



REDEVELOPMENT AGENCY AGENDA REPORT

ITEM NO: IX. 1

MEETING DATE: 11/10/09

SUBJECT: NEIGHBORHOOD STABILITATION PROGRAM (NSP) 1

DATE: NOVEMBER 2, 2009

FROM: CITY MANAGER'S OFFICE / HOUSING & COMMUNITY DEVELOPMENT

CONTACT: MURIEL ULLMAN AT (714) 754-5167

RECOMMENDED ACTIONS

By the City Council:

1. City Council approves the Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement (Attachment A) by and among the City of Fullerton, City of Costa Mesa, City of La Habra and MHC NSP LLC ("NSP Agreement") with such changes mutually agreed upon by the City Manager and the City Attorney (or special legal counsel) as are in substantial conformance with the form of the attached NSP Agreement.
2. City Council authorizes the City Manager to enter into implementing documents on behalf of the City and to take actions necessary to carry out the NSP Agreement, including issuance of warrants, and making technical or minor changes after execution, as necessary, to properly carry out the NSP Agreement and the City's participation in the NSP Program in order to comply with NSP notices, implementing regulations or other requirements promulgated by HUD and State HCD.
3. City Council authorizes the City Manager to approve and execute the affordable housing agreements and related documents necessary to implement the sale of each Home pursuant to the NSP Program to qualified Middle Income Households as Homebuyers.
4. City Council authorizes the City Manager to enter into a services contract with the City of Fullerton to utilize the inspection services of the City of Fullerton's Building Department in connection with the NSP Agreement and implementation of the NSP Program in a form and content approved by the City Attorney and to carry out such building inspection services agreement.

By the Redevelopment Agency:

1. Redevelopment Agency approves appropriation and expenditure of monies from the Low to Moderate Income Housing Fund up to \$360,000 as supplemental funding for implementation of the NSP Agreement and sale of Homes pursuant to the NSP Program to qualified Middle Income Households as Homebuyers.
2. Redevelopment Agency authorizes the Executive Director to take actions necessary to carry out the NSP Agreement related to expenditure of such supplemental funding from the Housing Fund, including entering into implementing documents on behalf of the Agency and issuance of warrants, as necessary to properly carry out the NSP Program in cooperation with the City and in compliance with NSP notices, implementing regulations or other requirements promulgated by HUD and State HCD.
3. Redevelopment Agency authorizes the Executive Director and special counsel to prepare and implement the necessary documents to carry out the Homebuyer assistance component of the NSP Program as funded from the Housing Fund in connection with the resale of each Home to the qualified Middle Income Homebuyer, which documents will include a silent second trust deed with terms that comply with applicable Community Redevelopment Law requirement and with NSP notices, implementing regulations, and other legal requirements promulgated by HUD and State HCD.

BACKGROUND

In July 2009 the United States Department of Housing and Urban Development (HUD) allocated \$3.92 billion to all states with particular priority to hard-hit areas trying to respond to the effects of high home loan foreclosures and housing crisis. HUD's new *Neighborhood Stabilization Program* (NSP 1) provides targeted assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. Only properties located in places with the greatest percentage of home foreclosures, sub-prime mortgages and/or significant foreclosure risk were eligible to receive allocations of HUD NSP 1 funds.

To use NSP 1 funds for the acquisition of foreclosed homes and down payment assistance, the properties must be purchased from a lender for a price that is at least 1% lower than the home's appraised value. In addition, the home must be vacant in order to avoid relocation payment obligations. Households earning up to 120% of the Orange County Median income are eligible to participate in the NSP 1 program.

Costa Mesa did not meet the criteria for the receipt of Tier 1 funds directly from HUD. However, in May 2009, the State of California distributed a Notice of Funding Availability (NOFA) for the "Tier 2" funds that the Federal government allocated to the State (State NSP 1). Under a formula established by the State, Costa Mesa is eligible to receive \$303,000 in funding.

The State NSP 1 requirements include a \$1 million minimum funding threshold. Jurisdictions receiving less than \$1 million must enter into a partnership with other

jurisdictions in the same county to reach a combined award of at least \$1 million. To comply with this requirement, Costa Mesa entered into a partnership with the Cities of Fullerton and La Habra; these Cities are qualified to receive allocations of \$608,623 and \$458,231, respectively. Fullerton agreed to act as the lead agency since they received the largest funding allocation of the three Cities. A "Joint Partnership Agreement" was approved and executed by the City Councils of all three Cities (JPA Partners) in June 2009. The Costa Mesa City Council also authorized the City Manager to approve and execute a Sub-Recipient Agreement by and between the City of Costa Mesa and the City of Fullerton in a form approved by the City Attorney.

The City Councils for the JPA Partners authorized staff to release a Request for Proposal (RFP) for housing development organizations to undertake a foreclosure acquisition and/or down payment assistance and rehabilitation program. Costa Mesa staff worked with Fullerton and La Habra staff members to create an RFP. This RFP was issued in June, and the responses were received on July 13th.

Some of the challenges faced by the JPA Partners are:

1. The program guidelines and restrictions are extremely complex;
2. The Federal NSP 1 Program, as administered by the State, requires the JPA Partners to commit at least 25% of the funds no later than December 2009, with all funds allocated no later than March 2010¹; and
3. It is necessary to expeditiously negotiate and execute a contract among the three Cities with the selected housing development organization in order to meet the Program's funding commitment deadlines.

As discussed further in the Analysis section below, from the RFP process a housing development organization was ultimately selected to negotiate the terms of the NSP Agreement and implementation of the NSP program implementation ("NSP Program"). Costa Mesa staff has been working with Fullerton and La Habra staff members for several months (and their respective consultants and counsels) to develop a sound NSP 1 program structure and negotiate the terms of the NSP Agreement and implementation of the NSP Program. The fundamental components of the NSP Agreement and NSP Program, as proposed, are:

1. The NSP Program will be administered by an experienced housing development organization.
2. All Homes will be purchased by the organization, and then rehabilitated if necessary.
3. The housing development organization will resell each home to a qualified Middle Income Household Homebuyer.
4. The Homebuyers will be expected to contribute a cash down payment for purchase of the Home equal to at least 5% of the affordable housing price.

¹ If a City has not obligated the funds by February 15, 2010, the unused funds may be reallocated to another City in the partnership.

5. The Homes will be subject to the income and affordability requirements imposed by the HUD HOME Program and California Community Redevelopment Law.
6. The housing development organization cannot receive any profit from the sales of the Homes.
7. The eligible fees to be charged by the housing development organization are detailed in the NSP Agreement among MHC and the three Cities.

To maximize the number of units that can be assisted in Costa Mesa, staff is recommending that the \$303,000 in State NSP 1 funds be combined with \$360,000 from the Agency's Low to Moderate Income Housing Fund. This will bring the total assistance package for Costa Mesa to \$663,000.

ANALYSIS

In June 2009, the JPA Partners issued an RFP to several housing development organizations interested in creating a foreclosure acquisition/down payment assistance program that would comply with the State and Federal requirements for the NSP 1 Program. To streamline the process, it was hoped that all three Partners would choose the same developer and proposed program structure in each of their respective cities.

Attachment B includes the key evaluation criteria for the RFP as well as a thorough analysis of why Mercy Housing was selected. Attachment C discusses the proposed program and financial structure.

Based on the attached analyses, the JPA Partners unanimously deemed Mercy Housing the most qualified developer to administer a program of this type in such an abbreviated time frame. Their successful track record running acquisition rehabilitation programs nationwide, as well as their cutting edge experience running NSP programs will help ensure the success of this pilot program. Additionally, their connections with the National Community Stabilization Trust gives them access to a large inventory of foreclosed homes in all three cities which should help streamline the entire acquisition, rehabilitation and home sale process.

ALTERNATIVES CONSIDERED:

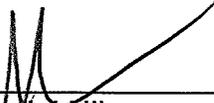
The City of Costa Mesa can decline the State NSP 1 funds and choose not to enter into a Subrecipient Contract Services and Loan Agreement with the Cities of Fullerton, La Habra and MHC NSP LLC.

LEGAL REVIEW:

The NSP Agreement is approved as to form by City/Agency special counsel, Stradling Yocca Carlson & Rauth.

CONCLUSION:

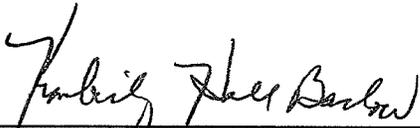
It is recommended that the City Council and the Agency approve all of the recommended actions, respectively, set forth at the beginning of this staff report.



Muriel Ullman
Neighborhood Improvement Manager



Thomas R. Hatch
Assistant City Manager



Kimberly Hall Barlow
City Attorney

- Attachment A Neighborhood Stabilization Program Contract Services and Loan Agreement by and among the Cities of Costa Mesa, La Habra and Fullerton and MHC
- Attachment B Key Evaluation Criteria and Selection Analysis
- Attachment C Proposed NSP 1 Program and Financial Structure

- cc: Celeste Brady, Agency Special Counsel, Stradling Yocca Carlson & Rauth
 Kathe Head, Managing Principal, Keyser-Marston Associates
 Kerra Carlson, Rutan & Tucker, LLP
 Ed Holder, Mercy Housing
 Ben Phillips, Mercy Housing
 Linda Morad, City of Fullerton
 Maria Gallegos, City of La Habra
 Alma Penalosa, City of Costa Mesa

ATTACHMENT A

**NEIGHBORHOOD STABILIZATION PROGRAM
SUBRECIPIENT CONTRACT SERVICES
AND LOAN AGREEMENT
BY AND AMONG THE CITIES OF
COSTA MESA, LA HABRA, FULLERTON
AND MHC NSP LLC**



**NEIGHBORHOOD STABILIZATION PROGRAM SUBRECIPIENT
CONTRACT SERVICES AND LOAN AGREEMENT**

by and among

**CITY OF FULLERTON,
a California municipal corporation,**

**CITY OF COSTA MESA,
a California municipal corporation,**

**CITY OF LA HABRA,
a California municipal corporation,**

and

**MHC NSP LLC,
a California limited liability company**

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EXHIBITS

Exhibit A	Additional Legal Requirements
Exhibit B	NSP Rehabilitation Guidelines
Exhibit C	Insurance Requirements
Exhibit D	Truth in Lending Statement
Exhibit E	Promissory Note Secured by Deed of Trust
Exhibit F	Deed of Trust
Exhibit G	Memorandum
Exhibit H	Seller's Occupancy Certification Under the Protecting Tenants at Foreclosure Act

**NEIGHBORHOOD STABILIZATION PROGRAM SUBRECIPIENT
CONTRACT SERVICES AND LOAN AGREEMENT**

This NEIGHBORHOOD STABILIZATION PROGRAM SUBRECIPIENT CONTRACT SERVICES AND LOAN AGREEMENT ("Agreement") is dated to be effective as of November 10, 2009, and entered into by and among the CITY OF FULLERTON, a California municipal corporation ("City Fullerton"), the CITY OF COSTA MESA, a California municipal corporation ("City CM"), the CITY OF LA HABRA, a California municipal corporation ("City LH"), and MHC NSP LLC, a California limited liability company ("Participant"). City Fullerton, City CM, and City LH are collectively referred to herein as the "City Parties" and individually as a "City Party."

R E C I T A L S

A. Pursuant to the Housing and Economic Recovery Act of 2008 ("HERA"), City Fullerton applied for and received on behalf of itself, City CM and City LH a tri-party allocation of funds in the collective amount of One Million Three Hundred Sixty-Nine Thousand Eight Hundred Fifty-Four Dollars (\$1,369,854) ("NSP Funds"). The NSP Funds were provided under the Neighborhood Stabilization Program at Title III of Division B of the HERA ("NSP"). The purposes of the NSP are to provide emergency assistance for the redevelopment of Abandoned and Foreclosed homes and residential properties for the benefit of persons and families whose household income does not exceed 120% of the Orange County median income adjusted for family size ("Middle Income Households") and thereby stabilize neighborhoods impacted by such properties, and provide long-term affordability, and increase sustainability and attractiveness of housing and neighborhoods. Funds received through the NSP may be used to carry out five eligible uses, including financing mechanisms for Foreclosed homes and residential properties; acquisitions and rehabilitations to sell, rent or redevelop Abandoned or Foreclosed homes and residential properties; establishment of land banks for Foreclosed homes; demolition of blighted structures; and redevelopment of demolished or vacant properties.

B. The City Parties entered into that certain Joint Agreement for Neighborhood Stabilization Program Participation dated June 2, 2009 ("Joint Agreement"), pursuant to which City Fullerton was designated as the lead agency of the City Parties in the administration of the NPS Funds. On or about June 2, 2009, City Fullerton and City CM entered into that certain NSP Subrecipient Agreement relating to City CM's use of a portion of the NSP Funds in the amount of \$303,749. On or about June 2, 2009, City Fullerton and City LH entered into that certain NSP Subrecipient Agreement relating to City LH's use of a portion of the NSP Funds in the amount of \$457,482.

C. The City Parties desire to use the NSP Funds for the acquisition and rehabilitation of homes that have been Abandoned or Foreclosed upon and for loans to eligible Middle Income Households who will purchase the homes after the completion of the rehabilitation.

D. The City Parties desire to contract with a third party to acquire and rehabilitate the homes and sell the homes to eligible Middle Income Households. The City Parties have selected Participant as the party that will perform these services. The City Parties each will provide loans

to Participant of NSP Funds for the costs to acquire and rehabilitate the homes, on the terms and conditions set forth herein. Participant is a subrecipient of the NSP Funds and this Agreement constitutes a Subrecipient Agreement.

A G R E E M E N T

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by all parties, City Fullerton, City CM, City LH and Participant hereby agree as follows:

1. DEFINITIONS.

The following terms as used in this Agreement shall have the meanings given below unless expressly provided to the contrary:

“Abandoned” shall refer to a Home that satisfies all of the following requirements: (i) mortgage or tax foreclosure proceedings have been initiated for the property, and (ii) no mortgage or tax payments have been made by the property owner for at least 90 days, and (iii) the property has been vacant for at least 90 days and remains vacant.

“Acquisition Close of Escrow” or “Acquisition Closing” shall mean, as to each Home, the consummation of the transactions contemplated by this Agreement to occur through the Acquisition Escrow, including Participant’s acquisition of such Home.

“Acquisition Closing Date” shall mean, as to each Home, the date the deed conveying fee title to the Home to Participant is recorded in the Official Records of Orange County, California, which shall be on or before the Acquisition Outside Closing Date for such Home.

“Acquisition Escrow” shall mean, as to each Home, the escrow to be opened with a third party escrow company approved by the City Party for Participant’s acquisition of such Home.

“Acquisition Purchase Agreement” shall mean each of the purchase agreements to be entered into by Participant and the owner of a Home for Participant’s acquisition of the Home. The Acquisition Purchase Agreements shall be in such form as approved by the City Parties.

“Acquisition Outside Closing Date” shall mean, as to each Home, the outside date for the Acquisition Close of Escrow for the Home. The Acquisition Outside Closing Date that is approved by the City Party for a Home as part of the Final Loan Package for the Home pursuant to Section 2.2.3 of this Agreement shall be the “Acquisition Outside Closing Date” for that Home and it shall not be more than sixty (60) days after the execution of the Acquisition Purchase Agreement unless agreed to in writing by the City Party in its sole discretion. The Acquisition Outside Closing Date may be extended by mutual agreement of the City Party and Participant, in which event, all references to the term “Acquisition Outside Closing Date” shall be deemed to refer to the extended date.

“Affordable Housing Cost” shall mean the purchase price that would result in an annual Monthly Housing Cost (as defined below) that does not exceed the maximum percentage of income that can be devoted to housing cost by Middle Income Households under

Health & Safety Code Section 50052.5, as may be amended, or any successor statute thereto, and the implementing regulations in Title 25 of the California Code of Regulations. As of the date of this Agreement, the Affordable Housing Cost for a Middle Income Household means a purchase price that would result in an annual Monthly Housing Cost which is not less than 28% of the annual Gross Income of the household and not more than the product of 35% times 110% of the Median Income adjusted for family size appropriate for the Home. For purposes of calculating the Affordable Housing Cost, "adjusted for family size appropriate for the Home" shall mean a household of two (2) persons for a one-bedroom Home, a household of three (3) persons for a two-bedroom Home, a household of four (4) persons for a three-bedroom Home, and a household of five (5) persons for a four-bedroom Home.

"Agreement" shall mean this Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement among City Fullerton, City CM, City LH, and Participant, including all exhibits and other documents attached hereto.

"Allowable Acquisition Price" shall mean the maximum allowable purchase price that Participant may pay for a Home, as more fully explained in Section 2.3 of this Agreement.

"Appraisal" shall have the meaning ascribed in Section 2.3 of this Agreement.

"Approved Bid Amount" shall have the meaning ascribed in Section 3.3 of this Agreement.

"Approved Contractor List" shall mean the list of contractors approved by the City Parties for participation in the Rehabilitation Projects pursuant to Section 3.3.

"Carrying Costs and Miscellaneous Expenses" shall mean, as to each Home, the Project Expenses for the Eligible Project Expense Items listed under the heading "Carrying Costs and Miscellaneous Expenses" in Section 6.2 of this Agreement.

"City Deed of Trust" shall mean, as to each NSP Loan, the Deed of Trust that secures Participant's payment obligations under the City Note for that NSP Loan, substantially in the form attached hereto as Exhibit "F." A separate City Deed of Trust shall be executed for each NSP Loan.

"City Note" shall mean, as to each NSP Loan, the Promissory Note Secured by Deed of Trust setting forth the terms for Participant's repayment of the NSP loan, substantially in the form attached hereto as Exhibit "E." A separate City Note shall be executed for each NSP Loan.

"City Party" shall individually refer to City Fullerton, City CM, or City LH, and "City Parties" shall collectively refer to City Fullerton, City CM, and City LH. All references to the term "City Party," as they relate to a particular Home or NSP Loan, shall be deemed to refer to the City Party in whose jurisdiction the Home is located or who issued the NSP Loan.

"City Party Agreements" shall collectively refer to the Joint Use Agreement and the Subrecipient Agreements referred to in Recital B of this Agreement.

“Construction Contract” shall mean, as to each Rehabilitation Project, the written agreement between Participant and a Contractor for the construction of the Rehabilitation Project, in such form as approved by the City Party. Participant shall cause to be included in the Construction Contract all provisions required under this Agreement, any applicable law, including the applicable NSP Requirements, and any other requirements of the City Party. The City Party does not by its approval of a Construction Contract assume any liability in connection with the Construction Contract, nor does the City Party’s approval relieve Participant of its responsibility to ensure that all provisions required by law and this Agreement are included in the Construction Contract.

“Contract Officer” shall mean the City Manager of a City Party or such person designated by the City Manager to administer this Agreement on behalf of the City Party.

“Contractor” shall mean, as to each Rehabilitation Project, the contractor whose bid is selected by the City Party pursuant to Section 3.3.

“Disposition Expenses” shall mean, as to each Home, the Project Expenses for the Eligible Project Expense Items listed under the heading “Disposition Expenses” in Section 6.2 of this Agreement.

“Eligible Homebuyer” shall mean the persons or household eligible to purchase a Home after the completion of the Rehabilitation Project, as described in Section 5.2 of this Agreement.

“Eligible Project Expenses Items” shall mean the categories of expenses eligible to be included in the Project Expenses, as set forth in Section 6.2 of this Agreement. The Eligible Project Expense Items are comprised of the Purchase Expenses, the Predevelopment Expenses, the Rehabilitation Expenses, the Carrying Costs and Miscellaneous Expenses, and the Disposition Expenses.

“Environmental Completion Date” shall mean, as to each Home, the date the City Party notifies Participant that the environmental review for the Home and the Rehabilitation Project required under the National Environmental Policy Act and the related authorities at 24 CFR Part 58 (including the State Historical Preservation Office (SHPO)) and the California Environmental Quality Act (CEQA) has been completed and that HUD or HCD, as applicable, has issued its release of funds pursuant to Section 16.11 of this Agreement.

“Excusable Default” shall have the meaning ascribed in Section 2.4.4.

“Final Loan Package” shall have the meaning ascribed in Section 2.2.3 of this Agreement.

“Financing Contingency” shall have the meaning ascribed in Section 4.3(j) of this Agreement.

“Foreclosed” shall refer to a Home that satisfies both of the following conditions: (a) the Home has been foreclosed upon; and (b) the Home has been vacant since at least ninety (90) days prior to the commencement of discussions with the owner regarding the purchase of the Home and the Home remains vacant. A Home “has been foreclosed upon” at the point that,

under state or local law, the mortgage or tax foreclosure is complete; a Home is generally not considered foreclosed until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

“Funding Conditions” shall mean, as to each NSP Loan, the conditions set forth in Section 4.3 of this Agreement that must be satisfied or waived by the City Party prior to the City Party providing the NSP Loan to Participant.

“Gross Income” shall have the meaning ascribed in Section 6914 of Title 25 of the California Code of Regulations, or any successor statute thereto.

“HCD” shall mean the California Department of Housing and Community Development.

“Home” shall mean each of the Abandoned or Foreclosed single family detached homes, condominiums and townhomes that is approved for inclusion in the NSP Program by a City Party, as more fully explained in Section 2.2 of this Agreement. It is specifically understood that multifamily rental apartments and manufactured homes are not included within the definition of the term “Home” for purposes of this Agreement.

“Home Project Budget” shall have the meaning ascribed in Section 6.1 of this Agreement.

“HUD” shall mean the United States Department of Housing and Urban Development.

“Initial Approval” shall have the meaning ascribed in Section 2.2.1 of this Agreement.

“Median Income” shall mean the Orange County area median income, adjusted for family size, as established by the United States Department of Housing and Urban Development, and as published periodically by the State of California Department of Housing and Community Development.

“Memorandum” shall mean, as to each Home, the Memorandum of this Agreement, substantially in the form attached hereto as Exhibit “G” that shall be recorded against the Home on the Acquisition Closing Date and removed as an encumbrance to title upon the sale of the Home to an Eligible Homebuyer or the City Party in accordance with the terms set forth herein.

“Middle Income Household” shall mean a person or family whose Gross Income does not exceed 120% of the Median Income adjusted for family size; such term is also referred to in the NSP Requirements as “LMMH” or “low-, moderate-, and middle income households.” These income limits are set by HUD and adjusted and promulgated annually as posted at www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/income/2009/ca.

“Monthly Housing Cost” shall include all of the following costs associated with a Home, estimated or known as of the date of the proposed sale of the Home: (i) principal and interest payments on a mortgage loan, and any loan insurance fees associated therewith not exceeding the prevailing conventional home mortgage lending rates applied by any reputable institutional home mortgage lender, or the lending rates of any government-subsidized or special mortgage

program for which the Eligible Homebuyer qualifies and has obtained a first trust deed loan for the acquisition of the Home; (ii) property taxes and assessments; (iii) fire and casualty insurance covering replacement value of property improvements; (iv) property maintenance and repair; (v) homeowner association dues; and (vi) a reasonable utility allowance. The Monthly Housing Cost shall be an average of estimated costs for the next twelve (12) months.

“NSP Funds” shall mean the Neighborhood Stabilization Program funds referred to in Recital A of this Agreement.

“NSP Loan” shall mean, as to each Home, the loan to be provided by a City Party to Participant for the Project Expenses for the Home, as more fully explained in Section 4 of this Agreement.

“NSP Maximum Resale Price” shall mean the cumulative costs of acquiring, rehabilitating and redeveloping the Home, including direct costs to sell the Home pursuant to the NSP Requirements, but excluding the cost of boarding up, upkeep of landscaping, and general maintenance. The costs to be included in the NSP Maximum Resale Price shall be as approved by the City Party. Participant shall maintain complete and adequate records on each Home, including purchase and sale amount, source and uses of funds for each action and item related to each Home.

“NSP Program” shall mean the program established under this Agreement for the acquisition, rehabilitation and resale of Homes.

“NSP Rehabilitation Guidelines” shall mean the NSP Single-Family Rehabilitation Program Policies and Procedures and all attachments thereto, substantially in the form attached hereto as Exhibit “B”, as may be amended by each Contract Officer. An amendment to the NSP Rehabilitation Guidelines made by a City Party shall be binding only as between Participant and that City Party and shall not apply to any other City Party unless and until the other City Party adopts the amendment in its sole discretion.

“NSP Requirements” shall mean the requirements of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289) (HERA), including Title III of Division B of the Housing and Economic Recovery Act of 2008 titled Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes, as may be amended from time to time, and any existing or future regulations or requirements imposed by HUD, HCD or any other government agency in connection with the NSP. Unless stated otherwise in the HERA, the NSP Requirements also include Title I of the Housing and Community Development Act of 1974 (42 U.S.C. § 5301 *et seq.*) as amended from time to time, and the implementing regulations set forth in 24 C.F.R. § 570 *et seq.* as amended from time to time. If any amendment to this Agreement is necessary to comply with the NSP Requirements, the parties shall cooperate in good faith to negotiate the terms of and enter into such amendment(s).

“Other Financing” shall mean Participant’s own financing or an Other Financing Loan to be used for the Project Expenses for a Home, if the amount of the NSP Loan for the Home is less than the Project Expenses. The amount of the Other Financing for each Home, if such financing is required, shall equal the difference between the total of the Project Expenses for the Home as

set forth in the Home Project Budget and the NSP Loan to be provided by the City Party for the Home. All references in this Agreement to "Other Financing" shall be deemed to refer only to Other Financing that is approved by the City Party and Participant.

"Other Financing Interest" shall mean the amount of interest required to be paid by Participant on an Other Financing Loan approved by the City Party.

"Other Financing Loan" shall mean Other Financing in the form of a loan approved by the City Party and obtained by Participant for the Project Expenses from a reputable financial or lending institution, governmental agency or other acceptable person or entity capable of performing or causing to be performed Participant's obligations under this Agreement, on terms reasonably acceptable to the City Party and Participant, as more fully explained in Section 4.10.2.

"Participant" shall mean MHC NSP LLC, a California limited liability company, having its offices at 1500 South Grand Ave., Suite 100, Los Angeles, CA 90015.

"Participant Fees" shall mean the fees to be paid by a City Party to Participant for Participant's services under this Agreement, as more fully explained in Section 7 of this Agreement.

"Preliminary Loan Package" shall have the meaning ascribed in Section 2.2.2 of this Agreement.

"Project Expenses" shall have the meaning ascribed in Section 6.2 of this Agreement.

"Purchase Expenses" shall mean, as to each Home, the Project Expenses for the Eligible Project Expense Items listed under the heading "Purchase Expenses" in Section 6.2 of this Agreement.

"Quarter" shall mean any of the three (3) month periods commencing July 1, October 1, January 1, or April 1.

"Rehabilitation Expenses" shall mean, as to each Home, the Project Expenses for the Eligible Project Expense Items listed under the heading "Rehabilitation Expenses" in Section 6.2 of this Agreement.

"Rehabilitation Project" shall mean the improvements to be made to a Home as described in the Scope of Work for the Home, with all such improvements to be consistent with the development and building plans and permits approved by the City Party. As to each Home if Participant (or the City Party) determines that work to repair, correct, or rehabilitate a Home will be required to meet all City code standards relating to any and all defects that constitute a threat to human life, safety, and public welfare, then Participant shall allocate sufficient funds for such rehabilitation to correct and repair of such defects and violations of code standards prior to and as a condition to close of escrow for an Eligible Homebuyer's purchase of a Home. In the event of any inconsistency between the description of the Rehabilitation Project in this Agreement and the approved plans and permits, the approved plans and permits shall govern.

“Resale Price” shall mean the sale price of a Home to be paid by an Eligible Homebuyer to Participant pursuant to Section 5.5 of this Agreement.

“Scope of Work” shall have the meaning ascribed in Section 3.1 of this Agreement.

“Section 3” shall mean Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, and the implementing regulations.

“Website Fee” shall have the meaning ascribed in Section 6.2.

2. SELECTION AND ACQUISITION OF HOMES.

2.1 Selection of Homes. During the term of this Agreement and subject to the provisions set forth herein, Participant shall exercise best efforts to locate Homes in each City Party’s designated NSP target area to include in the NSP Program. The number of Homes to be included in each City Party’s NSP Program shall be determined by the City Party in consultation with Participant and shall be based on available NSP Funds. Prior to commencing a search for a Home to include in a City Party’s NSP Program, Participant shall confirm with the City Party that the City Party contemplates sufficient funds will be available for the inclusion of an additional Home and shall obtain authorization from the City Party to proceed with its search for a Home(s).

2.2 Approval by City Party. The inclusion of a Home in a City Party’s NSP Program shall be subject to the prior approval of the City Party in whose jurisdiction the Home is located in that City Party’s sole and absolute discretion. The procedures for obtaining a City Party’s approval shall be as set forth in this Section 2.2.

2.2.1 Initial Approval. Upon identifying a Home that Participant reasonably believes will be appropriate to include in the NSP Program, Participant shall notify the City Party of the address and location of the Home and shall provide such other information as may be required by the City Party. Within three (3) business day of receipt of such information from Participant, the City Party shall notify Participant of its approval or disapproval of Participant proceeding to prepare a Preliminary Loan Package for the Home (“Initial Approval”). Participant shall not submit any Home to a City Party for Initial Approval that does not meet the eligibility criteria under this Agreement, including without limitation the requirement that the Home be Abandoned or Foreclosed.

2.2.2 Preliminary Approval. Prior to entering into an Acquisition Purchase Agreement to purchase a Home or committing any NSP Funds to a Home, Participant shall submit to the applicable City Party the following documents and information for a Home that has received Initial Approval in accordance with Section 2.2.1 (collectively, the “Preliminary Loan Package”): (i) photographs of the Home, (ii) an estimate of the as-is market value of the Home based on the opinion of a California licensed real estate broker, (iii) the proposed purchase price, (iv) the preliminary scope of work for rehabilitation that shall be prepared in coordination with the City Party and shall be consistent with the NSP Rehabilitation Guidelines, (v) cost estimates of items that will constitute the Project Expenses prepared in coordination with the City Party, (vi) an estimate of the resale value of the Home with backup information including comparable sales data, (vii) information on the Other Financing to be obtained if such financing is required

pursuant to Section 4.1 because the amount of the NSP Loan will be less than the Project Expenses, including any subordination or other terms required as a basis for approval, (viii) the proposed Acquisition Closing Date, (ix) a written statement from the seller of the Home that the Home is vacant and has been vacant since at least ninety (90) days prior to the date discussions with the owner regarding the purchase of the Home commenced; and (x) any other information or documentation required by the City Party. The City Party shall approve or disapprove the Preliminary Loan Package by delivery of written notice to Participant within five (5) business days after receipt of a complete submittal. With regard to clause (vii) above, the terms of any Other Financing, including an Other Financing Loan, that Participant submits with the Preliminary Loan Package shall be deemed approved by Participant as submitted.

2.2.3 Final Approval. After the Appraisal for the Home is obtained and not later than eight (8) business days prior to the Acquisition Close of Escrow for Participant's acquisition of the Home, Participant shall submit to the City Party the following documents and information for the Home that has received Preliminary Loan Package Approval in accordance with Section 2.2.2 (collectively, the "Final Loan Package"): (i) copies of the preliminary title report and title exceptions, (ii) any final and completed environmental review documentation requested by the City Party, (iii) the final scope of work that shall be prepared in coordination with the City Party and shall be consistent with the NSP Rehabilitation Guidelines, (iv) the Home Project Budget prepared in coordination with the City Party, with the costs of any items that are part of the Approved Bid Amount to be in the amounts set forth in the Approved Bid Amount, (v) an estimate of the after-rehabilitation value of the Home with comparable sales data, (vi) the executed Acquisition Purchase Agreement that meets the requirements set forth in this Agreement, (vii) the evidence of financial capability required under Section 4.1 if Other Financing is required for the Home that meets the requirements of this Agreement and is consistent with the terms approved by the City Party under the Preliminary Loan Package approval, (viii) a certification from the owner of the Home substantially in the form attached hereto as Exhibit "H", (ix) the results of any assessments and testing performed by Participant, (x) the Acquisition Outside Closing Date that meets the requirements of this Agreement, (xi) the Allowable Purchase Price based on the Appraisal obtained in accordance with Section 2.3, together with a copy of the Appraisal, and (xii) any other information or documentation required by the City Party. The City Party shall process the documentation required for any review required under NEPA, CEQA, and SHPO and the results of any such review, together with any assessments and testing performed by the City Party, shall be included for consideration as part of the Final Loan Package. The City Party shall approve or disapprove each Final Loan Package by delivery of written notice to Participant within seven (7) business days after receipt of a complete submittal. If, after the City Party approves a Final Loan Package, Participant desires to change any of the items that are the subject of the Final Loan Package due to unforeseen circumstances, Participant shall have the right to submit to the City Party modifications to the Final Loan Package and the City Party shall reasonably consider the requested modifications and respond to Participant within seven (7) days after the submittal.

2.3 Allowable Acquisition Price; Appraisal. The purchase price to be paid by Participant for each Home shall not exceed an amount equal to the appraised value of the Home, taking into account the current condition of the Home, discounted by at least one percent (1%) ("Allowable Acquisition Price"). Although the minimum required discount under the NSP Requirements is 1% of the appraised value, Participant shall diligently negotiate with the

owners of the Homes to obtain greater discounts to obtain price reductions commensurate with the avoided costs of holding, marketing and selling a Home. As used herein, the term "appraised value" shall mean the value of the Home established through an appraisal made in conformity with the appraisal requirements set forth in the following paragraph and completed within sixty (60) days prior to the date the final offer is made for the Home ("Appraisal"); provided however, Participant may make an initial offer on the Home subject to the completion of the Appraisal within sixty (60) days of a final offer. Upon the approval of a Preliminary Loan Package by a City Party and after the Environmental Completion Date, Participant shall cause an Appraisal of the Home to be performed, at the City Party's cost, by a licensed appraiser selected by the City Party.

The Appraisal must meet the definition of 49 CFR 24.2(a)(3) and the five (5) following requirements of 49 CFR 24.103(a)(2) (and no review appraisal is required):

- (a) an adequate description of the physical characteristics of the Home, including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the Home;
- (b) all relevant and reliable approaches to value. If the appraiser will use more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;
- (c) a description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;
- (d) a statement of the value of the Home to be acquired; and
- (e) the effective date of valuation, date of appraisal, signature, and certification of the appraiser.

2.4 Acquisition Purchase Agreement.

2.4.1 Timing to Enter into Acquisition Purchase Agreement. The City Party shall indicate in its approval of a Preliminary Loan Package for a Home the date by which Participant must enter into an Acquisition Purchase Agreement for the Home ("Deadline Date"). If the City Party fails to notify Participant of the Deadline Date, the Deadline Date for Homes receiving Preliminary Loan Package approval in the year 2009 shall be December 30, 2009, the Deadline Date for Homes receiving Preliminary Loan Package approval between December 31, 2009 and March 30, 2010, shall be March 30, 2010, and the Deadline Date for Homes receiving Preliminary Loan Package approval between March 31, 2010 and June 30, 2010, shall be June 30, 2010. Upon a City Party's approval of a Preliminary Loan Package, Participant shall exercise diligent efforts to enter into an Acquisition Purchase Agreement with the owner of the Home by the Deadline Date. If Participant fails to enter into an Acquisition Purchase Agreement by the applicable Deadline Date for the Home, the City Party's approval of the inclusion of the Home in the NSP Program shall be deemed withdrawn and Participant shall not enter into an

Acquisition Purchase Agreement for the Home without the prior written approval of the City Party.

2.4.2 Conditions in Acquisition Purchase Agreement. Each Acquisition Purchase Agreement shall be in such form as approved by the City Party and shall (a) state specifically that it is contingent on the owner's approval of the Allowable Purchase Price if the Appraisal has not been completed at the time the Acquisition Purchase Agreement is executed, environmental review, and approval by the State Historical Preservation Office (SHPO), if applicable; and (b) provide for the owner of the Property to remove all monetary liens and encumbrances upon title to the Property upon the Acquisition Closing Date. In addition, Participant shall exercise diligent efforts to cause to be included in each Acquisition Purchase Agreement, contingencies on the City Party's approval of the Final Loan Package for the Home and provision of the NSP Loan and on Participant securing Other Financing if required pursuant to Section 4.1; provided, however, the foregoing contingencies shall not be a prerequisite to Participant entering into an Acquisition Purchase Agreement. The City Parties recognize that if such a financing contingency is not included in an Acquisition Purchase Agreement and Participant does not close an Acquisition Escrow due to a failure to obtain financing, Participant may be required to forfeit the Good Faith Deposit to the seller and the City Party may be required to reimburse Participant for the Good Faith Deposit in accordance with Section 2.4.4.

2.4.3 Compliance with Acquisition Purchase Agreement. Participant shall comply with each and every condition, responsibility, and obligation it may have pursuant to each Acquisition Purchase Agreement in order to timely accomplish the Acquisition Close of Escrow for the Home prior to the Acquisition Outside Closing Date or such earlier date as may be set forth in the Acquisition Purchase Agreement. Participant shall not amend or modify an Acquisition Purchase Agreement in any respect inconsistent with this Agreement without the prior written consent of the affected City Party, which consent the City Party may withhold in its sole and absolute discretion. Participant shall not terminate an Acquisition Purchase Agreement without the City Party's approval. In the event the seller under the Acquisition Purchase Agreement fails to perform, Participant shall have the option of either (a) terminating the inclusion of the Home in the NSP Program, in which case no Acquisition Fee shall be paid for the Home, or (b) seeking legal recourse against the seller, at Participant's cost, for specific performance and any other remedy available at law or equity and the Acquisition Outside Closing Date for the Home shall be extended for the period that Participant pursues its legal remedies.

2.4.4 Good Faith Deposit. The deposit that Participant is required to deliver under each Acquisition Purchase Agreement for its performance thereunder shall not exceed the sum of One Thousand Dollars (\$1,000) unless such higher amount is approved by the City Party in its sole discretion prior to the execution of the Acquisition Purchase Agreement, and shall be applicable to the Allowable Acquisition Price ("Good Faith Deposit"). Unless otherwise approved by the City Party, the Acquisition Purchase Agreement shall state that the Good Faith Deposit is refundable to Participant in the event the Acquisition Escrow fails to close for any reason other than a default of Participant under the Acquisition Purchase Agreement. In the event (a) City approves a Preliminary Loan Package for a Home and the Acquisition Purchase Agreement for the Home terminates because a Final Loan Package is not approved for the Home or City approves a Final Loan Package for the Home and Participant does not acquire the Home

by the Acquisition Outside Closing Date; and (b) Participant is not entitled to a return of the Good Faith Deposit under the Acquisition Purchase Agreement, the City Party shall reimburse Participant for the Good Faith Deposit unless the reason a Final Loan Package is not approved or, if a Final Loan Package is approved but Participant does not acquire the Home, the reason Participant does not acquire the Home, is one of the reasons listed in the first or second paragraphs of Section 7.2 of this Agreement other than an Excusable Default. If the reason is an Excusable Default or a reason set forth in the preceding sentence, Participant shall be entitled to a reimbursement of the Good Faith Deposit. As used herein, an "Excusable Default" shall mean a default of Participant under the Acquisition Purchase Agreement in failing to acquire the Home because the NSP Loan is not provided, unless the reason the NSP Loan is not provided is one of the other reasons listed in the first or second paragraphs of Section 7.2.

2.5 Compliance with URA; Relocation. Participant shall comply with all applicable requirements of the voluntary acquisition provisions of the Uniform Relocation Assistance and Real Property Acquisition Act (URA), including providing all required notices and provision of all required assistance and benefits. In the event Participant defaults on its obligation to submit Homes that meet the requirement that Homes qualify as Abandoned and Foreclosed under NSP Requirements and this Agreement (and remain vacant) and any former or present occupant is or becomes eligible for relocation assistance and benefits as a result of the activities under this Agreement, then Participant shall have the sole and exclusive responsibility to cause to be provided and pay for relocation assistance and benefits to such occupants and shall pay all costs to administer such relocation required to comply with all applicable federal and state laws, rules, and regulations, and such costs are not reimbursable under this Agreement. Any relocation shall be performed in accordance with a relocation plan approved by the City Party and each relocation claim is subject to prior review and approval of the City Party. In the event, any City Party incurs third party costs as a result of Participant's obligations related to relocation hereunder, then Participant shall be solely responsible to pay or reimburse such City Party third party costs therefor.

2.6 Purchase Expenses. The Purchase Expenses to be paid by Participant for a Home shall be funded with the proceeds of the NSP Loan provided by the City Party and the Other Financing if such financing is required pursuant to Section 4.1 of this Agreement.

2.7 Acquisition Closing Date. The Acquisition Close of Escrow for each Home shall occur after the satisfaction of the Funding Conditions and no later than the Acquisition Outside Closing Date. If Participant does not complete an Acquisition Close of Escrow to acquire a Home on or before the Acquisition Outside Closing Date for the Home, the City Party shall have no obligation to provide the NSP Loan for that Home and the Home shall not be included in the NSP Program unless otherwise agreed in writing by the City Party. In such event, however, Participant may be entitled to a direct reimbursement of its Project Expenses for the Home in accordance with Section 6.3.2 of this Agreement.

2.8 Environmental Review. No later than three (3) business days after the later of (a) the date of the City Party's approval of a Preliminary Loan Package for a Home, or (b) Participant's submittal to the City Party of all information necessary to process the environmental review required under NEPA, CEQA, and NHPA (which information shall be delivered concurrently with the Preliminary Loan Package documents), the City Party shall

commence to process and shall thereafter diligently pursue to completion the environmental review required for the Home. In connection with the foregoing, any documentation required for SHPO approval shall be submitted to the appropriate regulatory agency by the City Party within the foregoing three (3) business day period.

2.9 Addendum. If, as to any Home, the City Party and Participant establish terms or conditions for the Home or the Home's Rehabilitation Project that are different from the terms set forth in this Agreement, the City Party and Participant shall enter into an Addendum to this Agreement setting forth the modified terms and such Addendum shall be deemed incorporated into this Agreement.

2.10 Conduct During Holding Period. During the period that Participant holds title to a Home, Participant (a) shall not enter into any mortgage or deed of trust for the Home except the City Deed of Trust and the deed of trust securing an Other Financing Loan if such financing is required pursuant to Section 4.1; (b) shall not permit any liens, easements or other encumbrances to be recorded against the Home, or enter into any lease, occupancy, tenancy, or license agreement or other agreements affecting said property; (c) shall not make any alteration to the Home or the improvements thereon except in accordance with the Scope of Work, or commit, suffer or permit any act upon the Home in violation of any law; (d) shall pay all property taxes, assessments, and utilities for the Home and maintain a homeowner's policy of insurance; (e) shall secure the Home to prevent vandalism; and (f) shall maintain the landscaping and other improvements.

3. REHABILITATION PROJECTS.

3.1 Scope of Work; NSP Rehabilitation Guidelines. Participant shall coordinate with the City Party to develop a scope of work for each Home that will at a minimum provide for the rehabilitation of the Home to a decent, safe, marketable and habitable condition and will incorporate the rehabilitation requirements set forth in the NSP Rehabilitation Guidelines attached hereto as Exhibit "B." As more fully explained in the Rehabilitation Guidelines, if the Home was constructed prior to 1978, the Scope of Work shall include all requirements of Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, et seq. (Title X) and the implementing regulations thereto that are aimed to take advantage of rehabilitation events as a cost-effective opportunity to reduce lead based paint (LBP) in existing housing. The Scope of Work also shall include such other improvements as required by the City Party and may include, at the request of the City Party, improvements to increase the energy efficiency or conservation of the Home or to provide a renewable energy source for the Home. The cost to construct the Rehabilitation Improvements shall not exceed the sum of Seventy-Five Thousand Dollars (\$75,000) without the prior written approval of the City Party's Contract Officer. The scope of work that is approved by the City Party for a Home as part of the Final Loan Package for the Home pursuant to Section 2.2.3 of this Agreement shall for purposes of this Agreement be the "Scope of Work" for that Home. Participant shall develop each Rehabilitation Project in a manner consistent with the applicable Scope of Work and in strict accordance with the plans approved by the City Party.

3.2 Development Approvals and Permits. After receiving approval of a Preliminary Loan Package for a Home and after the Environmental Completion Date and prior to the

Acquisition Close of Escrow for the Home, Participant shall cause the final plans for the Rehabilitation Project to be processed with the City Party and shall secure or cause to be secured all permits and approvals which may be required by the City Party or any other governmental agency having jurisdiction over the Home and the Rehabilitation Project, including approval of the final construction drawings.

3.3 Construction Bids; Contractors. No later than ten (10) days after the date of this Agreement, the City Parties shall submit to Participant a list of contractors acceptable to the City Parties ("Approved Contractor List"). The City Parties shall have the right from time to time during the term of this Agreement to add and remove contractors from the Approved Contractor List. Prior to submitting any bids as set forth herein, Participant shall recertify the contractors whose bids Participant intends to submit to the City Party and shall obtain the City Party's approval of the recertification. A contractor shall be recertified by Participant submitting to the City Party current and updated information on the contractor's business license, insurance and any other matter required by the City Party, including the certification in appendix B of 24 CFR Part 24 that neither the contractor nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a City Party project. The City Party shall notify Participant whether the contractor's recertification is acceptable to the City Party prior to the submission of any bids. During the Acquisition Escrow Period for each Home and at least seven (7) business days prior to the date Participant intends to submit the Final Loan Package to the City Party, Participant shall submit to the City Party a minimum of three (3) bona fide written construction contract bids for the Rehabilitation Project for the Home from licensed contractors from the Approved Contractor List who have been recertified by the City Party immediately prior to the submittal of the bids. The submittal of bids shall include detailed back-up information as needed to enable the City Party to evaluate the reasonableness of the bids. Participant shall not submit bids from any contractor that has not indicated in its bid response that the form of the Construction Contract is acceptable to the contractor and that the contractor is capable of complying with all conditions in the Construction Contract and will enter into the Construction Contract if its bid is selected. Within seven (7) business days after receipt of Participant's complete submittal made in compliance with all of the requirements set forth herein, the City Party shall approve one of the bids; provided, however, the City Party shall have no obligation to accept any bid if the amount of the bid, together with all of the other expenses that constitute Rehabilitation Expenses for the Home, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000). If all of the bids are disapproved as permitted pursuant to the preceding sentence, Participant shall, within twenty (20) days after the date of the disapproval, submit three (3) new bids to the City Party for review. The same procedures and requirements shall apply to subsequent submittals and reviews until a bid is finally approved by the City Party or the City Party determines in its reasonable discretion that it is unlikely a bid will be submitted that is below the maximum threshold amount and the City Party notifies Participant that the Home will not be included in the NSP Program. Once a bid is approved, the approved bid ("Approved Bid Amount") shall be utilized for purposes of preparing the Home Project Budget and calculating Participant's Rehabilitation Expenses that correspond to the items in the bid, subject to additional costs incurred for change orders during the course of construction (which are also subject to the reasonable approval of the City Party). The contractor whose bid is selected shall be the "Contractor" for the Rehabilitation Project. Participant shall not submit bids from any contractor which is debarred or suspended or otherwise excluded from

participation in federal assistance programs pursuant to 24 CFR 85.35. Participant shall submit the executed Construction Contract to the City Party prior to the Acquisition Closing Date.

3.4 Schedule of Performance.

3.4.1 Commencement and Completion. As to each Rehabilitation Project, Participant shall commence work on the Home within twenty (20) days after the Acquisition Closing Date for the Home and shall complete the Rehabilitation Project no later than ninety (90) days after the Acquisition Closing Date. Once construction of a Rehabilitation Project is commenced, it shall be continuously and diligently pursued to completion, and shall not be abandoned or otherwise be stopped for more than five (5) consecutive business days, except for an event of force majeure as defined in Section 3.4.2. During the course of construction, Participant shall provide to the City Party monthly written reports on the progress of construction and explanation of how any construction disputes have been resolved.

3.4.2 Force Majeure. Any prevention, delay or stoppage of a Rehabilitation Project due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, regulations, or controls, judicial orders, enemy or hostile governmental action, civil commotion, terrorist activities, fire or other casualty, and other causes (except financial) beyond the reasonable control of the Participant (or a City Party), shall excuse the performance by Participant (or a City Party) for a period equal to the prevention, delay or stoppage; provided the affected party gives the other party notice within fifteen (15) days of the event causing the prevention, delay or stoppage.

3.5 Compliance with Laws and Regulations and NSP Requirements. Participant shall carry out the design, construction and operation of each Rehabilitation Project in conformity with all applicable laws, regulations, and rules of governmental agencies having jurisdiction, including without limitation, the NSP Requirements, the LBP Regulations, and the legal requirements set forth in Exhibit "A" attached to this Agreement and the statutes referenced therein, the City Party's zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the applicable City Municipal Code, and all federal and state fair labor standards, including the payment of prevailing wages and compliance with the Davis-Bacon Act, if applicable. Participant agrees to comply with and to cause any contractors and/or subcontractors to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, and the implementing regulations, in connection with rehabilitation of each Home. Because the source of the NSP Loan is funds received from HUD pursuant to the federal government's Neighborhood Stabilization Program, Participant is required to comply with all applicable NSP Requirements. In the case of any conflict between the NSP Requirements and this Agreement, the NSP Requirements shall control; it being understood, however, that in order to be in compliance with this Agreement and the NSP Requirements, Participant shall, to the extent possible, comply with the most restrictive provisions in this Agreement and the NSP Requirements. Participant shall indemnify, protect, defend and hold harmless each of the City Parties and their respective officers, employees, contractors and agents, with counsel reasonably acceptable to the affected City Party, from and against any and all loss, liability, damage, claim, cost, and/or expense that results or arises in any way from the noncompliance by Participant of any applicable local, state and/or federal law or requirement. The foregoing indemnity shall survive termination of this

Agreement and shall continue after completion of the construction and development of the Rehabilitation Projects for each of the Homes by Participant.

3.6 Right of Access. The City Party and its officers, elected and appointed officials, employees, agents and representatives shall have the right of access to the Home, without charges or fees, for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Rehabilitation Project, so long as the City Party's representatives comply with all safety rules and do not interfere with, delay or interrupt Participant's construction activities. It is understood that a City Party does not by this right of access assume any responsibility or liability for a negligent inspection or failure to inspect. As lead agency, City Fullerton shall have the right of access to all Homes. The right of access under this Section 3.6 may be exercised only after the City Party has provided prior notice to Participant of the date and estimated time of its entry on the property, which notice may be made by email or telephone. Participant shall secure City a right of access to each Home upon the Home receiving Initial Approval so that the City Party can inspect the Home and perform any tests and investigations as the City Party deems necessary or desirable.

3.7 Rehabilitation Guidelines. In addition to the terms and provisions of this Agreement, the parties shall comply with the Rehabilitation Guidelines. In the event of any inconsistency between the terms of this Agreement and the Rehabilitation Guidelines, this Agreement shall prevail. Participant acknowledges that the Rehabilitation Guidelines provide for the parties to follow and comply with additional procedures and requirements.

3.8 Pre-construction Meeting. Participant shall attend all pre-construction meeting(s) or conference(s) as arranged by a City Party among the Contractor, the Participant, and City Party staff relating to the commencement of the rehabilitation, compliance with the Section 3 (as required and herein described), and other issues related to undertaking and completing the rehabilitation in conformity with the Scope of Work and this Agreement and applicable local, state, and federal laws.

3.9 Right to Take Over Work. If, subject to an event of force majeure as described in Section 3.4.2, Participant fails to timely commence, proceed with, or complete any Rehabilitation Project within the periods provided for herein, and such breach is not cured within the notice and cure period set forth in Section 13.1, then the City Party shall have the right, but not the obligation, upon delivery of written notice to Participant, to perform the uncompleted Rehabilitation Project, or applicable portions thereof, specified in such notice. In such event, the City Party shall have the right to modify Participant's construction plans as the City Party deems reasonably advisable in order to complete the Rehabilitation Project, or applicable portions thereof, over which the City Party has assumed control ("Takeover Work"). In such event, Participant shall cooperate with the City Party to enable the City Party to expeditiously complete such Takeover Work, including, without limitation, assigning to the City Party any of Participant's rights with respect to (a) the construction plans and specifications for the Rehabilitation Project, or applicable portions thereof, and each Construction Contract shall so provide, (b) any and all governmental permits and approvals to perform the Rehabilitation Project, and (c) the construction contracts applicable to the Rehabilitation Project, or applicable portions thereof. Participant shall reimburse the City Party for the Takeover Work Costs within ten (10) days after Participant receives from the City Party an invoice for such costs, together

with such documentation as may be reasonably necessary to enable Participant to verify the amount of such costs. If Participant does not timely pay such amounts invoiced by the City Party, the delinquent payment shall accrue interest at the rate of ten percent (10%) per annum or the maximum legal rate, whichever is less, from the date payment was due until the date payment is received by the City Party. As used herein, the term "Takeover Work Costs" shall mean all reasonable and actual costs incurred by the City Party in performing the applicable Takeover Work (a) to the extent the costs for any items exceeds the amount in the approved Home Project Budget for that item, or are additional costs not included in the Home Project Budget, and (b) to the extent the increased costs or additional costs are attributable to the default of Participant under this Agreement. As to each Home, Participant's liability under this Agreement for Takeover Work Costs, together with any other damages incurred by the City Party for the Rehabilitation Default (as defined in Section 13.3), shall be subject to the damages limitation described in the first sentence of Section 13.3 and shall be subject to the cumulative damages limitation in the second paragraph of Section 13.3. In addition to the City Party's self-help rights as provided herein, and subject to the limitation in the preceding sentence, the City Party shall have all other rights and remedies available at law or equity.

As stated in the first sentence of this Section 3.9, the City Party's right to take over a Rehabilitation Project under this Section 3.9 does not apply if the delay is due to an event of force majeure as defined in Section 3.4.2.

4. FINANCING THE ACQUISITION AND REHABILITATION OF HOMES.

4.1 NSP Loan for each Home. Subject to the terms and conditions set forth herein and provided Participant is not in default of this Agreement, as to each Home a City Party approves for inclusion in the NSP Program, the City Party shall provide to Participant a loan for the Project Expenses, or portion thereof, for the Home (each, an "NSP Loan"). The amount of the NSP Loan provided by the City Party for each Home shall be as determined by the City Party in its sole and absolute discretion. Prior to submitting a Preliminary Loan Package, the City Party shall notify Participant, upon request by Participant, whether Other Financing will be required for the Home. Other Financing will be required for a Home if the amount of the NSP Loan that the City Party intends to provide is less than the estimated amount of the Project Expenses for the Home. If Participant is required to seek Other Financing for a Home, the provisions of Section 4.10 shall be applicable to the Home. Nothing herein shall preclude a City Party from loaning additional NSP Funds to Participant during the period that Participant owns the Home. In such event, the parties shall execute all documentation required by the City Party's legal counsel to evidence the loan of the additional funds and the references in this Agreement to the "NSP Loan" shall be deemed to include the loan of additional funds.

4.2 Use of NSP Loan; Project Expenses. Participant shall be permitted to use the proceeds of each NSP Loan only for the Project Expenses described in the applicable Home Project Budget that are actually and reasonably incurred by Participant, and for no other purpose. The maximum amount of the NSP Loan proceeds that may be used for each of the Project Expenses will be set forth in the Home Project Budget for the Home; provided, however, that the Contract Officer shall have the authority in his or her sole and absolute discretion to reallocate the amounts that may be used for each Project Expense if the actual amounts incurred by Participant are different than the cost estimates set forth in the Home Project Budget. Participant

shall not incur any Project Expenses for a Home prior to the Environmental Completion Date for the Home and any expenses incurred prior to said date will not be eligible for reimbursement or payment notwithstanding any other provision in this Agreement to the contrary.

4.3 NSP Loan Funding Conditions. Notwithstanding any other provision of this Agreement to the contrary, as to each NSP Loan, the City Party shall have no obligation to disburse any NSP Loan proceeds until such time that all of the following conditions (collectively the "Funding Conditions") are satisfied or the City Party waives such conditions in its sole and absolute discretion:

(a) *Approval of Final Loan Package*. The City Party shall have approved the Final Loan Package for the Home in accordance with Section 2.2.2 of this Agreement.

(b) *Execution and Delivery of Documents*. Participant shall have deposited into the Acquisition Escrow the City Note, City Deed of Trust, Memorandum, and such other documents and funds required to cause an Acquisition Close of Escrow pursuant to Section 4.4 of this Agreement.

(c) *Title Policy*. First American Title Company or such other title company selected by the City Party ("Title Company") is irrevocably committed to issue to the City Party an ALTA lender's policy of title insurance ("Title Policy") with liability in the amount of the NSP Loan showing fee title to the Home vested in Participant, insuring in favor of the City Party the priority of the City Deed of Trust subject only to (i) the standard printed exceptions and exclusions contained in the form of the title policy commonly used by the Title Company; (ii) non-delinquent property taxes and assessments; and (iii) such other matters as may be approved by the City Party in its sole and absolute discretion. The premium for the Title Policy shall be a Project Expense.

(d) *Insurance*. Participant shall have provided the City Party the evidence of insurance required pursuant to Section 10.1 of this Agreement.

(e) *Permits and Approval of Plans*. Participant shall have obtained approval of its final building plans for the Rehabilitation Project and all approvals and permits shall have been issued or be ready to be issued upon payment of fees and the Acquisition Close of Escrow.

(f) *Approval of Bid*. A bid for the Rehabilitation Project shall have been approved by the City Party pursuant to Section 3.3.

(g) *Construction Contract*. Participant shall have provided the City Party a copy of the executed Construction Contract for the Rehabilitation Project certified by Participant to be a true and correct copy thereof.

(h) *Home Project Budget*. The Home Project Budget for the Project Expenses for the Home shall have been approved by the City Party.

(i) *Close Escrow*. The status of the Acquisition Escrow is in a condition that the Acquisition Closing will occur concurrently with the release of the portion of the NSP

Loan that is to be provided for the Purchase Expenses and Participant is not in default of the Acquisition Purchase Agreement.

(j) *Financing Contingency.* If Other Financing is required for the Home because the amount of the Project Expenses in the Home Project Budget exceeds the NSP Loan, Participant shall have obtained Other Financing on the terms set forth herein, the City Party shall have approved Participant's evidence of financial capability to acquire the Home and develop the Rehabilitation Project in accordance with Section 4.10.3 of this Agreement, and any Other Financing Loans are ready to close concurrently with the Acquisition Closing Date ("Financing Contingency").

(k) *NSP Funds.* The City Party shall have received sufficient NSP Funds to fund the NSP Loan.

(l) *No Default.* Participant shall not be in material default of any of its obligations set forth in this Agreement.

(m) *Pre-construction Meeting.* Participant shall have attended all required pre-construction meeting(s) and conference(s) pursuant to Section 3.7.

As to each NSP Loan, the City Party's obligation to provide any NSP Loan proceeds is subject to the fulfillment by Participant or waiver by the City Party of each and all of the Funding Conditions described in this Section 4.3, which are solely for the benefit of the City Party, and each of which, if it requires action by Participant, shall also be a covenant of Participant, and any of which may be waived by the City Party's Contract Officer in his or her sole and absolute discretion. If, within the applicable periods set forth herein, the City Party shall disapprove of any of the items which are subject to the City Party's approval (and such items are not cured by Participant within any applicable time frames), or if any of the Funding Conditions are not satisfied within the times provided for in this Agreement or by the Acquisition Outside Closing Date for the Home if no other time is provided for in this Agreement, the City Party shall have no obligation to provide the NSP Loan for that Home and the Home shall not be included in the NSP Program unless otherwise agreed in writing by the City Party.

Although the City Party's provisions of an NSP Loan to Participant is contingent upon the satisfaction of the Funding Conditions for the Home and the parties proceeding with the acquisition and rehabilitation of the Home, the parties acknowledge that if the Funding Conditions are not satisfied for a Home and the Home is not included in the NSP Program, an NSP Loan will not be provided for the Home but Participant may nonetheless be entitled to a direct reimbursement of its Project Expenses incurred for the Home in accordance with Section 6.2.3.

4.4 Execution and Delivery of NSP Loan Documents. As to each Home, no later than three (3) business days prior to the scheduled Acquisition Closing Date for the Home, Participant shall deposit into the Acquisition Escrow the following documents: (a) the City Note, executed by Participant; (b) the City Deed of Trust, executed and acknowledged by Participant; (d) the Memorandum, executed and acknowledged by Participant, and (d) all other documents and funds

required to be delivered by Participant to acquire the Home and cause the Acquisition Closing. Participant shall notify the City Party of the scheduled Acquisition Closing Date at least ten (10) business days in advance. No later than one (1) business day prior to the scheduled Acquisition Closing Date and provided the Funding Conditions are satisfied, the City Party shall deposit into the Acquisition Escrow the portion of the NSP Loan that the City Party has agreed to provide for the Purchase Expenses for the Home and the Memorandum, executed, attested, and acknowledged by the City Party. The parties shall instruct the Acquisition Escrow agent at the Acquisition Closing to: (a) record the grant deed conveying the Home to Participant followed by the Memorandum and the City Deed of Trust; (b) upon recordation, deliver to the City Party the original recorded Memorandum and City Deed of Trust; (c) deliver to the City Party the signed original City Note; (d) apply the amounts deposited into the Acquisition Escrow by the City Party toward the Purchase Expenses (and return the excess to the City Party if the full amount is not used); and (e) deliver to the City Party a conformed copy of the grant deed conveying fee title to the Home to Participant.

4.5 Truth in Lending Statement. The City Party shall provide to Participant a truth in lending disclosure statement substantially in the form attached hereto as Exhibit "D" for each NSP Loan concurrently with the City Party's approval of the Final Loan Package for the NSP Loan.

4.6 Disbursement of NSP Loan for Project Expenses. As to each Home that Participant acquires, the NSP Loan shall be disbursed to Participant as set forth in this Section 4.6.

4.6.1 Purchase Expenses. The portion of the NSP Loan that is to be provided for the Project Expenses that constitute Purchase Expenses shall be disbursed on behalf of Participant upon the satisfaction of the Funding Conditions and concurrently with the Acquisition Close of Escrow for the Home.

4.6.2 Other Project Expenses. The portion of the NSP Loan that is to be provided for the Project Expenses other than the Purchase Expenses and the Other Financing Interest ("Other Project Expenses") shall be disbursed as set forth in this Section 4.6.2. Provided Participant is not in default of this Agreement, after the Acquisition Close of Escrow, the NSP Loan shall be disbursed to Participant for the Other Project Expenses) no more frequently than once each month as Other Project Expenses are incurred by Participant. No later than the fifth (5th) day of each month, Participant shall submit to the City Party a request for payment of NSP Loan proceeds to reimburse Participant for the eligible Other Project Expenses incurred by Participant for the previous month. The payment request shall include the total amount requested and itemized statements and invoices, with such supporting information as the City Party may reasonably require documenting that the costs for which Participant seeks payment were made and incurred by Participant, which supporting information required by the City Party may include without limitation, receipts, canceled checks, time records, billing statements, bank statements, and contracts. The payment request shall be in such form as prescribed by the City Party. The City Party shall have the authority to calculate and approve the amount of Participant's Other Project Expenses which shall not be unreasonably withheld provided the conditions set forth herein are satisfied. Payment of the amount determined by the City Party to be owing to Participant for eligible Other Project Expenses each month shall be made by the City

Party within thirty (30) days after Participant's submission of its completed payment request; provided, however, that in no event shall any proceeds be disbursed to Participant until after the Funding Conditions are satisfied. If payment is requested for amounts owing to a third party such as the Contractor under the Construction Contract, the City Party shall have the right to disburse the NSP Loan payments directly to the third party. It is expressly understood that no disbursements of the NSP Loan proceeds shall be made to Participant until after the satisfaction of the Funding Conditions. In addition, a City Party's obligation to make periodic disbursements of NSP Loan proceeds to Participant pursuant to this Section 4.6.2 shall be conditional and contingent upon Participant's continuing satisfaction of all of its obligations under this Agreement at the time payments become due and the continuing satisfaction of the Funding Conditions.

In addition to the requirements in the preceding paragraph, the requirements of this paragraph also shall apply to Other Project Expenses that constitute Rehabilitation Expenses. The payment requests for the Rehabilitation Expenses shall include (i) certification from the Contractor that the work for which a disbursement is sought has been completed and conforms to the approved plans and permits; and (ii) appropriate conditional or unconditional lien releases and waivers, including for mechanic's liens, materialmen's liens, stop notice claims, and equitable lien claims, with said lien releases and waivers to be in a form reasonably required by the City Party and in conformance with the requirements of California Civil Code Section 3262. A 10% retention shall be withheld from each disbursement of NSP Loan proceeds for Rehabilitation Expenses and shall be disbursed upon the completion of the Rehabilitation Project and the satisfaction of the conditions in the preceding sentence as to the entire Rehabilitation Project. Prior to each disbursement for Rehabilitation Expenses, the City Party shall have inspected the rehabilitation work for which such disbursement is being requested and shall have determined that such work has been completed substantially and reasonably in conformity with the Scope of Work and this Agreement and the approved building plans. In the event Participant desires to obtain an advance disbursement for rehabilitation activities scheduled to be undertaken or rehabilitation activities not yet completed (e.g., as an advance payment or progress payment), Participant shall present to the City Party a contract or other evidence that the contractor or other party performing the work is entitled to an advance payment. Prior to and as a condition to final payment for Rehabilitation Expenses and prior to the issuance of the Certificate of Occupancy for the Home, Participant shall submit to the City Party all remaining Section 3 documentation. Participant shall supply to the City Party certification satisfactory to HUD and the Contract Officer as to compliance with the provisions of Section 3 before receiving the final disbursement of NSP Loan funds for Rehabilitation Expenses of a Home.

The Project Expenses that constitute Other Financing Interest shall be reimbursed upon the sale of the Home to the Eligible Homebuyer in accordance with Section 6.3.1(b).

4.7 Repayment of NSP Loan. Participant's obligation to repay each NSP Loan shall be as set forth in the City Note for the NSP Loan. The City Note generally provides for Participant to pay to the City Party, concurrently with the transfer of the Property to an Eligible Homebuyer, an amount equal to the the Resale Price of the Property and for the balance of the NSP Loan to be forgiven.

City CM and City LH shall, upon receipt of the NSP Loan proceeds from Participant, transfer said funds to City Fullerton. The repayment proceeds shall constitute "NSP Funds" for purposes of this Agreement. It is contemplated that, so long as the amount of said funds is sufficient to fund the acquisition and rehabilitation of additional Homes, the funds will continue to be rolled over to new NSP Loans to be provided to Participant for that purpose; provided, however, nothing herein shall preclude any City Party from exercising its right to terminate this Agreement as permitted under Section 14.

4.8 NSP Loan Secured by Deed of Trust. Participant's obligation to repay each NSP Loan shall be secured by a City Deed of Trust recorded against the Home for which the NSP Loan is provided. The City Deed of Trust also secures Participant's obligations under this Agreement to convey the Home to the City Party if and when any such obligation is triggered. The City Deed of Trust contains an acceleration clause which generally provides that, to the extent permitted by law, in the event that Participant shall: (a) directly or indirectly, voluntarily or involuntarily, sell, assign, transfer, dispose of, alienate, encumber, lease, or agree to sell, assign, transfer, dispose of, alienate, encumber, or lease all or any portion of any interest in the Home without the prior written consent of the City Party; or (b) refinance any lien or encumbrance which has priority over the City Deed of Trust for a loan amount in excess of the then outstanding sum secured by such lien or encumbrance or extend the term of any loan secured by any such lien or further encumber the Home; or (c) default on any of its obligations set forth in the City Note, City Deed of Trust or this Agreement or on any obligations under any documents relating to any other financing that is secured by the Home and fail to cure the default within any applicable cure period or within thirty (30) days of receipt of notice from the City Party if there is no cure period, then, or at any time thereafter, the City Party, at its option, may declare the entire indebtedness evidenced by the City Deed of Trust to be immediately due and payable and collectible then or thereafter as the City Party may elect, regardless of the date of maturity.

4.9 Return of NSP Loan Proceeds. Upon the termination of this Agreement, Participant shall transfer to the City Party any NSP Loan funds on hand for which Project Expenses have not been incurred. In addition, if it is determined, as a result of an audit or otherwise, that any of the disbursements of NSP Loan proceeds were improper or made for expenditures not eligible for payment, Participant shall immediately repay to the City Party the amounts of such disbursements. Pursuant to the City Party Agreements, City CM and City LH shall transfer to City Fullerton such funds that each receives from Participant.

4.10 Other Financing. The provisions of this Section 4.10 shall be applicable to a Home in the event Other Financing is required for the Home pursuant to Section 4.1.

4.10.1 Participant's Efforts to Obtain Other Financing. Upon notification from the City Party that the NSP Loan will be less than the Project Expenses, Participant shall exercise diligent efforts to obtain Other Financing to fund the gap. Participant shall submit to the City Party reports on the efforts undertaken by Participant to obtain Other Financing, including the lenders contacted by Participant, the terms of any loans available to Participant, and the reasons for Participant's rejection or disapproval of any Other Financing Loans (which disapproval shall be subject to the terms of Section 4.10.2).

4.10.2 Approval of Other Financing Loan. If the Other Financing is in the form of a loan provided to Participant ("Other Financing Loan"), the Other Financing Loan shall be subject to the reasonable approval of the City Party and Participant, which approval shall not be unreasonably withheld so long as the Other Financing Loan is on commercially reasonable terms with a rate of interest not to exceed prevailing conventional home mortgage lending rates applied by any reputable institutional home mortgage lender. The approvals of the terms of an Other Financing Loan by Participant and the City Party shall be made with the Preliminary Loan Package.

4.10.3 Participant's Evidence of Financial Capability. Concurrently with delivery of the Final Loan Package to the City Party, Participant shall submit to the City Party evidence reasonably satisfactory to the City Party that Participant has the financial capability necessary for the acquisition of the Home and development of the Rehabilitation Project pursuant to this Agreement. Such evidence of financial capability shall include all of the following:

(a) A copy of the commitment or commitments obtained by Participant for all of the sources of funds for acquisition and construction financing for the Home and Rehabilitation Project. All copies of commitments submitted by Participant to the City Party shall be certified by Participant to be true and correct copies thereof. Each commitment for financing shall be in such form and content acceptable to the City Party as reasonably evidences a firm and enforceable commitment, with only those conditions which are standard or typical for the lender involved for similar projects. The terms for any Other Financing Loans obtained by Participant shall comply with the requirements set forth in Section 4.10.2 of this Agreement.

(b) Copies of the loan documents for each funding source to be obtained by Participant. Participant shall provide written certification to the City Party that the loan documents submitted are correct copies of the actual loan documents to be executed by Participant.

(c) If the total costs set forth in the Home Project Budget exceed the amount of the NSP Loan to be provided by the City Party and the financing commitments received pursuant to subparagraph (a) above, a financial statement and/or other documentation reasonably satisfactory to the City Party sufficient to demonstrate that Participant has adequate funds available and committed to cover such difference.

4.10.4 Right of City to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by Participant, Participant shall promptly deliver to the City Party a copy of any notice of default or breach received from any other lender and the City Party may cure the default without acceleration of the subject loan following prior notice thereof to Participant. In such event, Participant shall be liable for, and the City Party shall be entitled to reimbursement from Participant within ten (10) days of written demand, of all costs and expenses associated with and attributable to the curing of the mortgage or deed of trust default, including any default consisting of a breach of this Agreement by Participant, which are incurred by the City Party. Any sums which become due to the City Party from Participant under the provisions of this Section 4.10.4 shall constitute a lien on the Home, effective upon

recordation by the City Party or the City Party's authorized agent of a notice of lien ("Notice of Lien") concerning nonpayment of any sum due hereunder. The Notice of Lien shall state (i) the amount due, which amount shall include interest at the rate of the lesser of 10% or the maximum amount allowed under law from the date due to the date paid, and shall also include the cost of preparing and recording the Notice of Lien, (ii) the expenses of collection in connection with any nonpayment, including without limitation reasonable attorneys' fees, (iii) a description of the Home, (iv) the name and address of the City Party, (v) the name of Participant, and (vi) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the City Party to enforce the lien by sale. The lien established pursuant to this section may be enforced by sale of the Home by the City Party, the City Party's attorneys, any title insurance company authorized to do business in California, or other persons authorized to conduct the sale as a trustee, after failure of Participant to pay any sum due pursuant to this Agreement within 30 days after recordation of the Notice of Lien. The sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The City Party, through its agents, shall have the power to bid on the Home at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for any amounts due under this Agreement shall be maintainable without foreclosing or waiving any lien securing the same, but this provision or any institution of suit to recover a money judgment shall not constitute an affirmation of the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section shall include reasonable attorneys' fees as fixed by the court.

4.10.5 Subordination. The City Party's City Deed of Trust and this Agreement shall be subordinate to the lien of any Other Financing Loan obtained by Participant and approved by the City Party, on such terms as the Contract Officer and the City Party's legal counsel determine are commercially reasonable and consistent with the purpose and effect of this Agreement; provided, however, that this Agreement shall be superior to the lien of any Other Financing Loan obtained by Participant from an affiliate or related party of Participant and, in the event of a foreclosure under such lien, the party acquiring the Property shall be required to comply with this Agreement and perform Participant's obligations hereunder.

5. PARTICIPANT'S SALE OF HOMES TO ELIGIBLE HOMEBUYERS.

5.1 Market Homes. Upon the Acquisition Closing Date for each Home, Participant shall diligently market the sale of the Home to Eligible Homebuyers pursuant to a marketing program approved by the City Party and shall exercise diligent efforts to sell and convey the Home to an Eligible Homebuyer as expeditiously as possible following the completion of the Rehabilitation Project.

5.2 Eligible Homebuyers. Participant shall sell each rehabilitated Home to an Eligible Homebuyer as expeditiously as possible following the completion of the Home's Rehabilitation Project. An "Eligible Homebuyer" is a homebuyer who meets all of the following requirements and eligibility has been verified by the City Party:

- (a) *Maximum Income*. The potential homebuyer qualifies as a Middle Income Household.

(b) *Residency.* All persons comprising the Middle Income Household are qualified residents who lawfully reside in the United States.

(c) *First Time Homebuyers.* Each adult person who is a member of the Middle Income Household shall qualify as a first time homebuyer. A first time homebuyer means a buyer who has not owned a home during the three-year period prior to the purchase of the Home, except that the following individual or individuals may not be excluded from consideration as a first time homebuyer under this definition:

(i) a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

(ii) a single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or

(iii) an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of the Home, a dwelling unit whose structure is: (x) not permanently affixed to a permanent foundation in accordance with local or state regulations; or (y) not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(d) *Household Size.* The household size of the buyer does not exceed two persons per bedroom, plus one person (e.g., for a three bedroom Home the maximum number of persons in the household can be seven persons).

5.3 City's Verification of Eligible Homebuyer Status. Participant shall be responsible for the initial determination of a buyer's Eligible Homebuyer status and shall provide information to the City Party to enable the City Party to verify that the proposed buyer is an Eligible Homebuyer. In order to verify the buyer's status as an Eligible Homebuyer, Participant shall submit to the City Party adequate information evidencing the income of the proposed buyer and the buyer's status as an Eligible Homebuyer, including evidence that the buyer lawfully resides in the United States. Said information shall include original or true copies of pay stubs, income tax records or other financial documents in order that the City Party may determine and verify the household income of the proposed buyer and qualification as Middle Income Household. In addition, Participant shall submit to the City Party affidavits of first time homebuyer status certified by the buyer as true and correct. The City Party may request additional information reasonably required to verify the proposed buyer's Eligible Homebuyer status. Participant shall complete or cause to be completed any applications, verification

documents or other forms that may be provided by a City Party for Participant or the proposed buyers to complete. If the City Party is unable to verify the buyer's Eligible Homebuyer status, then the buyer shall not be eligible to purchase the Home and Participant shall select another applicant for approval of Eligible Homebuyer status.

5.3.1 Evidence of Lawful Residency in United States. In furtherance of Section 5.3 above, the City Parties inform Participant (and Participant shall be aware when selecting prospective buyers of the Homes) that the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. §1601 *et seq.* (and the implementing guidelines in 8 CFR 104), in particular Section 1621 provides that an alien who is not a qualified alien, nor a non-immigrant, nor an alien paroled into the U.S. for less than one year, is not eligible for any state or local public benefit. "State and local public benefits" means any grant, contract, loan, professional license or commercial license provided by an agency of a state or local government or by their appropriated funds; and any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a state or local government or their appropriated funds. Participant acknowledges and agrees that no selected homebuyer shall be an unlawful resident in the United States.

5.4 Priority. Eligible Homebuyers who either (a) currently work and have worked in the jurisdiction of the City Party for the ninety (90) day period preceding the sale of the Home to the homebuyer, or (b) currently live and have lived in the jurisdiction of the City Party for the ninety (90) day period preceding the sale of the Home to the homebuyer shall be given preference in purchasing a Home pursuant to a process to be established by the City Parties and Participant within thirty (30) days after the date of this Agreement.

5.5 Resale Price.

5.5.1 Permitted Resale Price. The parties acknowledge that the NSP Requirements prohibit any profit from being made on the sale of the Homes. The sale price of a Home to be paid by an Eligible Homebuyer to Participant ("Resale Price") shall be the lesser of (a) the NSP Maximum Resale Price, or (b) the value of the Home after completion of the Rehabilitation Project, or (c) such other amount as determined by the City Party. With respect to clause (b) of the preceding sentence, the value shall be based upon any of the foregoing, at the election of the City Party: (i) an appraisal procured by the City Party, (ii) the appraisal conducted on behalf of the Eligible Homebuyer's first trust deed lender for the Home, or (iii) the opinion of a real estate agent or broker. The Resale Price shall be established by the parties upon the completion of the Rehabilitation Project. The Resale Price may be reduced from time to time in accordance with the provisions of Section 5.5.2. Participant shall cause the Resale Price proceeds to be paid to the City Party out of the escrow for the sale of the Home upon the conveyance of the Home to the Eligible Homebuyer and such payment shall constitute Participant's repayment of the NSP Loan pursuant to Section 4.7. If Other Financing was obtained for the Project Expenses for the Home, for the ease of administration and as provided in Section 6.3.1(b), the parties may elect to offset against Participant's obligation to pay the Resale Price proceeds to the City Party under this Section the amount payable by the City Party to Participant under Section 6.3.1(b) of this Agreement.

5.5.2 Reduction of Resale Price. The City Party shall have the right at any time and from time to time to reduce the Resale Price. Participant shall promptly reduce the Resale Price upon receipt of notification from the City Party. In addition, if Participant believes after the establishment of the Resale Price that the market conditions warrant a reduction in the Resale Price, Participant shall have the right to request the City Party reduce the Resale Price and the City Party shall reasonably consider the request. If requested by the City Party, Participant shall provide to the City Party a broker's opinion or other evidence of the value of the Home to substantiate Participant's request to reduce the Resale Price.

5.6 Homebuyer Outside Resale Date; Auction. If, after and despite its exercise of diligent efforts, Participant does not enter into a purchase agreement for a Home with an Eligible Homebuyer by the date that is the later of (a) six (6) months after the Acquisition Closing Date for the Home, or (b) thirty (30) days after the completion of the Rehabilitation Project for the Home, Participant shall, at the election of Participant or at the request of the City Party, auction the sale of the Home pursuant to procedures reasonably approved by the City Party. The parties permitted to bid at the auction and purchase the Home shall be Eligible Homebuyers or the City Party. No later than thirty (30) days after the date of this Agreement, Participant shall submit to the City Parties proposed procedures for the auction sales. Participant and the City Parties shall exercise reasonable efforts to finalize the procedures within sixty (60) days after the date of this Agreement.

5.7 Down Payment. Eligible Homebuyers shall be required to contribute a down payment of not less than five percent (5%) of the Affordable Housing Cost of the Home.

5.8 Financing to be Obtained by Eligible Homebuyer; Loan Documents.

5.8.1 City Homebuyer Loan. The City Party shall provide to the Eligible Homebuyer who purchases a Home a loan of funds equal to the difference between the Resale Price and the sum of the Affordable Housing Cost of the Home and the Eligible Homebuyer's down payment ("Homebuyer Loan"). The form of the loan documents to be entered into by the City Party and each Eligible Homebuyer for a Homebuyer Loan shall be prepared by the City Party and it is anticipated such documents will include without limitation a loan agreement, a promissory note, a subordinate deed of trust, a request for notice of default, a regulatory agreement or conditions, covenants and restrictions (CCRs), a buyer disclosure statement, a truth in lending statement, and a notice of right to cancel (collectively, the "Homebuyer Loan Documents"). Pursuant to the NSP Requirements, the affordability requirements for the Home shall, at a minimum, adhere to the affordability provisions under the Home Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. § 12741, *et seq.*), and the implementing regulations (24 C.F.R. § 92, *et seq.*). It is contemplated that the Homebuyer Loan will have the following terms: (a) 0% interest with a term of forty-five (45) years; (b) payments deferred during the initial thirty (30) year period of the term of the Homebuyer Loan (unless a default or the Home is sold); (c) equal monthly installment payments made during the last fifteen (15) years of the forty-five (45) year term, with the Homebuyer Loan paid in full in the forty-fifth year; (d) equity share payable during the term of the loan, with the amount payable in the initial thirty (30) year period to be in the same proportion that the Homebuyer Loan bears to the Resale Price, and with such amount reduced each year commencing in the thirty first year of the term of the Homebuyer Loan by an amount

equal to 1/15 of the original equity share. Notwithstanding the foregoing, if equity sharing is not permitted under the NSP Requirements, it is contemplated that the Homebuyer Loan will be a simple interest deferred payment loan, with payment due in full upon the sale of the Home to the extent net proceeds are available to repay the Eligible Homebuyer's investment and the NSP Loan. The Contract Officers, together with their respective legal counsel, shall have the authority to prepare, establish the terms of, and execute the Homebuyer Loan Documents consistent with the NSP Requirements. Subject to Section 5.8.2, the source of the Homebuyer Loans shall be NSP Funds.

5.8.2 City of CM Additional Funding. City CM advises Participant that as an additional funding source (in addition to NSP Funds from City CM) that the Costa Mesa Redevelopment Agency, City of Costa Mesa, California, a public body corporate and politic and a community redevelopment agency existing and operating pursuant to California Health & Safety Code §33000, *et seq.* ("Agency") has approved an allocation of funds from the Agency's Low and Moderate Income Housing Fund in an amount up to \$321,316 that may be used for its Homebuyer Loans. The Agency's Executive Director shall have the authority to approve and execute the Agency's Homebuyer Loan Documents in a form approved by the Agency's legal counsel. Monies, if any, provided by the Agency to this Agreement and implementation shall be treated as program income under the NSP Requirements; provided however, in all cases such monies be expended also in compliance with California Health & Safety Code §33000, *et seq.* ("CRL") and to the extent there is a conflict between the NSP Requirements and the CRL, the most restrictive provisions shall govern.

5.8.3 First Trust Deed Financing. The Eligible Homebuyers shall be required to obtain from a private institutional lender or government agency a conventional fixed-rate, level-payment, fully amortizing thirty (30) year mortgage loan for the first trust deed financing for the acquisition of the Home on such terms as approved by the City Party. Principal and interest payments on the loan shall not exceed the prevailing conventional home mortgage lending rates applied by any reputable institutional home mortgage lender, or the lending rates of any government-subsidized or special mortgage program for which the Eligible Homebuyer qualifies and has obtained a first trust deed loan for the acquisition of the Home.

5.9 Homebuyer Purchase Agreement. Upon entering into a purchase agreement with an Eligible Homebuyer for the sale of a Home, Participant shall provide to the City Party a copy of the executed purchase agreement setting forth the Resale Price. The escrow period shall be no longer than necessary to satisfy the conditions required to close the escrow and convey the Home to the Eligible Homebuyer.

5.10 Conditions to Sale. Participant shall not transfer title to a Home until such time that the Rehabilitation Project is completed as determined by the City Party, the City Party has verified the prospective buyer's status as an Eligible Homebuyer, the City Party has approved the terms of the Eligible Homebuyer's first trust deed financing, the Homebuyer Loan Documents have been executed, and all other conditions to the closing that may be required by the City Party have been satisfied.

5.11 Coordination with City. Participant shall keep the City Parties informed of the closing date for the transfer of Homes to Eligible Homebuyers so that each City Party can

coordinate the disbursement of its Homebuyer Loans to the Eligible Homebuyers, if applicable, and the execution and delivery of the Homebuyer Loan Documents. Further, Participant shall otherwise keep each and all of the City Parties informed of the status of the marketing and sale of the Homes.

5.12 Homebuyer Counseling and Other services. Participant shall ensure that each Homebuyer receives and completes at least eight (8) hours of homebuyer counseling from a HUD-approved homebuyer counseling agency. Participant shall coordinate the provision of these housing counseling services. Participant shall provide reasonable accommodations to persons with disabilities, including but not limited to accessible format of information and accessible location(s). Participant shall arrange for translation services for non-English speaking persons as needed.

5.13 Right of City Party to Acquire Home. Notwithstanding any other provision set forth in this Agreement, the City Party shall have the right at any time after the Acquisition Closing Date to itself acquire the Home. If the City Party acquires the Home, the City Party shall not be required to pay any purchase price to Participant for the Home. Although the City Party shall not be required to pay a purchase price for the Home, if Other Financing was obtained for the Home, the City Party shall be required to make the payment under Section 6.3.1(b) to reimburse Participant for the Home's Project Expenses that were funded with the Other Financing (whether the source of such Other Financing is Participant's own funds or an Other Financing Loan), together with any Other Financing Interest applicable to the Home, provided Participant provides to the City Party evidence reasonably satisfactory to the City Party that the Project Costs funded by the Other Financing and any Other Financing Interest were incurred and provided Participant is not in default of this Agreement. If the City Party acquires the Home pursuant to this Section, the NSP Loan for the Home shall be forgiven upon Participant's transfer of title to the Home free and clear of all monetary liens and encumbrances and rights of possession and any other exceptions placed on title during the period of Participant's ownership of the Home. In the event Participant is in default of this Agreement, subject to Section 13.3, the City Party's acquisition of a Home shall not preclude the City Party from exercising all rights and remedies available at law or equity for the default.

6. HOME PROJECT BUDGET; REIMBURSEMENT OF PROJECT EXPENSES.

6.1 Home Project Budget. The "Home Project Budget" shall mean, as to each Home, a line item budget of the Project Expenses for the Home. The budget that is approved by a City Party as part of the Final Loan Package for a Home pursuant to Section 2.2.3 of this Agreement shall be the Home Project Budget for that Home. The cost estimates in the Home Project Budget for the Project Expenses that are included within the Approved Bid Amount shall reflect the amounts set forth in the Approved Bid Amount and shall include a cost breakdown for each item in the Approved Bid Amount. The Home Project Budget may not be changed without the prior written approval of the City Party. The Home Project Budget approved with the Final Loan Package shall include six (6) months of Carrying Costs and Miscellaneous Expenses for the Home (i.e., utilities, maintenance, taxes). If Participant owns a Home for longer than six (6) months, the parties shall revise the Home Project Budget to include the carrying costs to be incurred during the extended period. If the Home Project Budget is revised as permitted herein,

all references herein to the "Home Project Budget" shall be deemed to refer to the revised Home Project Budget.

6.2 Project Expenses Defined. The "Project Expenses" shall mean, as to each Home, the actual and reasonable expenses for the Eligible Project Expense Items incurred by Participant after the Environmental Completion Date for the Home and after the Home has received Initial Approval, not to exceed the amounts set forth in the Home Project Budget. It is expressly understood that Project Expenses do not include (a) any direct or indirect costs, fees, charges, or profits allocated to Participant's own internal administrative, payroll, or overhead expenses or to any person or entity affiliated with Participant, with the exception of the Website Fee, (b) the direct or indirect costs of Participant's inspector, (c) any expenses incurred prior to the Environmental Completion Date for the Home, or (d) expenses for a Home that does not receive Initial Approval. If a City Party does not receive sufficient NSP Funds from HUD or HCD or if its NSP Funds are withdrawn, then the City Party shall notify promptly Participant of such lack of funding and no costs incurred from the date of notice thereof will be or become Project Expenses. As used herein, the term "Eligible Project Expense Items" shall mean the following:

Purchase Expenses

Allowable Acquisition Price

Good Faith Deposit, which shall be applicable to the Allowable Acquisition Price if the Home is acquired

Escrow and closing costs for the purchase of the Home

Premium for the City Party's lender's title insurance policy

Premium for Participant's owner's title insurance policy

Rehabilitation Expenses

Permits and plan check fees

Architecture and design fees

Asbestos/LBP/Mold/Structural/etc studies/surveys

Amounts paid to the Contractor for the construction of the Rehabilitation Project based on the Approved Bid Amount

Carrying Costs and Miscellaneous Expenses

Broker's price opinion

Utilities

Landscape maintenance

Security

Insurance (other than Participant's liability insurance)

Homebuyer counseling as required by the NSP Program

Loan fees if an Other Financing Loan is obtained

Other Financing Interest (see Section 6.2.4 for payment procedures)

Termite report

Property taxes

Disposition Expenses

Third party advertising costs to market the Home (i.e., newspaper ads)

Website Fee, if applicable (as defined below)

Escrow and closing costs for sale of Home to Eligible Homebuyer
Broker's commission for sale of Home to Eligible Homebuyer

If Participant creates a new website for advertising Homes in the NSP Program, Participant may include as a Disposition Expense a fee for each Home that is included on the website in the amount not to exceed \$300.00 ("Website Fee").

6.3 Reimbursement of Project Expenses. The provisions for a City Party's payment of the Project Expenses shall be as set forth in this Section 6.3. The Project Expenses are separate from the Participant Fees described in Section 7 of this Agreement.

6.3.1 Payment of Project Expenses for Homes that Participant Acquires.

(a) *Project Expenses Funded Through NSP Loan.* As to each Home that Participant acquires pursuant to this Agreement, subject to Section 6.3.3, the City Party's reimbursement of Participant's Project Expenses shall be made in the form of the City Party's provision of an NSP Loan for the Home on the Acquisition Closing Date in accordance with the requirements of Section 4 of this Agreement and the NSP Loan shall be disbursed for the Project Expenses as set forth in Section 4.6.

(b) *Reimbursement of Other Financing Interest and Project Expenses Funded with Other Financing.* If the amount of the NSP Loan provided by the City Party for a Home is less than the estimated amount of Participant's Project Expenses for the Home and Participant obtains Other Financing for the Project Expenses for the Home pursuant to Sections 4.1 and 4.10, upon the sale of the Home to an Eligible Homebuyer, the City Party shall reimburse Participant for the Project Expenses that are funded with the Other Financing (whether the source of such Other Financing is Participant's own funds or an Other Financing Loan), together with any Other Financing Interest. For the ease of administration, Participant may elect to offset against the Resale Price proceeds payable to the City Party under Section 5.5.1 the amount payable by the City Party to Participant under this subparagraph (b).

6.3.2 Payment of Project Expenses for Homes that Participant does not Acquire.

As to each Home that receives Initial Approval in accordance with Section 2.2.1 but that Participant *does not* acquire, an NSP Loan will not be provided by the City Party for the Home, but the City Party will nonetheless reimburse Participant for the Project Expenses incurred by Participant for the Home prior to the date it is determined that the Home will not be included in the NSP Program, provided Participant has complied with all provisions of this Agreement and is not in default of this Agreement and provided further that the failure to acquire the Home is not a result of Participant failing to comply with any requirements under this Agreement or the Acquisition Purchase Agreement (other than an Excusable Default). No later than thirty (30) days after it is determined that such a Home will not be included in the NSP Program, Participant shall submit to the City Party a payment request for Project Expenses for the Home. The payment request shall include the total amount requested and itemized statements and invoices, with legible and complete supporting information provided by Participant to the City Party in order to document the reasonable costs incurred by Participant and for which Participant seeks payment or reimbursement. The supporting information required by the City Party may include

without limitation, originals or complete and legible copies of receipts, canceled checks, time records, billing statements, bank statements, and contracts. Payment of the amount determined by the City Party to be owing to Participant for eligible Project Expenses under this Section shall be made by the City Party within thirty (30) days after Participant's submission of a complete payment request. Participant acknowledges that no reimbursement payments will be made for each and any Home that did not receive Initial Approval or for any Project Expenses incurred prior to the Environmental Completion Date. Notwithstanding the foregoing, the terms for the reimbursement of the Good Faith Deposit shall be governed by the provisions of Section 2.4.4 of this Agreement rather than this Section.

6.3.3 Other Financing Interest. Although the Other Financing Interest shall constitute a Project Expense reimbursable to Participant, notwithstanding any other provision in this Agreement to the contrary, the reimbursement of Other Financing Interest shall not be made monthly but instead shall be made in accordance with the procedures set forth in Section 6.3.1(b).

6.4 Participant Responsible for Expenses that Exceed Budget. If any of the Project Expenses exceed the amounts set forth in the Home Project Budget approved by the City Party, Participant shall be responsible for such additional amounts and such amounts shall not be eligible for payment or reimbursement under this Agreement and shall not constitute Project Expenses.

7. COMPENSATION.

7.1 Fee Summary. Provided Participant is not in default of this Agreement at the time payment is due, the City Party shall pay to Participant out of NSP Fund proceeds certain fees for each Home included in the City Party's NSP Program upon the completion of certain milestones for the Home, as summarized in the chart below and as described in greater detail in Sections 7.2-7.5 (collectively, the "Participant Fees"):

PARTICIPANT FEE	AMOUNT	PAYMENT TIMING
Acquisition Fee	\$8,500 per Home	Acquisition Closing Date
Rehabilitation Fee	19% of Rehabilitation Expenses	Monthly during rehabilitation
Homebuyer Administration Fee	\$3,000 per Home	Close of sale to Eligible Homebuyer
Disposition Fee	8% of Disposition/ Carry Costs	Close of Sale to Eligible Homebuyer

7.2 Acquisition Fee. As to any Home that receives Preliminary Loan Package Approval but does not receive Final Loan Package approval, the City Party shall pay to Participant an acquisition fee for the Home in the amount of Eight Thousand Five Hundred Dollars (\$8,500) ("Acquisition Fee") so long as the reason the Home did not receive Final Loan Package approval is not a result of any of the following: (a) the Rehabilitation Expenses in the Home Project Budget as approved by the City Party exceed the sum of \$75,000; (b) the total of the Rehabilitation Expenses, Carrying Costs and Miscellaneous Expenses and Disposition

Expenses, in the amounts set forth in the Home Project Budget approved by the City Party, exceed the sum of \$90,000; (c) the Financing Contingency is not satisfied; (d) the Acquisition Purchase Agreement has terminated because the seller of the Home does not agree to the Allowable Acquisition Price; (e) Participant failing to enter into an Acquisition Purchase Agreement with the owner of the Home by the Deadline Date for the Home in accordance with Section 2.4.1, (f) Participant failing to comply with the terms of this Agreement or the Acquisition Purchase Agreement, including without limitation the requirement that all documents and information required to be submitted by Participant are timely submitted in final and complete form and in compliance with the requirements of this Agreement, including the documents and information required for the Final Loan Package; or (g) there exists any condition on title to the Home that will prevent the Eligible Homebuyer from obtaining first mortgage financing for the Home or that is substantially inconsistent with the use of the Home under this Agreement; (h) the failure of the Environmental Completion Date to occur in such time as to allow the conditions dependent on such event to be satisfied within the times required under this Agreement, notwithstanding the City Party's compliance with its submittal requirements under Section 2.8 of this Agreement; or (i) the Home is no longer included in the NSP Program pursuant to the last sentence of Section 2.4.3. Payment of the Acquisition Fee under this paragraph shall be made within five (5) business days after disapproval of the Final Loan Package for the Home or after it is determined that the Home will not proceed to consideration of a Final Loan Package.

As to any Home that receives Final Loan Package approval but that is not acquired by Participant by the Outside Acquisition Closing Date for the Home, the City Party shall be required to pay to Participant the Acquisition Fee for the Home so long as the reason for Participant not acquiring the Home is not the fault of Participant or a result of any of the following: (a) any of the events described in the preceding paragraph; or (b) if Other Financing was approved as part of the Preliminary Loan Package, Participant's failure to obtain the Other Financing; or (c) Participant's unilateral and arbitrary decision not to acquire the Home.

As to each Home that receives Final Loan Package approval and that Participant acquires in accordance with this Agreement, upon the Acquisition Closing Date for the Home and provided the Funding Conditions are satisfied, the City Party shall pay to Participant the Acquisition Fee through the Acquisition Escrow.

Notwithstanding the foregoing or any other provision in this Agreement to the contrary, Participant acknowledges that no Acquisition Fee can be or shall be paid for a Home for which an Environmental Completion Date did not occur.

The services to be provided by Participant for the Acquisition Fee include the following:

- Identify and negotiate the purchase of Homes that meet the definition of Vacant and Foreclosed. Homes must be located in the City's designated NSP target areas as approved by HCD.
- Prepare and submit a Preliminary Loan Package to the City Party for preliminary approval and secure commitment of City funds for acquisition. The Preliminary Loan Package shall include the information in Section 2.2.2.

- Ensure compliance with NEPA environmental clearance requirements.
- Provide a Final Loan Package to the City Party. The Final Loan Package shall include the information in Section 2.2.3.

7.3 Rehabilitation Fee. Following the Acquisition Closing Date for a Home that is included in the NSP Program, the City Party shall pay to Participant a Rehabilitation Fee in the amount of 19% of the Rehabilitation Expenses incurred by Participant for the Home. Payments shall be made once each month concurrently with the City Party's monthly disbursements of NSP Loan proceeds pursuant to Section 4.6.2 of this Agreement and shall be equal to 19% of the portion of the NSP Loan disbursed to Participant for Rehabilitation Expenses in that month. The services to be provided by Participant for the Rehabilitation Fee include the following:

- Develop the Scope of Work for the Home.
- Provide construction management and oversight. The City retains the right to reasonably disapprove each and all change orders.
- Select construction contractors through a procurement process that meets all HUD and HCD requirements for the NSP program.
- Ensure compliance with all legal requirements, including Davis Bacon and/or prevailing wage requirements, as applicable.
- Manage and maintain Homes from date of acquisition to date of resale, including but not limited to lawn/landscape care, securing the property, and payment of all taxes, insurance, utilities.

7.4 Homebuyer Administration Fee. Upon the closing of the sale of a Home to an Eligible Homebuyer in accordance with the requirements of this Agreement, the City Party shall pay to Participant a fee for the Home in the amount of Three Thousand Dollars (\$3,000) ("Homebuyer Administration Fee"). The Homebuyer Administration Fee shall be paid through the escrow for the sale of the Home to the Eligible Homebuyer. The services to be provided by Participant for the Homebuyer Administration Fee include the following:

- Review affordability program guidelines for consistency with NSP program requirements.
- Provide underwriting and income qualification services consistent with this Agreement.
- Attend loan advisory committee meetings with the City Party and present underwriting criteria.
- Coordinate the provision of the Homebuyer Loans and the execution of the Homebuyer Loan Documents.

7.5 Disposition Fee. Upon the closing of the sale of a Home to an Eligible Homebuyer in accordance with the requirements of this Agreement, the City Party shall pay to Participant a fee for the Home in the amount of eight percent (8%) of the sum of the Project Expenses that constitute Disposition Expenses ("Disposition Fee"). The Disposition Fee shall be paid through the escrow for the sale of the Home to the Eligible Homebuyer. The services to be provided by Participant for the Disposition Fee include the following:

- Execute sales and listing agreements.
- Review purchase offers, including eligibility/contingencies, and receive City Party approval of sale.
- Manage escrow/title process, ensure satisfaction of conditions to closing toward completion of timely closing for each Home.
- Market and resell homes to Eligible Homebuyers who have received a minimum of eight (8) hours of homebuyer counseling from a HUD-certified housing counseling agency.
- Provide reasonable accommodations to persons with disabilities including but not limited to accessible format of information and accessible location(s).
- Arrange for translation services for non-English speaking persons as reasonably required and necessary.
- In a format approved by the City Party, provide monthly status reports regarding the number of Homes acquired, the status of Homes undergoing rehabilitation, demographic information on homebuyers purchasing Homes, program cash flow and other data required by the City, HCD or HUD.

8. GENERAL PROVISIONS RELATING TO PARTICIPANT SERVICES.

8.1 Standard of Performance. As a material inducement to the City Parties entering into this Agreement, Participant represents and warrants that Participant (and its sole member of the Participant entity) is a qualified provider of first-class work and services and Participant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Participant covenants that it shall follow the highest professional standards in performing the work and services required hereunder.

8.2 Prohibition Against Assignment and Transfer. The qualifications and identity of Participant (i.e., the sole member of the Participant entity) are of particular concern to the City Parties. In reliance of Participant's qualifications and identity that the City Parties have entered into this Agreement. Accordingly, Participant shall not, whether voluntarily, involuntarily, or by operation of law, undergo any change in ownership or membership or assign, transfer or convey all or any part of this Agreement or any rights hereunder or in any Home or in any Rehabilitation Project.

8.3 Permits. Participant shall obtain at its sole cost and expense all licenses, permits and approvals as may be required by applicable Federal, State or local laws for the performance of the work and services required under this Agreement.

8.4 Compliance with Laws. Participant shall provide all work and services rendered hereunder and perform all obligations under this Agreement in accordance with all applicable ordinances, resolutions, statutes, rules, and regulations of the applicable City Party and any applicable Federal, State or local governmental agency having jurisdiction. Each and every

provision required by law to be included in this Agreement shall be deemed to be included, and this Agreement shall be read and enforced as though they were included. Participant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance under this Agreement; in particular, but without limitation, Participant acknowledges and agrees that it shall be, and shall cause its employees, contractors and agents, to be, and remain fully knowledgeable and apprised of the NSP Requirements and related laws and regulations and notices referenced therein as well as all updates and amendments thereto. If Participant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City Parties, Participant shall be solely responsible for all costs arising therefrom.

8.5 Independent Contractor. Neither the City Parties nor any of their respective officers, employees or agents shall have any control over the manner, mode or means by which Participant or its members, agents or employees perform the services required herein except as set forth herein. Participant shall perform all services required herein as an independent contractor of the City Parties and shall remain at all times as to the City Parties a wholly independent contractor with only such obligations as are consistent with that role. Participant shall not at any time or in any manner represent that it or any of its members, agents or employees are agents or employees of any City Party.

9. RECORDS AND REPORTS.

9.1 Records.

9.1.1 Records to be Maintained. Participant shall keep and maintain records providing a full description of the activities undertaken pursuant to this Agreement, including the acquisition of the Homes and the development of the Rehabilitation Projects and participation in the NSP Program, records demonstrating the eligibility of the activities constituting the Project Expenses, records demonstrating compliance with the NSP Requirements, data demonstrating client eligibility for services provided including the name, income level, family size of each client and other information for determining eligibility and a record of the services provided to each client, and such other records as may be reasonably required by the City Party to enable the City Party to evaluate the acquisition of the Homes, the development of the Rehabilitation Projects, the operation of the NSP Program and Participant's compliance with the NSP Requirements, and to identify and account for the use of the NSP Loan proceeds and expenditures of Project Expenses and all costs pertaining to this Agreement, and to enable the City Party to comply with the City Party's record keeping and reporting requirements under the NSP Requirements, including without limitation the records specified in 24 C.F.R. 570.493 and 24 C.F.R. 570.506 as they pertain to the activities under this Agreement. Books and records pertaining to the Project Expenses shall be kept and prepared in accordance with generally accepted accounting principles. Nothing in the foregoing shall authorize or allow the disclosure by Participant or any City Party to any third party of personal identifying information, such as names, income, employment, legal status, etc., of a household, prospective buyer, or other person receiving NSP Funds or otherwise participating in this Agreement or the implementation thereof by Participant or a City Party to the extent non-disclosure is protected and/or prohibited by URA and other applicable Federal and State laws and regulations.

9.1.2 Retention. The books and records required to be maintained by Participant under this Agreement shall be retained for a period of five (5) years following the date this Agreement has terminated as to all parties; provided, however, in the event any litigation, audit, negotiation, or other action involving the books and records is commenced prior to the expiration of the five (5) year retention period, Participant shall retain the books and records until completion of the action and resolution of all issues which arise from it.

9.1.3 Location of Records. The books and records required to be maintained by Participant shall be kept at the office of Participant located at the address set forth on the signature page or another reasonably accessible location in Orange County, California. Further, to the extent such records include confidential and/or non-disclosable information pursuant to applicable Federal and State laws and regulations, Participant shall take all reasonable and necessary steps and precautions to keep such information and records confidential and non-disclosed to third parties without legal authorization to so disclose or produce.

9.1.4 Access to Records. The City Parties, HUD, HCD and/or their representatives shall have full and free access to, and the right to examine, inspect, and audit, all books and records of Participant pertaining to this Agreement at all times during normal business hours.

9.1.5 Audits. Participant shall perform all audits of its books and records required by the NSP Requirements, a City Party, HUD or HCD and a copy of such audits shall be forwarded to the City Parties within thirty (30) days after completion. Participant shall be subject to all audit and review requirements imposed on any City Party in connection with this Agreement and shall, at its sole cost and expense, cause such audits and reviews to be timely performed.

9.2 Reports.

9.2.1 Quarterly Reports. No later than five (5) days after the end of each Quarter, Participant shall submit to the City Party the following quarterly reports in a form provided by or otherwise approved by the Contract Officer:

(a) *Performance Reports*. A report on the status of the acquisition of Homes, the Rehabilitation Project improvements and a summary of the NSP Program activities undertaken by Participant under this Agreement for the previous Quarter ("Performance Report"). The Performance Report shall, at a minimum, describe the status of the acquisition of Homes and the development of Rehabilitation Projects, costs incurred, funds remaining, a narrative explanation of problems, delays, or adverse conditions that impaired the ability of Participant to meet any obligations if any were not met, favorable developments which enabled Participant to satisfy obligations and meet objectives sooner or at less cost than anticipated or producing more beneficial results than planned, a description of the NSP Program activities, and any additional pertinent information related to contract performance.

(b) *Client Characteristics*. A report on the number of clients served through the NSP Program in the previous Quarter and on the characteristics of those

clients with respect to gender, race/ethnicity, age, and family income, and any other basis for determining eligibility for participation in the NSP Program.

(c) *Program Income.* A report on the program income generated for the Quarter, if any, as more fully explained in Section 12 of this Agreement.

9.2.2 Other Reports. In addition to the reports referenced in Section 9.2.1, Participant shall, at such times and in such forms as required by a City Party, prepare and submit to the Contract Officer, such other reports concerning the activities under this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement and compliance with NSP Requirements, as the City Party may require from time to time. Participant acknowledges that as of the date of this Agreement, HUD and HCD have not provided definitive guidance on its reporting requirements for the NSP and that the requirements may be different from those set forth in this Agreement. In connection therewith, Participant shall provide to the City Party all records and reports as may be required by the City Party to enable the City Party to comply with its record keeping and reporting requirements under the NSP or as otherwise required by HUD or HCD.

10. INSURANCE AND INDEMNITY.

10.1 Insurance. No later than five (5) days after the date of this Agreement, Participant shall furnish or cause to be furnished to the City Parties evidence reasonably satisfactory to each City's Contract Officer that Participant has obtained the insurance required in Exhibit "C" to this Agreement; provided, however, that the property insurance required for each Home shall be provided prior to the Acquisition Close of Escrow for the Home. Nothing in this Section 10.1 or Exhibit "C" shall in any way limit Participant's indemnity obligations set forth in this Agreement.

10.2 Indemnification. Participant shall indemnify, defend, and hold harmless each City Party and their respective officers, elected and appointed officials, employees, representatives and agents (collectively, the "Indemnitee") from and against any and all claims, causes of action, liabilities, and damages arising out of any acts or omissions of Participant or Participant's members, officers, employees, contractors, clients, invitees, and agents, in the performance under this Agreement, except to the extent of such loss as may be caused by the sole negligence or willful misconduct of an Indemnitee.

11. INTRA-CITY LOANS.

In the event that the number of Homes located or approved by a City Party for inclusion in the NSP Program is insufficient to meet the deadlines for the City Party to use its NSP Funds (25% by December 30, 2009, 75% by March 30, 2010, and 100% by June 30, 2010), the City Party may allocate its NSP Funds, or portion thereof, to one of the other City Parties in the form of a loan to be used by the deadline dates. In addition to the foregoing, any City Party shall have the authority through its Contract Officer to loan or grant to any other City Party the NSP Funds that are part of the first City Party's allocation as the Contract Officer of that first City Party may deem necessary or desirable. The terms of any such loan or grant shall be as approved by the

Contract Officers of the affected City Parties and their legal counsel and the Contract Officers shall have the authority to execute the documents required to implement such transactions.

12. PROGRAM INCOME.

Participant shall submit to each City Party quarterly reports as set forth in Section 9.2 on all program income as defined 24 C.F.R. 570.500(a) generated by activities carried out with NSP Funds, if any. Upon receipt of program income, Participant shall return the program income to the City Party. Any program income that is received by City CM or City LH shall be transferred to City Fullerton as the lead agency in accordance with the City Party Agreements.

13. DEFAULTS AND REMEDIES.

13.1 Defaults. The occurrence of any of the following shall constitute a default of this Agreement:

(a) the failure or delay by either party to perform any term or provision of this Agreement if such failure is not cured, corrected or remedied within the time period set forth in this Agreement; or

(b) if no specific time period is set forth herein:

(i) the failure to commence to cure the default within fifteen (15) days after the nonperforming party's receipt of written notice from the other party specifying the nature of the default; or

(ii) the failure of a nonperforming party to diligently proceed to prosecute a cure, correction or remedy once commenced; or

(iii) the failure of a nonperforming party to complete a cure, correction or remedy to completion within thirty (30) days after the nonperforming party's receipt of written notice from the other party specifying the nature of the default, or for defaults that cannot reasonably be cured, corrected, or remedied within such thirty (30) day time period, the failure of such party to complete the cure within an additional thirty (30) days following the conclusion of such thirty (30) day period (for a total of sixty (60)).

A party claiming a default shall give written notice of default to the other party specifying the default complained of. Except as otherwise expressly provided in this Agreement or as required to protect against further damages, the injured party may not institute proceedings against the party in default until the time for cure, correction, or remedy of a default has expired. The City Parties will provide written notice of any default of Participant under this Agreement to any lender of Other Financing requesting notice and will recognize any cure of any default of Participant tendered by any such lender with the same effect as if the same were tendered by Participant.

13.2 Remedies. In addition to any other rights or remedies available at law or in equity, upon a default of Participant, a City Party may: (a) temporarily withhold disbursement of NSP Loan proceeds, Participant Fees and any other funding under this Agreement pending correction of the default by Participant; (b) refuse to advance all or any part of the NSP Loan, Participant Fees and any other funding under this Agreement and reallocate said funds to another activity; (c) wholly or partially suspend or terminate the award of the NSP Loan, Participant Fees and any other funding under this Agreement; (d) wholly or partially suspend or terminate this Agreement; (e) withhold further awards for the Homes; (f) require Participant to repay the NSP Loan funds; (g) exercise its right to take over a Rehabilitation Project pursuant to Section 3.9; and/or (h) institute legal action to cure, correct, or remedy any default, recover actual but not consequential damages for any default (subject to the limitations in Section 3.3), or to obtain any other remedy consistent with the purposes of this Agreement.

In addition to any other rights or remedies available at law or in equity, upon a default of a City Party, Participant may: (a) wholly or partially suspend or terminate this Agreement as to the City Party in default; and (b) institute legal action against the City Party in default to cure, correct, or remedy any default, to recover actual but not consequential damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. In the event Participant exercises its remedy in clause (a) of the preceding sentence to terminate this Agreement as to the City Party in default, subject to the following sentence, any Homes owned by Participant at the time of default by Participant shall be conveyed to the City Party and all of the terms and provisions of Section 5.13 shall be applicable. If, however, the City Party does not have sufficient NSP Funds to make the payments to Participant referred to in Section 5.13 and Participant is not in default, Participant shall have the right to sell the Home to an Eligible Homebuyer at the Resale Price instead of to the City Party and the Resale Price proceeds shall be used first to pay Participant the payments required under Section 5.13 with any balance paid to the City Party. If Participant terminates this Agreement, Participant's obligation to the City Party shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to Participant), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that Participant has control over NSP Funds, including program income.

13.3 Limitation on Damages for Participant's Rehabilitation Default and Resale Default. As to each Home, Participant's liability for damages to the City Party upon its default for any failure to timely commence, proceed with, or complete the Rehabilitation Project for the Home within the periods provided for in this Agreement (subject to force majeure extensions as described in Section 3.4.2) (each a "Rehabilitation Default") shall not exceed an amount equal to 150% of the sum of the Rehabilitation Expenses for the Rehabilitation Project as set forth in the Home Project Budget for the Home inclusive of all amounts attributable to change orders for the Rehabilitation Project. As to each Home, in the event the Rehabilitation Project for the Home is timely completed and Participant either (a) fails to exercise diligent efforts to sell the Home to an Eligible Homebuyer or otherwise commits a default under Section 5.1 of this Agreement, or (b) if Section 5.6 is applicable, fails to auction sale or cause the auction sale of the Home (each a "Resale Default"), then Participant's liability for damages to the City Party for such Resale Default shall not exceed an amount equal to 10% of the Resale Price of the Home; provided

however, Participant acknowledges and agrees that each and any Resale Default is limited to a default that arises out of the inaction of Participant (i.e., failure to convey the Home to an Eligible Homebuyer) and a Resale Default does not include Participant's affirmative actions (i.e., conveyance of the Home to a party that is not an Eligible Homebuyer) and a Resale Default does not include any failure of Participant to convey the Home to the City Party if such conveyance is required.

In addition to the per Home damages limitation for any Rehabilitation Default or any Resale Default of this Section 13.3 (together, "Covered Defaults"), Participant's total liability for damages to the City Parties for Covered Defaults shall not exceed the cumulative sum of Five Hundred Thousand Dollars (\$500,000). The foregoing \$500,000 limitation is the cumulative amount the City Parties may recover for damages for Covered Defaults under this Agreement and does not apply to each City Party individually.

The damages limitations under this Section 13.3 do not include litigation expenses referred to in Section 16.8 and do not apply to any other obligations or to defaults that are not Covered Defaults, whether or not such other obligations or defaults are related to any Covered Default. For example, if Participant fails to complete a Rehabilitation Project because of costs it incurs in connection with a third party claim for personal injuries occurring in the Home, Participant's liability to the City Party for costs incurred by the City Party to complete the Rehabilitation Project would be subject to the damages limitations in this Section 13.3, but Participant's obligation to indemnify the City Party against the third party claims would not be subject to the damages limitations.

13.4 Inaction Not a Waiver of Default. Any failures or delays by any 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, or deprive any such 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.

13.5 Rights and Remedies are Cumulative. The rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

13.6 No Cross Defaults. In no event shall a breach or default under this Agreement by a City Party constitute a breach or default under this Agreement of any other City Party and in no event shall the City Parties be jointly or severally liable for the obligations or liabilities of one another. In no event shall a breach or default under this Agreement by Participant as to a particular City Party(ies) constitute a breach or default as to the other City Party(ies) to the extent the default does not pertain to the other City Party(ies).

14. TERM; TERMINATION.

As between each City Party and Participant, the term of this Agreement shall continue until the earlier of (a) the date the City Party no longer has sufficient NSP Funds for the acquisition and rehabilitation of additional Homes under the NSP Program, or (b) the date the

City Party notifies Participant that the City Party is terminating this Agreement which may occur prior to the event in clause (a). In connection with clause (b) of the preceding sentence, Participant acknowledges that a City Party may at any time, for any reason, with or without cause, suspend or terminate this Agreement or any portion hereof as it relates to that City Party and Participant, by serving written notice upon Participant. Upon receipt of said notice, Participant shall immediately cease all work under this Agreement as it relates to the City Party providing the notice, unless the notice provides otherwise. In the event this Agreement is suspended or terminated pursuant to this Section 14 and the reason for the termination is an uncured default by Participant, the affected City Party shall be entitled to receive a return of the Participant Fees paid to Participant, or portion thereof, that relates to the services for which Participant is in default. In the event this Agreement is terminated and Participant is not in default, subject to Section 15, Participant shall be entitled to a reimbursement of Project Expenses incurred prior to the date of termination in accordance with the terms of this Agreement and for the Participant Fees that would have been payable as of the date of termination if this Agreement had not terminated. Notwithstanding any other provision of this Agreement to the contrary, a City Party's termination of this Agreement shall not preclude or prejudice any other remedy to which the City Party may be entitled in law or in equity.

Upon the termination of this Agreement by a City Party, the terminating City Party shall notify the other City Parties of the termination. The termination of this Agreement by a City Party shall not affect the terms of this Agreement (a) as they relate to the other City Parties and Participant, or (b) as they relate to the terminating City Party and the other City Parties.

If, at the time this Agreement is terminated, Participant holds title to a Home within the terminating City Party's jurisdiction, the City Party may elect, in addition to any other remedies of the City Party hereunder, to either acquire the Home from Participant (in which case the transfer of the Home shall be in accordance with the terms and provisions of Section 5.13) or require that Participant continue to perform its obligations under this Agreement as to the Home (i.e., complete rehabilitation and sell the Home to an Eligible Homebuyer), in which case this Agreement shall survive for that purpose.

In addition to the foregoing, if for any reason, the NSP Funds required by a City Party to fund the Project Expenses are not received by the City Party or are withdrawn from the City Party, the City Party may unilaterally terminate or modify the terms of this Agreement to reflect the loss of funding; provided, however, such a modification or termination by a City Party shall not affect the terms of this Agreement as they relate to any other City Party and Participant. If a reduction in funding is required, the affected City Party will provide Participant with modified Home Project Budget(s), as needed. Notwithstanding the foregoing, Participant will be reimbursed for Project Expenses incurred, and Participant Fees required to be paid under this Agreement, as of the date the reduction in funding is made.

15. ENVIRONMENTAL CLEARANCE.

Participant expressly acknowledges and agrees that notwithstanding any other provision in this Agreement to the contrary, Participant shall not receive any funds from any City Party under this Agreement, including without limitation, any NSP Loan funds, reimbursement for

Project Costs, or Participant Fees, to the extent incurred prior to the Environmental Completion Date for the applicable Home.

16. GENERAL PROVISIONS.

16.1 Notices. All notices required to be delivered under this Agreement to a City Party or Participant shall be delivered to the respective parties at the address and to the person set forth next to the party's signature to this Agreement or to such other person or address as the parties may hereafter designate by written notice to the other parties.

16.2 Nonliability of City Officials and Employees. No member, officer, elected or appointed official, employee, agent, or representative of any City Party shall be personally liable to Participant or any other City Party in the event of any default or breach by the City Party or for any amount which may become due or on any obligations under this Agreement.

16.3 Contract Administration. Each City Party shall maintain authority of this Agreement and the authority to administer, oversee, and implement this Agreement through its Contract Officer. The Contract Officer shall have the authority to make approvals, issue interpretations, execute documents, waive provisions, and/or enter into amendments of this Agreement or agreements necessary to implement this Agreement on behalf of its City Party so long as such actions do not add to the costs incurred or to be incurred by the City Party as specified herein. Notwithstanding the foregoing, the Contract Officer may take any decision to be made under this Agreement or proposed modification of this Agreement to its City Council for approval.

16.4 Time of the Essence. Time is of the essence in the performance of this Agreement.

16.5 Entire Agreement, Waivers and Amendments. This Agreement and its exhibits and the City Agreement contain the entire agreement among the parties relating to the subject matter hereof, and supersedes all negotiations and previous agreements between the parties with respect to the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged. Any amendment or modification to this Agreement must be in writing and executed by the affected City Party(ies) and Participant.

16.6 Applicable Law; Venue. The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement without regard to conflict of interest principles. All legal actions must be instituted and maintained in the Superior Court of the County of Orange, State of California, or in any other appropriate court in that County.

16.7 No Discrimination. Participant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

16.8 Litigation Expenses. If any party to this Agreement is required to initiate or defend litigation in any way connected with this Agreement, the prevailing party in such litigation, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees from the losing party. Attorneys' fees shall include attorney's fees on any appeal, and a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, retaining expert witnesses, taking depositions and discovery, and all other necessary costs incurred with respect to such litigation.

16.9 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

16.10 Monitoring. The City Parties shall have the right to monitor and evaluate Participant's performance under this Agreement to determine compliance with this Agreement and the NSP Requirements. Participant shall cooperate with the City Parties and shall make available to the City Parties all information, documents, and records reasonably requested by the City Parties and shall provide the City Parties the reasonable right of access to the Homes for purposes of this Agreement and evaluating Participant's performance hereunder.

16.11 Condition to Release of Funds. Notwithstanding any provision of this Agreement, the City Parties and Participant agree and acknowledge that this Agreement does not constitute a commitment of federal funds, and that such commitment of funds may occur only upon satisfactory completion of environmental review and receipt by the City Parties, as applicable, of a release of funds from HCD or HUD, as applicable. The City Parties and Participant are further prohibited from undertaking or committing any federal funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance; City Parties and Participant understand that the violation of this provision may result in the denial of any federal funds under this Agreement.

16.12 Binding on Heirs. This Agreement shall be binding upon the parties hereto and their respective heirs, representatives, transferees, successors, and assigns.

16.13 Covenants Run with the Land. Upon Participant's acquisition of each Home, the Home shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved subject to the covenants, conditions, and restrictions set forth herein. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth in this Agreement shall run with the Homes and shall be binding upon Participant and all persons having any right, title or interest in the Homes, or any part thereof, their heirs, and successive owners and assigns, shall inure to the benefit of the City Party and its successors and assigns, and may be enforced by the City Party and its successors and assigns. The covenants established in this Agreement shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City Party and its successors and assigns, and the parties hereto expressly agree that this Agreement and the covenants herein shall run in favor of the City Party, without regard to whether the City Party is or remains an owner of any land or interest therein to which such covenants relate. However, all such covenants and restrictions shall be deemed to run in favor of

all real property owned by the City Party which real property shall be deemed the benefited property of such covenants and this Agreement shall create equitable servitudes and covenants appurtenant to all real property owned by the City Party and running with the Home in accordance with the provisions of Civil Code Section 1468. Furthermore, all of the covenants, conditions, and restrictions contained herein shall also constitute easements in gross running in favor of the City Party. The City Party is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. Participant hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land and that the Participant's interest in the Home is rendered less valuable thereby. Participant hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Home by the residents of the City Party and by furthering the health, safety, and welfare of the residents of the City Party. In connection with the foregoing, a Memorandum shall be recorded against each Home upon the Acquisition Closing Date for the Home. The Memorandum shall be removed as an encumbrance upon title to the Home upon the sale of the Home to the Eligible Homebuyer in accordance with this Agreement and the payment of the Resale Price proceeds to the City Party pursuant to Section 5.5.1.

16.14 Further Assurances. The City Parties and Participant to execute and deliver to the other party(ies), upon demand, such further documents, instruments and conveyances, and shall take such further actions as are necessary or desirable to effectuate this Agreement.

16.15 Execution in Counterparts. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

16.16 Exhibits. This Agreement incorporates by reference the following eight (8) Exhibits attached hereto:

- | | |
|-----------|--|
| Exhibit A | Additional Legal Requirements |
| Exhibit B | NSP Rehabilitation Guidelines |
| Exhibit C | Insurance Requirements |
| Exhibit D | Truth in Lending Statement |
| Exhibit E | Promissory Note Secured by Deed of Trust |
| Exhibit F | Deed of Trust |
| Exhibit G | Memorandum |
| Exhibit H | Seller's Occupancy Certification Under the Protecting Tenants at Foreclosure Act |

[signatures on next page]

IN WITNESS WHEREOF, City Fullerton, City CM, City LH and Participant have entered into this Agreement to be effective as of the date set forth above.

Address:

City of Fullerton
303 W. Commonwealth Ave.
Fullerton, CA 92832
Attn: Housing Programs Supervisor

“CITY FULLERTON”

CITY OF FULLERTON, a California
municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP

Special Counsel

Address:

City of Costa Mesa
77 Fair Drive
Costa Mesa , CA 92628-1200
Attn: Neighborhood Improvement Manager

“CITY CM”

CITY OF COSTA MESA, a California
municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:
STRADLING YOCCA CARLSON & RAUTH

Special Counsel

Address:

City of La Habra
201 E. La Habra Ave.
La Habra, CA 90631
Attn: Housing Specialist

“CITY LH”

CITY OF LA HABRA, a California
municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Address:

MHC NSP, LLC
1500 South Grand Ave., Ste. 100
Los Angeles, CA 90015
Attn: Ben Phillips, Vice President

“PARTICIPANT”

MHC NSP LLC,
a California limited liability company

By: Mercy Housing California,
a California nonprofit public benefit
corporation

Its: Sole Member

By: _____

Its: _____

By: _____

Its: _____

EXHIBIT "A"

ADDITIONAL LEGAL REQUIREMENTS

In addition to the requirements set forth in other provisions of the Agreement, Participant shall comply with the following regulations and requirements insofar as they are applicable to the performance of the Agreement.¹

1. *Equal Opportunity and Nondiscrimination.*

a. Participant shall comply with Title VI of the Civil Rights Act of 1964, as amended, which provides in part that no person shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

b. Participant shall comply with Section 104 (B) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, which provides in part that no person shall on the grounds of race, color, or national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving funds under this Title.

c. Participant shall comply with Executive Order 11246, as amended by Executive Orders 11375 and 12086, and all rules and regulations pursuant thereto, which among other things prohibits discrimination on the grounds of race, creed, color, sex or national origin in employment under federally assisted contracts.

d. Participant shall comply with Executive Order 11063, as amended by Executive Order 12259, which requires equal opportunity in housing and related facilities.

e. Participant shall comply with Section 504 of the Rehabilitation Act of 1973, and implementing regulations, which provides in part that handicapped individuals may not be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance.

f. EEO/AA Statement. Participant shall, in all solicitations or advertisements for employees placed by or on behalf of Participant, state that it is an Equal Opportunity or Affirmative Action Employer.

g. Minority/Women Business Enterprise. To the extent permitted by law, Participant will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of the Agreement. As used in the Agreement, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the

¹ This exhibit is a list and summary of certain legal requirements and shall not be construed as a complete list of all Participant requirements. In the event of any conflict between this summary and the requirements imposed by applicable laws, regulations, and requirements, the applicable laws, regulations, and requirements shall apply.

purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surname or Spanish-heritage Americans, Asian-Americans, and American Indians. Participant may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

h. Participant shall comply with Section 3 of the Housing and Community Development Act of 1968.

i. Participant shall comply with Title VIII of the Civil Rights Act of 1968 as amended, the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975.

j. Participant shall comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 2 CFR 570.607, as revised by Executive Order 13279. Participant shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. Participant shall take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Participant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City Party setting forth the provisions of this nondiscrimination clause.

2. *Uniform Administrative Requirements.* Participant shall comply with the uniform administrative requirements described in 24 C.F.R. § 570.502.

3. *Other Program Requirements.* Participant shall carry out each activity under the Agreement in accordance with all applicable federal laws and regulations described in Subpart K of 24 C.F.R. § 570 except for a City Party's environmental responsibilities under 24 C.F.R. § 570.604 and a City Party's responsibility for initiating the review process under the provisions of 24 C.F.R. Part 52.

4. *Religious Organizations.* If Participant is a religious organization as defined by the NSP Requirements, Participant shall comply with all conditions prescribed by HUD for the use of NSP funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 C.F.R. § 200(j). Participant agrees that funds provided under the Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(J), such as worship, religious instruction or proselytization.

5. *Reversion of Assets.* Upon the expiration or sooner termination of the Agreement, Participant shall transfer to the City Party (a) any and all NSP Funds and program income on hand, and (b) any accounts receivable attributable to the use of NSP Funds or program income.

6. *Environmental.*

a. **Limitation on Activities Pending Clearance.** In accordance with 24 C.F.R. § 58.22 entitled "Limitations on activities pending clearance," neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in 24 C.F.R. § 58.1(b) on an activity or project until HUD or the state has approved the recipient's Request for Release of Funds (RROF) and the related certifications have been approved. Neither a recipient nor any participant in the development process may commit non-HUD funds or undertake an activity or project that would have an adverse environmental impact or limit the choice of reasonable alternatives. Upon completion of environmental review or receipt of environmental clearance, the City Party shall issue a Notice to Proceed signifying the environmental requirements under this section have been met. HUD funds shall not be utilized until the City Party has issued a Notice to Proceed. The environmental review or violation of the provisions may result in approval, modification or cancellation of the NSP Loans. If a project or activity is exempt under 24 C.F.R. § 58.34, or is categorically excluded (except in extraordinary circumstances) under 24 C.F.R. § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the City Party has documented its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section by issuing a Notice to Proceed.

b. **Air and Water.** Participant shall comply with the following regulations insofar as they apply to the performance of the Agreement: Clean Air Act, 42 U.S.C. 7401, *et seq.*, Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; and the U.S. Environmental Protection Agency regulations pursuant to 40 C.F.R. Part 50, as amended.

c. **Flood Disaster Protection.** In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4001), Participant shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

d. **Lead-Based Paint.** Participant shall comply with the LBP Regulations referenced in 24 C.F.R. § 570.608, including 24 C.F.R. Part 35, *et seq.*

e. **Historic Preservation.** Participant shall comply with the historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470) and the procedures set forth in 36 C.F.R. Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

7. *Conflict of Interest.* Participant will comply with the provisions of the applicable HUD requirements of 24 C.F.R. § 570.611 regarding the avoidance of conflict of interest.

8. *Labor Standards.* When applicable, Participant shall comply with the provisions of 24 C.F.R. § 570.603 and related requirements and shall include in all applicable construction contracts the provisions of federal law imposing labor standards on federally assisted contracts.

9. *Records and Reports.* Participant shall provide to the City Parties all records and reports relating to the activities under the Agreement that may be reasonably requested by the City Parties in order to enable them to perform their record keeping and reporting obligations pursuant to the NSP Requirements.

10. *Federal Procurement.* Participant shall procure all construction contracts for rehabilitation activities in compliance with federal procurement regulations (24 CFR, part 85.36). Participant shall document and provide to the City Party evidence of proper federal procurement processes. Such documentation shall include without limitation copies of bidding documents containing all required clauses and provisions, contracts containing all required clauses and provisions, detailed inspection and progress reports, and adequate accounting of progress payments.

11. *Construction Documents.* Bidding documents and construction contracts for rehabilitation activities must include all legally required contract clauses and provisions.

12. *Section 3.* Participant shall comply with and cause its contractors to comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u), the HUD regulations issued pursuant thereto at 24 C.F.R, Part 135, and any applicable rules and orders of HUD issued thereunder. The Section 3 clause, set forth in 24 C.F.R § 135.38 provides:

i. 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 or 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.

ii. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. 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.

iii. 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.

iv. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, 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 C.F.R. 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 C.F.R. Part 135.

v. 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 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. Part 135.

vi. Noncompliance with HUD's regulations in 24 C.F.R Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Participant shall abide by the Section 3 clause set forth above and will also cause this Section 3 clause to be inserted in all contracts entered into with third parties for the rehabilitation of the Homes.

13. *Anti-Lobbying Certification.* By its execution of the Agreement, Participant hereby certifies that:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii. It will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

At the request of any City Party, Participant shall execute a separate document that contains the certifications set forth above.

EXHIBIT "B"

NSP REHABILITATION GUIDELINES

NEIGHBORHOOD STABILIZATION PROGRAM (NSP) SINGLE-FAMILY REHABILITATION PROGRAM POLICIES AND PROCEDURES

I. PROGRAM DESCRIPTION

The Cities of Costa Mesa, Fullerton, and La Habra ("City"), as an approved recipient of Neighborhood Stabilization Program (NSP) funds by the State of California Department of Housing and Community Development (HCD), and MHC NSP LLC, a California limited liability company ("Participant"), have entered into that certain Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement dated November 10, 2009 ("NSP Agreement"), establishing a Single Family Rehabilitation Program ("Program"). All terms not otherwise defined herein shall have the meaning ascribed in the NSP Agreement. In the event of any conflict between the provisions of the NSP Agreement and these Policies and Procedures, the NSP Agreement shall control. The primary objectives of the Program are to correct nonconforming uses, remedy code violations, and generally repair and improve deteriorating properties in an effort to provide decent housing and a suitable living environment for persons and families of low-, moderate, and middle-income (LMMI). The subject properties must meet Program eligibility criteria, including without limitation financial feasibility evaluation relating to implementation of the Residential Lead-Based Paint Hazard Reduction Act of 1992 at 19 U.S.C. 4852d and the implementing regulations at 24 CFR Part 35 ("LBP Regs").

II. NOTIFICATION OF AND EVALUATION FOR LBP AND LBP HAZARDS

A. **LBP Evaluation of Subject Property.** Assuming receipt of a complete project proposal from Participant for a property and the City's approval of a Preliminary Loan Package for the property, the City, as a part of this Program, will cause to be conducted and pay for a LBP evaluation of the subject property in accordance with the LBP Regs.

1. **Evaluation.** LBP evaluation shall be conducted by a qualified inspector under contract with the Participant in conformity with the LBP Regs. The LBP requirements for rehabilitation work under Subpart J of the LBP Regs differ based on the level of funding provided for the rehabilitation of the subject property. Assessment for LBP for a proposed federally funded rehabilitation project will include: (1) visual inspection on all properties constructed prior to 1978 to identify defective paint surfaces; (2) for rehabilitation costs estimated at \$5000 or less, the painted surfaces that will be disturbed during rehabilitation must be *tested* for LBP, unless a surface is assumed to contain LBP; (3) for rehabilitation costs estimated between \$5000 to \$25,000, the housing unit requires LBP hazard evaluation, including: (i) paint testing: for surfaces to be disturbed by the rehabilitation for LBP; and (ii) risk assessment: an assessment of a dwelling to check for the presence of LBP hazards, including visual assessment of dust, soil, and paint with a written report of the results, or (iii) assumption of presence of LBP and/or LBP hazards and directly proceeding with standard treatment of LBP and LBP hazards; and (4) for rehabilitation costs estimated to exceed \$25,000, the housing unit requires a higher level of LBP hazard evaluation, including: (i) paint testing: for surfaces to be disturbed by the rehabilitation for LBP, and (ii) risk assessment of dwelling to check for the presence of LBP hazards, including visual assessment of dust, soil, and paint with a

written report of the results, or (iii) assumption of presence of LBP and/or LBP hazards and directly proceeding with full abatement of all painted surfaces disturbed during rehabilitation that are presumed to have LBP and all presumed LBP hazards.

(a) The results of the LBP evaluation and estimated costs of standard treatment options and/or abatement through clearance will be a part of the evaluation caused to be conducted by the City to the subject property and said results will be a factor in the assessment by the City staff of financial feasibility of funding the treatment through clearance of the LBP and LBP hazards from the property and proceeding with all other rehabilitation improvements under the Program.

(b) Participant will be provided any required HUD approved disclosure form(s) relating to the results of the evaluation.

B. Discretion to Proceed with LBP Treatment and/or Rehabilitation Expressly Reserved to City. The City expressly reserves all reasonable discretion to review the results of the LBP evaluation and recommended course of treatment (by paint repair, LBP hazard reduction, and/or abatement through clearance) and decide whether the cost of treatment through clearance, using safe work practices, of LBP and/or LBP hazards from the subject property in conjunction with the costs of the rehabilitation improvements requested by Participant are financially feasible for Program funding.

If, prior to Final Loan Package approval for a property, the City in the exercise of its sole discretion determines the costs of treatment through clearance using safe work practices of LBP and LBP hazards *plus* the costs of the requested rehabilitation improvements to the property are not financially feasible, then the Participant will be denied and no other loan or grant will be available or provided to the property under the Program. If the City in the exercise of its sole discretion determines the costs of treatment through clearance using safe work practices of LBP and LBP hazards plus the costs of the requested rehabilitation improvements are financially feasible, then the rehabilitation will be further considered in accordance with the terms set forth in the NSP Agreement.

III. TREATMENT THROUGH CLEARANCE OF LBP AND LBP HAZARDS

A. Election to Proceed with Treatment through Clearance. Pursuant to the discretion reserved to the City, as set forth in Section II above, the results of the evaluation of the subject property for LBP and LBP hazards and estimated costs of treatment through clearance of LBP and LBP hazards from the subject property will be reviewed by City staff and a determination made whether to proceed with treatment through clearance and with the rehabilitation improvements.

B. Property Eligibility for Rehabilitation Improvements. Real property will be evaluated and must meet **each** of the minimum requirements set forth below to be considered eligible property.

1. **Location.** All assisted properties must be located in the City of Costa Mesa, Fullerton, or La Habra and must meet all other eligibility requirements in the NSP Agreement.

2. **LBP Evaluation.** A LBP evaluation in conformity with the LBP Regs shall have been conducted on the subject property.

3. **LBP Treatment Through Clearance, Using Safe Work Practice.** As set forth in Section II above and this Section III, if after the LBP evaluation it has been determined by the City, through its staff and agents, that there are no LBP hazards or LBP that require treatment through clearance, using safe work practices, or that LBP hazards exist at the subject property and it is financially feasible to cause LBP treatment through clearance, using safe work practices, of the subject property, then provided the property is approved for inclusion in the NSP Program, the City will provide a loan for the treatment through clearance, using safe work practices, in accordance with and subject to all of the terms set forth in the NSP Agreement. All LBP treatment through clearance, using safe work practices, shall be conducted in conformity with the applicable LBP Regs and shall be completed prior to commencement of any eligible rehabilitation improvements that are a part of the Work Write-Up for the subject property.

(a) **Treatment.**

(i) For rehabilitation work to the subject property of less than \$5,000, LBP treatment option is paint repair by repair of surfaces that are to be disturbed by rehabilitation in a safe manner.

(ii) For rehabilitation work to the subject property between \$5,000 and \$25,000, LBP treatment option is lead hazard reduction work. Any LBP or LBP hazards found during the risk assessment must be controlled using interim controls or abatement methods. Standard treatments must be performed when no evaluation is conducted and the presence of LBP hazards is assumed.

(iii) For rehabilitation work to the subject property in excess of \$25,000, LBP treatment option is abatement. Any LBP hazards or LBP found in units and any common areas, as applicable, must be controlled using full abatement methods. LBP hazards on exterior surfaces that are not disturbed during rehabilitation must be controlled using either interim controls or abatement.

(b) **Safe Work Practices.** Rehabilitation work that disturbs surfaces known or assumed to contain LBP or LBP hazards must be performed using safe work practices.

(i) Safe work practices are not required for work that disturbs surfaces below the *de minimis* levels set forth in the LBP Regs.

(ii) The LBP Regs include a list of prohibited methods of treatment and exclusions from safe work practices.

(iii) The LBP Regs include additional safety precautions for occupant protection, worksite preparation, and cleanup activities.

(c) **Clearance.** Once LBP hazard and LBP treatment work is complete using safe work practices, a clearance examination must be performed by a certified professional to ensure that not LBP or LBP hazards remain.

(i) Clearance is *required* for all categories of rehabilitation activities.

(1) For rehabilitation assistance less than \$5000, clearance is required only for the worksite.

(2) For rehabilitation assistance greater than \$5000, clearance is required for the housing unit, common areas, if any, and exterior areas where rehabilitation work occurred.

(ii) Clearance involves a visual assessment and dust testing after cleanup of treatment activities is complete. A clearance report must be prepared by a certified professional.

(iii) If abatement is the treatment method conducted, an abatement report is required in place of a clearance report prepared by a certified professional.

4. **Condition.** The property must be in need of repairs to (i) correct existing nonconforming development standards, (ii) correct existing nonconforming local and/or state code requirements, (iii) correct existing local and/or state code violations, (iv) protect the structural integrity of the property, (v) promote neighborhood safety, (vi) improve energy efficiency, (vii) refurbish exterior and/or interior improvements, or (viii) aid the mobility of the physically disabled and/or elderly. All eligible repairs must meet the Building and Property Rehabilitation Standards adopted by the City and available for review and/or copying at the Housing Rehabilitation offices in City Hall. After LBP notice, evaluation, treatment through clearance, using safe work practices pursuant to the LBP Regs and these Program Policies and Procedures, as applicable, Program funds must first be expended to correct such code violations with the balance available to finance exterior improvements approved as part of the Rehabilitation Project, in such amounts as approved in the Home Project Budget.

C. **Eligible Improvements.** In addition to LBP evaluation and treatment through and clearance, if such occur, eligible improvements to the property shall include only those physically attached to the property and be permanent in nature. All rehabilitation work must be completed by pre-approved, licensed, and insured contractors selected in accordance with Program procedures and the attached Construction Standards.

1. Subject to the requirements set forth in the NSP Agreement concerning the permissible expenditure of Program funds, **improvements eligible to be considered for inclusion** in the Rehabilitation Project include, but are not limited to, the following:

(a) LBP hazards and LBP and the evaluation and treatment through clearance, using safe work practices, thereof pursuant to applicable LBP Regs.

(b) Correction of existing or incipient health and safety code violations.

(c) Repairs, restoration or replacement of building components and mechanical structural systems, such as heating systems, plumbing systems, septic tanks, electrical wiring and service, and built-in residential appliances.

(d) Structural and foundation repairs and qualified building additions or alterations to increase the health, safety, and livability of existing structures, such as porches,

stairways, closets, cabinets, bathrooms, kitchens and entrances. Garage requirements will have to meet the individual cities' requirements and will be reviewed on a case by case basis.

(e) Exterior work to help preserve or protect structures, such as painting, roofing, siding, and property enhancements, such as landscaping, sidewalks, and fences. Defensible fencing improvements may be required as a condition of loan approval.

(f) Interior work to make a structure more livable, such as painting, plastering, new flooring, and tile work.

(g) Fumigation and treatment of termites and pest control.

(h) Energy and water conservation improvements and devices such as tankless water heaters, insulation, window caulking and energy efficiency appliances.

(i) Access improvements, special safety features, and, any modifications or additions to aid the physically disabled and the elderly.

(j) Limited landscaping work, including the construction of walls and fences and walkways and drives, but only when related to other rehabilitation work and in accordance with defensible fencing concepts. Landscape work must include the installation of an automatic irrigation system.

(k) Room additions may be allowed on a case by case basis only when deemed necessary to increase marketability. Approval from City staff must be received before acquisition.

Ineligible improvements include, without limitation, improvements that are (i) cosmetic in nature and/or accessory use improvements, including, but not limited to, greenhouses; barbecue pits and outdoor fireplaces; bathhouses, swimming pools, saunas and hot tubs; valances, cornice boards and drapes and indoor or outdoor home furnishings, unless City and Participant determined that such improvements are required to increase the marketability of the home at resale; and (ii) any improvements **not** approved by the Housing Rehabilitation staff and not included in the Scope of Work developed in accordance with the NSP Agreement.

D. **Eligible Costs.** Program proceeds may be used only for eligible costs which shall include the following to the extent they constitute Project Expenses and are included in the approved Home Project Budget for the Home:

1. The actual reasonable costs of LBP evaluation, treatment through clearance, using safe work practices, as applicable, and the actual reasonable costs of the materials and services necessary to complete the rehabilitation work approved by the Housing Rehabilitation staff as set forth in the Work Write-Up.

2. Building permit, inspection, and other related fees necessary for the completion of the approved LBP work and the rehabilitation work.

E. **Ineligible Costs.** Specific costs **not** eligible for payment from Program assistance include, but are not limited to, the following:

1. Work, improvements, or repairs undertaken by persons who are not properly licensed and certified for LBP evaluation and/or LBP or LBP hazards treatment through clearance, using safe work practices, pursuant to the LBP Regs.

2. Free-standing appliances other than stoves and energy saving appliances, unless the need is justified, as determined by the Housing Rehabilitation staff.

3. Purchase, installation, or repair of home furnishings.

4. Compensation/reimbursement for ineligible improvements or any work not within the Scope of Work or Change Orders approved in accordance with Program procedures.

7. Work performed by a contractor under a separate contract .

IV. **TERMS AND CONDITIONS OF PROGRAM ASSISTANCE**

A. **Compliance with Program Policies and Procedures.** Throughout the applicable term of Program assistance, Program participants shall comply with all Program requirements and procedures as set forth in these Policies and Procedures, and as required by the Housing Rehabilitation staff, and as set forth in the NSP Agreement and related attachments.

V. **PROGRAM PROCEDURES**

A. **Property Inspection/Work Write-Up.** After Participant has identified an eligible property, staff shall schedule an appointment with the Participant at the subject property to inspect the premises, and to arrange for LBP evaluation as soon as reasonably practicable following the Initial Approval of a property. Inspection may include any tests deemed necessary and appropriate by the staff inspector, including, without limitation, LBP evaluation, treatment through clearance, using safe work practices, pursuant to the LBP Regs. The Participant or Participant's designee must accompany staff during the initial inspection. As a part of the initial inspection staff will document existing code violations, incipient code violations, and other Participant requested improvements on a Preliminary Work Write-Up. Failure by staff to identify any existing or incipient code violations shall not in any way relieve the Participant of liability to correct such violations in accordance with applicable state and/or local codes. Following the inspection, Participant will (i) itemize eligible and ineligible improvements, (ii) prioritize eligible work and prepare a preliminary estimate of such work to be completed, and (iii) assess whether the deficiencies can be corrected within the maximum dollar limitation of the Program assistance.

B. After the LBP evaluation has been conducted, if such occurs, and after the evaluation of the financial feasibility of completion of treatment through clearance, using safe work practices, of LBP hazards and LBP, if any, a second meeting will be scheduled by staff with the Participant to review and complete the final Work Write-Up. The Participant must sign the Work Write-Up and, from the time that the Work Write Up is approved as part of the Final Loan Package, no changes or additions to the Work Write-Up will be accepted, except as permitted in the City's sole discretion. The Participant will be provided a copy of the final Work Write-Up with Bid Proposal describing the

(i) scope of work, (ii) construction method, (iii) quantity of materials, and (iv) property location. This form will be used during the contractor selection process.

C. Contractor Selection.

1. **Preliminary Requirements.** After LBP notice and LBP evaluation, if such occurs, Participant shall be responsible for selecting a qualified general contractor in accordance with applicable federal requirements and the procedures set forth herein. A minimum of three (3) bids will be sent out. Qualified contractors, including all subcontractors performing work on the property, for both the LBP treatment through clearance and for the rehabilitation improvements, must have a current California state contractor's license and City business license and submit evidence of workers' compensation insurance and general liability insurance in amounts deemed adequate by the Housing Rehabilitation staff. The selected general contractor or the selected subcontractor(s) completing the LBP treatment through clearance shall meet all certification and qualifications set forth in the LBP Regs and California Administrative Code, Title 17, for certified LBP contractors. The selected general contractor must add the City (of Costa Mesa, Fullerton, or La Habra, as appropriate) as additional insured/loss payee under its general liability policy. The contractor(s) or subcontractor(s) conducting the LBP treatment through clearance shall also meet all insurance and indemnification requirements established by the City's risk manager for such work and substantially in the form set forth in the Owner/Contractor agreement for the LBP and rehabilitation improvements. No agreements, written or otherwise, with a contractor, or any other vendor, will be binding for Program funding unless they are first approved by the Housing Rehabilitation staff.

If rehabilitation work involves a significant alteration of the existing structure(s), Participant may be required under state and local codes to apply for and obtain approval from the Building and Planning Division of the City (of Costa Mesa, Fullerton, or La Habra, as appropriate). Such approval will require submittal of a preliminary site plan or drawing of the proposed improvements to the property in order to determine compliance with applicable code requirements. Upon approval of the proposed improvements by the Building and Planning Division, Participant may proceed with contractor selection. However, for any rehabilitation work for which a building permit or other permit is required under applicable state and/or local codes, the Participant is solely responsible and obligated to obtain or cause to be obtained any and all permits and approvals necessary to commence and undertake the work of rehabilitation prior to a contractor commencing work and prior to disbursement of Program funds.

2. **Bid Solicitation.** Staff shall maintain a list of contractors interested in bidding on rehabilitation work under the Program. Participant shall prepare and distribute an invitation to bid to all such interested contractors and to any contractors identified by the property owner (minimum three). The invitation to bid shall include the property address, Work Write-Up, Bid Proposal form specifying a required contingency, and Contractor Information form, together with the date and time of a mandatory job walk-through. Only those contractors attending the mandatory job walk-through and submitting a completed Bid Proposal, including the specified contingency, and Contractor Information form by the specified bid deadline shall be eligible. Following the bid deadline, staff shall meet with the Participant to review the Bid Proposals and Contractor Information forms. The selection of a Bid Proposal shall be as set forth in the NSP Agreement.

The Bid Proposals shall be reviewed by the Housing Rehabilitation staff for determination of cost reasonableness and compliance with Program requirements. Upon approval of

the contractor documentation by the Housing Rehabilitation staff, the Participant and contractor may sign the Construction Agreement. The Construction Agreement must be City-approved. The requirements for selecting a bid hereunder shall be in addition to those set forth in the NSP Agreement.

3. **Scope of Work Limitation.** Participant shall not contract independently with the selected contractor to concurrently perform additional work on the property beyond the scope of the final Work Write-Up until a Notice of Completion is issued by staff and acknowledged by the Participant evidencing satisfactory completion of the improvements identified in the final Work Write-Up and Construction Contract and final inspection has been obtained and approved for all outstanding building or other permits for the work. Until such Notice of Completion is issued and final inspection has been approved for the permits, Participant shall not contract independently with any other contractor to undertake any other improvements or work on the property during the term the selected contractor is doing work.

D. **Contract Management and Disbursement of Program Funds.**

1. **Pre-Construction Conference.** A pre-construction conference between the Housing Rehabilitation staff, the Participant, and the contractor will be held after final bids are received, but before work commences, will include terms of contract management and disbursement of Program funds. Every item on the scope of work should be read and discussed to ensure that the Participant and contractor each fully understand the scope of work and work schedule, inspection and permit requirements, and City payment schedule, so that all parties will be aware of the time line and order of progression to completion. The meeting will include, if necessary, discussion of pre- LBP treatment through clearance and the use of safe work practices. Work shall not commence until the Housing Rehabilitation staff has issued a Notice to Proceed.

2. **Change Order Procedures.** Change orders are discouraged and will be reviewed carefully by the Housing Rehabilitation staff. Change orders will be considered for approval only where required by job conditions or as reasonably requested by the Participant with a statement of explanation. All change order requests must be in writing, including detailed scope of work and price, and agreed to by the Participant, contractor, and Housing Rehabilitation staff before the additional work is commenced. Work completed without such approval shall not be compensated with Program assistance.

3. **Funds Disbursement.** Program funds shall be disbursed in progress payments.

(a) Funds for LBP treatment through clearance, using safe work practices, shall be disbursed in progress payments or in a single lump sum, as solely determined by the City staff, upon satisfactory completion of the LBP treatment through clearance, using safe work practices, in conformity with the LBP Regs.

(i) Program funds will not be disbursed for LBP treatment through clearance, using safe work practices, without all necessary permits and required inspections, including without limitation, building permits, or which does not meet the approval or standards of the LBP Regs, Building and Planning Division, applicable state and local codes, applicable permits, and the Program. The Housing Rehabilitation staff will visit the job site and verify that (i) the work included for payment is satisfactorily completed and within the scope of eligible work as outlined for

LBP treatment through clearance, using safe work practices, and (ii) all necessary inspections by the Building Division or other responsible department or entity have been satisfactorily accomplished. Upon such determinations, the Housing Rehabilitation staff will process payment to Participant through a Payment Authorization Form, which includes the amount of disbursement, name and address of property owner and LBP contractor, and a description of the LBP treatment through clearance work completed, using safe work practices.

(b) Funds for rehabilitation improvements included within the Work Write-Up shall be disbursed monthly upon satisfactory completion of the work, inspection and approval by the Housing Rehabilitation staff and the Participant, and submittal of lien waivers from all material suppliers and subcontractors as to the completed work, in accordance with the requirements set forth below.

(i) The Participant or contractor, as designee, is responsible for submitting a Payment Authorization Form and contacting the Housing Rehabilitation staff to arrange a job site inspection and for payment. The Participant or contractor, as designee, is also responsible to call for permit inspections. Program funds will not be disbursed for work completed without all necessary permits and required inspections, including without limitation, building permits, or which does not meet the approval or standards of the Building and Planning Division, applicable state and local codes, applicable permits, and the NSP Single Family Rehabilitation Program.

(ii) The Housing Rehabilitation staff will visit the job site and verify that (A) the work included for payment is satisfactorily completed and within the scope of eligible work as outlined in the Work Write-Up, and (B) all necessary inspections by the Building Division or other responsible department or entity have been satisfactorily accomplished. Upon such determinations, the Housing Rehabilitation staff will process a Payment Authorization Form, which includes the amount of disbursement, property address, and a description of the work completed. The Participant, contractor, and Housing Rehabilitation staff will be required to sign the Payment Authorization Form before it can be processed.

(1) For disbursement of Program proceeds, all checks shall be made payable jointly to the Participant.

4. **Final Inspection.** The Housing Rehabilitation staff, Participant, and contractor shall make a final inspection of the completed work of improvements set forth in the Work Write-Up together. When the improvements are completed and all permits have been signed off with final inspections the job is considered complete, except for a one-year guarantee on labor and materials which is a required provision of the Rehabilitation Contract. The Housing Rehabilitation staff will issue a Notice of Completion upon satisfactory completion of the work and final permits. All material suppliers and subcontractors will be required to execute and deliver to the property owner lien release(s) or lien waiver(s) with a copy to the Housing Rehabilitation staff prior to release of the 10% Retention for the rehabilitation work.

5. **Retention Amount.** The City will retain from each monthly payment of the Program assistance, ten percent (10%) of the proceeds until thirty-five (35) days from the date the Housing Rehabilitation staff determines that the work has been completed in a satisfactory manner and a Notice of Completion is recorded. The retention amount shall be disbursed at that time, provided all building and other required permits have been finalized and no mechanic's liens or stop notices have been filed in connection with the rehabilitation work.

E. **Conflict Resolution.**

1. **Property Owner/Contractor Disputes.** In the event of any dispute between the Participant and the contractor concerning the contracted work, either one, or both, shall submit in writing the fact and nature of such dispute(s) to the Housing Rehabilitation staff. Within thirty (30) days of such notice, the contractor and the owner shall either resolve the dispute or shall seek a resolution of the dispute pursuant to binding arbitration in accordance with the provisions of the Construction Contract to be approved by the City.

2. **Program Concerns.** Complaints concerning the NSP Single Family Rehabilitation Program must be in writing and addressed to the Housing Rehabilitation staff. The Housing Rehabilitation staff will contact the complainant and attempt to resolve the problem. A written response will be made within thirty (30) days of receipt of a written complaint. If the complainant is not satisfied after the written response, a complaint may be filed with the City's Project Manager who will schedule a meeting with the Housing Rehabilitation Coordinator. A written response by the City's Project Manager will be made within fifteen (15) working days of the receipt of the complaint.

Exhibit "1" to NSP Policies and Procedures

CONSTRUCTION STANDARDS
NEIGHBORHOOD STABILIZATION PROGRAM

- A. Contractors must show verification of worker's compensation; liability insurance; current California State Contractor's License; and current City Business License prior to the signing of the contract.
- B. Payment Schedules:
1. 10% retention held on all contracts for lien clearance.
 2. Retention to be held until 35 days after the Notice of Completion is filed and recorded with the County Recorder's Office.
 3. Copy of properly filed Notice of Completion to be submitted to establish start of lien period.
 4. Included with Requests for Progress Payments will be material and lien releases. Lien releases to be complete or payment cannot be made.
- C. Payment Method:
1. In Progress Payments (draws)
 - a. Draws are authorized upon 100% completion on specific bid items. Contractors must submit Requests for Progress Payments, which are signed and dated by the contractor and the Participant, to the City before 5:00 on Friday and payments will be made monthly.
 - b. Required City inspections must be passed and signed on permit cards prior to the release of the draw.
- D. Specifications: GENERAL CONSTRUCTION SPECIFICATIONS

All work is to comply with current codes and standard practices accepted by all participating cities and Development Services Department.

All permits are to be taken out PRIOR to commencing work. A complete subcontractor list is to be submitted prior to the final inspection. All subcontractors must have current City Business Licenses.

All work is to be performed in a workmanlike manner.

All debris created or required in construction shall be the responsibility of the prime contractor and removed at his expense to disposal site.

All trades (subcontractors) are to coordinate and schedule work with other trades (subcontractors) to avoid rework situations.

Work shall be scheduled (as far as possible) in the following sequence: Roofing, external structural, internal structural, plumbing, electrical, wall finishing, paint, floor covering, garage, paving.

All structural lumber and materials are to be construction grade – no utility graded materials will be acceptable. Workmanship and installation to be acceptable to City standards.

Whenever possible energy efficient (green) practices must be used.

Also work shall be covered by the current Building Code adopted by the participating cities. These are:

2007 California Building Code
2007 California Plumbing Code
2007 California Mechanical Code
2007 California Electrical Code
2008 Title 24 Residential Energy Code Standards

All materials are to be new. Use only the brands specified in the approved Scope of Work. Substitutions must be pre-approved in writing.

Allowable improvements for all participating cities are as follows:

ROOFING:

Repair - Check with inspector as to extent of repair. Any wood replacement that is visible from the ground shall be considered as part of the contract. Any wood not visible from the ground which the inspector requires to be replaced may be billed as an extra. This price must be stated before the signing of the contract. Painting of new wood, such as eaves or fascia, shall not be the responsibility of the contractor.

Replace -

1. Remove old roofing material completely.
2. Renail sheathing as necessary.
3. Replace any sheathing with dry rot, broken boards, etc.
4. Call for and pass sheathing inspection prior to installing new roofing.
5. Provide necessary temporary weather protection during construction (visqueen, etc.)
6. Install new roof jacks to all vents, pipes, etc., penetrating sheathing; also new gravel guard or edging.

7.
 - a. Shingles Pitched (4" and 12" or more) – type C, 300 lbs., thick butt, self-sealing tabs; one layer #15 felt underlayment – lapping per manufacturer's recommendations. Minimum 30 year composition shingle roof (Approved brands are Elk, GAF and Certainteed).
 - b. Hot mop – min. 3 layers #15 felt, full lap, with 400 lbs., crushed rock per square.
 - c. Other types of roofing – to comply with Chapter 15 of the 2007 C.B.C.

DRYWALL:

1. All drywall to be ½", unless otherwise specified (firewalls 5/8" type 'X', etc.).
2. All joints to be taped and cemented in workmanlike manner.
3. Kitchen and baths to be prepared for paint unless otherwise specified.
4. Balance of house – walls and ceilings – prepared for paint unless otherwise specified.
5. Inspection required (drywall nailing).

CONCRETE:

1. Concrete mixture to be standard transit mix (2500 PSI) or equal.
2. Concrete thickness to be nominal 3-1/2".
3. All surfaces to be finished in a workmanlike manner.
4. Walks to be troweled smooth, edged, and scored at 4' intervals.

PAINT:

Lead Base Paint (prohibited)

Contractor shall undertake the rehab work in compliance with the applicable requirements of HUD lead base paint regulations, 24 CFR Part 35. In particular the public body shall if the house was constructed before 1950 provide all owners, tenants and other occupants with the notifications set out at Appendix 1 to 24 CFR Part 35; and the contractor:

- A. Shall eliminate any lead base paint hazards and provide the appropriate notification as required by 24 CFR Part 35.24 and
 - B. Shall not use lead paint in structures for which the rehabilitation assistance is provided.
1. All surfaces to be properly prepared to receive paint including scraping, wire brushing, or sanding as necessary.
 2. Coats – (100% coverage)
Exterior – minimum 2 (prime, finish)
Interior wall and trim – minimum 2 (prime, finish)

3. Kitchen, baths, trim and fascias to be smooth, washable enamel.
4. Other walls to be textured: ceilings may be acoustic (unless otherwise specified).
5. All surfaces to be trimmed and cut and coverage to be uniform so as to provide a workmanlike and aesthetic finish.

EXTERIOR LANDSCAPE AND HARDSCAPE IMPROVEMENTS:

1. Wood or blockwall fencing replacement: All fencing will adhere to HOA standards if applicable.
2. Tree and or debris removal.
3. Sod installation which includes all soil prep. Sprinklers will be mandatory for all sod installations. Head to head coverage is mandatory for sprinkler systems. Marathon brand sod or equal will only be used. Drought tolerant landscaping is strongly encouraged. The purchase and installation of trees may be included, but will need prior City approval.
4. Replacement concrete is allowed for existing asphalt or compromised/cracked concrete driveways, walkways, or patios. Generally, no new concrete will be allowed to be poured without direct authorization from the Housing Rehabilitation staff. No coloring or stamping will be allowed.
5. Brick work will be allowed only to repair/replace compromised planters or walkways.
6. All necessary drains or concrete work necessary to remove standing or flooding waters away from property.

OTHER EXTERIOR IMPORVEMENTS:

1. Exterior painting of the main house and any **permitted** auxiliary structures is allowed.
2. Termite or element damaged wood replacement.
3. Vinyl windows and sliding doors.
4. Replacement of existing shutters only. New shutters will not be added to the home.
5. Stucco repair or replacement if determined to be necessary by rehab coordinator. No texture-coating will be allowed.
6. Replacement of all deteriorated exterior doors and associated screen doors.
7. Rain gutters and any and all improvements to alleviate drainage problems
8. Addition of exterior drain lines for relocation of washer and dryer to exterior patio areas specific to freedom home tracts may be allowed. **Note: Planning Division of each jurisdiction to verify that the installation of the washer and dryer will be permitted on the exterior.**
9. Patio covers will be allowed if existing unsafe structure currently exists and/or added to the property for better rain dispersal or to cut down on overall landscaping. If cover is to be removed and replaced allumawood brand covers

will strongly be encouraged to discourage the need for future painting or termite infestation.

INTERIOR IMPROVEMENTS:

1. Removal and replacement of all deteriorated flooring with standard materials which include: Carpeting, laminate wood flooring, ceramic or porcelain tile, and all vinyl flooring products. Natural stone will not be allowed as a flooring alternative. This applies to both bathroom and kitchen flooring.
2. Interior painting which includes all necessary prep work including wall paper removal.
3. Replacement/Repair of all deteriorated interior room doors including closet doors and all applicable hardware including any necessary rated doors and self closing hinges.
4. Deteriorated trim molding replacement.

KITCHEN IMPROVEMENTS:

1. Removal and replacement of deteriorated cabinets. Modular cabinets will be allowed similar to Kraft maid brand or equal. No custom cabinet design. Islands will only be allowed if electricity is already present.
2. Replacement of countertop surfaces. Allowable materials will be laminate, tile or prefabricated granite tops. Slab granite chosen from a yard will not be approved unless cost analysis is completed showing similar cost to prefabricated granite. Standard six-inch back splash will be allowed. Areas near heating/cooking sources will require noncombustible material to be installed to the top of the cabinet.
3. All fixed appliance including cooktops, ovens, freestanding ranges, over-the-range microwaves, range hoods and dishwashers. All appliances should be Energy Star rated. Prices and brands must be approved housing rehabilitation staff.
4. The installation of all lighting fixtures to ensure compliance with title 24 energy codes and/or occupancy sensors for permitted areas.
5. Faucets, sinks, garbage disposals, and any plumbing requirements to ensure the health, safety, and sanitation of the occupants. Modification to drain piping for the purpose of moving the sink to another location will not be allowed.

BATHROOM IMPROVEMENTS:

1. Removal and replacement of bathtub/shower surround and all associated deteriorated material tile/tub etc.
2. Replacement surround material can either be solid acrylic (Swanstone brand or equal), fiberglass or tile (porcelain or ceramic).
3. Bathtub will either be cast iron or Americast material. Hydro jets will not be allowed. Shower pan can either be tile as listed above, plastic, or acrylic. Special consideration will be taken if home is specifically being rehabbed for ADA

compliance or a buyer who needs special accommodations, for example zero entry or door access bathtubs. The Housing Rehabilitation 504 coordinators will be consulted in these instances.

4. Vanity replacement including countertops. Countertop material to be cultured marble, tile (ceramic or porcelain), or prefabricated granite tops. Slab granite chosen from a yard will not be approved. Slab granite chosen from a yard will not be approved unless cost analysis is completed showing similar cost to prefabricated granite. Standard six inch back splash will be allowed.
5. Faucets, sinks, toilets (Kohler or equal), shower/tub valves (American Standard or equal) and any plumbing requirements to ensure the health, safety, and sanitation of the occupants including ADA compliant plumbing fixtures. Modification to drain piping for the purpose of moving the sink to another location will not be allowed.

ELECTRICAL IMPROVEMENTS:

1. Replacement of existing service to a minimum 100 amp service.
2. Repair of aluminum wiring with applicable pigtails or UL listed aluminum devices. Note: check with each jurisdiction to verify if aluminum conductors are permitted.
3. New electrical circuits will only be added to eliminate electrical hazards or to bring current kitchen and bathroom deficiencies up to code.
4. Repair all unpermitted electrical work that exists on property.

PLUMBING IMPROVEMENTS:

1. Repair and replacement of main exterior drain line.
2. Repair and replacement of water heaters. Tank-less water heaters will be installed when possible.
3. Sprinkler system installations.
4. Repair and replacement of main shut off valve.
5. Hydrojet/snake all drain lines.
6. Copper re-pipe to replace existing galvanized piping.

HVAC IMPROVEMENTS:

1. Repair or removal and replacement of existing wall or forced air heating unit(s). Installation will include new electronic thermostat.
2. Where wall units are installed, the program will allow for a complete forced air unit installation in the attic if space allows. Installation would include all duct work to adequately heat property.
3. Ducting replacement/repair will be allowed if evidence is shown that damage has occurred including duct sealing.
4. Air conditioning units will only be considered for installation/replacement if one currently exists at the property.

GENERAL HARDWARE :

1. Door hardware:

- Exterior – all doors are to be keyed alike and installed to securely latch, including jamb plate. All deadbolts shall be single cylinder.
- Interior – installed to latch securely, including jamb plate.
2. Thresholds – aluminum with neopreme strip.
 3. Door stops – spring type.
 4. Sash balances – installed and adjusted properly including window travel in frame (spring load replacements allowable).
 5. Rescreens – aluminum frames with fiberglass screening. Adjust frames and hinges to seat properly (including doors).

PARTICIPANT

CONTRACTOR

DATE

EXHIBIT "C"

INSURANCE REQUIREMENTS

1. Insurance. Participant and its successors and assigns shall procure and keep in full force and effect or cause to be procured and kept in full force and effect for the mutual benefit of Participant and the City Parties, the insurance policies required by this Agreement with respect to the Homes and the rehabilitation, ownership, use, and operation of the Homes by or on behalf of Participant and the performance of any construction work thereon. The insurance limits are subject to such increases in amount as a City Party may reasonably require from time to time but not more frequently than every 24 months; provided, that the percentage increase in coverage shall not be required to exceed the percentage increase in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach-Anaheim Average, All Items (1984 = 100) (the "Index"), from and after the date of this Agreement, or if said Index is discontinued, such official index as may then be in existence and which is most nearly equivalent to said Index. In no event shall the limits of any policy be considered as limiting the liability of Participant hereunder or limiting the indemnity obligation set forth in the Agreement.

2 Scope and Limits of Insurance: The insurance policies required to be maintained by Participant pursuant to this Agreement are as follows:

a. *Comprehensive General Liability Insurance* including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury in a form at least as broad as ISO Form #CG 001 ED. 11/88, with a limit of not less than Two Million Dollars (\$2,000,000) combined single limits, per occurrence and aggregate.

b. *Business Automobile Liability Insurance* including coverage for owned, hired and non-owned automobiles in a form at least as broad as ISO Form #CA 000 T ED. 6/92, with a limit of not less than Two Million Dollars (\$2,000,000), combined single limits, per occurrence and aggregate..

c. *Workers' Compensation Insurance* as required by the State of California and Employer' Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) each accident.

d. *All Risk Property Insurance* for each Home with a minimum limit equal to the full actual replacement cost of the improved Home, as approved by the City Party, as the same may change from time to time, and with no coinsurance penalty provision.

e. *Builder's Risk Insurance* shall be maintained during construction of the Homes written on a completed value basis in an amount equal to the full replacement cost of the improvements with coverage available on the so-called non-reporting "all risk" form of policy.

3. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the City Parties.

4. Additional Insurance Provisions. The insurance policies required to be carried by Participant pursuant to this Agreement shall contain or be endorsed to contain the following provisions:

a. *Commercial General Liability and Business Automobile Liability.* The City Parties and their elected and appointed boards, officials, officers, agents employees and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Participant, including materials, parts or equipment furnished in connection with such work or operations; or with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Participant; or with respect to liability arising out of Participant's operation, ownership, maintenance, occupancy, or use of the Homes. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Civil Code Section 2782(b). The coverage shall contain no special limitations on the scope of its protection afforded to any City Party or their respective officers, employees and volunteers. This insurance shall be primary insurance with respect to each City Party and their respective officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by a City Party or its officers, employees and volunteers shall be in excess of this insurance and shall not contribute with it.

b. *All Risk Property and Builder's Risk.* The City Parties shall be named as loss payees.

c. *Workers' Compensation/ Employers' Liability Insurance.* A waiver by the insurer of any right to subrogation against the City Parties and their respective officers, employees and volunteers.

d. *All Insurance Policies.* Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be cancelled, reduced or materially altered in a manner adverse to the insured without first giving the City Parties a minimum of thirty (30) days' prior written notice by certified mail, return receipt requested.

5. Acceptability of Insurers. All policies of insurance required to be carried by Participant shall be written by responsible and solvent insurance companies with a "Best" rating of not less than B+, Class X. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of each City Party, insurance provided by non-admitted or surplus carriers with a Best's rating of no less than A- Class X may be accepted if Participant evidences the requisite need to the sole satisfaction of the City Party.

6. Verification of Coverage. Participant shall furnish the City Parties with certificates of insurance which bear original signatures of authorized agents and which reflect insurers' names and addresses, policy numbers, coverage, limits, deductibles, and self-insured retentions. In addition, Participant shall provide the City Parties with certified copies of all policy endorsements required under this Agreement. All certificates and endorsements must be received and approved by the City Parties within five (5) days of the date of this Agreement. The

City Parties reserve the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

EXHIBIT "D"

TRUTH IN LENDING STATEMENT

TRUTH IN LENDING City of _____			
ANNUAL PERCENTAGE RATE _____ % The cost of your credit as a yearly rate.	FINANCE CHARGE \$ _____ The dollar amount the credit will cost you.	AMOUNT FINANCED \$ _____ The amount of credit provided to you or on your behalf	TOTAL OF PAYMENTS \$ _____ The amount you will have paid after making all payments as scheduled.

PAYMENT SCHEDULE		
NUMBER OF PAYMENTS	AMOUNT OF PAYMENTS	PAYMENT DUE

******ESTIMATES: The Finance Charge, Total of Payments and Payment Schedule are estimates.**

I AM GIVING YOU A SECURITY INTEREST IN MY PROPERTY LOCATED AT:

_____, CA _____
 (Street Address) (Zip Code)

ACCELERATION: Full payment of the outstanding loan balance is due upon sale, transfer, assignment, disposition, alienation, encumbrance, hypothecation or lease of the property without the prior written consent of the City; the refinancing of any lien or encumbrance which has priority over the City's deed of trust for a loan amount in excess of an amount equal to the then outstanding sum secured by such lien or encumbrance or the extension of the term of any loan secured by any such lien, or upon default of the loan documents.

ASSUMPTION: Someone buying the property cannot assume the loan.

LATE CHARGES: If your payment is late, you will be charged interest at the rate of 10% of the overdue payment.

PREPAYMENT: If you prepay the loan in full or in part, you will not have to pay a penalty.

See your contract documents for any additional information regarding non-payment, default, and required repayment in full before scheduled date.

Signature of Owner - _____ Date - _____

Signature of Owner - _____ Date - _____

EXHIBIT "E"

PROMISSORY NOTE SECURED BY DEED OF TRUST

_____, 20__ ("Note Date")

FOR VALUE RECEIVED, the undersigned, **MHC NSP LLC**, a California limited liability company ("Borrower"), promises to pay to the **CITY OF _____**, a California municipal corporation ("City"), so much principal as may be advanced and outstanding in accordance with the terms of this Promissory Note Secured by Deed of Trust ("Note"), not exceeding _____ Dollars (\$_____), plus such other costs, charges, and fees which may be owing from time to time, all subject to the terms, conditions, and provisions hereinafter set forth in this Note.

Reference is made to the following:

(a) The Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement, with all exhibits thereto, by and among City, Borrower, and certain other cities, dated November 10, 2009, as may be amended from time to time ("NSP Agreement"), which sets forth terms and conditions for the acquisition and rehabilitation of that certain real property located at _____ in the City of _____, County of Orange, State of California, more particularly described in the legal description attached as Exhibit 1 to the Deed of Trust referred to below ("Property"). All terms not otherwise defined herein shall have the meaning given in the NSP Agreement.

(b) The Deed of Trust securing this Note, executed by Borrower in favor of City, which is to be recorded against the Property on or about the date hereof, as may be amended from time to time.

1. Loan Amount. The principal amount of City's loan to Borrower ("City Loan") is _____ Dollars (\$_____). The City Loan shall be disbursed to Borrower in accordance with the terms set forth in the NSP Agreement. No interest shall accrue on the City Loan.

2. Terms of Repayment. Concurrently with the transfer of the Property to an Eligible Homebuyer following the completion of the Rehabilitation Project and in compliance with all requirements of the NSP Agreement, Borrower shall pay to City an amount equal to the Resale Price of the Property. The balance of the City Loan shall be forgiven.

Notwithstanding the foregoing, the entire outstanding City Loan balance shall be due and payable if City shall have accelerated the obligations hereunder pursuant to Section 4 of this Note. If Borrower fails to timely pay the amount of the City Loan owing hereunder, interest at the rate of ten percent (10%) per annum simple interest or the maximum legal rate then applicable, whichever is less, shall accrue on the City Loan due dating from the day when payment was due. Borrower shall have the right to prepay all or any portion of this Note at any time without penalty.

3. Default. Borrower shall be deemed in default of this Note in the event (i) Borrower fails to timely make a required payment within ten (10) days following the due date of any payment due hereunder, or (ii) Borrower is in default of any of the other terms of this Note and such default is not cured within thirty (30) days after Borrower's receipt of written notice from City specifying the event constituting the default, or (iii) Borrower is in default of the NSP Agreement or the Deed of Trust or on any obligations under any documents relating to any other financing that is secured by the Property, and fails to timely cure such default under the terms of the applicable agreement, or within thirty (30) days of receipt of notice from City if there is no cure period, it being understood and agreed by Borrower that a default of any of the foregoing agreements shall be a default of this Note. In the event Borrower is in default of this Note, City may declare the City Loan and all other amounts payable hereunder immediately due and payable.

4. Acceleration Upon Sale, Lease, Encumbrance, Refinance. To the extent permitted by applicable law, in addition to City's acceleration rights under Section 3, if Borrower shall (i) directly or indirectly, voluntarily or involuntarily, sell, assign, transfer, dispose of, alienate, encumber, lease, or agree to sell, assign, transfer, dispose of, alienate, encumber, lease all or any portion of any interest in the Property without the prior written consent of City; or (ii) refinance any lien or encumbrance which has priority over the Deed of Trust for a loan amount in excess of the then outstanding sum secured by such lien or encumbrance or extend the term of any loan secured by any such lien or further encumber the Property, then, or at any time thereafter, City, at its option, may declare the entire indebtedness evidenced hereby immediately due and payable.

5. Collection Costs; Litigation. If this Note is not paid when due, whether at maturity or by acceleration, Borrower promises to pay all costs of collection, including, but not limited to, reasonable attorneys' fees and all expenses incurred in connection with the protection or realization of the collateral securing the payment hereof or enforcement of any guarantee, incurred by City on account of such collection, whether or not suit is filed hereon. In any litigation between the parties arising out of this Note, the Superior Court of the State of California in and for the County of Orange shall have exclusive jurisdiction.

6. Waiver of Presentment. To the extent permitted by law, Borrower and all endorsers, guarantors, and persons liable or to become liable on this Note waive presentment, protest, and demand, notice of protest, demand, and dishonor and nonpayment of this Note and any and all other notices or matters of a like nature, and consent to any and all renewals and extensions near the time of payment hereof and agree further that at any time and from time to time without notice, the terms of payment herein may be modified or the security described in any documents securing this Note released in whole or in part or increased, changed, or exchanged by agreement between City and any owner of the premises affected by said documents securing this Note, without in any way affecting the liability of any party to this Note or any persons liable or to become liable with respect to any indebtedness evidenced hereby.

7. No Waiver by City. No waiver of any breach, default, or failure of condition under the terms of this Note or the Deed of Trust or the obligations secured thereby shall be implied from any failure of City to take, or any delay be implied from any failure by City in

taking action with respect to such breach, default, or failure from any prior waiver of any similar or unrelated breach, default, or failure.

8. Not Assignable. This Note shall not be assignable or assumable without the express written consent of City, which may be given or withheld in City's sole and absolute discretion.

9. Severability; Governing Law; Amendment. The unenforceability or invalidity of any provision or provisions of this Note as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable. This Note has been executed and delivered by Borrower in the State of California and is to be governed and construed in accordance with the laws thereof. Neither this Note nor any term hereof may be waived, amended, discharged, modified, changed, or terminated orally; nor shall any waiver of any provision hereof be effective except by an instrument in writing signed by Borrower and City.

10. Joint and Several Obligations. If the Borrower under this Note is comprised of one or more persons or entities, the obligations and liabilities of the Borrower hereunder shall be joint and several.

11. Nonrecourse Obligation. Borrower shall not have any personal liability under this Note to pay the indebtedness evidenced under this Note, and any judgment, decree or order for the payment of money obtained in any action to enforce the obligation of Borrower to pay the City Loan shall be enforceable against Borrower only to the extent of Borrower's interest in the Property.

[signatures on next page]

IN WITNESS WHEREOF, Borrower has executed this Note as of the Note Date.

MHC NSP LLC,
a California limited liability company

By: Mercy Housing California,
a California nonprofit public benefit
corporation

Its: Sole Member

By: _____

Its: _____

By: _____

Its: _____

EXHIBIT "F"

DEED OF TRUST

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of _____

_____, CA _____

Attn: _____

(SPACE ABOVE FOR RECORDER'S USE)

This Deed of Trust is recorded at the request and for the benefit of the City of _____ and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

DEED OF TRUST

(This Deed of Trust Contains an Acceleration Clause)

This **DEED OF TRUST** ("Deed of Trust") is made as of the _____ day of _____, 20__, by and among **MHC NSP, LLC**, a California limited liability company, "Trustor"), whose address is 1500 South Grand Ave., Ste. 100, Los Angeles, CA 90015, First American Title Insurance Company ("Trustee"), whose address is _____, and the City of _____, a California municipal corporation ("City" or "Beneficiary"), whose address is _____, CA _____.

1. Grant in Trust. For the purposes and upon the terms and conditions in this Deed of Trust, Trustor grants, transfers, and assigns to Trustee, in trust, with power of sale and right of entry and possession, the following property and any interest therein (collectively, the "Trust Estate"): (a) Trustor's fee interest in and to that certain real property in the City of _____, County of Orange, State of California, described in Exhibit "1" attached hereto and incorporated herein by reference ("Real Property"); (b) all buildings and other improvements and structures now or hereafter located on the Real Property (collectively, the "Improvements" and together with the Real Property shall sometimes be referred to as the "Property"); (c) all existing and future leases, subleases, subtenancies, licenses, agreements and concessions relating to the use, occupancy or enjoyment of all or any part of the Property, together with any and all guaranties and other agreements relating to or made in connection with any of the foregoing; and (d) all rents, issues, income, revenues, royalties, profits, proceeds and earnings now or hereafter payable with respect to or otherwise derived from the ownership, use, management, operation, leasing or occupancy of the Property, including, without limitation, cash or security deposited under any lease to secure the performance by the lessee of its obligations thereunder.

2. Obligations Secured. Trustor makes this grant and assignment for the purpose of securing the following obligations: (a) payment of the sum of \$_____ ("Loan") according to the terms of a promissory note or notes of even date herewith made to Trustor,

payable to order of City, and modifications, extensions or renewals thereof (“Note”); and (b) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or its successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and (c) any obligation of Trustor under that certain Neighborhood Stabilization Program Subrecipient Contracted Services and Loan Agreement among Trustor, Beneficiary, and certain other cities dated November 10, 2009 (“NSP Agreement”), to convey the Property to City. Any capitalized terms contained in this Deed of Trust which are not defined herein shall have the meaning given in the NSP Agreement, unless expressly provided to the contrary.

3. Acceleration of Loan Upon Sale, Encumbrance, Refinance, or Default.

To the extent permitted by applicable law, if Trustor shall: (i) directly or indirectly, voluntarily or involuntarily, sell, assign, transfer, dispose of, alienate, encumber, lease, or agree to sell, assign, transfer, dispose of, alienate, encumber, or lease all or any portion of any interest in the Property without Beneficiary’s prior written consent; or (ii) refinance any lien or encumbrance which has priority over this Deed of Trust for a loan amount in excess of the then outstanding sum secured by such lien or encumbrance or extend the term of any loan secured by any such lien or further encumber the Property; or (iii) default on any of its obligations set forth in the Loan Documents or on any obligations under any documents relating to any other financing that is secured by the Property and fail to cure the default within any applicable cure period or within thirty (30) days of receipt of notice from Beneficiary if there is no cure period, then, or at any time thereafter, Beneficiary, at its option, may declare the entire indebtedness evidenced by the Note secured by this Deed of Trust immediately due and payable and collectible then or thereafter as City may elect, regardless of the date of maturity. This term “Loan Documents” shall mean this Deed of Trust, the Note, and the NSP Agreement, as such agreements may be amended from time to time.

4. Incorporation of Fictitious Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the Property, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County on August 17, 1964, and in all other counties on August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3778	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	5039	124	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	Orange	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4778	175	Tuolumne	177	160
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			

shall inure to and bind the parties hereto, with respect to the Site. Said agreements, terms and provisions contained in said subdivision A and B (identical in all counties, and printed on pages 4 and 5 hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and City may charge for a statement regarding the obligation secured hereby, provided the charge therefore does not exceed the maximum allowed by law.

[signatures on next page]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date and year first written above.

MHC NSP LLC,
a California limited liability company

By: Mercy Housing California,
a California nonprofit public benefit
corporation

Its: Sole Member

By: _____

Its: _____

By: _____

Its: _____

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____

(Seal)

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____

(Seal)

DO NOT RECORD

The following is a copy of Subdivisions A and B of the fictitious Deed of Trust recorded in each county in California as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in a good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

4) To pay: at least ten 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.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without 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 reasonable fees.

5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

1) That any award in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose 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. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or be a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collecting of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6) That upon default by Trustor in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, 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 to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

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

DO NOT RECORD

REQUEST FOR FULL RECONVEYANCE

TO FIRST AMERICAN TITLE INSURANCE COMPANY, TRUSTEE:

The undersigned is the legal owner and holder of the note or notes and of all indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust, have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note or notes above mentioned, and all other evidences of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated _____

Please mail Deed of Trust,
Note and Reconveyance to _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.

EXHIBIT "1" TO DEED OF TRUST

LEGAL DESCRIPTION OF PROPERTY

All that certain property located in the City of _____, County of Orange, State of California, described as follows:

EXHIBIT "G"

MEMORANDUM

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

_____ City of _____

_____, California _____

Attn: _____

(Space Above Line for Recorder's Use)

This Memorandum of Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement is recorded at the request and for the benefit of the City of _____ and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**MEMORANDUM OF NEIGHBORHOOD STABILIZATION PROGRAM
SUBRECIPIENT CONTRACT SERVICES AND LOAN AGREEMENT**

This MEMORANDUM OF NEIGHBORHOOD STABILIZATION PROGRAM SUBRECIPIENT CONTRACT SERVICES AND LOAN AGREEMENT ("Memorandum") is entered into this ____ day of _____, 20__, by and between the CITY OF _____, a California municipal corporation ("City"), and MHC NSP LLC, a California limited liability company ("Participant").

This Memorandum is made with reference to the following:

1. Participant and City and certain other cities entered into that certain Neighborhood Stabilization Program Subrecipient Contract Services and Loan Agreement dated November 10, 2009 ("NSP Agreement"), pursuant to which City contracted with Participant to acquire and rehabilitate certain Homes that have been Abandoned or Foreclosed upon and to convey the Homes to eligible Middle Income Households after the completion of the rehabilitation. All terms not otherwise defined herein shall have the meaning given to them in the NSP Agreement.

2. The NSP Agreement was entered into pursuant to the Housing and Economic Recovery Act of 2008 ("HERA") and the Neighborhood Stabilization Program at Title III of Division B of the HERA ("NSP").

3. On or about the date of the recordation of this Memorandum, Participant acquired that certain real property located at _____ in the City of _____, County of Orange, State of California, more particularly described in the legal description attached hereto as Exhibit "1" ("Property"). The Property constitutes a "Home" under the NSP Agreement.

4. Pursuant to the NSP Agreement, City provided a loan of NSP funds to Participant for the acquisition and rehabilitation of the Home.

5. The NSP Agreement provides for Participant and City to enter into this Memorandum and to record the same in the Official Records of the County of Orange to provide notice to all persons of the existence of said NSP Agreement.

6. This Memorandum is not intended as a full description of the terms and conditions of the NSP Agreement. This Memorandum shall not replace, alter, or modify any term or condition set forth in the NSP Agreement, nor shall it be used to interpret the terms and conditions of the NSP Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date set forth above.

“CITY”

CITY OF _____,
a California municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

“PARTICIPANT”

MHC NSP LLC,
a California limited liability company

By: Mercy Housing California,
a California nonprofit public benefit
corporation

Its: Sole Member

By: _____

Its: _____

By: _____

Its: _____

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____

(Seal)

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____

(Seal)

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
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 _____

(Seal)

EXHIBIT "1"
TO MEMORANDUM OF NEIGHBORHOOD STABILIZATION PROGRAM
SUBRECIPIENT CONTRACT SERVICES AND LOAN AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in the City of _____, County of Orange, State of California, legally described as follows:

EXHIBIT "H"

**SELLER'S OCCUPANCY CERTIFICATION UNDER
THE PROTECTING TENANTS AT FORECLOSURE ACT**

(FOR VACANT PROPERTY ONLY)

[To be completed and signed by the seller of the property.]

Address of Property ("Property")

City, State

Zip

The undersigned, Seller of the Property certifies to _____ (Buyer) that

1. Seller has complied with the provisions of the *Protecting Tenants at Foreclosure Act*, Title VII of the *Helping Families Save Their Homes Act of 2009* ("PTFA") in connection with the Property, including any requirements of the giving of notice to vacate ("Notice") as required pursuant to PTFA to any bona fide tenant of the Property if any such tenant was in possession of the Property prior to Seller's notice of foreclosure; and

2. The Property will be delivered vacant, unoccupied and without any party in possession or with a right to possession to the Property.

The Seller also certifies and agrees that it has not now and will not after the date hereof allow any person, including the former owner, to occupy the Property under a lease or any other agreement for possession of the Property either oral or written.

Signature of Seller

Date: _____

By: _____

Its: _____

TEXT BELOW SHOWN FOR REFERENCE BUT SHOULD BE DELETED FOR THE FINAL CERTIFICATION FORM

NOTES TO SELLER'S OCCUPANCY CERTIFICATION UNDER THE PROTECTING TENANTS AT FORECLOSURE ACT

1. A bona fide tenant is a tenant under a bona fide lease. A "bona fide" lease is considered a bona fide lease only if:
 - a) the mortgagor (or the child, spouse, or parent of the mortgagor) under the contract (lease) is not the tenant;
 - b) the lease or tenancy was the result of an arms-length transaction; and
 - c) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy. PTFA Section 702(b) (Note the Bridge Notice provides for a slightly different definition at 1 (a)).
2. Generally, the PTFA requires that the initial successor in interest (typically the Seller) provide a 90-day notice to vacate to a bona fide tenant of the foreclosed property acquired by the successor in interest. If the tenant has an existing bona fide lease, the tenant may occupy the premises until the remaining term of the lease or 90 days after receipt of the 90-day notice, whichever is longer. However, the successor in interest may terminate the tenant's lease (even a lease for a greater remaining term than 90 days) if the successor in interest sells the unit to a purchaser who will occupy the unit as a primary residence, and the successor in interest provides 90-day notice to the tenant. PTFA Section 702 (a) (2).
3. Notice given under the PTFA is notice given as required by state law.
4. The effective date of the requirements of PTFA are May 20, 2009, however the original requirements for protection of tenants was found in the so called Stimulus Bill ("ARRA") which had an effective date of February 17, 2009.

ATTACHMENT B

**KEY EVALUATION CRITERIA
AND
SELECTION ANALYSIS**

KEY EVALUATION CRITERIA AND SELECTION PROCESS

1. **Relevant Experience:** the focus was on direct experience purchasing abandoned and foreclosed homes out of foreclosure, rehabilitating homes and reselling the completed homes to income restricted first-time homebuyers.
2. **Proposed Program Structure:** the criteria included the housing development organization's demonstrated ability to perform within the required timeframes, the willingness to take on the majority of the tasks related to administering the program, and the marketing plan for the units.
3. **Financial Capacity:** the housing development organizations were evaluated based on the identification of funding sources available to acquire and rehabilitate the homes, the use of outside funding to leverage with the State NSP 1 funds, and the demonstrated ability to obtain financing.
4. **Organization Status** –a preference was identified for selecting a housing development organization that is a certified Community Housing Development Organization (CHDO).
5. **Insurance** – the minimum insurance requirements were identified in the RFP.

The JPA Partners received responses to the RFP from the following seven housing development organizations:

1. Mercy Housing
2. ANR Industries, Inc.
3. Neighborhood Housing Services / Habitat for Humanity
4. Jamboree / Stratus Development
5. Tierra West
6. Urban Pacific
7. Nunez Team / Telacu

The RFP evaluation criteria were assigned priority weightings. Then, an initial evaluation of the seven proposals was completed by each of the JPA Partners, and Keyser Marston Associates, Inc. (KMA) financial consultants to the City/Agency in both Costa Mesa and Fullerton. After the initial evaluation was completed, the housing development organizations were sent requests for additional information to clarify the proposal terms. This clarifying information was included in the scoring undertaken by the evaluation team.

The evaluation team determined that Tierra West, Urban Pacific and the Nunez Team / Telacu did not demonstrate the requisite experience in terms of operating a first-time homebuyers program, nor are any of the three organizations certified CHDO's. In addition, each of the organizations was found deficient in identifying proposed financing plans that would maximize the leveraging of outside funding sources with the State NSP 1 funds. Based on the identified factors, the evaluation team eliminated these organizations from further consideration.

The proposals submitted by Mercy Housing, ANR Industries, Inc., Neighborhood Housing Services / Habitat for Humanity and Jamboree / Stratus Development all achieved sufficiently high evaluation scores to receive additional consideration by the

evaluation team. Mercy Housing, ANR Industries and Jamboree / Stratus Development were identified as having the most relevant experience, because each organization is currently operating NSP programs in other cities. However, the Jamboree / Stratus proposal was found lacking in terms of the Program Structure criteria. As a result, the evaluation team selected Mercy Housing and ANR Industries, Inc. as the RFP finalists. Representatives from these organizations were interviewed by the evaluation team on August 20th, and members of the team toured a representative sample of the teams' projects the following week.

Finalist Housing Development Organizations

The following sections of the analysis describe key characteristics of the two finalist housing development organizations.

Mercy Housing

Mercy Housing has rehabilitated over 1,700 single-family homes, constructed over 3,000 new single-family homes, and rehabilitated over 140 foreclosed homes across the United States. The City of Chicago allocated their entire \$55 million Federal NSP 1 allocation to Mercy Housing. As part of that program, Mercy Housing collaborated with the City of Chicago to raise approximately \$1.3 million in grant funding to be used in conjunction with the Federal NSP 1 Program. In California, Mercy Housing has been selected to execute NSP initiatives in the cities of San Bernardino, Moreno Valley, West Sacramento, Fairfield and Suisun, and Placer County. The organization has also been recommended for selection in the cities of Lincoln and Rocklin, and Yuba County.

Mercy Housing created a tracking and reporting system specifically designed for the NSP Program. The organization also developed NSP accounting and asset management systems, and an array of legal documents related to NSP Program implementation. They have also been active in a consortium of agencies that have presented proposed changes to the NSP regulations and legislation to HUD.

The Mercy Housing team has in-house staff resources to complete all the necessary State NSP 1 Program activities ranging from property selection through homebuyer education. Mercy Housing is proposing to administer the program with limited need for City staff assistance.

ANR Industries, Inc.

ANR Industries, Inc. (ANR) participated in HUD sponsored "Acquisition, Rehabilitation and Resale" programs in San Bernardino, Rialto, Moreno Valley, Pomona and Perris. As part of this process, ANR partnered with redevelopment agencies to acquire HUD-foreclosed properties at a discount. These homes were then rehabilitated and resold to moderate income households. ANR completed over 182 homes, with total expenditures of over \$14.2 million, during the period between 1999 and 2002. HUD discontinued the program in 2002.

Between 2001 and 2005, ANR partnered with Enterprise Home Ownership Partners (EHOP) to purchase HUD-foreclosed properties in South Los Angeles. ANR served as EHOP's primary general contractor, and during this period ANR rehabilitated approximately 300 single-family homes, duplexes and apartments. ANR also worked with EHOP to create standardized procedures for implementing the program. An ANR affiliate listed and sold several of the EHOP properties to qualified moderate income homebuyers.

Between 2002 and 2009, ANR focused on developing new homes on vacant land. In addition, in 2008, ANR was selected by the City of Lancaster to act as the General Contractor for the City's Neighborhood Foreclosure Preservation Homeownership Program. In 2009, the City of Santa Ana allocated 100% of their Federal NSP 1 award to ANR for single-family home, historic home and condominium acquisition,

rehabilitation and resale. They have also been selected to play a role in the cities of San Bernardino, Moreno Valley, Rialto, Hemet and Pomona.

The ANR team includes members that can perform property selection, rehabilitation and unit sales activities. In addition, ANR added the Affordable Housing Clearinghouse to the team to run the first-time homebuyer program. The proposal indicates that only minor City staff administration time would be required to operate the State NSP 1 Program.

Recommended Housing Development Organization Selection

The evaluation team concluded that both housing development organizations are extremely well qualified to run the State NSP 1 projects in the three JPA Partner Cities. The JPA Partners are recommending the selection of Mercy Housing through one of its limited liability company subsidiaries, specifically, MHC NSP LLC, a California limited liability company, whose sole member is Mercy Housing California ("MHC").

1. ANR is a general contractor, and a fundamental premise of MHC's proposal is that they would perform all the rehabilitation work in house. Comparatively, MHC is proposing to obtain three bids for each project from a pre-qualified group of independent contractors. The evaluation team felt that more cost efficiency can be achieved if the rehabilitation work is bid out in a competitive process.
2. MHC is proposing to charge fees that equate to approximately 7% of the project's costs, while the ANR fee proposal equates to 8% to 10% of the project's costs. The fees are broken down into four categories:
 - a. In the acquisition and financing categories, the fees proposed by MHC are significantly lower than the amounts allowed for the State NSP 1 Program by the California Housing and Community Development Department (HCD).
 - b. In the rehabilitation and disposition categories, the fees are equal to maximum amounts allowed by HCD.
3. Given the abbreviated time frame available to commit the State NSP 1 funds, and the new regulations and program guidelines that are being developed as the program is being rolled out, the evaluation team felt that MHC offers specialized expertise that would lead to successful program implementation in the three JPA Partner Cities.

ATTACHMENT C

**PROPOSED NSP 1 PROGRAM
AND
FINANCIAL STRUCTURE**

PROPOSED NSP 1 PROGRAM AND FINANCIAL STRUCTURE

PROPOSED PROGRAM STRUCTURE

The proposed Neighborhood Stabilization Program Contract Services and Loan Agreement identifies the following program structure:

Predevelopment Activities

1. Each City will designate a "Program Manager".
2. MHC will identify properties that meet the State NSP 1 requirements.
3. MHC will prepare a preliminary loan package for Program Manager approval. This package will include a preliminary rehabilitation scope.
4. The Cities have established a \$75,000 per home maximum for rehabilitation costs. Under extraordinary circumstances, the cap can be exceeded with approval from the Program Manager.
5. Once the Program Manager approves the preliminary loan package, MHC will commence acquisition activities, prepare a detailed rehabilitation scope and obtain bids from three contractors.
6. At the conclusion of the due diligence period, MHC will submit a final loan package for Program Manager approval.
7. If the final loan package does not exceed the established cost caps, the Program Manager must approve the project.

Project Acquisition and Rehabilitation

1. The City's NSP Program funds will be the first funding source used in the property acquisition stage.
2. It is anticipated that the total acquisition and rehabilitation costs for each unit will exceed the City's State NSP 1 funding allocation. In that case, MHC is responsible for obtaining sufficient outside funding to fill the remaining gap.
3. MHC will be responsible for completing the agreed upon rehabilitation scope.

Home Sales

1. MHC is responsible for identifying homebuyers that qualify under the State NSP 1 household income qualification requirements, and that currently live or work in the City.
2. The total sales price for the home must be set at the lesser of the total project costs, or the home's fair market value after rehabilitation as determined by an independent appraisal.
3. If the allowable sales price for the home is less than the total project costs, the City must treat the gap as a grant to the project.

4. The purchase price to be paid by the homebuyer is equal to the affordable housing cost as defined by the HUD HOME Program and California Redevelopment Law, plus a homebuyer down payment equal to at least 5% of the affordable purchase price.
5. The Agency will use monies from the Housing Fund to fill the gap between the defined affordable price and the allowable sales price for the Home. This assistance will be treated as a silent second trust deed carrying terms that comply with applicable Community Redevelopment Law requirement and with NSP notices, implementing regulations, and other legal requirements promulgated by HUD and State HCD, which are comparable to the First Time Homebuyer Program.
6. Each home will be subject to income and affordability covenants that run for a 45-year period. However, the Homebuyers will be allowed to resell the unit, and buy out of the covenant prior to the end of the term, in return for repaying the Agency's silent second trust deed loan plus simple interest, which recaptures the Agency's investment in the Home.

Financial Structure

The revenues received from the sale of each Home will be allocated as follows:

1. The outside funding obtained by MHC will be repaid.
2. Any funds remaining after the outside funding obligation is repaid, will be used to replenish the State NSP 1 funds.

The following two examples illustrate the proposed financial structure of the acquisition and disposition of a Home under the NSP Agreement and in implementation of the NSP Program:

Example #1

Assumptions:

Unit Cost:	\$490,000
Market Value after Rehabilitation:	\$520,000
Affordable Sales Price:	\$355,000
State NSP 1 Funds	\$303,000
First-Time Homebuyer Assistance	\$360,000

1. Based on the identified assumptions, the maximum sales price for the home is \$490,000.
2. No funds are required to remain in the project as a grant.
3. The gap between the maximum allowable sales price and the affordable price totals \$135,000.

The funding for this unit would be structured as follows:

Funding Sources:

State NSP 1 Funds	\$303,000
MHC Funds	<u>\$187,000</u>
Total Funding Sources	\$490,000

Sales Revenue Allocation

Homebuyer Purchase Price	\$355,000
Plus: First-Time Homebuyer Assistance	<u>\$135,000</u>
Total Sales Revenue	\$490,000
(Less) Repayment MHC Funds	<u>\$187,000</u>
Funds Available to Repay State NSP 1	\$303,000

City/Agency Funds Available for Next Project

State NSP 1 Funds	\$303,000
First-Time Homebuyer Funds	\$225,000

Example #2

Assumptions:

Unit Cost:	\$520,000
Market Value after Rehabilitation:	\$490,000
Affordable Sales Price:	\$355,000

State NSP 1 Funds	\$303,000
First-Time Homebuyer Assistance	\$360,000

1. Based on the identified assumptions, the maximum sales price for the home is \$490,000.
2. The funds that must remain in the project as a grant total \$30,000.
3. The gap between the maximum allowable sales price and the affordable price totals \$135,000.

The funding for this unit would be structured as follows:

Funding Sources:

State NSP 1 Funds	\$303,000
MHC Funds	<u>\$217,000</u>
Total Funding Sources	\$520,000

Sales Revenue Allocation

Homebuyer Purchase Price	\$355,000
Plus: First-Time Homebuyer Assistance	<u>\$135,000</u>
Total Sales Revenue	\$490,000
(Less) Repayment MHC Funds	<u>\$217,000</u>
Funds Available to Repay State NSP 1	\$273,000

City/Agency Funds Available for Next Project

State NSP 1 Funds	\$273,000
First-Time Homebuyer Funds	\$225,000

