



**Sacramento
Housing &
Redevelopment
Agency**

REPORT TO COUNCIL
City of Sacramento
915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

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Staff Report
October 27, 2009

Honorable Mayor and Members of the City Council

Title: Neighborhood Stabilization Program, Selection of Property Recycling Program Community Partners and Transfer of Property

Location/Council District: Target Areas throughout the City

Recommendation: Adopt 1) a **City Council Resolution:** a) confirming the Sacramento Housing and Redevelopment Agency (SHRA) recommendation to qualify three Volume Builder Community Partners and six Mission Driven Community Partners consistent with guidelines of the Property Recycling Program (PRP); b) authorizing SHRA to enter into a Master Project Agreement (Agreement) with the top ranked Volume Builder Community Partner and the top two ranked Mission Driven Community Partners; c) authorizing SHRA to enter into additional Agreements with Volume Builder and Mission Driven Community Partners as needed; d) authorizing SHRA to transfer, through property specific Disposition and Development Agreements, all foreclosed single family residential properties acquired by SHRA for the purposes of rehabilitation and resale to homeowner occupants consistent with the Agreement to its Volume Builder and Mission Driven Community Partners, including those properties already acquired by SHRA for the purposes of the program; and e) authorizing SHRA to amend Section 4.0 of the NSP Property Recycling Program Guidelines to remove the five-year equity restriction on sold properties.

Contact: Lisa Bates, Deputy Executive Director, 440-1319; Chris Pahule, Assistant Director, 440-1350

Presenters: Chris Pahule, Assistant Director

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis

Issue: On February 24, 2009, the City Council (Council) approved resolutions to implement the federally funded Neighborhood Stabilization Program (NSP) which addresses foreclosures in impacted neighborhoods through three specific activities including the Property Recycling Program (PRP). A key component of the PRP includes SHRA acquisition of foreclosed single-family properties within the NSP Target Areas for

NSP Property Recycling Program Community Partner Selection

rehabilitation and resale to qualified, low- and moderate-income homeowner occupants. Approximately \$1.6 million is allocated to the PRP and must be invested by August 2010. If awarded, an additional \$20 million will be allocated to the program under NSP-2. These additional funds must be spent within three years (or by approximately September 2012). Consistent with the PRP Guidelines, SHRA intends to partner with experienced and responsible Community Partners for the expedient transfer, rehabilitation, marketing and re-sale of the foreclosed properties acquired by SHRA. Specifically, SHRA is looking to partner with two types of Community Partners:

1. **Volume Builder(s)** – Non-profit or for-profit single family builders with financial capacity to rehabilitate many scattered site homes at a time, including the ability to provide capital for purchase, carrying costs, and the ability to provide sufficient labor.
2. **Mission-Driven Organization(s)** – Non-profit organizations with a track record of rehabilitating or constructing single family homes and a complimentary community purpose or mission to the NSP. Such missions include job training, youth empowerment, deeply targeted affordable housing, and community reinvestment.

In July 2009, SHRA released two Requests for Qualifications (RFQs) to solicit interest in the PRP from both Volume Builder and Mission-Driven Organizations Community Partners. SHRA received ten responses to the Volume Builder RFQ and nine responses to the Mission Driven RFQ. In September, SHRA convened an eight member evaluation committee to interview and rank responding proposals based on the criteria included in the RFQs.

The composition of the evaluation committee followed Resolution No. 2009-408 and included a resident of the Oak Park community, an experienced non-profit housing developer, a lender, a realtor/appraiser, an experienced home builder and representative of the Building Industry Association, a staff representative from the Board of Supervisors, a representative of the Sacramento Housing and Redevelopment Commission, and a SHRA representative.

The committee's recommendations were forwarded to SHRA's Executive Director who approved them and issued a Notice of Intent to Award on September 14, 2009. The ranked list of recommended Volume Builder and Mission-Driven Community Partners is included as Attachment 2 to this report.

At this time with a current budget of approximately \$1.6 million, staff recommends the authorization to enter into Master Project Agreements with the highest ranked, most qualified Community Partners and authorization to transfer properties for rehabilitation and resale consistent with the PRP guidelines. Should additional funding become available, SHRA may enter into Master Project Agreements with other ranked respondents.

NSP Property Recycling Program Community Partner Selection

Volume Builder Community Partner:

1. NeighborWorks Sacramento/GALA Construction

NeighborWorks Sacramento and GALA Construction have formed a collaborative partnership that offers the capacity and expertise to meet SHRA's needs in a Volume Builder partner. Both organizations have over 20 years of local experience in their respective fields. NeighborWorks Sacramento, headquartered in Oak Park, is a leading non-profit providing homebuyer education, real estate sales services, lending services, and pre-foreclosure counseling. In the past two years, NeighborWorks Sacramento has provided services to over 5,000 customers with a particular focus on the most challenging neighborhoods in the region. GALA Construction is a high performing development firm and general contractor that has completed over 1,980 units across California in the past two years alone. GALA is also experienced in residential sales, having recently renovated and sold 400 residential units over a two year period.

Mission-Driven Organization Community Partners:

1. Sacramento Habitat for Humanity (SHfH)

SHfH's mission is to build affordable homes in partnership with families in need, supported by a host of volunteers, faith-based organizations, donors and corporations for the benefit of the community. SHfH was incorporated in 1985 and has completed 69 homes, primarily in the NSP Target Areas of Oak Park and Del Paso Heights. SHfH assists families that earn between 30%-50% of Area Median Income, complete 500 hours of sweat equity, and currently live in substandard conditions.

2. Twin Rivers Adult School (TRAS)

TRAS, formerly known as Grant Adult Education, is based in Del Paso Heights and has developed a comprehensive 12-month classroom and collaborative hands-on site based training in sustainable green home construction. The classroom program is fully funded through district support. Their mission includes preparing workers for high wage, high demand and critical occupational clusters. Roughly 60 participants will be engaged in "green" remodeling projects learning with technologies and retrofit training that will enable them to achieve the only Master Green Builder Certification course in the United States with 960 hours of instruction. Classroom-based training will be enhanced by the rebuilding of foreclosed homes in partnership with MultiTrade, a general contracting company with over 35 years of experience, whose owner has been designated the 2004 "most energy efficient custom builder" from the California organization Flex Your Power.

Policy Considerations: The recommended actions in this staff report are consistent with the 2008-2013 Housing Element of the General Plan, adopted November 18, 2008, which indicates that "The City shall support efforts to alleviate the individual and community problems associated with mortgage default and foreclosure." To implement this policy, the Housing Element includes program 19, committing the City to enacting a comprehensive plan for addressing the foreclosure crisis, including "neighborhood reinvestment strategies." The recommended actions are also consistent with the City of Sacramento's 2008-2012 Consolidated Plan adopted October 23, 2007; as well as the Substantially Amended 2009 Action Plan adopted October 21, 2008; and further amended February 24, 2009.

NSP Property Recycling Program Community Partner Selection

Environmental Considerations:

California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA): The proposed actions are exempt from CEQA pursuant to CEQA Guidelines Section 15301(d), which exempts the rehabilitation of deteriorated structures to meet current standards of health and safety and CEQA Guidelines Section 15310, which exempts loans for the acquisition of existing structures. The proposed program modifications are categorically excluded from NEPA pursuant to 24 CFR 58.35(a)(3)(i), which excludes rehabilitation of buildings and improvements; 24 CFR 58.35(a)(4)(ii), which excludes individual actions on up to five or more houses developed on scattered sites, and 24 CFR 58.35(a)(5), which excludes acquisition of existing structures. Additional environmental review will be performed for each subsequent individual action prior to funding commitment.

Sustainability Considerations: The NSP has been reviewed for consistency with the goals, policies and targets of the Sustainability Master Plan and the 2030 General Plan. If approved, the contents of this report will assist in energy independence by improving energy efficiency and replacing or renovating obsolete energy or resource inefficient infrastructure (buildings, facilities, systems, etc.).

Committee/Commission Action: On October 7, 2009, the Sacramento Housing and Redevelopment Commission considered the staff recommendation for this item. The votes were as follows:

AYES: Burruss, Chan, Dean, Fowler, Gore, Morgan, Morton, Otto, Rosa, Shah, Stivers

NOES: None

ABSENT: None

Rationale for Recommendation: The Property Recycling Program (PRP) focuses on stabilizing neighborhoods through strategic investments and partnerships. The PRP aims to transform the most impacted neighborhoods, streets and properties; those areas where the market alone cannot ensure change. Working with non-profit and for-profit partners, the PRP provides access to properties and funding to remove the blight of foreclosures through the acquisition and rehabilitation of single family homes for sale throughout Sacramento. The selection of qualified and responsible Community Partners and the authorization to transfer properties for rehabilitation consistent with the program guidelines will further the goals of the Neighborhood Stabilization Program to:

NSP Property Recycling Program Community Partner Selection

- 1) Return vacant foreclosed or abandoned residential properties to occupancy as quickly as possible;
- 2) Revitalize neighborhoods through strategic redevelopment, rehabilitation and reuse of vacant properties;
- 3) Provide affordable homeownership and improved affordable rental opportunities to local families; and
- 4) Optimize economic activity and create/retain jobs or provide other long-term economic benefits.

Financial Considerations: There are no budget changes requested within this report. The Executive Director has authority to accept grant funds and to amend the Agency budget accordingly. The funds discussed in this report will be used to augment the existing Property Recycling Program.

M/WBE Considerations: Minority and Woman’s Business Enterprise requirements will be applied to all activities to the extent required by federal funding.

Respectfully Submitted by: 
LA SHELLE DOZIER
Executive Director

Recommendation Approved:

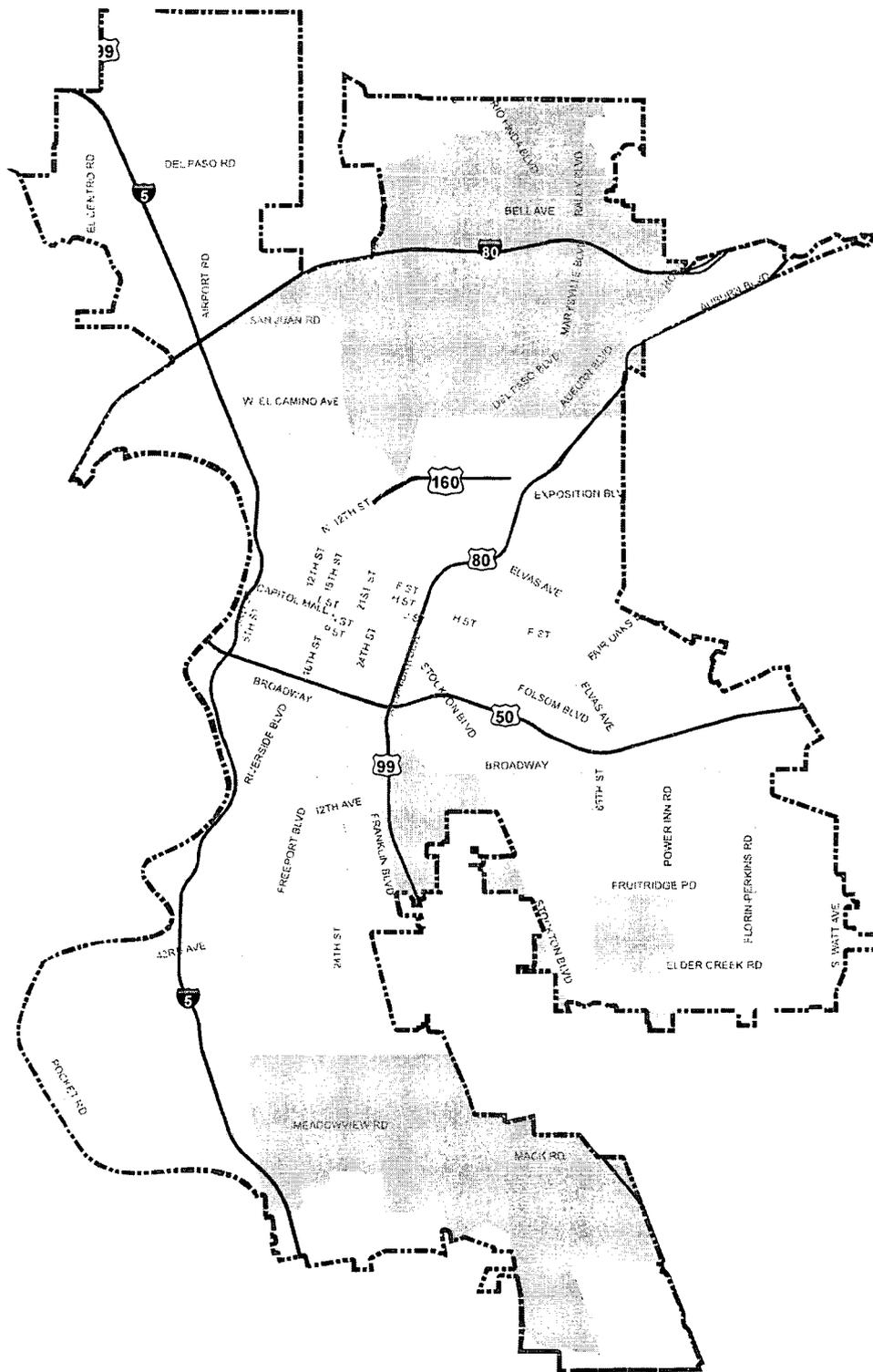

RAY KERRIDGE
City Manager

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Neighborhood Stabilization Program Target Areas



NSP Target Areas

NSP Target Area City of Sacramento

0 0.5 1 2 Miles



SHRA GIS
January 29, 2009

**NSP Property Recycling Program Community Partner
Volume Builder and Mission-Driven Ranked Lists**

VOLUME BUILDER COMMUNITY PARTNER	
Community Partner	Ranking
NeighborWorks HomeOwnership Center / GALA Construction	1
Homes by Towne (Towne Development)	2
Housing Group Fund	3

MISSION-DRIVEN COMMUNITY PARTNER	
Community Partner	Ranking
Sacramento Habitat for Humanity	1
Twin Rivers Unified School District Adult School	2
Community Resource Project, Inc.	3
Visionary Home Builders of California	4
Northern California Construction Training Development Corporation	5
Build America, Inc.	6

**SAMPLE MASTER PROJECT AGREEMENT
NEIGHBORHOOD STABILIZATION PROGRAM
PROPERTY RECYCLING PROGRAM SUBRECEPIENT AGREEMENT**

BY AND BETWEEN

THE SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

AND THE

«Effective Date»

**SAMPLE MASTER PROJECT AGREEMENT
NEIGHBORHOOD STABILIZATION PROGRAM
PROPERTY RECYCLING PROGRAM
(SUBRECIPIENT AGREEMENT)**

The SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY and _____ also called Agency and Developer, respectively, enter into this Master Project Agreement (Subrecipient Agreement), also called MPA, as of _____. For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 13.

RECITALS

- A. Agency administers the Neighborhood Stabilization Program (“NSP”) enacted by the United States Congress as part of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, approved July 30, 2008) and as amended from time to time on behalf of the City of Sacramento and the County of Sacramento.
- B. NSP aims to stabilize neighborhoods impacted by foreclosure by removing significant blight from neighborhoods and providing housing for low- to moderate-income households through acquisition, rehabilitation and mortgage assistance for vacant and/or foreclosed properties.
- C. In order to achieve the goals of the NSP, the Agency desires to partner with a developer that has the organizational and financial capacity to acquire, rehabilitate, market, and sell a high volume of foreclosed single family units pursuant to Agency’s Property Recycling Program.
- D. Developer desires to participate in the Property Recycling Program (“PRP”) in accordance with the Property Recycling Program Guidelines and all terms, provisions, and restrictions set forth in this Agreement.
- E. The Property is located within a target area predetermined by the Agency that meets the HOME requirements under presumption of natural affordability (CFR 92.254 (a)(5)(i)(B)).
- F. This Agreement is exempt from CEQA pursuant to Guidelines Section 15301(d), which exempts the rehabilitation of deteriorated structures to meet current standards of health and safety and Guidelines Section 15310, which exempts loans for the acquisition of existing structures. The rehabilitation of existing structures pursuant to the Property Recycling Program is categorically excluded from NEPA pursuant to 24 CFR 58.35(a)(3)(i), which exempts rehabilitation of buildings with one to four units for residential use, and 24 CFR 58.35(a)(5), which exempts acquisition of existing structures. The Project complies with all requirements related to historic preservation set forth by the Programmatic Agreement regarding historic properties between the Agency, the State Historic Preservation Office, and the Advisory Council on Historic Preservation.

G. The Project is funded with proceeds of the Neighborhood Stabilization Program, which are affordable housing funds administered by the Agency pursuant to HERA. Additionally the Agency anticipates receiving stimulus funds through the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-05) (“ARRA”). The Agency may also use ARRA funds, if received. This MPA and the Project are subject to the applicable provisions for the use of such funding. It is the intent of this MPA to carry out the purposes of the Funding Source related to the use of the Agency Funding, including without limitation, the increase, improvement, and preservation of the community’s stock of affordable housing. In order to accomplish such purpose, the MPA generally provides that Developer shall redevelop the Property for affordable housing in accordance with this MPA.

AGREEMENT

NOW THEREFORE, the parties acknowledge that the foregoing Recitals are true and correct, and based upon such Recitals and in consideration of the following mutual covenants, obligations and agreements and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **PROJECT PURPOSE.** Agency is entering into this MPA to delineate the responsibilities of the Agency and Developer with regard to the Property Recycling Program and effectuate the Agency’s Property Recycling Program by providing for the acquisition of Foreclosed Homes by Agency, conveyance of certain Foreclosed Homes acquired by Agency to Developer, rehabilitation of Foreclosed Homes by Developer, and resale of the rehabilitated Foreclosed Homes to Eligible Households at a resale price that complies with the Property Recycling Program Guidelines and is pre-approved by the Agency. The acquisition, rehabilitation, and resale of Foreclosed Homes to Eligible Households pursuant to this Agreement is in the vital and best interests of the City of Sacramento and the County of Sacramento and the health, safety and welfare of their residents, and in accord with the public purposes and provisions of applicable state and local laws.

2. **PURCHASE AND SALE.** No specific property or properties are transferred by this MPA. Agency agrees to sell and Developer agrees to purchase real property described as Foreclosed Homes subject to the terms and conditions of individual Disposition and Development Agreements (“DDAs”) in a form substantially the same as attached and incorporated herein as Exhibit ___ : Individual Disposition and Development Agreement.

2.1. **PURCHASE PRICE.** The Purchase Price for the Property shall be amount by Agency to acquire the Property under the provisions of Neighborhood Services Program, the maximum price that the Agency may pay to acquired Foreclosed Homes cannot exceed 99% of the appraised value. The Purchase Price for specific properties will be established in the specific, individual DDAs.

3. **SALE OF FORECLOSED HOMES.** Agency may, on its own initiative and without first consulting with Developer, identify and acquire Foreclosed Homes within the Target Area for

rehabilitation and resale pursuant to the Property Recycling Program. Developer shall, upon receipt of notice from the Agency that Developer has been selected to rehabilitate and resell an Agency-identified Foreclosed Home, acquire the Foreclosed Home from the Agency pursuant to the attached DDA and thereafter diligently cause the rehabilitation and resale of the selected Foreclosed Home in accordance with the terms of this Agreement, the DDA and the PRP Guidelines. The DDA provides for the actual conveyance of the Foreclosed Home from the Agency to Developer.

3.1.1. Agency shall sell Foreclosed Homes to Developer at a price that shall not exceed the Agency's acquisition cost for the Foreclosed Homes. The Agency's acquisition price cannot exceed one percent below the appraised value of the property. Agency may, at Agency's discretion, provide seller financing for up to 70% of the value of the Foreclosed Home.

3.1.2. This Agreement does not represent an exclusive arrangement between Agency and Developer. Agency retains all rights to contract with other persons or entities for the sale of Foreclosed Properties and performance of the same or similar services as those to be performed by Developer hereunder (or to perform such services itself) at any time, whether pursuant to the Property Recycling Program or otherwise, and Agency shall have no obligation to select Developer to perform services described in this Agreement with respect to any particular Foreclosed Home or any specific number of Foreclosed Homes.

3.2. REHABILITATION OF FORECLOSED HOMES. Developer shall rehabilitate each selected Foreclosed Home in accordance with: (1) the approved scope of rehabilitation and rehabilitation budget in the DDA; (2) the NSP; (3) the PRP Guidelines; (4) all applicable federal, state, and local laws; and (5) the plans and specifications approved in writing by the Agency. Any violations of the applicable building code, including illegal room additions and all health and safety concerns such as hazardous material and pest inspections, shall be remedied by the rehabilitation and the work necessary to remedy such conditions shall be included in the scope of rehabilitation and the rehabilitation budget. Developer shall use reasonable, good faith efforts to incorporate rehabilitation work into the scope of rehabilitation for each Foreclosed Home that will increase the energy efficiency of the Foreclosed Home. Developer shall obtain all required building permits prior to commencing any rehabilitation work.

3.2.1. Developer is responsible for paying any and all rehabilitation costs incurred in connection with the rehabilitation of each Foreclosed Home pursuant to the Property Recycling Program, including costs for contractor and subcontractor profit and/or overhead and change orders. Developer may obtain an individual Rehabilitation Loan from Agency for the approved Rehabilitation Budget plus a fifteen percent (15%) contingency. The loan balance repaid shall be the actual funds expended, less any approved forgiveness.

3.2.2. **AGENCY FUNDING.** Agency funding for rehabilitation is available, subject to limitations and qualifications pursuant to this MPA and under a separate Agency Funding Agreement, known as the PRP Rehabilitation Loan Agreement for development of the Project as contemplated by this MPA. Such funding Agreements, when appropriate, shall be used for specific properties in conjunction to the Individual DDAs. If Developer fails to develop the Project as and when required by this MPA or the Individual DDA, Developer must repay the

Agency Funding as provided in the Funding Agreement.

a) **PORTION OF AGENCY FUNDING MAY BE FORGIVABLE.** As more particularly described in the Agency Funding Agreement, a portion of the Agency's rehabilitation loan may be forgivable at the sole discretion of the Agency.

3.3. RESALE OF FORECLOSED HOMES. After completion of the rehabilitation of any given Foreclosed Home (as approved pursuant to the DDA), Developer will cause the marketing of the Foreclosed Home to prospective purchasers, including causing the Foreclosed Home to be listed on the Multiple Listing Service. Developer shall screen prospective purchasers for eligibility in accordance with the DDA and the Property Recycling Program Guidelines.

3.4. DEVELOPER FEE. Developer shall receive a Developer Fee of up to Thirty Thousand Dollars (\$30,000) in connection with the acquisition, rehabilitation, and resale of each Foreclosed Home pursuant to the DDA. The Developer Fee shall be payable upon resale of the Foreclosed Home to an Eligible Household.

3.5. PROPERTY MANAGEMENT. Developer shall be solely responsible for the maintenance and security of each Foreclosed Home from acquisition of the Foreclosed Home for the Agency until the Foreclosed Home is resold to an Eligible Household. Developer's maintenance obligations shall include (without limitation) keeping each Foreclosed Home free of debris, weeds, graffiti, vermin, vagrants, squatters, and other nuisance conditions. In addition, Developer shall secure each Foreclosed Home to ensure that squatters and the public are unable to enter the Foreclosed Home or obtain access to the back yard or other non-public areas of the Foreclosed Home. Developer shall be solely responsible for all costs incurred to maintain and secure each Foreclosed Home. In no event shall the Agency be liable for any such costs, nor shall Agency be required to reimburse Developer for any such costs incurred to maintain or secure any Foreclosed Home.

3.6. GENERAL COVENANTS AND REPRESENTATIONS AND WARRANTIES. The parties make the following covenants, representations and warranties regarding the Property and the Project.

3.6.1. AGENCY'S REPRESENTATIONS AND WARRANTIES. Agency represents and warrants to Developer that

a) This MPA and all other related documents have been duly authorized, executed, and delivered by Agency; are binding obligations of Agency; and do not violate the provisions of any agreements to which Agency is a party.

3.6.2. AGENCY'S COVENANTS. Commencing with the full execution of this MPA by both parties and until the termination of this Agreement:

a) Agency shall promptly notify Developer of any facts that would cause any of the representations contained in this MPA to be untrue as of the Close of Escrow.

Agency shall not permit any liens, encumbrances, or easements to be placed on the Property, other than the approved exceptions named as acceptable in the escrow instructions for each Foreclosed Home or as identified and approved in this MPA.

3.6.3. DEVELOPER'S REPRESENTATIONS AND WARRANTIES. Developer, for itself and its principals, represents and warrants to Agency that as of the date of this MPA and until the termination of this Agreement:

a) To the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other legal or governmental action with respect to Developer which would affect its ability to fulfill its obligations under this MPA and acquire the Property or which may constitute a lien against Developer's equity or Developer's interests in the Property, now or in the future.

b) Any information that Developer has delivered to Agency, either directly or through Developer's agents, is, to the best of Developer's knowledge, accurate, and Developer has disclosed all material facts concerning the operation, development, or condition of the Property.

c) Developer has the financial capacity, the equity and the financing necessary to fulfill its obligations under this MPA and acquire the Property. Developer represents that any equity and funding commitments represented by Developer to Agency as available to the Project are unencumbered and that Developer has not represented to any other party that it will use such funds for any purpose other than the Project (and covenants that it will not use them for any other purpose) without prior written Agency consent.

d) This MPA and all other related documents have been duly authorized, executed, and delivered by Developer; are binding obligations of Developer; and do not violate the provisions of any agreements to which Developer is a party.

3.6.4. DEVELOPER'S COVENANTS. Commencing with the full execution of this MPA by both parties and until the termination of this Agreement:

a) Developer covenants by and for itself and assigns, and all persons claiming under or through it, that it shall not discriminate on the basis of race, color, ancestry, religion, creed, sex, marital status, or national origin in the sale, lease or rental or in the use or occupancy of the Property and the Project.

b) Developer shall promptly notify Agency of any facts that would cause any of the representations contained in this MPA to be untrue as of the Close of Escrow of any Foreclosed Home transaction pursuant to this MPA.

c) Developer shall not cause any liens, encumbrances, or easements to be placed on the Property prior to Close of Escrow, except as otherwise permitted by this MPA or approved in writing by Agency.

d) Developer shall not cause any act of waste or act that would tend to diminish the value of the Property for any reason, except that caused by ordinary wear and tear.

e) Developer shall complete the development of the Project at Developer's cost and without requesting or receiving additional Agency or City or County contributions to the Project other than as provided in this MPA.

f) Developer shall comply with all provisions of the Regulatory Agreement, and cause any subsequent purchaser of the property to so comply.

3.6.5. **COMMISSIONS.** Agency is not responsible, by this MPA or otherwise, to pay commissions on this transaction or any related transaction.

3.7. **GOVERNMENTAL CHANGES.** If any revisions or corrections of the Final Plans shall be required by any government official, agency, department or bureau in exercise of its proper jurisdiction, the Developer shall inform the Agency. If Agency and Developer concur in writing with the required change, Developer shall incorporate the change and it shall be deemed approved by Agency. If Agency or Developer reasonably disagrees with the required change, they shall reasonably cooperate with the agency requiring the change in efforts to develop a mutually acceptable alternative.

4. DEVELOPMENT PROVISIONS. As stated in detail in this Section 4, Developer shall construct and manage the Project according to the requirements established in this MPA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this MPA, the provisions that specifically enforce NSP, both HERA and ARRA shall control.

4.1. **NOTICE TO PROCEED.** Developer shall not enter the Property or begin work on the Project until the Agency has issued to Developer a written notice to proceed with the work. Agency will issue a notice to proceed after Agency approval of the Final Plans, if any, City's, or County's, as appropriate, issuance of a building permit for substantially more than the Project foundations, Developer's compliance with all governmental requirements for start of construction, Developer's provision of required policies of insurance, and Developer's provision of proof of construction financing in an amount adequate to begin the Project work.

4.2. **CONSTRUCTION CONTRACTS.** Developer shall submit to Agency the construction contract or contracts for the Project. Agency's review of the construction contract shall be only for determining its compliance with this MPA. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall, nevertheless, bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this MPA. If the property is revested in the Agency pursuant to Individual DDA and the Grant Deed, Developer shall assign all rights under the construction contracts to Agency.

4.2.1. In order to assure the availability of the affordable housing, Developer shall use only licensed contractors, including a licensed general contractor. Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Developer shall assure that all necessary steps are taken to protect contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property.

4.3. GOVERNMENTAL REVIEW PROCESS. Notwithstanding any other provision of this MPA, Developer is subject to all building, planning, design and other plan review requirements that are otherwise applicable to the project, including without limitation those of the City of Sacramento and/or the County of Sacramento as appropriate. To assure proper review by the City or the County, Developer shall, within thirty (30) days of the date of this MPA, make an initial deposit toward "plan check fees" with the City's Planning Department. Conditions to the project imposed by the City shall be considered obligations of the Developer under this MPA. If a dispute with City/County staff arises regarding such City/County conditions, Developer shall accept the decision of the City's Planning Commission interpreting, if within its jurisdiction, imposing and enforcing such City or County conditions, subject to any applicable appeals process of the Planning Commission to extent of its jurisdiction.

4.4. LOCAL, STATE AND FEDERAL LAWS. The Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. Agency shall cooperate in securing certifications and permits which require consent of the owner of the property. Developer shall permit only persons or entities which are duly licensed in the State of California, County of Sacramento and City of Sacramento, as applicable, to perform work on or for the Project.

4.5. PREVAILING WAGES. Agency advises Developer that the Project is subject to the payment of prevailing wages under California law. Developer shall inform the Contractor and shall require the Contractor to inform all subcontractors and materialmen furnishing goods or services to the Project of Agency's determination of the applicability of California prevailing wage requirements. Developer and Contractor have had the opportunity to meet with their respective legal counsel and to request a determination of the matter before the California Department of Industrial Relations and any other appropriate governmental bodies. Developer and Contractor have made their own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Developer indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Developer or Contractor or both of them. Additionally, the Agency acquired the Property to be conveyed by this MPA with federal funds subjecting the Project to Davis Bacon wages because at least eight

homes are to be rehabilitated pursuant to this MPA. Prevailing wages to be paid for each trade are to be the higher of State or Federal wage rates by trade.

4.6. PUBLIC SAFETY PROTECTIONS. Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

4.7. NO DISCRIMINATION DURING CONSTRUCTION. Developer for itself, the general contractor and their respective successors and assigns, agrees that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Project.

4.7.1. EMPLOYMENT. Developer shall not discriminate against any employee or applicant for employment because of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

4.7.2. ADVERTISING. Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

4.7.3. M/WBE, SBE, SECTION 3 AND NEW HIRE AGREEMENT. Developers (developer or designee) agrees to work with the Agency and the Minority and Women's Business Enterprise program and Small Business Enterprise (M/WBE and SBE) to accomplish, to the greatest extent feasible, the goals and activities set forth in this MPA and the M/WBE, SBE, Section 3 and New Hire Agreement as attached hereto and incorporated herein as Exhibit 4.

4.7.4. MONITORING PROVISIONS. Developer, Contractor and subcontractors shall comply with the requirements of the Agency for monitoring the anti-discrimination and all applicable labor requirements.

4.8. PUBLIC IMPROVEMENTS. Developer shall, at Developer's expense, undertake and complete any modification, construction, relocation or improvement of public facilities, improvements and utilities for the development of the Property.

4.9. **AGENCY ACCESS TO THE PROPERTY.** Developer shall permit Agency representatives access, without charge, to the entire Property at any time and for any purpose which Agency reasonably considers necessary to carry out its obligations and protect its interests under the MPA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

4.10. **PROJECT SIGN.** The Agency shall provide Developer with an “Economic Recovery Act” sign to be placed in a visible location at each Foreclosed Home during implementation of the Project. If Developer places additional signage on the Property during construction stating the names of the Project participants, it shall also name The Sacramento Housing and Redevelopment Agency NSP Program as a participant in the Project. The Agency name on the sign shall be in letters not less than the size of letters used to name any of the other participants.

4.11. **CERTIFICATE OF COMPLETION.** After the Agency has determined that Developer has completed the construction of the Project in accordance with the Final Plans and Developer's obligations under this MPA, the Agency will furnish the Developer with the Certificate of Completion certifying such completion. The Agency's issuance of the Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the MPA with respect to the obligations of the Developer to construct the Project as of the Completion Date specified in the Schedules of Performances, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute the Certificate of Completion in a form suitable for recording in the Official Records of Sacramento County.

4.11.1. The Certificate of Completion shall not constitute evidence of compliance with any governmental requirements regarding the Project other than those of Agency or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance all or any part of the Project. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any provision of this MPA that is not related to construction of the Project.

4.11.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional fifteen (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the MPA, or is otherwise in default, and what measure or acts it will be necessary, in the opinion of the Agency, for the Developer to take or perform in order to obtain such certification.

4.12. **EMPLOYMENT REPORTING REQUIREMENTS.** Developer will provide written reports to Agency as to the number of construction positions involved in the rehabilitation and how many of those positions are new positions or new hires. The Agency will provide a form to developer for this reporting requirement. Developer shall or cause its contractor to provide the required information. Developer must comply with M/WBE, SBE and Section 3 hiring efforts (Section 4.7.3, above). **Exhibit 5: M/WBE, SBE and Section 3 Report Form** is attached hereto and incorporated herein for compliance with this Section.

4.13. **REPORTS.** During the period of construction, the Developer shall submit to the Agency a written report of the progress of the work as and when reasonably requested by the Agency, but not more often than once each month.

4.14. **NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure notification of the Project contractors, architects and engineers for the Project of the requirements of this MPA. Developer shall include, where applicable, the provisions of this MPA in construction contracts, subcontracts, materials and supplies contracts and services and consulting contracts for the Project, and Developer shall undertake the enforcement of such provisions.

4.15. **PROPERTY CONDITION.** Developer, at Developer's expense, shall conduct any Property investigation beyond those provided by Agency under this MPA and which Developer may consider necessary to determine the condition of the Property for the development of the Project. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of such investigations. Except as provided in this MPA, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the condition of the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by Agency. Agency shall not be responsible for removing any surface or subsurface obstructions, or structures of any kind on or under the Property.

4.16. **HAZARDOUS SUBSTANCES.** Agency has not obtained either a Phase I or a Phase II Hazardous Substances assessment. Developer shall obtain such Hazardous Substances assessments as Developer deems reasonably necessary to assure the development of the Project in accordance with all applicable laws, rules and regulations; provided, however that such assessments are prepared by a qualified environmental specialist in accordance with nationally recognized standards to determine the existence of and to quantify the extent of Hazardous Substances on the Property. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of any Hazardous Substances investigations obtained by Developer. If Hazardous Substances are known to be on the Property, Developer shall remediate such Hazardous Substances on the Property as and to the extent required by any federal, state or local agency having jurisdiction regarding Hazardous Substances standards or remediation and as may be necessary to avoid incurring liability or further liability under any federal, State and local law or regulation. If Hazardous Substances are discovered on the Property after conveyance to Developer and have not been released on the Property after conveyance to Developer, Developer shall remediate all Hazardous Substances on the Property as and to the extent required by any federal, state or local agency having jurisdiction regarding Hazardous Substances standards or remediation and as may be necessary to avoid incurring liability or further liability under any federal, State and local law or regulation. If Hazardous Substances are discovered on the Property after conveyance to Developer and have not been released on the Property after conveyance to Developer and the cost to remediate such Hazardous Substances is reasonably estimated to exceed Ten Thousand Dollars (\$10,000), Developer may elect to terminate this MPA, upon reconveyance of the Property to Agency and return of all monies and properties delivered pursuant to or in furtherance of this MPA.

4.17. DEVELOPER ACCESS TO PROPERTY. Prior to the conveyance of the Property by Agency to Developer, the Agency shall permit representatives of Developer to have access, without charge, to the Property, at all reasonable times for the purpose of obtaining data and making various tests necessary to carry out Developer's obligations under the MPA; provided, however, that Developer shall not enter the Property except (a) after execution by Developer and Agency of Agency's standard "Permit for Entry" and (b) after Developer has obtained insurance coverage then required by Agency. No work shall be performed on the Property until a "Notice of Nonresponsibility" has been recorded and posted in accordance with applicable laws, assuring that Agency interest in the Property shall not be subject to mechanic's liens related to such work. Developer shall not commence any work on the Property without Agency's written approval of the work to be done, and in any event, Developer shall not commence any work which might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

4.18. RELOCATION. Agency and Developer acknowledge that there are no known occupants/tenants eligible or requiring Relocation for this Project as these Properties were either abandoned or foreclosed upon and were vacant at the time of Agency acquisition.

4.19. DEVELOPMENT FINANCING. Except as specifically provided in this MPA, Developer shall be responsible for and shall pay all costs of developing the Project in accordance with this MPA. As a condition precedent to Agency's conveyance of the site to Developer, Developer shall provide the Agency with a complete and firm Project budget including all proposed sources and uses of funds, all "hard" and "soft" costs and contingencies and reflecting, as possible, firm bids or accepted contracts and with evidence of sufficient funds to meet all budget requirements. To the extent that funds specified in this MPA for the Project are insufficient to fully fund the Project, the Developer shall provide evidence, satisfactory to the Agency, of the additional required construction and permanent financing. Except as expressly provided in this MPA, no party shall have the right of reimbursement for any funds expended by them for the Project, whether prior to execution of this MPA or otherwise. Agency is not obligated by this MPA or otherwise to make any contribution beyond its obligations stated in this MPA.

5. INDEMNIFICATION FOR HAZARDOUS SUBSTANCES. Developer shall indemnify, protect and defend Agency, its officers, directors, council members and supervisors, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Property that were not on the Property prior to Agency's transfer of possession of the Property to Developer or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Property during

Agency's ownership of the Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

6. INDEMNIFICATION. Developer shall indemnify, protect, defend and hold harmless Agency, its officers, directors, commission members, employees, advisory committee members, and agents from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Developer, its officers, employees, agents or independent contractors and for any and all costs incurred by Agency in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Agency.

Agency shall indemnify, protect, defend and hold Developer harmless from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Agency, its officers, commission members, employees, advisory committee members or agents and for any and all costs incurred by Developer in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

This indemnification provision shall survive the termination of this Agreement.

10. LIABILITY INSURANCE. With regard to this MPA, the Developer shall obtain and maintain for the life of the Regulatory Agreements, and require the Contractor and subcontractors for the Project to obtain and maintain for the term of the development of the Project, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, Contractor, subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation benefit acts; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of its employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Developer, or (2) by any other person, claims for damages, other than to the construction itself, because of injury to or destruction of tangible property, including resulting loss of use; (e) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and (f) claims for contractual liability arising from the Developer's obligations under this MPA.

10.1. LIABILITY INSURANCE POLICY LIMITS. Developer shall obtain all insurance under this Section 10 written with a deductible of not more than FIFTY THOUSAND DOLLARS (\$50,000) or an amount approved by Agency, and for limits of liability which shall not be less than the following:

10.2. WORKER'S COMPENSATION. Developer shall obtain and maintain worker's compensation coverage shall be written for the statutory limits as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the California Labor

Code (as it may, from time to time, be amended) and having an employer's liability of not less than \$2,000,000, or statutory limits, whichever are greater.

10.3. COMMERCIAL GENERAL LIABILITY. Developer shall obtain and maintain Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better. Such insurance shall have limits of liability, which are not less than \$1,000,000, per occurrence limit; \$2,000,000 general aggregate limit, and \$2,000,000 products and completed operations aggregate limit, all per location of the Project.

10.4. COMPREHENSIVE AUTOMOBILE LIABILITY. Developer shall obtain and maintain comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having a combined single limit of not less than \$1,000,000.

10.5. PROPERTY INSURANCE. For the duration of the Regulatory Agreements, Developer shall obtain and maintain property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, to the full insurable value of the Property with no coinsurance penalty (and with endorsements of Builder's Risk until completion of construction of the Project), Boiler and Machine to the extent necessary to obtain full insurance coverage, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project and the Property. In the event of damage to the Project and subject to the requirements of Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

10.6. INSURANCE PROVISIONS. Each policy of insurance required under this MPA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating of B++ VII , which rating has been substantially the same or increasing for the last five (5) years, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable, unless otherwise approved by Agency's legal counsel in writing in advance:

10.6.1. ADDITIONAL INSURED. Developer shall obtain a policy in ISO form CG 20 33 or better, naming Agency as additional insured under the Commercial General Liability Policy.

10.6.2. SINGLE PROJECT INSURANCE. It is the intent of the parties that the Project have available all the specified insurance coverages. Developer shall not provide insurance coverages that are considered in aggregate with other Projects which Developer or its Contractor might have concurrently under construction. The Agency may at its discretion permit an aggregate policy if and only if Developer or the respective Contractor or subcontractor has fully disclosed to Agency other projects which will or may be considered in aggregate with the Project, and thereafter, Developer shall immediately inform Agency of the change in or addition to any such projects. Nevertheless, Agency may at any time require that the insurance coverage be provided solely for the Project.

10.6.3. **CERTIFIED POLICY COPY.** Developer shall provide Agency with a certified copy of each required policy of insurance. Pending delivery of the certified policy, Developer shall provide Agency with a Certificate of Insurance for each policy on the applicable ACORD form. The ACORD form shall not substitute for the policy. ACORD 25-S "Certificate of Liability Insurance shall be used for liability insurance deleting the sentence in the top right-hand block immediately below the title (commencing "This certificate is issued as a matter of information . . .) and in the bottom right-hand box above the authorized representative signature, deleting the words "endeavor to" and "but failure to do so shall impose not obligation or liability of any kind upon the insurer, its agents or representatives."

10.6.4. **CANCELLATION.** Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

10.6.5. **FAILURE TO MAINTAIN.** If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this MPA, the Agency shall have the right to purchase the insurance on Developer's behalf, and Developer shall promptly reimburse the full cost of such insurance to the Agency. If Developer fails to reimburse the Agency for insurance, the amount of unpaid reimbursement shall bear interest at the maximum rate permissible under the law until paid.

10.6.6. **BLANKET COVERAGE.** Developer's obligation to carry insurance as required under this Section 10 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Agency shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 10 with respect to such insurance shall otherwise be satisfied by such blanket policy.

11. **DEFAULTS AND REMEDIES.** Except as otherwise provided in the MPA, if either party defaults in its obligations under this MPA, the defaulting party shall immediately commence and diligently proceed to cure the default within thirty (30) days after written notice of default from the other party or, if reasonable, such longer time as is reasonably necessary to remedy such default if such default cannot reasonably be cured within thirty (30) days for reasons beyond the control of the defaulting party, provided that the defaulting party shall promptly begin and diligently pursue such cure to completion. If the defaulting party does not promptly begin and diligently cure the default within a reasonable time, the other party may institute proceedings to cure the default, including without limitation, proceedings to compel specific performance by the defaulting party. Subject to any extension of time permitted by this MPA, a failure or delay by a party to perform any term or provision of this MPA constitutes a default of this MPA.

11.1. Failure to perform pursuant to the terms and conditions of the Foreclosed Property DDAs is an event of default under this MPA. The DDAs and grant deeds for each Foreclosed Property shall contain revestment language prescribing the return of the Foreclosed Property to Agency and distribution of funds, if any.

11.2. OTHER RIGHTS AND REMEDIES. Upon the occurrence of any default not subject to the preceding liquidated damages provision, and the expiration of any applicable notice and cure period without a cure having occurred within the specified cure period, the non-defaulting party shall have the right to institute such actions as it may deem desirable to remedy a default of this MPA as allowed under this MPA, at law or in equity.

11.3. NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES. No member, official or employee of Agency shall be personally liable under this MPA to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this MPA.

11.4. FEES AND COSTS ARISING FROM DISPUTE. If an action is commenced between the parties, the Prevailing Party in that action shall be entitled to recover from the nonprevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. "Prevailing Party" shall include without limitation a party who dismisses an action in exchange for sums allegedly due; the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; the party who receives any award for relief through arbitration; or the party determined to be the prevailing party by a court of law.

11.5. ESTOPPEL CERTIFICATE. Any party may, at any time, request in writing of any other party to certify in writing that, to the knowledge of the certifying party, (i) this MPA is in full force and effect and a binding obligation of the parties; (ii) this MPA has not been amended or modified, or, if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations under this MPA, or, if in default, describing the nature and extent of any such defaults. A party receiving such a request shall execute and return such certificate to the requesting party, or give a detailed written response explaining why it will not do so, within ten (10) days following its receipt. The Agency's designee shall be authorized to execute any such certificate requested by Developer from the Agency.

11.6. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER. Developer has submitted a detailed proposal to Agency with evidence of Developer's qualifications. In reliance on the financial capability and experience of Developer, substantial public financing and other public aids have been made available by law and by the federal and local governments to make development of the Property possible. Developer shall not, prior to issuance of a Certificate of Completion, assign Developer's interests or obligations under this MPA or undertake any act or transaction resulting in a significant change in the interests of the principals of Developer or the degree of their control of Developer without the prior written consent of Agency. The transfer or assignment, pursuant to this Section, requires the transferee or assignee to execute and deliver to Agency a valid, binding, written assumption of all obligations of Developer. Such a transfer as permitted in this Section shall not relieve Developer, or any other party bound in any way by the MPA, from any of its obligations under the MPA. With respect to this provision, the Developer and the parties signing the MPA on behalf of the Developer represent that they have the authority of all of Developer's principals to agree to and bind them to this provision.

12. DOCUMENT INTERPRETATION. This MPA shall be interpreted in accordance with the following rules.

12.1. ENTIRE MPA; SEVERABILITY. This MPA integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. If any term or provision of this MPA shall, to any extent, be held invalid or unenforceable, the remainder of this MPA shall not be affected; provided that the intent of the MPA may then be reasonably fulfilled.

12.2. MPA AS CONTROLLING DOCUMENT. This MPA is the controlling document between Agency and Developer regarding the Developer's participation in the Agency's Property Recycling Program.

12.3. WAIVERS AND AMENDMENTS. All waivers of the provisions of this MPA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this MPA must be in writing and signed by Agency and Developer. Any delay by Agency in asserting any rights under this Section shall not operate as a waiver of such rights or to deprive Agency of or limit such rights in any way. Any waiver in fact made by Agency with respect to any specific default by Developer under this Section shall not be considered as a waiver of the rights of Agency with respect to any other defaults by Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

12.4. CAPTIONS, GENDER AND NUMBER. The section headings, captions and arrangement of this MPA are for the convenience of the parties to this MPA. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this MPA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

12.5. DRAFTER. This MPA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this MPA. All exhibits referred to in this MPA are attached to it and incorporated in it by this reference.

12.6. MERGER. All of the terms, provisions, representations, warranties, and covenants of the parties under this MPA shall survive the Close of Escrow and shall not be merged in the Grant Deed or other documents.

12.7. TIME FOR PERFORMANCE. In determining time for performance, it shall be construed that Agency and Developer shall each do the actions required of them, promptly and when specified in this MPA, and that each action specified in the Schedule of Performances shall be performed by the responsible party on or before the date scheduled for its completion.

12.8. GOVERNING LAW. This MPA shall be governed and construed in accordance with California law.

12.9. NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP. Nothing contained in this MPA or in any other document executed in connection with this MPA shall be construed as creating a joint venture or partnership between Agency and Developer. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between Agency and Developer other than that of a governmental entity regulating the development of private property, and the owner of such private property.

12.10. NO THIRD PARTIES BENEFITED. This MPA is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to any property, benefits or funds at any time on deposit in the Construction Account or the Impound Account, if established.

12.11. INSPECTION OF BOOKS AND RECORDS. Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the Property as reasonably necessary to carry out its purposes under this MPA.

12.12. OWNERSHIP OF DATA. If this MPA is terminated, for any reason, prior to the completion of the Project, Developer shall deliver to Agency any and all data acquired for development of the Property. Agency shall have full ownership and rights to use such data.

12.13. NOTICES. All notices to be given under this MPA shall be in writing and sent to the following addresses by one or more of the following methods:

12.13.1. Addresses for notices are as follows:

a) Agency: Sacramento Housing and Redevelopment Agency, 630 I Street, Sacramento, California 95814, Attention: Chris Pahule.

b) Developer:

12.13.2. Notices may be delivered by one of the following methods:

a) Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

b) A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

c) Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

d) Telecopy or facsimile, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the "Fax

Number” given in the Escrow Attachment or to such other address as Developer or Agency may respectively designate by written notice to the other.

12.14. **SUCCESSORS.** This MPA shall inure to the benefit of and shall be binding upon the parties to this MPA and their respective successors, and assigns.

13. **DEFINITIONS.** The following definitions shall apply for the purposes of this MPA:

13.1. “Abandoned” is when a mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage payments or tax payments have been made by the property owner for at least ninety (90) days and the property has been vacant for at least ninety days.

13.2. “Agency” is the Sacramento Housing and Redevelopment Agency. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California. The principal office of the Agency is located at 630 I Street, Sacramento, California 95814. Agency as used in this MPA includes any assignee of or successor to its rights, powers and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency.

13.3. “ARRA” means the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-05).

13.4. “Certificate of Completion” is the certificate issued by the Agency certifying Developer's completion of the Project and termination of the revestment provisions.

13.5. “City” is the City of Sacramento in the State of California.

13.6. "Close of Escrow" is the time for the close of the Escrow as provided in the Escrow Instructions.

13.7. “Contractor” is the contractor or contractors with whom Developer has contracted for the construction of the Project.

13.8. “Completion Date” is the date for completion of construction of the Project to the satisfaction of the Agency, which date shall be not sooner than the issuance of a certificate of occupancy for the entire Project. The Completion Date is stated in the Schedule of Performances.

13.9. “County” is the County of Sacramento in the State of California

13.10. “DDA” means Disposition and Development Agreement (Subrecipient Agreement) between Agency and Developer for the disposition, rehabilitation and resale of a Foreclosed Home. A template DDA is attached as **Exhibit __**, and incorporated into this Agreement by this reference. Each DDA shall include the contents of the template DDA, as the same may be amended to meet the requirements of applicable law, or as may otherwise be agreed by the parties.

13.11. “Developer” is _____ Sacramento, CA.

13.12. “Eligible Households” means one or more persons or family(ies) of very low, low, or moderate income earning not greater than one hundred twenty percent (120%) of the median income in Sacramento County (as determined by the United States Department of Housing and Urban Development) and who have completed 8 hours of HUD approved homebuyer education counseling and is(are) approved by the Agency to acquire rehabilitated Homes from Developer pursuant to the Property Recycling Program.

13.13. “Foreclosed Homes” means those certain foreclosed and vacant single-family homes located in the Agency’s NSP Target Areas that are selected by Agency for acquisition, rehabilitation, and resale pursuant to the Property Recycling Program.

13.14. “Grant Deed” is the grant deed for the transfer of the Property to Developer under this MPA. The Grant Deed contains conditions, covenants and restrictions that run with the land, easements and a reverter provision.

13.15. “Hazardous Substances” as used in this MPA shall include, without limitation to, all substances, wastes and materials designated or defined as hazardous or toxic pursuant to any of the following statutes, as they may be amended or superseded, from time to time: the Clean Water Act (33 U.S.C. '1321 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. '9601 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. '6901 et seq.); the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101); the Environmental Protection Agency list of hazardous materials (40 CFR Part 302) and California Health and Safety Code Sections 25115, 25117, 25122.7, 25140 (Hazardous Waste Control Law), 25316 (Carpenter-Presley-Tanner Hazardous Substances Account Act), 25501 (Hazardous Materials Release Response Final Plans and Inventory) and 25281 (Underground Storage of Hazardous Substances); all applicable local regulations; and all rules and regulations promulgated pursuant to said laws.

13.16. “HERA” means the Housing and Economic Recovery Act of 2008 originally enacted July 30, 2008 (Pub. L. 110-289).

13.17. “Individual Property” means each individual property, subject to DDAs which are to be conveyed Developer pursuant to this MPA.

13.18. “Lender” shall mean all holders of any lien or encumbrance as security for a loan on all or any part of the Property which loan is made in accordance with this MPA or otherwise approved by Agency in writing.

13.19. “Local/New Hire Reporting Form” is the form required in the Agency’s reports to the Department of Housing and Urban Development regarding the NSP compliance and job creation. The Local New Hire Form is attached hereto and incorporated herein as **Exhibit 5: Local New Hire Reporting Form.**

13.20. "MPA" is this Project Agreement including the attachments to this MPA consisting of the exhibits named in and attached to this MPA, the Preliminary Plans the Final Plans and any other item expressly incorporated in this MPA, all of which are incorporated in this MPA as if included in full as provisions in the body of this MPA. A default of any of the items incorporated in the MPA by reference is a default of this MPA.

13.21. "M/WBE" means minority and women owned business enterprise. The Federal funding involved in the property acquisition for this Project requires women, minority, small or emerging business and Section tenants to be considered equally for hire. The Local Hire M/BWE, SBE and Section 3 Agreement is attached hereto and incorporated herein as **Exhibit No. 4: M/WBE, SBE and Section 3 Local Agreement.**

13.22. "NEPA" means the National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et seq.] together with all rules and regulations promulgated under the statutes.

13.23. "Neighborhood Stabilization Program" is a program of the United States Department of Housing and Urban Development (HUD) providing targeted emergency assistance to Sacramento as well as other state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities.

13.24. "Plans" are the Project designs and elevations, prepared by the Project architect, if any, a portion of which (consisting of various elevations) is attached to the staff report for approval of this MPA. Agency has approved the Plans concurrently with the approval of this MPA.

13.25. "Project" is the development of the Property as described in this MPA for the uses stated in this MPA. The Project includes all improvements rehabilitated and constructed on the Property in accordance with this MPA.

13.26. "Property" is the real property to be developed under this MPA by Developer, as more particularly described in the Property Description. The Property includes all improvements contained within the Property.

13.27. "Property Description" is the legal description of the various parcels of real property affected by this MPA. The Property Description is attached as **Exhibit 1: Property Description.**

13.28. "Property Recycling Program" means The Agency's program within its implementation of NSP and NSP2, to acquire Foreclosed Homes under approved guidelines in the Target Areas and sell the properties to a developer in order to cause the rehabilitation and resale of the properties to Eligible Households.

13.29. "Property Recycling Program Guidelines." Those Guidelines adopted for the implementation of the Property Recycling Program by the City and County of Sacramento on February 24, 2009 and last revised on **October __, 2009**

13.30. "Purchase Price" is the purchase price for the Property as set out in Section 2.1.

13.31. "Schedule of Performances" is the schedule that establishes the dates by which obligations of the parties under this MPA must be performed and on which conditions must be satisfied. The Schedule of Performances is attached as **Exhibit 2: Schedule of Performances.**

13.32. "Scope of Development" is the detailed description of the construction parameters for the Project. The Scope of Development is attached as **Exhibit 3: Scope of Development.**

13.33. SHPO" means the California State Office of Historic Preservation

13.34. "Target Area" means one of the seven target areas in the City of Sacramento or one of the five target areas in the County of Sacramento that have been identified for the focus of the Neighborhood Stabilization Program in Sacramento because those areas most severely impacted by foreclosures that show evidence of weaker housing markets that are not able to recover without assistance, as described further in **Exhibit __**, which is incorporated into this Agreement by this reference

13.35. "Unavoidable Delay" is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of the parties shall be extended for the period of the enforced delay, as determined by the Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

THE PARTIES HAVE EXECUTED THIS MPA in Sacramento, California, on the following dates, effective as of the date first written above.

DEVELOPER :

By:

**AGENCY: THE REDEVELOPMENT AGENCY
OF THE SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY, a Joint Powers
Agency**

By:

LaShelle Dozier, Executive Director

Date: _____

Approved as to form:

Developer Counsel

Date: _____

Approved as to form:

Agency Counsel

[NOTARIZED ACKNOWLEDGEMENTS]

EXHIBIT 1

Property Description

EXHIBIT 2

Schedule of Performances

EXHIBIT 3

Scope of Development

New construction and rehabilitation must meet or exceed all applicable code and permit requirements and to a good and attractive condition that is at the highest level available in the adjacent neighborhood. As a minimum, Housing Quality Standards (HQS) are required. Additionally, the Developer must complete the scope of work checklist which identifies various green building components.

EXHIBIT 4

Minority and Women Businesses and Small Business Enterprise and Local Hire Agreement

Developers (developer or designee) agrees to work with the Agency and the Minority and Women's Business Enterprise program and Small Business Enterprise (M/WBE and SBE) to accomplish, to the greatest extent feasible, the goals and activities set forth in the Project Agreement and this attachment.

Developer Responsibilities

The developer or designee will be responsible for the following:

- Provide outreach and bidding information to area firms and on the M/WBE and SBE list provided by the Agency. Firms mean suppliers, contractors, and professional services including architectural, engineering, project management, consulting or any construction or planning related activity.
- Provide M/WBE and SBE information in bid packages or similar solicitation material.
- At least one month prior to a pre-construction conference, provide to the Agency a list of the firms contacted for contracting opportunities for this project; the method of solicitation; reasons for acceptance or denial; list of selected firms with an indication if they are minority or women owned contractors and whether their principal place of business is in the Target Area area; and, the contract amount. The developer may use an Agency provided form for this purpose.
- Host the pre-construction subcontractor meeting to inform subcontractors of the M/WBE, SBE and local hire information.
- Coordinate a local hire recruitment effort which will include:
 - Outreach to all Target Area/Construction Training Programs graduates/Sacramento Youthbuild graduates, if any
 - Sponsoring a community information workshop or similar to advertise job opportunities
 - Advertise workshop information and job opportunities with community based organizations, religious, educational, vocational and similar organizations and in local newspapers.
 - Invite the Target Area RAC, if one exists, to send one or two representatives to help with the interview process.
- Prior to construction, provide the Agency with a profile of the workforce of each contractor, subcontractor or subtier contractor with a similar profile of projected needs. A profile consists of the number from each trade. For example, a framing contractor may have a workforce profile of four carpenters and one laborer and anticipates adding one carpenter and one laborer. This information indicates the new hire opportunity.

- Establish a goal of 30(?) percent of the newly available full- and part-time construction jobs including construction related like architecture and engineering, be directed to local Target Area residents.
- Establish a goal of 30 percent of the newly available full-and part-time construction jobs including construction related like architecture and engineering, be available to members of disadvantaged groups i.e. minorities, women, etc.
- Provide to the Agency reports covering new hires. The periodic reports should be made available monthly after the start of construction and consist of the new hire's name, address, phone number, social security number, ethnicity, gender, position, rate of pay, date of hire, date of termination and reason (if applicable), and whether working full-time or part-time. The developer may use an Agency provided form for this purpose.

AGENCY RESPONSIBILITIES

The Agency will provide the following services:

- Provide a list of local contractors and suppliers and certified M/WBE and SBE firms to the developer or designee for soliciting construction bids and supplies; the list will include trades and suppliers that the developer identifies as relevant to the project.
- Assist the developer with the documentation to track the solicitation efforts.
- After solicitations are completed and the developer submits the activity information, the Agency will evaluate the efforts and make any recommended changes to increase the effectiveness of this approach.
- The results of the evaluation will be available to the developer upon request.

**EXHIBIT 5
PROJECT NEW HIRE SUMMARY**

Developer / Contractor: _____

Project Name: _____ **Project Number:** _____

Number of company employees who performed work on this project: _____

You are required to furnish the following information to comply with the terms of the contract for this project. This form is to be completed and returned with the close-out documentation.

During the course of the project you and/or your subcontractor(s) may find the need to hire new workers to complete the project. "New Hires" are defined as persons hired specifically to perform work on this project. Should "New Hires" be necessary, you are encouraged to hire persons residing within the "Local Area". The "Local Area" defined as, within the boundaries of Sacramento County. All new hires are to be recorded whether they reside within the Local Area or not. Each new hire is to complete a New Hire Questionnaire (attached) at the time of employment. All completed Questionnaires are to be attached to this summary sheet and returned with the close-out documentation. The purpose of the Questionnaire is to allow the gathering of information to gauge the economic impact of this project on the community (Local Area). Reports of statistical results may be submitted to the Agency's governing boards or HUD. The greatest economic impact is made by the hiring of Section 3 residents or residents from the redevelopment project area, if applicable. Section 3 residents are defined as, public housing residents **or** persons who live in the Local Area where the project is located and who have a household income that falls below HUD's income limits.

Collect, tally and record the following information during the project (use additional sheets if necessary). This requirement applies to all contractors and subcontractors working on this project.

1. What trades/classifications/professions (e.g. carpenter, plumber, laborer, architect, engineer, etc.) were hired specifically for this project.
2. Total number of New Hires for each trade/classification/profession.
3. Number of New Hires that were Local Area residents and those that were Section 3.

TRADE / CLASSIFICATION / PROFESSION	TOTAL NEW HIRES	LOCAL AREA NEW HIRES	SECTION 3 NEW HIRES

I declare that the above is true and correct to the best of my knowledge.

Signature

Date

New Hire Questionnaire (2009)

Developer/Contractor: _____

Project Name: _____ Project Number: _____

Note to employer: Use this form as part of your new hire process.

Questionnaire

Your employer is required to furnish the following information in complying with the terms of the contract for this project. All information you provide will be **confidential** and will be used to prepare statistical reports. Your responses will not affect your employment situation. Please complete all requested information and return this form to your employer.

1. New Hire

First Name: _____ Middle Initial: ____ Last Name: _____

Street Address: _____ City: _____ Phone _____

State: _____ Zip Code: _____ Job Title: _____

Ethnic Code: _____ (1=White, Caucasian; 2=Black, African American; 3= Native American; 4= Hispanic; 5= Asian, Pacific Islander; 0=Other) Sex: ____Male ____Female

2. Income before taking this job. We need to know the economic impact this job has on the community. Please review the chart below, match your household size (include yourself) with the **maximum** household income; then, place a checkmark next to the category type (A, B or C) that applies to your household.

Category A

Household Size

Maximum	1	2	3	4	5	6	7	8
Income	\$24,850	\$28,400	\$31,950	\$35,500	\$38,350	\$41,200	\$44,000	\$46,850

Category B

Household Size

	1	2	3	4	5	6	7	8
At least	\$24,850	\$28,400	\$31,950	\$35,500	\$38,350	\$41,200	\$44,000	\$46,850
But no more than	\$39,750	\$45,450	\$51,100	\$56,800	\$61,350	\$65,900	\$70,450	\$75,000

Category C = exceeds the maximum of Category B

(1) For example, suppose your household size is 3 and the total annual household income was \$32,000.00. From the charts above, the income was above the maximum for type A for a family of 3 (\$31,950.00) but less than maximum for B (\$51,100.00) for a family of 3. You would checkmark B.

Mark one category: A _____; B _____; C _____.

3. **Job Source:** how did you find about this job? referred by: _____; recruited by: _____; other: _____.

4. **Statement**

I declare that the above is true and correct to the best of my knowledge.

Your signature: _____ Date: _____



**Sacramento
Housing &
Redevelopment
Agency**

EXHIBIT 6
Federal Requirements

The following provisions shall be applicable to this Contract and binding on Borrower and Agency only if all or part of the funds to be paid for work performed under this Contract are provided under the Community Development Block Grant Program administered by the United States Department or Housing and Urban Development or some other funding program of the federal government. In the event of a dispute as to the applicability of any of the following provisions to Borrower's work under this Contract, Agency's determination shall be final.

1. **ADDITIONAL DEFINITIONS.** For purposes of this Contract and in addition to definitions made elsewhere in this Contract, the following capitalized words and phrases contained in this Contract shall have the following meanings:

a) The "Act" is the federal Housing and Community Development Act of 1974, as amended.

b) "CDBG" is the federal Community Development Block Grant program administered by HUD. "U.S.C.F.R." is the Code of Federal Regulations

c) The "CDBG Requirements" are the laws, rules and regulations (other than the Act) which are specifically applicable to this Contract. A substantial portion of the Federal Requirements included in this Attachment 2.

d) "Contract Provisions" refers to this "Attachment 1: Contract Provisions". This Attachment 2 contains the provisions common to all Agency administered CDBG agreements.

e) "Exhibits" are the Exhibits to this Attachment 2. The Exhibits contain a substantial portion of the Federal Requirements. The Exhibits include the following:

- i. Exhibit 1 - CDBG Regulations: 24 U.S.C.F.R. 570 *et seq.*
- ii. Exhibit 2 - OMB Circular A-110; Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations [*applies only to Borrowers who are not a state or local government or a public Agency*]
- iii. Exhibit 3 - OMB Circular A-122; Cost Principles for Nonprofit Organizations [*applies only to Borrowers who are not a state or local government, a public Agency or an educational institution*]
- iv. Exhibit 4 - OMB Circular A-133; Audits of States, Local Governments, and Non-Profit Organizations. [*applies only to Borrowers who are a state or local government, a public Agency or an educational institution*]
- v. Exhibit 5 - OMB Circular A-87; Principles for determining Costs Applicable to Grants and Contracts with State, Local and Federally-Recognized Tribal Indian Governments [*applies only to Borrowers who are a state or local government or public Agency and not an educational institution*]

- vi. Exhibit 6 - OMB Circular A-21; Cost Principles for Educational Institutions
[applies only to Borrowers who are an educational institution]
- vii. Exhibit 7 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; 24 U.S.C.F.R. 85
- viii. Exhibit 8 - Requirements for nonprofit Borrowers; 24 U.S.C.F.R. 84
- ix. Exhibit 9 - New Restrictions on Lobbying; 24 U.S.C.F.R. 87
- x. Exhibit 10 - Federal Labor Standards Provisions; 28 U.S.C.F.R. 5.5
- xi. Exhibit 11 - Executive Order 11246
- xii. Exhibit 12 - Executive Order 12432
- xiii. Exhibit 13 - Executive Order 11625
- xiv. Exhibit 14 - Executive Order 12138
- xv. Exhibit 15 - Form of Quarterly Reports

f) "HUD" is the United States Department of Housing and Urban Development.

g) "OMB" is the federal Office of Management and Budget.

h) "Borrower" is the Contractor as defined elsewhere in this Contract.

i) "Program Income" is defined in 24 U.S.C.F.R. 570.500(a). Generally, Program Income is income to Borrower that is generated from the use of CDBG funds under this Contract. Program Income may include, without limitation, proceeds of the sale, rent or lease of real or personal property acquired with such CDBG funds, principal and interest payments on loans of such CDBG funds, and interest earned on other Program Income.

j) "Project Funds" are the funds to be paid to Borrower under this Contract. All Project Funds are funds disbursed to the Recipient and Agency under the CDBG Program.

k) "Quarterly Reports" are the reports required to be submitted by Borrower under Attachment 2 Exhibit 14 - Quarterly Reports.

2. FINDINGS AND REPRESENTATIONS. This Contract has been made for the following purposes and based upon the following representations of the parties:

a) In accordance with the provisions of California Government Code Section 53703, Recipient has appointed Agency to be its agent, with full powers, for the purpose of administering the expenditure of Recipient's funds received under the federal Housing and Community Development Act of 1974, as amended, Community Development Block Grant program, administered by the United States Department of Housing and Urban Development. For all of its activities under this Contract, Agency is acting as agent for Recipient and not as a principal.

b) Recipient has determined that the fulfillment of Borrower's obligations under this Contract serves the purposes of community improvement and welfare.

c) Pursuant to the provisions of California Government Code Section 53703 and after public hearing, Recipient has elected to allocate a portion of its CDBG funds to Borrower for the uses and activities of this Contract.

d) Recipient and Borrower are subject to all laws, rules and regulations regarding the use of CDBG funds for the purposes and activities stated in this Contract.

3. ADDITIONAL RESTRICTIONS ON FUNDS. Borrower acknowledges that the funds for this Contract are CDBG funds, the amount of which has been established after public hearing and that Agency has no authority to change the Project Funds except after public hearing and Recipient approval. Therefore, and notwithstanding any other provision of this Contract, the parties agree that the total compensation and reimbursement for all services and expenses required during the term of this Contract shall not exceed the Project Funds. Borrower shall provide, from whatever source, all additional funds necessary to fulfill Borrower's obligations under this Contract

a) If Borrower incurs additional expenses or does additional work related to this Contract, Borrower shall bear all such costs and expenses unless the Agency has executed a written amendment to this Contract prior to Borrower's having incurred such costs and expenses.

b. Borrower shall use proceeds of this Contract only for the purposes stated in this Contract, as described in the Scope of Work, and strictly in compliance with all applicable laws, rules and regulations.

c. If Borrower is not a state or local government, educational institution or public agency, Borrower shall fully comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-122 and applicable provisions of OMB Circular No. A-110 (specifically including Attachments A "Cash Depositories" except Paragraph; B "Bonding and Insurance"; C "Retention and Custodial Requirements for Records" except the starting date for the retention period; F "Standards for Financial Management Systems" except the provisions of paragraph 2(h) superseded by OMB Circular A-133; H "Monitoring and Reporting Program Performance" paragraph 2; N "Property Management Standards" with modifications to paragraphs 6 and 7 regarding sale or retention of personal property; and O "Procurement Standards") and 24 U.S.C.F.R. 85 as outlined in 24 U.S.C.F.R. 570.502 (a) as they relate to the application, acceptance, and use of federal funds. If Borrower is a state or local government or a public agency, Borrower shall fully comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-133 and OMB Circular No. A-87. Educational institutions shall comply with Circular A-21, A-133 and applicable provisions of OMB Circular No. A-110.

d. Borrower shall deposit any advance under this Contract in an interest bearing account and, unless specified otherwise in this Contract, shall remit any interest earned over \$100 to the Agency.

e. Project Funds shall not be used for any religious purposes, which prohibition is further described in 570 U.S.C.F.R. 200(j). In the event of suspension or termination of this Contract, Borrower shall return unused funds to the Agency in accordance with 24 U.S.C.F.R. 570.503(b)(8). If the Borrower improperly retains funds, the Agency may retain funds from future disbursements to the Borrower in accordance with the procedures described in 24 U.S.C.F.R. 570.504 (b) (2).

4. RETURN OF PROGRAM INCOME. Unless it is expressly stated in the Scope of Work that Borrower shall establish a revolving loan fund in which Program income shall be deposited, Borrower shall return all Program Income to the Agency. If Borrower is required to establish such a revolving loan fund, Borrower shall retain Program Income in a separate account to be used solely for the purposes of this Contract as described in the Scope of Work. Program Income in the form of repayments to, or interest earned on, a revolving fund as defined in 24 U.S.C.F.R. 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. Substantially all other Program Income shall be disbursed for eligible activities before additional cash withdrawals are made from the U.S. Treasury. Borrower shall return any unused Program Income to the Agency.

5. ANTI-KICKBACK RULES. Monthly, or more often, Borrower must, without condition, pay the salaries of architects, draftsmen, technical engineers and technicians performing work under this Contract. Such payments shall be made without deduction or rebate, excepting only such payroll deductions as are mandatory by law or permitted by applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1937 (48 U.S.C. 948; 62 U.S.C. 740; 63 U.S.C. 108; 18 U.S.C., Section 874; and 40 U.S.C., Section 276(C)). Borrower shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance by subcontractors with such regulations. Borrower shall be responsible for the submission of affidavits required of subcontractors under this Contract, except for such variations or exemptions as the Secretary of Labor may specifically allow.

6. WORK HOURS. Borrower must comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) and must cooperate with Agency in implementing and enforcing the provisions of such Act. Among other requirements of the act, Borrower must pay not less than one and one-half times the basic rate of pay for the work of Borrower's employee in excess of eight hours in one day or forty hours in one week, in the performance of this Contract. Borrower must insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance with such Act. Borrower must meet and cooperate with Agency's Labor Compliance officer to assure compliance with such Act.

7. WITHHOLDING OF SALARIES. If, in the performance of this Contract, there is any underpayment of salaries by Borrower or by any subcontractor, Agency must withhold from Borrower out of payments due to him any amount sufficient to pay employees underpaid the difference between the salaries required under this Contract to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by Agency for and on account of Borrower or subcontractor to the respective employees to whom they are due.

8. CLAIMS AND DISPUTES PERTAINING TO SALARY RATES. Claims and disputes pertaining to salary rates or to classification of architects, draftsmen, technical engineers and technicians performing work under this Contract must be promptly reported in writing by Borrower to Agency for the latter's decision which shall be final with respect thereto.

1. Equal Employment Opportunity Requirements.

(i) Borrower will send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice to be provided by Agency, advising the labor union or workers representative of Borrower's commitments under Section 202 of Executive order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(ii) Borrower will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(iii) Borrower will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

9. CONTRACTUAL REQUIREMENTS: "SECTION 3 CLAUSE". The following is applicable to all contracts related to the project which is the subject of this Contract.

a) The work to be performed under this Contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and 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 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

b) The parties to this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 U.S.C.F.R. 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

c) Borrower will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d) Borrower will include this Section 3 Clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or Recipient for federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of requirements issued by the Secretary of Housing and Urban Development, 24 U.S.C.F.R. Part 135. Borrower will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 U.S.C.F.R. Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e) Compliance with the provisions of Section 3. The regulations set forth in 24 U.S.C.F.R. Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition to the federal financial assistance provided to the project, binding upon the applicant or Recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or Recipient, its contractors and subcontractor, its successors and assigns, to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 U.S.C.F.R. Part 135. In order to comply with the Section 3 requirements, the bidder must indicate along with his bid, what affirmative action processes he has used in soliciting bids from business concerns listed on the Registry. Forms for the bidders' use are included in the Project Manual. These completed Section 3 Affirmative Actions forms must be submitted with the proposal.

f) Good Faith Effort. Each Borrower or subcontractor undertaking work in connection with a Section 3 covered project must fulfill his obligation to utilize lower income project area residents as employees to the greatest extent feasible by:

(i) Identifying the number of positions in the various occupational categories including skilled, semi-skilled, and unskilled labor, needed to perform each phase of the Section 3 covered project;

(ii) Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are currently occupied by regular, permanent employees;

(iii) Identifying the positions described in Paragraph (1) of this Section, the number of positions in the various occupational categories which are not currently occupied by regular permanent employees;

(iv) Establishing the positions described in Paragraph (3) of this Section, a goal which is consistent with the purpose of this subpart within each occupational category of the number of positions to be filled by lower income residents of the Section 3 covered project area; and

(v) Making a good faith effort to fill all of the positions identified in Paragraph (4) of this Section with lower income project area residents.

10. CONFLICT OF INTEREST. No member, officer or any employee of Borrower, or its designees or agents, who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter, shall have an interest, direct or indirect, in any contract or its proceeds, for work to be performed in connection with the program assisted under this Contract. Borrower must incorporate, or cause to be incorporated, in all subcontracts a provision prohibiting such interest pursuant to the purposes of this Section.

11. DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS. No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable to his employer under this Contract.

12. RECORDS AND MONITORING. Borrower must keep all necessary books and records, including loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with the provisions of OMB Circular No. A-102 Attachment G (as amended), and must document all transactions as Agency may properly audit all expenditures made pursuant to this Contract. Borrower must maintain and preserve all records related to this Contract in its possession for a period of three (3) years from the effective date of this Contract, unless otherwise directed by Agency. All books, records and accounts kept by Borrower in connection with the performance of this Contract shall be made available for inspection by representatives of the federal government and/or Agency staff as required to monitor or audit the program.

In addition to the reports specified in this Contract, Borrower shall retain the records required by the applicable provisions of 24 U.S.C.F.R. 570.506 and provide the Agency with the reports required pursuant to 24 U.S.C.F.R. 570.507, and such other records and reports as the Agency may reasonable require in the administration of this Contract. Borrower shall keep all other necessary books and records, including property, personnel, loan documentation and financial records, in connection with the operation and services performed under this Contract, in accordance with the provisions of OMB Circulars No. A-102, A-110 and A-122, and Executive Order 11246 and 24 U.S.C.F.R. 85.42. Borrower shall conduct annual audits in accordance with OMB Circular A-133 (as set out in 24 U.S.C.F.R. 45). Borrower shall document all transactions as sufficiently for Agency to properly monitor and audit all expenditures made pursuant to this Contract. Borrower shall maintain and preserve all records related to this Contract in its possession for a period of three (3) years from the effective date of this Contract, unless otherwise directed by Agency. To the extent required by the applicable laws and regulations, all books, records and accounts kept by Borrower in connection with the performance of this Contract shall be made available for inspection by representatives of the federal government and/or Borrower staff as required to monitor or the program

13. DRUG FREE WORKPLACE. Borrower must comply with the Drug-Free Workplace Act of 1988 (final rule published on May 25, 1990) and Agency's policies and rules promulgated under the Act. Borrower must obtain such policies and rules from the Agency.

14. DAVIS-BACON ACT. If this Contract is for construction, alteration, or repair (including painting and decorating) of public buildings or public works, Borrower must comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276a - 276a-5) and all rules, regulations and orders promulgated under said act, unless a determination of exemption from requirements of the Davis-Bacon Act is made and unless the exemption is expressly stated elsewhere in this Contract. Among other provisions, said act establishes minimum wages and fringe benefits; prohibits deductions or rebates from payments; provides for the withholding of funds to assure compliance with wage provisions; and provides for the termination of the Contract and debarment of the Borrower for failure so to comply.

15. OTHER PROGRAM REQUIREMENTS. Agency must provide Borrower with all relevant program information regarding the federal programs having jurisdiction over this Contract. Agency must assist Borrower in the interpretation of the requirements of such programs. Borrower shall be considered to be familiar with the requirements of such programs and shall comply with such requirements.

16. RESTRICTIONS ON LOBBYING; FILING CERTIFICATION AND DISCLOSURE FORMS. Borrower shall not use any funds paid under this Contract, directly or indirectly, for any political activity, whatsoever or to influence any public official or employee. In an event, Borrower shall comply with the restrictions on lobbying stated in 24 U.S.C.F.R. 87. Borrower shall sign and return to the Agency the certification described in 24 U.S.C.F.R. 87, Appendix A and the disclosure form described in 24 U.S.C.F.R. 87, Appendix B. Borrower requires any person receiving proceeds of this Contract from Borrower to comply with 24 U.S.C.F.R. 87, including the submission to Agency of completed certifications under Appendix A and disclosure forms under Appendix B.

17. ELIGIBILITY AND NON-DISCRIMINATION (SECTION 109). Borrower shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, color, religion, sex, national origin, ancestry, or physical or mental handicap, or age as more specifically set forth in 24 U.S.C.F.R. 570.602 which requires compliance with Section 109 of the Act (42 USC 5301).

18. CIVIL RIGHTS COVENANT. As provided in 24 U.S.C.F.R. 570.600 and 570.601, and depending upon the type and nature of the grant of CDBG funds, this Contract may be subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and HUD regulations . Borrower certifies that its activities under this Contract shall be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) and that it will comply with the other provisions of Title 24 of the U.S.C.F.R. and with other applicable laws, to the full extent of their application. Further pursuant to Executive Order 11063 (as amended pursuant to Executive Order 12259) set out in 24 U.S.C.F.R. 107, in the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under the Contract Borrower shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex, or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon, and providing that the Agency and the United States are beneficiaries of and entitled to enforce such covenant. Borrower, in undertaking its obligation in carrying out the program assisted hereunder, shall take such measures as are necessary to enforce such covenant and shall not itself so discriminate.

19. MINORITY/WOMEN'S BUSINESS ENTERPRISES REQUIREMENTS. This Contract is subject to minority and women's business enterprises requirements set forth in Executive Order 12432, Executive Order 11625, and Executive Order 12138.

a) Borrower shall take all reasonable steps necessary to encourage the participation of minority and female owned businesses in work under this Contract. With regard to any work of construction funded with Project Funds, such steps may include, without limitation, the following:

(i) Obtaining the minority and Women's Business Enterprises Registry from the Agency MBE/WBE Coordinator to ensure such contractors receive an invitation to bid.

(ii) Advertising the invitation to bid or to submit proposals in the El Hispano and the Sacramento Observer as well as in a newspaper of general circulation in the Sacramento metropolitan area.

(iii) Reviewing the telephone directory or professional organization membership lists, or making direct contact with minority- or female-owned businesses for specialized trades and services, and inviting such firms to bid.

b) Borrower shall maintain documentation of outreach efforts to minority and/or female owned businesses. Additionally, Borrower shall maintain documentation of contract awards for the Agency's Quarterly Minority Business Enterprise Report. The MBE/WBE utilization goals are as follows:

MBE: 8.05 percent of contract dollars

WBE: 8.05 percent of contract dollars

c) Borrower shall include the Minority and Women's Business Enterprises requirements, in the form prescribed by the Agency, in all contracts for use of funds under this Contract, and Borrower shall coordinate purchases of goods and services over \$10,000 with the Agency's MBE/WBE Coordinator.

20. FLOOD DISASTER PROTECTION. Pursuant to the requirement of the Flood Disaster Protection Act of 1973 (42 USC 4104), Borrower shall not use or permit the use of any portion of the assistance provided under this Contract for acquisition or construction purposes as defined by the Director of Federal Emergency Management Agency (42 USC 4003(a) (4)), for use in an area identified by the Director of Federal Emergency Management Agency (42 USC 4003(a) (4)), as having special flood hazards unless the community in which such area is located is then participating in the national flood insurance program (described at 42 USC 4011) and the use of any such assistance shall be subject to the mandatory purchase of flood insurance requirements of 42 USC 4012a.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Director as having special flood hazards and in which the sale of flood- insurance has been made available under the National Flood Insurance Act of 1968, 42 USC 7401 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under the Flood Disaster Protection Act of 1973 (42 USC 4012a). Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Contract.

21. COMPLIANCE WITH AIR AND WATER ACTS. This Contract is subject to the applicable requirements of the Clean Air Act (42 USC 7401 et seq.), the Federal Water Pollution Control Act, (33 USC 1251 et seq.), and the corresponding regulations of the Environmental Protection Agency (40 U.S.C.F.R. 15 et seq.). In compliance with said regulations, Borrower shall cause or require to be inserted in all contracts and subcontracts funded with Project Funds, and with respect to any transaction which is not otherwise exempt from such laws and regulations, all of the following requirements:

a) A stipulation by the contractor or subcontractor that any facility to be utilized in the performance of the contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 U.S.C.F.R. 15.10.

b) Contract by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, (42 USC 7414c-8) and Section 308 of the Federal Water Pollution Control Act, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

c) A stipulation that, as a condition for the award of the contract, prompt notice shall be given to Agency by Borrower or the prospective contractor or subcontractor of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

d) Contract by the contractor that he shall include or cause to be included the criteria and requirements in Section 18.a. through 18.c. of this section in every non-exempt subcontract and requiring that the contractor shall take such action as the government may direct as a means of enforcing such provisions.

22. In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) (42 USC 7413) of the Clean Air Act or Section 309(c) (42 USC 1319) of the Federal Water Pollution Control Act.

23. **RELOCATION.** This Contract is subject to the requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.) and HUD implementing regulations at 24 U.S.C.F.R. Part 42 and U.S.C.F.R. 570.606. Borrower shall not undertake any of the work contemplated under this Contract if relocation is involved without first obtaining written approval from Agency. Borrower shall inform affected persons of the relocation assistance policies and procedures set forth in the regulations at 24 U.S.C.F.R. 42 and 24 U.S.C.F.R. 570.606.

24. **PROPERTY OWNERSHIP AND PROCUREMENT.** The Borrower, shall, in the acquisition or improvement of real and personal property with funds provided under this Contract, be subject to all applicable provisions of the Federal Requirements.

a) Any real property under Borrower's control which was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 must be either used to meet one of the national objectives in 24 U.S.C.F.R. 570.208 for five years after the expiration or termination of this Contract, or disposed of in a manner that results in the Agency being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property.

b) General property and procurement guidelines are contained in 24 U.S.C.F.R. 570 and OMB Circular Number A-133, Attachments N and O (attached hereto and made a part hereof). In all cases in which personal property is sold, the proceeds shall be transferred to Agency for the CDBG program or shall be Program Income, and, personal property not needed by the Borrower shall be transferred to Agency for the CDBG program or shall be retained by Borrower after compensating the Agency.

c) Real property shall be acquired in accordance with Title III, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (at U.S.C.F.R. Part 42).

25. **DRUG-FREE WORKPLACE.** Borrower shall comply with the Drug-Free Workplace Act of 1988 (final rule published on May 25, 1990) and Agency's policies and rules promulgated under the Act. Borrower shall obtain such policies and rules from the Agency.

26. **USE OF DEBARRED, SUSPENDED OR PROHIBITED PARTIES.** Borrower shall not use any Project Funds, directly or indirectly, to award contracts to, or otherwise engage the services of, or fund any contractor or Borrower during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 U.S.C.F.R. 570 et seq.

27. **CONSTRUCTION PROVISIONS.** Borrower shall comply with the provisions of this Section 23. for all activities pertaining to the construction, prosecution, completion or repair of any building or work financed in whole or in part by CDBG funds provided pursuant to this Contract.

28. **FEDERAL LABOR STANDARDS.** Pursuant to 24 U.S.C.F.R. 570.603, for construction, rehabilitation, alteration, or repair of real property (other than residential property containing less than eight units) funded with Project Funds, Borrower shall comply, and shall cause all subcontractors on such work to comply, with the applicable provisions of the Davis-Bacon Act, as amended, (40 USC 276a, 276a-5), the Contract Work Hours and Safety Standards Act, as amended, (40 USC 327 et seq.) and all rules, regulations and orders promulgated under said acts. (Among other provisions, said acts establish minimum wages and fringe benefits; prohibit deductions or rebates from payments; provide for the withholding of funds to assure compliance with wage provisions; and provide for the termination of the contract and debarment of the contractor for failure so to comply.)

2. Pursuant to 24 U.S.C.F.R. 570.603, for construction, rehabilitation, alteration, or repair of real property (other than residential property containing less than eight units) funded with Project Funds, Borrower shall also comply, and shall cause all subcontractors on such work to comply, with all other applicable HUD labor requirements, including, without limitation, the requirements of 29 U.S.C.F.R. 3 and 29 U.S.C.F.R. 5 which govern the payment of wages and the ratio of apprentices and trainees to journeymen. If wage rates higher than those required under such regulations are imposed by state or local law, nothing in this Contract is intended to relieve Borrower of its obligations, if any, to require payment of the higher rates. Borrower shall cause or require to be inserted, in all such contracts, provisions which subject the parties to the Federal Labor Standards Provision and all other applicable regulations and requirements of HUD. Borrower shall not award any contract

subject to the provisions of this Section 23.a. of the Contract to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

3. **SECTION 3 CLAUSE.** For construction work in excess of \$100,000, Borrower shall be subject to the following clause(s) (commonly referred to as the "Section 3 Clause"), and shall cause the following clause to be included in all contracts for work funded pursuant to this Contract:

4. 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.

(i) The parties to this contract agree to comply with HUD's regulations in 24 U.S.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.

(ii) 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.

(iii) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 U.S.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 U.S.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 U.S.C.F.R. part 135.

(iv) 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 U.S.C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 U.S.C.F.R. part 135.

(v) Noncompliance with HUD's regulations in 24 U.S.C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(vi) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

29. ARCHITECTURAL BARRIERS ACT. Borrower shall comply with the Architectural Barriers Act of 1968 (42 USC 4151), as applicable, which Act requires that the design of any facility, except a private residence, that is constructed, renovated, remodeled or rehabilitated with funds received pursuant to this Contract shall comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped", as described in 41 U.S.C.F.R. 10119.6, and Borrower shall cooperate with the Agency in its inspections pursuant to such provisions.

30. **LEAD-BASED PAINT.** The use of lead-based paint is prohibited in any residential structure constructed or rehabilitated with Project Funds, which prohibitions are further described in 24 U.S.C.F.R. 35, Subpart F. For such properties constructed prior to 1978, Borrower shall assure that rehabilitation applicants, purchasers or tenants, as the case may be, shall be notified (i) that the property may contain lead-based paint, (ii) of the hazards of lead-based paint, (iii) of the symptoms and treatment of lead-based poisoning (iv) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards), (v) of the advisability and availability of blood level screening for children under the age of seven years of age, and (vi) that in the event lead-based paint is found on the property, appropriate abatement procedures may be undertaken. Borrower shall follow the procedures for the elimination of lead-based paint hazards, to the extent required under 24 U.S.C.F.R. 570.608 (c).

RESOLUTION NO. 2009 -

Adopted by the Sacramento City Council

on date of

AUTHORIZATION TO ENTER INTO MASTER PROJECT AGREEMENTS WITH SELECTED VOLUME BUILDER AND MISSION DRIVEN COMMUNITY PARTNERS AND TO TRANSFER FORECLOSED SINGLE FAMILY PROPERTIES ACQUIRED BY SHRA TO SELECTED COMMUNITY PARTNERS FOR THE PURPOSES OF REHABILITATION AND RESALE TO HOMEOWNER OCCUPANTS CONSISTENT WITH THE GUIDELINES OF THE NEIGHBORHOOD STABILIZATION PROPERTY RECYCLING PROGRAM

BACKGROUND

- A. On February 24, 2009, the Sacramento City Council authorized the Sacramento Housing and Redevelopment Agency (SHRA) to amend and submit changes to the Neighborhood Stabilization Program (NSP) in the 2009 One-Year Action Plan to the U.S. Department of Housing and Urban Development (HUD), authorizing SHRA to establish and implement the Vacant Properties Program, the Block and Acquisition and Rehabilitation Programs, and the Property Recycling Program to undertake NSP activities.
- B. On June 16, 2009, the Sacramento City Council authorized SHRA to modify the NSP Property Recycling Program Guidelines to allow SHRA to purchase foreclosed properties within the NSP Target Areas to be transferred to experienced and qualified development partners for rehabilitation and resale to homeowner occupants.
- C. On June 16, 2009, the Sacramento City Council authorized SHRA to release a Request for Qualifications (RFQ) for the rehabilitation and resale of foreclosed properties purchased through the Property Recycling Program and to convene an evaluation committee to review the qualifications and proposals and provide a recommendation on the selection of qualified builders to participate in the rehabilitation and resale of foreclosed properties.
- D. On July 7, 2009, SHRA released the Neighborhood Stabilization Property Recycling Program Volume Builder and Mission Driven Community Partner RFQs to solicit interest in the transfer, rehabilitation and resale of foreclosed, single family housing by experienced and qualified development partners and in August and September 2009, the RFQ evaluation committee convened to review, qualify and rank the statement of qualifications received and provide its recommendation to SHRA.

NSP Property Recycling Program Community Partner Selection

- E. On July 17, 2009, SHRA, on behalf of the consortium of the City and County of Sacramento and the cities of Citrus Heights and Rancho Cordova submitted an application for up to \$36,811,500 to the U.S. Department of Housing and Urban Development (HUD) for the implementation of the Neighborhood Stabilization Program 2 (NSP-2) under the American Recovery and Reinvestment Act of 2009 (ARRA).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. All evidence presented having been duly considered, the findings, including environmental findings regarding this action, are approved.
- Section 2. The Sacramento City Council confirms SHRA's recommendation to qualify the following Volume Builder Community Partner respondents listed in order of ranking: 1) NeighborWorks HomeOwnership Center, Sacramento Region/GALA Construction; 2) Towne Development of Sacramento, Inc.; and 3) Housing Group Fund.
- Section 3. SHRA is authorized to enter into a Master Project Agreement, standard loan agreements, and other related documents with the following development teams with the development partnership of NeighborWorks HomeOwnership Center, Sacramento Region, and GALA Construction as the top ranked and qualified Volume Builder Community Partner for the transfer, rehabilitation and resale of foreclosed properties consistent with the guidelines of the Property Recycling Program (Exhibit A). As necessary, SHRA is authorized to enter into a Master Project Agreement(s) with up to two additional Volume Builder Community Partners in order of ranking and qualification.
- Section 4. The Sacramento City Council confirms SHRA's recommendation to qualify the following Mission Driven Community Partner respondents listed in order of ranking: 1) Sacramento Habitat for Humanity; 2) Twin Rivers Unified School District, Adult School; 3) Community Resource Project, Inc.; 4) Visionary Home Builders of California; 5) Northern California Construction Training Development Corporation; and 6) Build America.
- Section 5. SHRA is authorized to enter into a Master Project Agreement, standard loan agreements, and other related documents with the following development teams, as the top ranked and qualified Mission Driven Community Partners for the transfer, rehabilitation and resale of foreclosed properties consistent with the guidelines of the Property Recycling Program: 1) Sacramento Habitat for Humanity; and 2) Twin Rivers Unified School District, Adult School. As necessary, SHRA is authorized to enter into a Master Project Agreement(s) with one or more additional Mission Driven Community Partners in order of ranking and qualification.

NSP Property Recycling Program Community Partner Selection

Section 6. SHRA is authorized to transfer, through a Master Project Agreement and property specific Disposition and Development Agreements, all foreclosed single family residential properties acquired by SHRA for the purposes of rehabilitation and resale to homeowner occupants consistent with the Community Partner Master Project Agreements and the guidelines of the Property Recycling Program to its Volume Builder and Mission Driven Community Partners, including those properties already acquired by SHRA for the purposes of the program.

Section 7. SHRA is authorized to amend Section 4.0 of the NSP Property Recycling Program Guidelines regarding affordability of units sold through the program to remove the five-year equity restriction.

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Exhibit A: NSP Property Recycling Program Guidelines



Sacramento Neighborhood Stabilization Program Property Recycling Program

Property Recycling Program

The Sacramento Property Recycling Program (PRP) focuses on stabilizing neighborhoods through strategic investments and partnerships. The PRP aims to transform the most impacted neighborhoods, streets and properties; those areas where the market alone cannot ensure change. Working with governmental, non-profit and for-profit partners, the PRP provides access to properties and funding to remove the blight of foreclosures through redevelopment activities, acquisition and rental of affordable housing, and acquisition and rehabilitation of single family homes for sale throughout Sacramento. The PRP is complimentary to the other programs funded under the Neighborhood Stabilization Program (NSP), all of which seek to reduce the impacts of foreclosures.

- 1.0 Administration.** The Property Recycling Program is administered by the Sacramento Housing and Redevelopment Agency (SHRA). SHRA is a joint powers authority of the City and County of Sacramento, and the recipient and administrator of the NSP funding. SHRA's primary role in the PRP is acquisition of properties and disposition to the appropriate Community Partner (see Section 7.0). SHRA's affiliated entities, the Redevelopment Agencies of the City and County of Sacramento and the Housing Authorities of the City and County may also serve as the purchaser of properties.
- 2.0 Eligible Areas.** All activities under the PRP will be for properties located in the NSP target areas, with a priority on areas that are characterized by significant code violations/actions, disproportionate foreclosure activity and/or other blighting conditions. See the attached map of the NSP target areas.
- 3.0 Eligible Properties.** Through the PRP, SHRA and its affiliated entities are authorized to purchase foreclosed residential and vacant properties within the NSP target areas. NSP regulations regarding acquisition of properties at a discount from market appraised value will be applicable both on a property level and on a portfolio level. The current market appraised value is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60-days prior to an offer made for the property.
- 4.0 Affordability.** All residential units resulting from the acquisition, rehabilitation or construction through PRP activities must house families at or below 120% of area median income (AMI). Affordability definitions are based on the area median income (AMI) for the Sacramento Metropolitan Statistical Area (MSA) as established by the US Department of Housing and Urban Development (HUD). The median income is subject to change annually.

Properties purchased through the PRP are presumed to be "naturally affordable" based on the location and market conditions of the targeted areas (24 CFR 92.254(a)(5)(i)(B)). Units that will be sold (either initially or through a lease to own program) as a result of PRP activities must be sold to a family whose income does not exceed 120% of AMI (adjusted for family size) and ~~will contain an equity restriction for five years~~, but will not require a long term affordability covenant. Rental units resulting from PRP activities will include long term affordability covenants that restrict income and occupancy to families at or below 50% AMI, consistent with HOME rent standards (24 CFR 92.252) and will be subject to additional affordability requirements of the SHRA Multi-family Lending and Mortgage Revenue Bond Policies or Investment Property Program. In the instance of a multi-unit property, these affordability requirements will apply to the number of units proportionally assisted with NSP funding.

- 5.0 Property Acquisition.** Under the PRP, SHRA can acquire residential and vacant properties that are located in a target area for one of three eligible activities, described in Section 6.0. In addition to purchases through local brokers, realtors and other publicly accessible routes, SHRA has established a relationship with the National Community Stabilization Trust (NCST). NCST allows partner governmental entities to view and acquire foreclosed properties within the NSP target areas at a significant market discount, prior to the properties being actively listed. All property acquired under the PRP is subject to the federal Uniform Relocation Act (49 CFR Part 24), as applicable.

6.0 Eligible Activities. The PRP includes three distinct activities, each of which is described in detail below.

6.1 Redevelopment. Properties that support a larger site assemblage effort of the City or County Redevelopment Agency or Housing Authority or that are severely dilapidated to the point necessitating demolition, will be acquired through the PRP. Properties under this activity may require an intermediate hold strategy in accordance with a long-term plan that can be fully implemented once the market can support the additional investment. As such, demolition and land banking activities are viable intermediate actions that can bring an immediate impact with the potential for an even larger benefit in the future.

6.1.1 Demolition. Activities requiring demolition will be in conjunction with one of the following three strategies: land banking, change of use, or new construction. Demolition and new construction activities will require additional environmental determinations under the National Environmental Protection Act (NEPA) and the California Environmental Quality Act (CEQA).

6.1.2 Land Banking. Land banking activities will be in support of efforts where Agency intervention was necessary to prevent further deterioration of a neighborhood or in coordination with larger projects. No property placed in the land bank can be held by SHRA for more than ten years, as outlined under NSP.

6.2 Rehabilitation and Resale of Single Family Housing. Existing single family (1-4 units) properties that are foreclosed upon and vacant may be acquired by SHRA for disposition to a Community Partner (see Section 7.0 below) to rehabilitate and sell. These properties will primarily come through the NCST, and, as such, will require expedient inspection, appraisal and purchase negotiations. Pre-approved Community Partners will be required to comply with all requirements of the NSP Vacant Properties Program, including rehabilitation standards, payment of Davis Bacon Prevailing Wages, and lead based paint requirements.

6.3 Rehabilitation of Rental Housing. Existing properties that are foreclosed upon may be acquired by SHRA for disposition to a Rental Housing Developer (see Section 7.4 below). A rental rehabilitation project must comply with all requirements of the SHRA Multi-Family Lending and Mortgage Revenue Bond Policies or Investment Property Program, including rehabilitation standards, management standards and resident service requirements. NSP restrictions will be placed on the proportionate number of units funded with NSP money (e.g. if half of the project cost is funded with NSP, half of the units will be restricted by NSP). NSP units in rental properties must be affordable to families at or below 50% AMI.

7.0 Community Partners. For multi-family and single-family properties acquired for rehabilitation and rent or resale, SHRA will work with a variety of pre-approved community partners. There are four types of Community Partners, described below, that SHRA will work with, subject to successful qualification, to ensure broad access to properties and nimble recycling of properties.

7.1 Mission-Driven Organizations. These are non-profit organizations that have an existing program and track record of rehabilitating or constructing single family homes, with a larger community purpose or goal. Such missions may include job training, youth empowerment, affordable housing, community reinvestment, etc. Partnerships among existing non-profit organizations are encouraged if needed to amass the appropriate experience.

7.1.1 Selection. SHRA will issue a Request for Qualifications (RFQ) for qualified Mission-Driven Community Partners. The RFQ will require information on past performance, community purposes, financial capacity and type(s) of properties desired. Approval under the RFQ is a pre-requisite for participation as a Mission-Driven Community Partner.

7.1.2 Property Access. Approved Mission-Driven Community Partners will be provided first access to homes that meet their needs and that match with the particular community needs. Should more than one Mission-Driven Community Partner request the same property, SHRA will offer it first to the partner who has not received a property and second to the partner needing the least financial assistance. Should the Mission-Driven Community Partner not want the properties offered, they will be offered to the volume builder(s) or VPP participants, in that order.

7.1.3 Financial Assistance. Mission-Driven Community Partners will be offered the rehabilitation loan and developer fee assistance under the Vacant Properties Program. In addition, based on SHRA staff review of the partner's financial capacity, the property may be offered at a discount from the SHRA purchase price or as a donation, if needed to support a reduced sales price based on the partner's mission or to support the cost of training or other community components of the partner's mission.

7.2 Volume Builders. These are non-profit or for-profit single family builders who have the financial capacity to rehabilitate at least 10 scattered site homes at a time, including the ability to provide capital for purchase, the ability to support carrying costs on the homes and the ability to provide sufficient labor.

7.2.1 Selection. SHRA will issue a Request for Qualifications (RFQ) for qualified Volume Builder Community Partners. The RFQ will require information on past construction and rehabilitation projects, financial capacity and projected volume capacity. SHRA anticipates selecting one Volume Builder Community Partner who can efficiently and expeditiously acquire, rehabilitate and sell the majority of units purchased under the NCST. Approval under the RFQ is a pre-requisite for participation as a Mission-Driven Community Partner.

7.2.2 Property Access. All properties not appropriate for or not desired by the Mission-Based Community Partner(s) will be offered to the Volume Builder Community Partner(s).

7.2.3 Financial Assistance. Homes will be sold to the Volume Builder Community Partner(s) at the same price when purchased by SHRA, potentially through a "double escrow" at the time of purchase by SHRA. The partner(s) will be offered the same rehabilitation loan and developer fee assistance under the Vacant Properties Program.

7.3 Vacant Property Program Participants. These are the single family developers/builders approved through the Vacant Property Program RFQ process.

7.3.1 Selection. The Vacant Property Program has a separate application process to become a "Preferred Builder." Approval under this application process will be deemed approval under the PRP.

7.3.2 Property Access. Any property not acquired by the Mission-Driven or Volume Builder Community Partners will be offered to the VPP participants on a first-come, first-serve basis.

7.3.3 Financial Assistance. Homes will be sold to the VPP Community Partner(s) at the same price when purchased by SHRA. The partner(s) will be offered the same rehabilitation loan and developer fee assistance under the Vacant Properties Program.

7.4 Rental Housing Developers. These are non-profit, for-profit or governmental developers of rental properties, with experience in constructing, rehabilitating, operating and/or maintaining affordable rental housing. As multi-family properties become available under the PRP, SHRA will release property specific Request for Proposals (RFP) to select the best developer and project for the particular site. Financial assistance will be considered consistent with SHRA Multi-family Lending and Mortgage Revenue Bond Policies or Investment Property Program.

8.0 Disposition Process. Properties purchased for redevelopment or rental housing objectives will be disposed of through a site specific public process, including a Disposition and Development Agreement (DDA) for redevelopment sites and a RFP and DDA for rental housing sites.

Properties purchased for rehabilitation and re-sale to owner occupants will be disposed of to pre-selected Mission Driven or Volume Builder Community Partners, described in Section 7.1 – 7.2, above. Concurrent with the acquisition from NCST, SHRA will "triage" the property to determine the best end use, and work with the identified Community Partners on their interest and capacity in the property. It is expected that at the time of SHRA's close of escrow on the property, they will be positioned to immediately transfer the property to the identified Community Partner through a Disposition and Development Agreement (DDA). If a Mission Driven or Volume Builder Community Partner does not acquire the property, SHRA will offer the properties to the Vacant Property Program Participants through a bid process, with disposition through a property specific DDA.

After rehabilitation of single family for sale homes, Community Partners will be responsible for the sale of the homes to income eligible buyers, consistent with standards of the Vacant Properties Program. Maximum sales prices may not exceed the total of acquisition, rehabilitation, and disposition costs. Disposition costs may include real estate commissions and closing costs but these costs shall not exceed 10 percent of the sales price. Homes must be sold to homeowner occupants making no more than 120% of area median income, adjusted for family size who have completed 8 hours of HUD approved homebuyer education counseling and who have attained a fixed rate, 30 year first mortgage.