the performance of Trustor's covenants, obligations and agreements under the NSP1 Loan Agreement, this Security Instrument and the Note. For this purpose, Trustor irrevocably grants and conveys to Trustee, in trust, with power of sale together with right of entry and possession the following property ("Trust Estate"):

(A) all of Trustor's right, title and interest in and to the Assisted Unit located in Riverside County, California, described in the legal description attached hereto A.

(B) all the improvements now or hereafter erected on the Assisted Unit, and all easements, appurtenances, and fixtures now or hereafter a part of the Assisted Unit. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

(C) all tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefiting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "Appurtenances"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "Real Property");

(D) subject to the assignment to Beneficiary set forth in Paragraph 5 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "Rents");

(E) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "UCC"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "Goods," and together with the Real Property, the "Property"); and

(F) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement



plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types of intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "Intangibles").

(G) that upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure periods, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction without notice to take possession and protect the Property described herein and operate same and collect the rents, rights and income therefore.

(H) that all rents, profits and income from the Property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after giving of notice and the expiration of any applicable cure period to collect such rents, rights and income in accordance with the NSP1 Loan Agreement.

TRUSTOR COVENANTS that the Trustor is lawfully seized of the estate hereby conveyed and has the right to grant and convey its fee and leasehold interest in the Property, as applicable, and the Property is unencumbered. Trustor warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

Said Note, NSP1 Loan Agreement, and this Deed of Trust (collectively, referred to as the "Secured Obligations") and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. The NSP1 Loan Agreement, Note, and this Deed of Trust as used herein shall mean, refer to and include the NSP1 Loan Agreement, Note, and this Deed of Trust, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the NSP1 Loan Agreement.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**And to Protect the Security of this Deed of Trust with Assignment of Rents, Trustor Covenants and Agrees** and in addition to any termination and/or suspension rights the County has under this Agreement:

1. **Payment of Principal; Late Charges.** Trustor shall promptly pay when due the principal of on the debt evidenced by the Note and any late charges due under the Note.
2. **Taxes and Insurance.** Trustor shall pay at least ten (10) days before delinquency all taxes and assessments affecting said Property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.
  - a. Should Trustor fail to make any payment or to do any act herein provided, then Beneficiary or Trustee, but without obligation so to do and upon written notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said Property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.
3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Beneficiary under paragraphs 1 and 2 above shall be applied: first, to amounts payable under paragraph 2; second, to interest due; third, to principal due; and last, to any late charges due under the Note.
4. **Prior Deeds of Trust; Charge; Liens.** The Trustor shall perform all of the Trustor's obligations under this Deed of Trust, including Trustor's covenants to make payments when due, subject to applicable cure periods. Trustor shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any, subject to applicable cure periods. Trustor shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Trustor shall pay them on time directly to the person owed

payment. Trustor shall promptly furnish to Beneficiary all notices of amounts to be paid under this paragraph. If Trustor makes these payments directly, Trustor shall promptly furnish to Beneficiary receipts evidencing the payments.

- a) Except for the liens permitted by the Beneficiary, Trustor shall promptly discharge any other lien which shall have attained priority over this Security Instrument unless Trustor: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Beneficiary; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Beneficiary's opinion operate to prevent the enforcement of the lien; (3) bond around the lien; or (4) secures from the holder of the lien an agreement satisfactory to Beneficiary subordinating the lien to this Security Instrument. If Beneficiary determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Beneficiary may give Trustor a notice identifying the lien. Trustor shall satisfy such lien or take one or more of the actions set forth above within thirty (30) days of the date of such notice.

5. **Assignment.** That all permits, rents, profits and incomes from the property covered by this Deed of Trust are hereby assigned to Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor, so long as no default exists hereunder after giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income in accordance with the NSP1 Loan Agreement.
6. **Receiver.** That upon default hereunder or under any of the Secured Obligations, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any Court having jurisdiction, without notice to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.
7. **Subordination.** This Deed of Trust shall be recorded in first position. This Deed of Trust shall remain in a superior position over any other trust deed that may be issued to secure additional public and/or private financing for the Project.
8. **Hazard or Property Insurance.** Trustor shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Beneficiary requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the NSP1 Loan Agreement. The insurance carrier providing the insurance shall be chosen by Trustor subject to Beneficiary's approval which shall not be unreasonably withheld. If Trustor fails to maintain coverage described above, Beneficiary may, at Beneficiary's option, obtain coverage to protect Beneficiary's rights in the Property in accordance with paragraph 8.

- a) All insurance policies and renewals shall be with terms and amounts acceptable to Beneficiary as set forth in the NSP1 Loan Agreement and shall include a standard mortgagee clause. All original policies of insurance required pursuant to the Beneficiary Deeds of Trust shall be held by the Trustor; provided, however, Beneficiary shall be named as a loss payee as its interest may appear and may be named as an additional insured. Trustor shall promptly give to Beneficiary certificates of insurance showing the coverage is in full force and effect and that Beneficiary is named as additional insured. In the event of loss, Trustor shall give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by the Trustor.
- b) Unless Beneficiary and Trustor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Trustor determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Trustor determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Trustor. If the Property is abandoned by Trustor, or if Trustor fails to respond to Beneficiary within 30 days from the date notice is mailed by Beneficiary to Trustor that the insurance carrier offers to settle a claim for insurance benefits, Beneficiary is authorized to collect and apply the insurance proceeds at Beneficiary's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.
- c) Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under paragraph 26 the Property is acquired by Beneficiary, Trustor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Beneficiary to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

**9. Preservation, Maintenance and Protection of the Property; Trustor's Loan Application; Leaseholds.** Trustor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Trustor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Beneficiary's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Beneficiary's security interest. Trustor may cure such a

default and reinstate, as provided in paragraph 22, by causing the action or proceeding to be dismissed with a ruling that, in Beneficiary's good faith determination, precludes forfeiture of the Trustor's interest in the Property or other material impairment of the lien created by this Security Instrument or Beneficiary's security interest. Trustor shall also be in default if Trustor, during the loan application process, gave materially false or inaccurate information or statements to Beneficiary (or failed to provide Beneficiary with any material information) in connection with the loan evidenced by the Note, including, but not limited to representations concerning Trustor's use of Property for affordable housing. If this Security Instrument is on a leasehold, Trustor shall comply with all provisions of the lease. If Trustor acquires fee title to the Property, the leasehold and the fee title shall not merge unless Beneficiary agrees to the merger in writing.

- a) The Trustor acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting the Property's use to low-, moderate- and middle-income (LMMI) households earning no more than one-hundred twenty percent (120%) of the median income within Riverside County and very low-income (VLI) households earning no more than fifty percent (50%) of the median income within Riverside County. The use and occupancy restrictions may limit the Trustor's ability to sell the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Beneficiary to the remedies provided in Section 23 hereof.

**10. Protection of Beneficiary's Rights in the Property.** If Trustor fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Beneficiary's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to any applicable grace periods or cure periods, Beneficiary may do and pay for whatever is necessary to protect the value of the Property and Beneficiary's rights in the Property. Beneficiary's actions may include paying any sums secured by a lien which has priority over this Security Instrument (including sums secured by the Senior Deeds of Trust), appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Beneficiary may take action under this paragraph 8, Beneficiary does not have to do so.

- a. Any amounts disbursed by Beneficiary under this paragraph 8 shall become additional debt of Trustor secured by this Security Instrument. Unless Trustor and Beneficiary agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Beneficiary to Trustor requesting payment.

**11. Mortgage Insurance.** (Not used)

**12. Inspection.** Beneficiary or its agent may make reasonable entries upon and inspection of the Property. Beneficiary shall give Trustor notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

**13. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Beneficiary.

- a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Trustor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Trustor and Beneficiary otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, any condemnation proceeds may be used by Trustor for repair and/or restoration of the project.
- b. If the Property is abandoned by Trustor, or if, after notice by Beneficiary to Trustor that the condemner offers to make an award or settle a claim for damages, Trustor fails to respond to Beneficiary within 30 days after the date the notice is given, Beneficiary is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.
- c. Unless Beneficiary and Trustor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

**14. Trustor Not Released; Forbearance By Beneficiary Not a Waiver.** Except in connection with any successor in interest approved in writing by Beneficiary, extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Beneficiary to any successor in interest of Trustor shall not operate to release the liability of the original Trustor or Trustor's successors in interest. Beneficiary shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Trustor or Trustor's successors in interest. Any forbearance by Beneficiary in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**15. Waiver of Statute of Limitations.** The pleading of any statute of limitations as a defense to any obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

**16. Successors and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Beneficiary and Trustor, subject to the provisions of paragraph 18. Trustor's covenants and agreements shall be joint and several.

The pleading of any statute of limitations as a defense to any obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

**17. Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Trustor which exceeded permitted limits will be promptly refunded to Trustor. Beneficiary may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Trustor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**18. Notices.** Any notice to Trustor provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Trustor's mailing address stated herein or any other address Trustor designates by notice to Beneficiary. Any notice to Beneficiary shall be given by first class mail to Beneficiary's address stated herein or any other address Beneficiary designates by notice to Trustor. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to any Senior Lien Holder at such address Senior Lien Holder designates by notice to the Trustor. Any notice provided for in this

Security Instrument shall be deemed to have been given to Trustor or Beneficiary when given as provided in this paragraph.

**19. Governing Law; Severability.** This Security Instrument shall be governed by laws of the State of California. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

That any and all improvements made or about to be made upon the premises covered by the Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

**20. Trustor's Copy.** Trustor shall be given one conformed copy of the Note and of this Security Instrument.

**21. Transfer of the Property or a Beneficial Interest in Trustor.** Except for the sale of Assisted Units in the Project, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person) without Beneficiary's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for LMMI or VLI households as described in Section 9(a)) Beneficiary may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Beneficiary if exercise is prohibited by federal law as of the date of this Security Instrument.

- a. If Beneficiary exercises the foregoing option, Beneficiary shall give Trustor prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Trustor must pay all sums secured by this Security Instrument. If Trustor fails to pay these sums prior to the expiration of this period, Beneficiary may invoke any remedies permitted by this Security Instrument without further notice or demand on Trustor.
- b. Notwithstanding Beneficiary's right to invoke any remedies hereunder, as provided in Section 10 above, Beneficiary agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Trustor at least 60 days' prior written notice.



**22. Trustor's Right to Reinstate.** If Trustor meets certain conditions, Trustor shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Trustor: (a) pays Beneficiary all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Beneficiary may reasonably require to assure that the lien of this Security Instrument, Beneficiary's rights in the Property and Trustor's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Trustor, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 18.

**23. Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Trustor. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Trustor will be given written notice of the change in accordance with paragraph 18 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

**24. Hazardous Substances.** Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Trustor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses, construction, and to maintenance of the Property.

- a. Trustor shall promptly give Beneficiary written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified in writing by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Trustor shall promptly take all necessary

remedial actions in accordance with Environmental Law. Prior to taking any such remedial action, however, the Trustor shall notify the Senior Lien Holders that such remedial action is necessary and shall obtain the Senior Lien Holders' prior written consent for such remedial action.

- b. As used in this paragraph 24, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 24, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**25. NON-UNIFORM COVENANTS.** Trustor and Beneficiary further covenant and agree as follows:

- a. Subject to the notice and cure provisions of this Section 25, failure or delay by Trustor to perform any term or provision respectively required to be performed under the NSP1 Loan Agreement, the Note, this Deed of Trust, or any other instrument secured against the Property, constitutes a default under this Deed of Trust.

- b. Beneficiary shall give written notice of default to the party in default, specifying the default complained of by the Beneficiary. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Deed of Trust, any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

- c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the Beneficiary shall give the Trustor written notice of such default. The Trustor shall have a period of ten (10) calendar days after such notice is received or deemed received within which to cure the default prior to exercise of remedies by the Beneficiary.

- d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the Beneficiary shall give the Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, the Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary.

e. Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Trustor; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

f. After the giving the notice and cure specified in this Section 22, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed, the Note and all documents evidencing expenditures secured hereby.

**26. Acceleration; Remedies.** Beneficiary shall give notice to Trustor prior to acceleration following Trustor's breach of any covenant or agreement in this Security Instrument. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Trustor, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Trustor of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Trustor to acceleration and sale. If the default is not cured by the Trustor on or before the date specified in the notice, then Beneficiary at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding Beneficiary's right to invoke any remedies hereunder, as provided in Section 8 above, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Trustor at least 60 days' prior written notice. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 26, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

- a If Lender invokes the power of sale, Lender or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Trustor, and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Trustor, shall sell the Property at public auction to the highest bidder

for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Beneficiary or its designee may purchase the Property at any sale.

- b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**27. Release.** Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured have been satisfied, and upon surrender of this Deed of Trust to Trustee for cancellation and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

**28. Irrevocable Trust.** The trust created hereby by Trustor is irrevocable.

**29. Trustee Acceptance.** Trustee accepts this Trust when the Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

**30. Substitute Trustee.** Beneficiary, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

(SIGNATURES ON NEXT PAGE)

**In Witness Whereof Trustor has executed this Deed of Trust as of the day and year set forth below.**

TRUSTOR:

HABITAT FOR HUMANITY INLAND VALLEY,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Tammy Marine, Executive Director

Date: \_\_\_\_\_

**TRUSTOR SIGNATURE MUST BE NOTARIZED**



EXHIBIT "A"  
LEGAL DESCRIPTION

REQUEST FOR RECONVEYANCE

TO TRUSTEE:

The undersigned is the holder of the Note or Notes secured by this Security Instrument (Deed of Trust). Said Promissory Note or Notes, together with all other indebtedness secured by this Security Instrument (Deed of Trust), have been paid in full. You are hereby directed to cancel said Promissory Note or Notes and this Security Instrument (Deed of Trust), which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Dated: \_\_\_\_\_



# **EXHIBIT C**

## **Promissory Note**

**PROMISSORY NOTE SECURED BY DEED OF TRUST**

\$ \_\_\_\_\_  
Interest 0%

Date: \_\_\_\_\_  
Riverside, California

In installments as hereafter stated, for value received, HABITAT FOR HUMANITY INLAND VALLEY, a California nonprofit public benefit corporation ("Borrower") promises to pay the COUNTY OF RIVERSIDE, a political subdivision of the State of California ("COUNTY"), or order, at 5555 Arlington Avenue, Riverside, CA 92504, the sum of \_\_\_\_\_ Dollars (U.S. \$) (the "NSP1 Loan") which at the time of payment is lawful for the payment of public and private debts.

This Promissory Note ("Note") is given in accordance with that certain Loan Agreement for the Use of Neighborhood Stabilization funds (the "NSP1 Loan Agreement") executed by COUNTY and Borrower, dated as of \_\_\_\_\_. Except to the extent otherwise expressly defined in this Note, all capitalized terms shall have the meanings established in the NSP1 Loan Agreement. The rights and obligations of the Borrower and COUNTY under this Note shall be governed by the NSP1 Loan Agreement and the following terms:

- (1) The NSP1 Loan evidenced by this Note and secured by the Deed of Trust are being made pursuant to the Neighborhood Stabilization Program ("NSP1"), which was enacted under Title III of Division B of the Housing and Economic Recovery Act of 2008 ("HERA") and appropriated under Community Development Block Grant (CDBG), was created under the heading of Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes for the purpose of assisting in the redevelopment of abandoned or foreclosed homes. Borrower agrees for itself, its successors and assigns that the use of the Assisted Unit shall be subject to the restrictions on rent and occupancy set forth in the NSP1 Program regulations and the NSP1 Loan Agreement.
- (2) The term of this Note shall be twelve (12) months from the date of execution of the NSP1 Loan Agreement.

That the NSP1 Loan will accrue simple interest at a rate of zero percent (0%) per annum. The NSP Loan shall be due and payable in an Event of Default by Borrower which has not been cured as provided for in the NSP1 Loan Agreement. Notwithstanding the above, it is intended that the full amount of the NSP1 Loan for the Assisted Unit will be reduced by the following:

- a. Development Subsidy. The Development Subsidy is the amount of the NSP1 Loan minus the "Selling Price" of the Assisted Unit which is limited to (i) the fair market value or (ii) the total costs to acquire, construct and dispose the Assisted Unit;
- b. Homebuyer Subsidy. The Homebuyer Subsidy is the amount of the Selling Price minus the Qualified Homebuyer's home loan (the "Homebuyer Loan"). The Homebuyer Subsidy is limited to thirty percent (30%) of the Selling Price and capped for a maximum amount of \$75,000. The Homebuyer Subsidy is

an amount assumed in the form of silent second mortgage assistance to Qualified Homebuyer; and

- c. Closing Costs. Closing Costs for the sale of the Assisted Unit to Qualified Homebuyer.

The NSP1 Loan less Development Subsidy, Homebuyer Subsidy and Closing Costs shall be converted to a grant upon the sale and initial transfer of title of the Assisted Unit to a Qualified Homebuyer. At the time of the sale of the Assisted Unit to a Qualified Homebuyer, COUNTY shall cause to be delivered to Borrower a reconveyance of the Deed of Trust from such Assisted Unit.

Upon transfer of title to the Qualified Homebuyer, a "Homebuyer Covenant" shall be recorded to secure the Affordability Period regardless of sale, rental, refinance, conveyance, transfer or change in title of the Assisted Unit prior to the expiration of the affordability period.

- (3) The NSP1 Loan is evidenced by this Note which is secured by that certain Deed of Trust with Assignment of Rents executed by Borrower for the benefit of the COUNTY, dated on or about the date hereof and recorded in the Official Records on or about the date hereof ("Deed of Trust").
- (4) This Note may be prepaid in whole or in part by the undersigned at any time without prepayment penalty or premium.
- (5) The Borrower and its partners, officers, directors, employees, and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the NSP1 Loan or the performance of the Borrower's obligations under the NSP1 Loan documents. The sole recourse of COUNTY with respect to payment of the principal of, or interest on, the NSP1 Loan, shall be to the Assisted Unit. No money judgment (or execution on a money judgment) entered in any action (whether legal or equitable) on the NSP1 Loan documents shall be enforced personally against the Borrower or its partners, officers, directors, employees, and agents, but shall be enforced only against the Project and such other property as may from time to time be hypothecated in connection with the Borrower's obligations under the NSP1 Loan documents. This non-recourse provision does not limit or impair the enforcement against all such security for the NSP1 Loan of all the rights and remedies of COUNTY, nor does it impair the right of COUNTY to assert the unpaid principal amount of the NSP1 Loan as a demand for money within the meaning of California Code of Civil Procedure Section 431.70 or any successor provision. In addition, this non-recourse provision does not relieve the Borrower of personal liability for damage to or loss suffered by COUNTY as a result of any of the following (i) fraud or willful misrepresentation; (ii) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Assisted Unit and that are payable or applicable prior to any foreclosure under the Deed of Trust; (iii) the fair market value of any personal

property or fixtures removed or disposed of by the Borrower other than in accordance with the Deed of Trust; (iv) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss, or destruction to any portion of the Assisted Unit (to the extent of the misapplied proceeds or awards); and (v) any rental income or other income arising with respect to the Assisted Unit received by the Borrower after COUNTY has properly exercised its rights under the Deed of Trust to receive such income upon an Event of Default (as defined under the Deed of Trust).

(6) The occurrence of any of the following events shall constitute an "Event of Default" under this Note after notice and opportunity to cure pursuant to the terms set forth in the Deed of Trust:

- i. Monetary Default. (1) Borrower's failure to pay when due any sums payable under this Note or Deed of Trust, or any advances made by COUNTY under the Deed of Trust or the NSP1 Loan Agreement, after expiration of any applicable cure periods, (2) Borrower's or any agent of Borrower's use of NSP1 funds for costs other than costs or for uses inconsistent with terms and restrictions set forth in the NSP1 Loan Agreement, after expiration of any applicable cure periods, (3) Borrower's or any agent of Borrower's failure to make any other payment of any assessment or tax due under the NSP1 Loan Agreement or the Deed of Trust, after expiration of any applicable cure periods, and /or (4) default under the terms of any junior loan documents or any other instrument or document secured against the Assisted Unit;
- ii. Non-Monetary Default - Operation. (1) Discrimination by Borrower or Borrower's agent on the basis of characteristics prohibited by the NSP1 Loan Agreement or applicable law, (2) the imposition of any encumbrances or liens on the Assisted Unit without COUNTY's prior written approval, including, but not limited to those liens or encumbrances expressly prohibited under the NSP1 Loan Agreement or that have the effect of reducing the priority or invalidating the Deed of Trust, (3) Borrower's failure to obtain and maintain the insurance coverage required under the NPS1 Loan Agreement, after expiration of any applicable cure periods, (f) breach of any term contained in the Deed of Trust, after expiration of any applicable cure periods, (4) any other default under the NSP1 Loan Agreement, after expiration of any applicable cure periods, and/or (5) default under the terms of any junior loan documents or any other instrument or document secured against the Assisted Unit;
- iii. General Performance of Loan Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents of any material obligations on Borrower imposed in the NSP1 Loan Agreement, after expiration of any applicable cure periods,; and

- iv. General Performance of Other Obligations. Any substantial or continuous or repeated breach by Borrower or Borrower's agents, after expiration of any applicable cure periods, of any material obligations on the Project imposed by any other agreement with respect to the financing, development, or operation of the Project; whether or not COUNTY is a party to such agreement.
- (7) COUNTY shall give written notice of default to Borrower, specifying the default complained of by the COUNTY as set forth in the Deed of Trust and of Borrower's obligation to cure the default within the periods set forth below. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party.

- (8) Any failures or delays by COUNTY in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by COUNTY in asserting any of its rights and remedies shall not deprive COUNTY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.
- (9) If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid. In the event that any provision or clause of this Note conflicts with applicable law, such conflict will not affect other provisions of this Note which can be given effect

without the conflicting provision, and to this end the provisions of the Note are declared to be severable.

- (10) Borrower hereby waives diligence, presentment for payment, demand, notice of protest, dishonor and nonpayment of this Note, and expressly agrees that, without in any way affecting the liability of Borrower hereunder, the COUNTY may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Note. Borrower further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Note..
- (11) Should default be made in payment of principal and interest when due and such default shall continue beyond the applicable notice and cure period provided in the NSP1 Loan Agreement, the whole sum of principal and interest shall become immediately due at the option of the holder of this Note. Principal and interest are payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney's fees.
- (12) This Note has been negotiated and entered in the State of California, and shall be governed by, construed and enforced in accordance with the internal laws of the State of California, applied to contracts made in California by California domiciliaries to be wholly performed in California. Any action at law or in equity arising under this Note or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Note shall be filed in the Superior Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.
- (13) No modification, rescission, waiver, release or amendment of any provision of this Note shall be made except by a written agreement executed by Borrower and the duly authorized representative of the COUNTY.
- (14) The COUNTY may, in its sole and absolute discretion, assign its rights under this Note and its right to receive repayment of the Note Amount without obtaining the consent of Borrower.
- (15) In no event shall Borrower assign or transfer any portion of this Note or any rights herein without the prior express written consent of the COUNTY, which consent the COUNTY may give or withhold in its sole and absolute discretion. In the absence of specific written agreement by the COUNTY, no unauthorized assignment or transfer, or approval thereof by the COUNTY, shall be deemed to relieve Borrower or any other party from any obligations under the NSP1 Loan Agreement or this Note. This provision shall not affect or diminish the COUNTY's assignment rights under this Note.

- (16) Except as to the Permitted Deeds of Trust identified herein, Borrower shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to the Deed of Trust without the prior written approval of the COUNTY in its sole and absolute discretion.
- (17) The relationship of Borrower and the COUNTY pursuant to this Note is that of debtor and creditor and shall not be, or be construed to be, a joint venture, equity venture, partnership or other relationship.
- (18)
- a. Formal notices, demands and communications between the COUNTY and Borrower shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the COUNTY and Borrower as set forth below: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via first-class mail, postage prepaid (in which event, the notice shall be deemed delivered on the date of its successful facsimile transmission as evidenced by a facsimile confirmation or "kick-out" sheet); or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt). Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.
  - b. The address of the COUNTY for purposes of receiving notices pursuant to this Note shall be 5555 Arlington Avenue, Riverside, California 92504, Attention: Assistant Director of Housing. The facsimile number for the COUNTY's receipt of notices is (951) 352-4852.
  - c. The address of Borrower for purposes of receiving notices pursuant to this Note is 41615 Winchester Rd, Suite 214, Temecula, CA 92591, Attention: Executive Director.
- (19) The captions and headings in this Note are for convenience only and are not to be used to interpret or define the provisions hereof.
- (20) The undersigned, if comprising more than one person or entity, shall be jointly and severally liable hereunder.
- (21) This Note shall be binding upon Borrower and its heirs, successors and assigns, and shall benefit the COUNTY and its successors and assigns

(Signature on next page)

**BORROWER:**

**HABITAT FOR HUMANITY INLAND VALLEY,  
a California nonprofit public benefit corporation**

By: \_\_\_\_\_  
Tammy Marine, Executive Director

Date: \_\_\_\_\_



**EXHIBIT D**

**RIVERSIDE COUNTY**

**ECONOMIC DEVELOPMENT AGENCY**

**SECTION 3**

**24 CFR PART 135**

**ECONOMIC OPPORTUNITIES FOR**

**LOW-AND VERY LOW-INCOME PERSONS**

**CONTRACT REQUIREMENTS**

## RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY

### I. Section 135.1 Purpose

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

### Section 135.30 Numerical Goals for Meeting the Greatest Extent Feasible Requirement

#### A. GENERAL

- (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth in this Section for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (2) The goals established in this section apply to the entire amount of the Section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY) commencing with the first FY following the effective date of this rule - (October 1, 1994).
- (3) For Recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 Business Concerns.
- (4) The numerical goals established in this Section represent minimum numerical goals.

#### B. TRAINING AND EMPLOYMENT

The numerical goals set forth in this Section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all levels.

Recipients of section 3 covered community development assistance, and their contractors and subcontractors may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

- (i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995 (October 1, 1994 to September 30, 1995),
- (ii) 20 percent of the aggregate number of the new hires for the one year period beginning in FY 1996 (October 1, 1995 to September 1996); and
- (iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter (October 1, 1996 and thereafter).

C. CONTRACTS

Numerical goals set forth in this Section apply to contracts awarded in connection with all Section 3 covered project and Section 3 covered activities. Each recipient and contractor and subcontractor may demonstrate compliance with the requirements of this part by committing to award to Section 3 Business Concerns:

- (1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing construction, housing construction and other public construction; and
- (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts.

D. SAFE HARBOR AND COMPLIANCE DETERMINATIONS

- (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the Section 3 preference requirements.
- (2) In evaluating compliance, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in Sec. 135.40, which were provided in its efforts to comply with Section 3 and the requirement of this part.

III. **SECTION 135.34 Preference for Section 3 Residents in Training and Employment Opportunities.**

- A. Order of providing preference. Recipients, contractors, and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in the order of priority provided in this section.
- (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
    - (i) Section 3 residents residing in the Riverside or San Bernardino County (collectively, referred to as category 1 residents); and
    - (ii) Participants in HUD Youth build programs (category 2 residents).
    - (iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the Riverside or San Bernardino County shall be given the highest priority;
- B. Eligibility for Preference: A Section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Sec. 135.5 (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)
- C. Eligibility for employment: Nothing in this part shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

**IV SECTION 135.36 Preference for Section 3 Business Concerns in Contracting Opportunities.**

- A. Order of Providing Preference: Recipients, contractors and subcontractors shall direct their efforts to award Section 3 covered contract, to the greatest extent feasible, to Section 3 Business Concerns in the order of priority provided in this section.
- (1) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:
- (i) Section 3 business concerns that provide economic opportunities for section 3 residents in the Riverside or San Bernardino County (category 1 businesses); and
  - (ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
  - (iii) Other section 3 business concerns.
- B. Eligibility for Preference: A Business Concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested, that the Business Concern is a Section 3 Business Concern as defined in Section 135.5.
- C. Ability to Complete Contract: A Section 3 Business Concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36 (b) (8)). This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

**SECTION 135.38 Section 3 Clause.**

All section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the

labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 35 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

#### **VI. SECTION 135.40 Providing Other Economic Opportunities**

- A. General. In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with Section 3 covered assistance.
- B. Other training and employment related opportunities. Other economic opportunities to train and employ Section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring Section 3 residents in management and maintenance positions within other housing developments; and hiring Section 3 residents in part-time positions.
- C. Other business related economic opportunities:
  - (1) A recipient or contractor may provide economic opportunities to establish stabilize or expand Section 3 Business Concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of Section 3 Joint Ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from Public Housing Agency resident-

owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-Section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

- (2) A Section 3 Joint Venture means an association of Business Concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the Business Concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:
- (i) Is responsible for clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
  - (ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

**VII. SECTION 135.5 Definitions.**

As used in this part:

**Applicant** means any entity which makes an application for Section 3 covered assistance and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

**Assistant Secretary** means the Assistant Secretary for Fair Housing and Equal Opportunity.

**Business Concern** means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

**Contract.** See the definition of "Section 3 covered contract" in this section.

**Contractor** means any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance, or for work in connection with a section 3 covered project.

**Department or HUD** means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

**Employment opportunities generated by Section 3 covered assistance** means (with respect to Section 3 covered housing and community development assistance), this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3(a) (2)), including management and administrative jobs connected with the Section 3 covered project. Management and administrative jobs, include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

**Housing and community development assistance** means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under Section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

**Housing development** means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

**HUD Youth build Programs** means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low and very low-income families.

**Low income person.** See the definition of "Section 3 Resident" in this section.

**New hires** mean full-time employees for permanent, temporary, or seasonal employment opportunities.

**Public Housing resident** has the meaning given this term in 24 CFR Part 963.

**Recipient** means any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit or local government, PHA, Indian Housing Authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, owner, PARTICIPANT, developer, limited dividend sponsor, builder, property manager, community development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

**Secretary** means the Secretary of Housing and Urban Development.

**Section 3** means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)

**Section 3 Business Concern** means a business concern, as defined in this Section:

- (1) That is 51 percent or more owned by Section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in Sections (1) or (2) in this definition of "Section 3 Business Concern"

**Section 3 Clause** means the contract provisions set forth in Sec. 135.38.

**Section 3 covered activity** means any activity which is funded by Section 3 covered assistance public and Indian housing assistance.

**Section 3 covered assistance** means:

- (1) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:
  - (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
  - (ii) Housing construction; or
  - (iii) Other public construction project (which includes other buildings or improvements regardless of ownership).

**Section 3 covered contract** means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by Section 3.

**Section 3 covered project** means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

**Section 3 resident means:**

- (1) A public housing resident; or
- (2) An individual who resides in the San Bernardino or Riverside County, and who is:
  - (i) A low income person, is defined as families whose incomes do not exceed 80 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (ii) A very low income person, is defined as families whose incomes do not exceed 50 percent of the median income for the Riverside and San Bernardino Counties, as determined by the Secretary, with adjustments for smaller and larger families.
  - (iii) A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

**Subcontractor** means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a section 3 covered project.

**Very low income person.** See the definition of "Section 3 resident" in this section.



# Exhibit D

## RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY

### CONTRACTOR CERTIFICATION

#### REGARDING STATUS AS A SECTION 3 BUSINESS CONCERN

I, \_\_\_\_\_, hereby certify that the business  
(print name and title)

known as \_\_\_\_\_  
(print business name)

\_\_\_\_\_ is not a Section 3 business. (Please complete the bottom section.)

\_\_\_\_\_ is a Section 3 business **because** (check one of the following)

\_\_\_\_\_ 51 percent or more is owned by Section 3 residents; or

\_\_\_\_\_ 30 percent of the permanent full-time employees are currently Section 3 residents or were Section 3 residents when first hired (if within the past three years); **or**

\_\_\_\_\_ The business commits in writing to subcontract over 25 percent of the total dollar amount of all subcontracts to be let to businesses that meet the requirements of Sections 1 and 2 of this definition;

#### AND

The business was formed in accordance with state law and is licensed under state, county, or municipal law to engage in the business activity for which it was formed.

A Section 3 Resident is a person living in San Bernardino or Riverside County who is a Public Housing resident or who is low income.

Low-Income Persons mean families (including single persons) whose income does not exceed 80 percent of the median income, as adjusted by HUD, for Riverside and San Bernardino Counties.

Signature \_\_\_\_\_  
Date \_\_\_\_\_

Project \_\_\_\_\_  
\$ \_\_\_\_\_

Effective 11/2012

Persons in Household	1	2	3	4	5	6	7	8
Low Income Family (80% Area Median Income)	\$37,550	\$42,900	\$48,250	\$53,600	\$57,900	\$62,200	\$66,500	\$70,800

A new hire is qualified as a Section 3 resident if he/she resides in Riverside or San Bernardino County and his/her total family income is less than the family income shown above for his/her household size.

## Prohibition Against Conflicts of Interest

### EXHIBIT E

§ 92.356 Conflict of interest.

(a) Applicability. In the procurement of property and services by participating jurisdictions, State recipients, and sub-recipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the provisions of this section apply.

(b) Conflicts prohibited. No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with NSP1 funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a NSP1 assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the COUNTY, State recipient, or sub-recipient which are receiving NSP1 funds.

(d) Exceptions: Threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the NSP1 Investment Partnerships Program and the effective and efficient administration of the COUNTY's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

- a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- b. Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- c. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
- d. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
- e. Whether undue hardship will result either to the COUNTY or the person affected when weighed against the public interest served by avoiding the prohibited conflict;
- f. Any other relevant considerations.

Owners/Participants and Developers.

- (1) No owner, developer, or sponsor of a project assisted with NSP1 funds (or officer, employee, agent or consultant of the owner, developer, or sponsor) whether private, for profit or non-profit (including a community housing development organization (CHDO) when acting as an owner, developer or sponsor) may occupy a NSP1 assisted affordable housing unit in a project. This provision does not apply to an individual who receives NSP1 funds to acquire or construct his or her principal residence or to an employee or agent of the owner or developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker.
- (2) Exceptions. Upon written request of owner or developer, the COUNTY may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purpose of the NSP1 program and the effective and efficient administration of the owner's or developer's NSP1 assisted project. In determining whether to grant a requested exception, the COUNTY shall consider the following factors:
  - (i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
  - (ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted housing in question;
  - (iii) Whether the tenant protection requirements of § 92.253 are being observed;
  - (iv) Whether the affirmative marketing requirements of § 92.351 are being observed and followed; and
  - (v) Any other factor relevant to the COUNTY's determination, including the timing of the requested exception.

TOPIC: CONFLICT OF INTEREST CODED  
RIVERSIDE COUNTY  
ECONOMIC DEVELOPMENT AGENCY  
DATE: MARCH 1999

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

- 1) No employee, officer, or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.
- 2) Such a conflict will arise when:
  - i) The employee, officer or agent;
  - ii) Any member of the immediate family;
  - iii) His/Her partners; or
  - iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.
- 3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.
- 4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial interest in a business if their financial interest exceeds the following:
  - i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
  - ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
  - iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
  - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
  - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of Section 4, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.



## Exhibit F **Contractor Debarment Certification Form**

### **System for Award Management (SAM)**

The purpose of EPLS is to provide a single comprehensive list of individuals and firms excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts and from certain types of federal financial and nonfinancial assistance and benefits.

The EPLS was established to ensure that agencies solicit offers from, award contracts, grants, or financial or non-financial assistance and benefits to, and consent to subcontracts with responsible contractors/vendors only and not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion action) that party from participation in an affected program.

In addition, the County of Riverside requires that each contractor/vendor hold the required federal/state/local license for the service provided.

Please complete the following verification process for each contractor/vendor:

- STEP 1: Visit <https://www.sam.gov>
- STEP 2: For "Name Search Type" select "Individual (Basic)". Leave field blank.
- STEP 3: For "Classification" select "ALL"
- STEP 4: For "Exclusion Type" select "ALL"
- STEP 5: For "U.S. State" select "CA – CALIFORNIA"
- STEP 6: For "Country" select "USA – UNITED STATES"
- STEP 7: Click Search.
- STEP 8: Search name of contractor/vendor (individual last name or firm).
- STEP 9: Scroll and locate the names of contractor/vendor before and after subject contractor/vendor.
- STEP 10: Print Screen and attach to this certification as supporting documentation.
- STEP 11: Attach to this certification as supporting documentation a copy of contractor/vendor license for the service provided.

By signing below NSP1 Recipient, developer name, has verified the contractor/vendor known as, name of contractor/vendor, was not listed in the Excluded Parties Lists System and has the required contractor/vendor license as of date of verification.

X

\_\_\_\_\_  
DEVELOPER SIGNATURE