

## **RESOLUTION NO. 2011-592**

Adopted by the Sacramento City Council

October 25, 2011

### **DEL PASO NUEVO HOMEOWNERSHIP PROJECT: AUTHORIZING THE REFINANCE OF AN EXISTING U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) SECTION 108 LOAN (B-97-MC-06-003); AND AMENDING THE SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY BUDGET TO REMIT THE FEBRUARY 1, 2012 INTEREST PAYMENT AS WELL AS THE COST OF ISSUANCE**

#### **BACKGROUND**

- A. In 2001, Sacramento Housing and Redevelopment Agency (SHRA), as the public entity designated to administer the Community Development Block Grant (CDBG) funds on behalf of the City of Sacramento, obtained a Federal Department of Housing and Urban Development (HUD) Section 108 Loan (B-97-MC-06-003) Series 2001-A to finance the Del Paso Nuevo Homeownership Project.
- B. The outstanding principal on the existing note is in the amount of Two Million Ninety Five Thousand Dollars (\$2,095,000).
- C. HUD is scheduled to have a Section 108 public offering on November 17, 2011 where SHRA desires to refinance the outstanding balance due to the favorable interest rates.
- D. The interest rates proposed by HUD would yield a savings of approximately Five Hundred Thousand Dollars (\$500,000) over the remaining 10 year term.
- E. The remaining terms of the note will remain unchanged.
- F. The project is categorically exempt per California Environmental Quality Act (CEQA) Guidelines Section 15378(b)(5) which excludes administrative activities of governments that will not result in direct or indirect changes in the environment.
- G. The specific actions herein are exempt under National Environmental Policy Act (NEPA) regulations at 24 CFR Section 58.34(a)(2) and (3), which exempt information and financial services, and administrative and management activities respectively.

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

- Section 1. The above recitals are found to be true and correct and the proposed administrative and management actions are categorically exempt under CEQA Guidelines Section 15378(b)(5), and exempt under NEPA pursuant to 24 CFR 58.34(a)(2) and (3).

- Section 2. SHRA, by action of its Executive Director or her designee, is authorized to execute and transmit all loan documents to HUD including the Note, attached as Exhibit A, in the amount of \$2,095,000 and take other actions necessary to refinance the existing HUD Section (B-97-MC-06-003) Series 2001-A obtained to finance the Del Paso Nuevo Homeownership Project and to perform other actions necessary to ensure proper repayment of the Note.
- Section 3. SHRA, by action of its Executive Director or her designee, is authorized to amend the SHRA budget to remit the February 1, 2012 interest payment of \$67,298 as well as the cost of issuance estimated at \$10,475 to the Trustee prior to close.
- Section 4. The Mayor of the City of Sacramento, or his designee, is hereby authorized to execute all loan documents including the Contract for Loan Guarantee Assistance, attached as Exhibit B, and take other actions necessary to refinance the existing HUD Section 108 loan (B-97-MC-06-003) Series 2001-A obtained to finance the Del Paso Nuevo Homeownership Project.

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Exhibit A: Fixed Rate Note

Exhibit B: HUD Contract for Loan Guarantee Assistance

Adopted by the City of Sacramento City Council on October 25, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

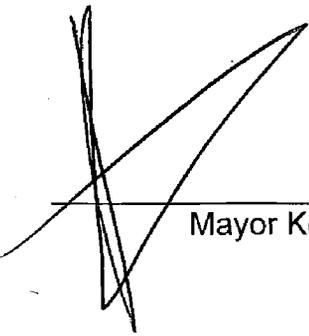
Noes: None.

Abstain: None.

Absent: None.

Attest:

  
Shirley Concolino, City Clerk

  
\_\_\_\_\_  
Mayor Kevin Johnson

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Fixed Rate Note for Series 2011-A Certificates

BORROWER: The Sacramento Housing And Redevelopment Agency, CA

NOTE NO. B-97-MC-06-0003

REGISTERED HOLDER:  
THE BANK OF NEW YORK MELLON

DATE:

AGGREGATE PRINCIPAL  
AMOUNT: \$2,095,000

For value received, the undersigned, the Sacramento Housing And Redevelopment Agency (the "Borrower," which term includes any successors or assigns), a public entity or agency organized and existing under the laws of the State (or Commonwealth, if applicable) of California, promises to pay to the order of THE BANK OF NEW YORK MELLON, as Registered Holder (the "Holder," which term includes any successors or assigns), the Principal Amounts set forth on the attached Schedule P&I as of each applicable Principal Due Date set forth therein, together with interest on such unpaid Principal Amounts at the rates applicable thereto as specified on such attached Schedule P&I. Interest shall be calculated and payments shall be made in the manner set forth below. The Holder is acting hereunder on behalf of a trust (the "Trust") created pursuant to a Trust Agreement by and between the Secretary of Housing and Urban Development (the "Secretary") and Chemical Bank (now known as The Bank of New York Mellon), as trustee (the "Trustee"), dated as of January 1, 1995, as amended (the "Trust Agreement"), as supplemented by the applicable Supplement to the Trust Agreement, by and between the Secretary and the Trustee.

### Principal and Interest

Interest on a Principal Amount of this Note that is due as of a given date specified on the Schedule P&I attached hereto (such date, the "Principal Due Date" for such Principal Amount) shall accrue at the per annum rate specified on such Schedule P&I from (and including) the date hereof to (but excluding) such Principal Due Date or, if applicable, to the applicable Interest Due Date on which an Optional Redemption (as defined below) occurs. The aggregate of the interest amounts accrued on the entire unpaid Principal Amount of this Note shall be due semiannually as of February 1 and August 1 of each year (each, an "Interest Due Date"), commencing on February 1, 2012, until the Aggregate Principal Amount listed on the Schedule P&I attached to this Note is paid in full. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

### Optional Redemption

Certain Principal Amounts indicated as being eligible for Optional Redemption on the Schedule P&I hereto may be paid, in whole or in part, at the option of the Borrower as of any Interest Due Date on or after the date specified in such Schedule (an "Optional Redemption"). In order to elect an Optional Redemption of a redeemable Principal Amount, the Borrower shall give notice of its intention

to redeem a Principal Amount to the Trustee and the Secretary not less than 60 days nor more than 90 days prior to the Interest Due Date as of which the Borrower intends to redeem the Principal Amount. The Trustee shall apply any payments received in respect of Optional Redemptions in accordance with written instructions of the Borrower, as approved by the Secretary. Principal Amounts that are not indicated as being eligible for Optional Redemption on such Schedule may not be prepaid.

#### Additional Definitions

For purposes of this Note, the following terms shall be defined as follows:

"Business Day" shall mean a day on which banking institutions in New York, New York, are not required or authorized to remain closed and on which the Federal Reserve Bank and the New York Stock Exchange are not closed. If any payment (including a payment by the Secretary) is required to be made on a day that is not a Business Day, then payment shall be made on the next Business Day.

"Contract" shall mean the Contract for Loan Guarantee Assistance, and any amendments thereto, between the Secretary and the Borrower, the designated public entity named therein (if applicable), or the State named therein (if applicable), which refers to and incorporates this Note by the number hereof.

#### Borrower's Timely Payment to Trustee

Notwithstanding anything contained in this Note, the Borrower, in accordance with the Contract, shall be required to make all payments of interest and principal, including any Optional Redemption payments, directly to the Trustee on the seventh Business Day prior to the appropriate Interest Due Date, Principal Due Date or date of Optional Redemption, as applicable.

#### Interest on Late Payments

If a payment of principal or interest herein provided for has not been duly received by the Holder from either the Borrower or the Secretary by the close of business on the applicable Interest Due Date or Principal Due Date, interest shall accrue on the amount of such payment at the applicable interest rate or rates payable on this Note, from the relevant due date until the date such payment is made. Nothing in the immediately preceding sentence shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

#### Applicability of Fiscal Agency Agreement and Trust Agreement

This Note and payments made hereunder shall be administered pursuant to the terms of the Trust Agreement and are subject to such agreement. The terms and provisions of the Trust Agreement, insofar as they affect the rights, duties and obligations of the Holder and/or the Borrower, are hereby incorporated herein and form a part of this Note. Capitalized terms not defined in this Note shall have the meanings ascribed to them in Trust Agreement. The Amended and Restated Master Fiscal Agency Agreement dated as of May 17, 2000, between the Secretary and The Chase Manhattan Bank (now known as The Bank of New York Mellon), as Fiscal Agent (the "Fiscal Agency Agreement") provides for JPMorgan Chase Bank, acting as Fiscal Agent to perform certain duties, including the duties of registrar for this Note until this Note is canceled or a new registrar appointed in accordance with the Fiscal Agency Agreement. The Trust Agreement provides for the Trustee to perform certain duties, including the duties of paying agent and collection agent for this Note until a new Trustee is appointed in accordance with the Trust Agreement. This Note may be surrendered to the Fiscal Agent for registration of transfer or exchange, as provided in the Fiscal Agency Agreement. The Fiscal Agent

and the Trustee shall permit reasonable inspection to be made of a copy of the Fiscal Agency Agreement or Trust Agreement kept on file at its corporate trust office. Neither the Fiscal Agency Agreement nor the Trust Agreement shall change the Borrower's payment obligations under this Note.

#### Applicability of Contract and Secretary's Guarantee

This Note evidences indebtedness incurred pursuant to and in accordance with the Contract and pursuant to Section 108 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5308) (the "HCD Act"). This Note is subject to the terms and provisions of the Contract, to which Contract reference is hereby made for a statement of said terms and provisions and for a description of the collateral security for this Note. The payment of principal on the applicable Principal Due Dates and of interest on the applicable Interest Due Dates under this Note is unconditionally guaranteed by the Secretary to the Holder through a guarantee (the "Guarantee"). Execution of the Secretary's Guarantee is required before this Note is effective, and such Guarantee shall be issued pursuant to and in accordance with the terms of the Contract and Section 108 of the HCD Act.

#### Default

A default under this Note shall occur upon failure by the Borrower to pay principal or interest on this Note when due to the Trustee hereunder. On any Interest Due Date on or after the first permissible Optional Redemption Date, if either (i) a Borrower defaults on the payment of any interest or Principal Amount when due or (ii) the Secretary gives notice of a final decision to declare the Borrower in default pursuant to the following paragraph, then the Secretary may, but is not obligated to, make an acceleration payment to the Trustee equal to the Aggregate Principal Amount of the Note, together with accrued and unpaid interest thereon to such Interest Due Date. The Secretary shall give notice of such payment on the fourteenth Business Day preceding such Interest Due Date and shall make such payment on the seventh Business Day preceding such Interest Due Date. In the event that any such acceleration payment is made from sources other than funds pledged by the Borrower as security under the Contract (or other Borrower funds), the amounts paid on behalf of the Borrower shall be deemed to be immediately due and payable to the Secretary. Nothing in this paragraph shall be construed as permitting or implying that the Borrower may, without the written consent of the Holder and the Secretary, modify, extend, alter or affect in any manner whatsoever the right of the Holder timely to receive any and all payments of principal and interest specified in this Note.

In addition, the Secretary may declare the Borrower in default under this Note if the Secretary makes a final decision in accordance with the provisions of 24 CFR § 570.913 (or any successor regulation thereof), including requirements for reasonable notice and opportunity for hearing, that the Borrower has failed to comply substantially with Title I of the HCD Act. Following the giving of such reasonable notice, the Secretary may take the remedial actions specified as available in the relevant provisions of the Contract pending the Secretary's final decision.

#### Holder's Reliance on Guarantee

Following a default by the Borrower under the terms of this Note, the Holder agrees to rely wholly and exclusively for repayment of this Note upon the Guarantee. The enforcement of any instruments or agreements securing or otherwise related to this Note shall be the sole responsibility of the Secretary, and the Holder shall not be responsible for the preparation, contents or administration of such instruments and agreements, or for any actions taken in connection with such instruments and agreement. The Holder, to the extent it is legally able to do so, shall bind or cause to be bound its successors and assigns to all limitations imposed upon the Holder by this Note.

Amendment

This Note may only be amended with the prior written consent of the Secretary and the Borrower. No such amendment shall reduce, without the prior written consent of the Holder of this Note, in any manner the amount of, or delay the timing of, payments required to be received on this Note by the Holder or Trustee, including Guarantee Payments.

Waivers

The Borrower hereby waives any requirement for presentment, protest or other demand or notice with respect to this Note. The Borrower hereby waives notice of default and opportunity for hearing for any failure to make a payment when due.

Delivery and Effective Date

This Note is deemed issued, executed, and delivered on behalf of the Borrower by its authorized official as an obligation guaranteed by the Secretary pursuant to Section 108 of the HCD Act, effective as of the date of the Secretary's Guarantee.

Borrower Specific Provisions

Proceeds of this Note shall be used solely for the purpose of refinancing through defeasance funds advanced under previous Note(s) having the same Note number.

[Remainder of Page Intentionally Left Blank]

**THE UNDERSIGNED**, as an authorized official of the Borrower, has executed and delivered this Note.

Sacramento Housing And Redevelopment Agency, CA  
**BORROWER**

**BY:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
LaShelle Dozier  
(Name)

\_\_\_\_\_  
Executive Director  
(Title)

**SCHEDULE P&I**Note No. B-97-MC-06-0003

Principal Amount	Principal Due Date	Interest Rate	Optional Redemption Available	
			YES	NO
\$ 145,000	August 1, 2012			X
\$ 145,000	August 1, 2013			X
\$ 145,000	August 1, 2014			X
\$ 190,000	August 1, 2015			X
\$ 190,000	August 1, 2016			X
\$ 190,000	August 1, 2017			X
\$ 190,000	August 1, 2018			X
\$ 300,000	August 1, 2019			X
\$ 300,000	August 1, 2020			X
\$ 300,000	August 1, 2021			X
\$	August 1, 2022		X	
\$	August 1, 2023		X	
\$	August 1, 2024		X	
\$	August 1, 2025		X	
\$	August 1, 2026		X	
\$	August 1, 2027		X	
\$	August 1, 2028		X	
\$	August 1, 2029		X	
\$	August 1, 2030		X	
\$	August 1, 2031		X	

\$2,095,000 = Aggregate Principal Amount

Principal Amounts due on or after August 1, 2022, for which Optional Redemption is available may be redeemed, subject to the terms contained herein and in the Trust Agreement, on any Interest Due Date on or after August 1, 2021.

*U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT***CONTRACT FOR LOAN GUARANTEE ASSISTANCE UNDER  
SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT  
OF 1974, AS AMENDED, 42 U.S.C. §5308****For Series HUD 2011-A Certificates**

This Contract for Loan Guarantee Assistance ("Contract") is entered into by the City of Sacramento, California, (the "Unit of General Local Government"), the Sacramento Housing And Redevelopment Agency as designated public agency Borrower (the "Borrower"), and the Secretary of Housing and Urban Development ("Secretary"), as guarantor for the Guarantee made pursuant to section 108 ("Section 108") of title I of the Housing and Community Development Act of 1974, as amended (the "Act") and 24 CFR Part 570, Subpart M, of the promissory note executed contemporaneously herewith and numbered B-97-MC-06-0003, in the Aggregate Principal Amount of \$2,095,000, and any amended note or note issued in substitution for such note and having the same note number (the "Note"). This is one of multiple Contracts under the Funding Approval ("Commitment") of the same number, which was approved by the Secretary on

\_\_\_\_\_. Such Aggregate Principal Amount will be paid or credited to the account of the Borrower pursuant hereto (including any funds used to pay off prior interim notes refinanced by the Note), and all such amounts are collectively referred to herein as the "Guaranteed Loan Funds." The Note (including the Fiscal Agency Agreement and the Trust Agreement as defined in the Note and incorporated therein) is hereby incorporated into the Contract. Terms used in the Contract with initial capital letters and not otherwise defined in the text hereof shall have the respective meanings given thereto in the Note. The Fiscal Agency Agreement and the Trust Agreement are sometimes collectively referred to herein as the "Fiscal Agency/Trust Agreements," and the Fiscal Agent and the Trustee are sometimes collectively referred to as the "Fiscal Agent/Trustee."

The Borrower has been designated by the Unit of General Local Government to act as its designated public agency for purposes of issuance of the Note and the initial receipt, deposit and withdrawal of the Guaranteed Loan Funds in accordance with Part II of this Contract. Any agreement or obligation of the Borrower under this Contract shall also be deemed a joint and several agreement or obligation of the Unit of General Local Government for purposes of this Contract, 24 CFR Part 570, Subpart M, and the Act.

**PART I**

- A. **The Note.** The Note is payable to the Trustee as Registered Holder. On the Public Offering Date, it is expected that trust certificates backed by the Note and similar notes issued by other Section 108 borrowers, denominated "Section 108 Government Guaranteed Participation Certificates Series HUD 2011-A," will be purchased for a purchase price of the full Aggregate Principal Amounts thereof by underwriters selected by the Secretary (the "Underwriters") pursuant to an Underwriting Agreement between the Underwriters and the Secretary, at a closing on such Public Offering Date as determined by the Secretary and the Underwriters. The Borrower agrees that the interest rate at which the trust certificate of a specified maturity is sold to the Underwriters shall be the interest rate inserted on the Public Offering Date in Schedule P&I of the Note for the Principal Amount of corresponding maturity. The Note shall be effective as an obligation of the Borrower only upon its delivery by the Secretary to the Fiscal Agent/Trustee and sale to the Underwriters at the closing on the Public Offering Date. The Borrower authorizes the Secretary to deliver the Note, together with the Secretary's Guarantee thereof, to the Fiscal Agent/Trustee as of such closing on the Public Offering Date, in accordance with the Fiscal Agency/Trust Agreements. After the Public Offering Date, the Borrower agrees that the Trustee pursuant to the Trust Agreement will maintain the books and records of all payments on the Note and all Principal Amounts and interest rates on such Principal Amounts.
- B. **Consents.** By execution of this Contract, the Borrower ratifies and consents to the Secretary's selection of the Underwriters and authorizes the Secretary to negotiate with the Underwriters the terms of the Underwriting Agreement and of the public offering of interests in the trust certificates to investors (including the applicable interest rates). In addition, by execution hereof the Borrower ratifies and consents to the Secretary's selection of the Fiscal Agent/Trustee and agrees to the respective terms of the Fiscal Agency/Trust Agreements.
- C. **Prior Contracts.** As of the date of the Secretary's Guarantee of the Note, this Contract supersedes any prior Contract for Loan Guarantee Assistance entered into between the parties with respect to the Guaranteed Loan Funds, the terms of the Secretary's Guarantee, and any other matter covered by this Contract, provided that any such prior Contract continues to govern any action taken by the Borrower, the Unit of General Local Government, or the Secretary pursuant thereto and prior to the Secretary's Guarantee of the Note (except for the provisions of paragraph 4 of this Contract). Notwithstanding the preceding sentence, if such prior Contract contained provisions for security for the benefit of the Secretary in addition to the

security identified in paragraphs 5(a), 5(b), 5(d), or 5(e) hereof, which security may be generally set forth or incorporated in paragraph 5(c) (and any related provisions incorporated in paragraph 12) of such prior Contract, or may be set forth in paragraph 15 or any succeeding paragraphs (including related provisions incorporated in paragraph 12) of such prior Contract, such additional security provisions of the prior Contract are hereby incorporated in this Contract and shall be deemed a part hereof.

## PART II

### 1. Receipt, Deposit and Use of Guaranteed Loan Funds.

(a) Except for fees and charges deducted on the Public Offering Date pursuant to paragraph 4(a) by the Fiscal Agent/Trustee, or funds used to pay off any interim note refinanced by the Note, the Guaranteed Loan Funds shall be electronically transferred in accordance with the Borrower's instructions for deposit in a separate, identifiable custodial account (the "Guaranteed Loan Funds Account") with a financial institution whose deposits or accounts are Federally insured. The Guaranteed Loan Funds Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Custodial Account" (**Attachment 1**) and shall be continuously maintained for the Guaranteed Loan Funds. Such Letter Agreement must be executed when the Guaranteed Loan Funds Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.)

The Borrower shall make withdrawals from said account only for payment of the costs of Section 108 activities approved by HUD, for transfer to the Loan Repayment Account or for the temporary investment of funds pursuant to this paragraph 1(a). Such temporary investment of funds into the Guaranteed Loan Funds Investment Account shall be required within three Business Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Guaranteed Loan Funds Account. At that time, any balance of funds in the Guaranteed Loan Funds Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof, held in the Guaranteed Loan Funds Investment Account.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with the cash requirements of the approved activities. In no event shall the investments mature on or after

N/A, or have maturities which exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Guaranteed Loan Funds Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Custodial Investment Account" (**Attachment 2**), which account shall be maintained for all Government Obligations purchased with funds from the Guaranteed Loan Funds Account. The Guaranteed Loan Funds Investment Account need only be established if and when the Borrower is required to invest, or otherwise invests, the Guaranteed Loan Funds in Government Obligations. Such Letter Agreement must be executed when the Guaranteed Loan Funds Investment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) All proceeds and income derived from such investments shall be returned to the Guaranteed Loan Funds Account.

All funds in the Guaranteed Loan Funds Account or the Guaranteed Loan Funds Investment Account must be withdrawn and disbursed by the Borrower for approved activities by N/A. Any funds remaining in either Account after this date shall be immediately transferred to the Loan Repayment Account established pursuant to paragraph 6 of this Contract.

(b) The Borrower shall by the fifteenth day of each month provide the Secretary with a written statement showing the balance of funds in the Guaranteed Loan Funds Account and the withdrawals from such account during the preceding calendar month, and a statement identifying the obligations and their assignments in the Guaranteed Loan Funds Investment Account, until such accounts are fully disbursed.

(c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower and the Unit of General Local Government in and to the Guaranteed Loan Funds and Guaranteed Loan Funds Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10, or payment of any other obligations of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, in each case as elected by the Secretary in his sole discretion.

2. **Payments Due on Note.** The Borrower shall pay to the Fiscal Agent/Trustee, as collection agent for the Note, all amounts due pursuant to the terms of the Note. In accordance with the Note and the Fiscal Agency/Trust Agreements, payment shall be made by

3:00 P.M. (New York City time) on the seventh Business Day (the "Note Payment Date") preceding the relevant Interest Due Date or Principal Due Date (each as defined in the Note). If any Note Payment Date falls on a day that is not a Business Day, then the required payment shall be made on the next Business Day. Payment may be made by check or wire transfer.

Upon final payment of all amounts due to Holders under the Note, including any payment made by the Secretary pursuant to the Guarantee, the Fiscal Agent/Trustee is required by the Fiscal Agency/Trust Agreements to return the Note to the Secretary. Upon final payment to the Secretary of any amounts due as a result of Guarantee Payments or otherwise due under this Contract, the Secretary will cancel and return the Note to the Borrower in discharge of the Borrower's obligations under the Note.

3. **Selection of New Fiscal Agent or Trustee.** The Secretary shall select a new Fiscal Agent or Trustee if the Fiscal Agent or Trustee resigns or is removed by the Secretary. The Borrower hereby consents in advance to any such selection and to any changes in the Fiscal Agency/Trust Agreements agreed to by any Fiscal Agent or Trustee and the Secretary, subject to paragraph 4(d) of this Contract.

4. **Payments Due Fiscal Agent or Trustee; Documents to the Secretary.**

(a) The Borrower agrees to pay the Borrower's share, as determined by the Secretary, of the customary and usual issuance, underwriting, and other costs related to the public offering and future administration of the Note and the trust certificates, as approved by the Secretary, including the cost of reimbursement and/or compensation of the Trustee pursuant to the Trust Agreement, including Sections 3.11 and 7.01 thereof. In connection with the public offering, such payment shall either be made by wire transfer to the Trustee on the day prior to the Public Offering Date or shall be deducted from the Guaranteed Loan Funds on the Public Offering Date.

(b) The Borrower shall submit to the Secretary not later than twelve (12) Business Days prior to the Public Offering Date applicable to the Note, this executed Contract, the executed Note, and an opinion acceptable to the Secretary from the Borrower's counsel to the effect that: (i) the governing body of the Borrower has authorized by resolution or ordinance, in accordance with applicable State and local law, the issuance of the Note and the execution of this Contract; (ii) the Note and this Contract are valid, binding, and enforceable obligations of

the Borrower; (iii) the pledge of funds pursuant to 24 CFR §570.705(b)(2) and paragraph 5(a) of this Contract is valid and binding; and (iv) there is no outstanding litigation that will affect the validity of the Note or this Contract. At the same time, the Borrower shall submit an opinion acceptable to the Secretary from the Unit of General Local Government's counsel (which may be combined with the preceding opinion, if issued by the same counsel) to the effect that: (i) the governing body of the Unit of General Local Government has authorized this transaction by resolution or ordinance, in accordance with applicable State and local law, and has designated the Borrower to issue the Note and receive and administer the proceeds thereof; (ii) the pledge of funds pursuant to 24 CFR 570.705(b)(2) and this Contract is valid and binding; and (iii) there is no outstanding litigation that will affect the validity of this Contract. In addition, the Borrower or the Unit of General Local Government shall submit any other additional documents or opinions specifically required by this Contract (e.g., paragraph 5(c), or paragraph 15, *et seq.*), at the time required thereby.

(c) The Borrower and the Unit of General Local Government agree to reimburse the Underwriters upon demand by the Secretary for the Borrower's share, as determined by the Secretary, of all reasonable out-of-pocket expenses (including reasonable fees and disbursements of counsel) incurred in connection with a proposed public offering, if the Underwriters incur such additional costs for the public offering because the Borrower withdraws from the offering within ten Business Days of the Public Offering Date, or if the Borrower fails for any reason timely to submit in acceptable form any document required by this Contract (including paragraph 4(b)) to be submitted before the Public Offering Date. By execution and delivery of this Contract to the Secretary, the Borrower and the Unit of General Local Government hereby expressly authorize the Secretary to pay amounts due under this paragraph from funds pledged under paragraph 5(a) of this Contract.

(d) The undertakings in paragraphs 3 and 4 of this Contract are expressly subject to the requirement that the Fiscal Agency/Trust Agreements shall in no event require payment of fees or charges, reimbursement of expenses, or any indemnification by the Borrower (or the Unit of General Local Government, or the applicable State, if any) from any source other than funds or other security pledged pursuant to paragraphs D (if applicable), 5, or 15, *et seq.*, of this Contract.

5. **Security.** The Unit of General Local Government and the Borrower hereby pledge as security for repayment of the Note, and such other charges as may be authorized in this Contract, the following:

(a) All allocations or grants which have been made or for which the Unit of General Local Government or the Borrower may become eligible under Section 106 of the Act, as well as any grants which are or may become available to the Unit of General Local Government or the Borrower pursuant to Section 108(q).

(b) Program income, as defined at 24 CFR 570.500(a) (or any successor regulation), directly generated from the use of the Guaranteed Loan Funds.

(c) Other security as described in paragraph 15, *et seq.*, or incorporated herein by paragraph D hereof, as applicable.

(d) All proceeds (including insurance and condemnation proceeds) from any of the foregoing.

(e) All funds or investments in the accounts established pursuant to paragraphs 1 and 6 of this Contract.

6. **Loan Repayment Account.**

(a) All amounts pledged pursuant to paragraphs 5(b), 5(c), and 5(d) of this Contract shall be deposited immediately on receipt in a separate identifiable custodial account (the "Loan Repayment Account") with a financial institution whose deposits or accounts are Federally insured. The Loan Repayment Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Custodial Account" (**Attachment 1**) and shall be maintained for such pledged funds. The Loan Repayment Account need only be established if and when the Borrower receives amounts pledged pursuant to paragraph 5(b), 5(c) or 5(d). Such Letter Agreement must be executed when the Loan Repayment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) Borrower shall make withdrawals from said account only for the purpose of paying interest and principal due on the Note (including the purchase of Government Obligations in accordance with paragraph 10 hereof), for payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or for the temporary investment of funds pursuant to this paragraph, until final payment and discharge of the indebtedness evidenced by the Note, unless otherwise expressly authorized by the Secretary in

writing. Such temporary investment of funds shall be required within three Business Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Loan Repayment Account. At that time, any balance of funds in the Loan Repayment Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with cash requirements for payment of principal and interest as required under the Note. In no event shall the maturities of such investments exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Loan Repayment Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Custodial Investment Account" (**Attachment 2**), which account shall be maintained for all Government Obligations purchased with funds from the Loan Repayment Account. Such Letter Agreement must be executed when the Loan Repayment Investment Account is established. (A fully executed copy of such Letter Agreement shall be submitted to the Secretary within thirty days of its execution.) All proceeds and income derived from such investments shall be returned to the Loan Repayment Account.

(b) Borrower shall by the fifteenth day of each month, provide the Secretary with a written statement showing the balance of funds in the Loan Repayment Account and the deposits and withdrawals of all funds in such account during the preceding calendar month and a statement identifying the obligations and their assignments in the Loan Repayment Investment Account, for any month in which there are funds in such Accounts.

(c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower and the Unit of General Local Government in and to the Loan Repayment and Loan Repayment Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10, or payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, in each case as elected by the Secretary in his sole discretion.

7. **Use of CDBG, EDI or BEDI Funds for Repayment.** Any funds available to the Unit of General Local Government or the Borrower under Section 106 of the Act (including program income derived therefrom)

are authorized to be used by the Borrower for payments due on the Note, Optional Redemption (as defined in the Note), payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or the purchase of Government Obligations in accordance with paragraph 10. Any funds specifically available to the Unit of General Local Government or the Borrower for such payments or as a debt service reserve under an EDI Grant Agreement pursuant to Section 108(q) of the Act which supports the eligible project(s) and activities financed by the Note may also be used therefor; any other use of Section 108(q) funds for such purposes shall require the prior written approval of the Secretary. Unless otherwise specifically provided herein or unless otherwise expressly authorized by the Secretary in writing, the Borrower shall substantially disburse funds available in the Loan Repayment or the Loan Repayment Investment Accounts before funds from grants under Section 106 of the Act are withdrawn from the U.S. Treasury for such purposes.

8. **Secretary's Right to Restrict Use of CDBG Funds to Repayment.** Upon a determination by the Secretary that payments required by paragraph 2 and/or paragraph 4 of this Contract are unlikely to be made as specified, the Secretary may give the Unit of General Local Government and/or the Borrower notice that the availability to the Unit of General Local Government or the Borrower of funds pledged under paragraph 5(a) of this Contract for purposes other than satisfaction of the pledge is being restricted. This restriction shall be in an amount estimated by the Secretary to be sufficient to ensure that the payments referred to in paragraph 2 and/or paragraph 4 hereof are made when due. This restriction may be given effect by conditioning the restricted amounts to prohibit disbursement for purposes other than satisfaction of the pledge at the time such restricted funds are approved as grants, by limiting the Unit of General Local Government's and the Borrower's ability to draw down or expend the restricted funds for other purposes, and by disapproving payment requests submitted with respect to such grants for purposes other than satisfaction of the pledge.
9. **Secretary's Right to Use Pledged Funds for Repayment.** The Secretary may use funds pledged under paragraph 5(a) of this Contract or funds restricted under grants pursuant to paragraph 8 of this Contract to make any payment required of the Borrower under paragraph 2 and/or paragraph 4, if such payment has not been timely made by the Borrower.
10. **Defeasance.** For purposes of this Contract, the Note shall be deemed to have been paid (defeased) if there shall have been deposited with the Trustee either moneys or Government Obligations (defined below), which in the sole determination of the Secretary, mature and bear interest at times and in amounts sufficient,

together with any other moneys on deposit with the Trustee for such purpose, to pay when due the principal and interest to become due on the Note. The Aggregate Principal Amount of the Note or any unpaid Principal Amount may be so defeased, in whole or in part, as of any Interest Due Date, or any other Business Day acceptable to both HUD and the Borrower. In accordance with the Note and the Trust Agreement, the Borrower shall give timely notice and written instructions to the Secretary and the Trustee concerning any principal amounts proposed to be defeased, including any Optional Redemptions proposed, which instructions shall be approved by the Secretary. If the unpaid Aggregate Principal Amount of the Note guaranteed pursuant to this Contract shall be defeased and deemed to have been paid in full, then the Borrower and the Unit of General Local Government shall be released from all agreements, covenants, and further obligations under the Note.

"Government Obligation" means a direct obligation of, or any obligation for which the full and timely payment of principal and interest is guaranteed by, the United States of America, including but not limited to, United States Treasury Certificates of Indebtedness, Notes and Bonds - State and Local Government Series or certificates of ownership of the principal of or interest on direct obligations of, or obligations unconditionally guaranteed by, the United States of America, which obligations are held in trust by a commercial bank which is a member of the Federal Reserve System and has capital and surplus (exclusive of undivided profits) in excess of \$100,000,000.

#### 11. **Default.**

(a) A Default under the Note and this Contract shall occur upon failure by the Borrower or the Unit of General Local Government to:

(i) pay when due an installment of principal or interest on the Note; or (ii) punctually and properly perform, observe, and comply with any covenant, agreement, or condition contained in: (A) this Contract, (B) any security agreement, deed of trust, mortgage, assignment, guarantee, or other contract securing payment of indebtedness evidenced by the Note, or (C) any future amendments, modifications, restatements, renewals, or extensions of any such documents.

(b) The Borrower and the Unit of General Local Government waive notice of Default and opportunity for hearing with respect to a Default under paragraph 11(a).

(c) In addition to Defaults under paragraph 11(a), the Secretary may declare the Note in Default if the Secretary makes a final decision in accordance with the provisions of section 111 of the Act and 24 CFR 570.913 (or any successor provisions), including requirements for reasonable notice and opportunity for hearing, that the Borrower or the Unit of General Local Government has failed to comply substantially with title I of the Act. Notwithstanding any other provision, following the giving of such reasonable notice, the Secretary may, in the Secretary's sole discretion pending the Secretary's final decision, withhold the guarantee of any or all obligations not yet guaranteed on behalf of the Borrower or the Unit of General Local Government under outstanding commitments, and/or direct the Borrower's financial institution to: refuse to honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account initiated by the Borrower, and/or refuse to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account.

12. **Remedial Actions.** Upon a Default or declaration of Default under this Contract, the Secretary may, in the Secretary's sole discretion, take any or all of the following remedial actions:

(a) With any funds or security pledged under this Contract, the Secretary may (i) continue to make payments due on the Note, (ii) make an acceleration payment with respect to the principal amount of the Note subject to Optional Redemption as provided in Section B of the Note, (iii) purchase Government Obligations in accordance with paragraph 10 of this Contract, (iv) pay any interest due for late payment as provided in the Note, this Contract, or the Fiscal Agency/Trust Agreements, (v) pay any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, and/or (vi) pay any reasonable expenses incurred by the Secretary or the Fiscal Agent/Trustee as result of the Borrower's Default.

(b) The Secretary may withhold the guarantee of any or all obligations not yet guaranteed or the disbursement of any or all grants not yet disbursed in full under outstanding guarantee commitments or grant approvals for the Borrower or the Unit of General Local Government under Sections 108 and/or 106 of the Act.

(c) The Secretary may direct the Borrower's financial institution to: refuse to honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account by the Borrower, and/or refuse to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account; and/or

direct the Borrower and/or the Borrower's financial institution to transfer remaining balances from the Guaranteed Loan Funds Account to the Loan Repayment Account.

(d) With respect to amounts subject to Optional Redemption, the Secretary may accelerate the Note.

(e) The Secretary may exercise any other appropriate remedies or sanctions available by law or regulation applicable to the assistance provided under this Contract, or may institute any other action available under law, to recover Guaranteed Loan Funds or to reimburse the Secretary for any payment under the Secretary's Guarantee or any reasonable expenses incurred by the Secretary as a result of the Default.

(f) All notices and submissions provided for hereunder shall be in writing (including by telex, telecopier or any other form of facsimile communication) and mailed or sent or delivered, as to each party hereto, at its address set forth below or at such other address as shall be designated by such party in a written notice to the other party hereto. All such notices and other communications shall be effective when received as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or five Business Days after deposit in the mail, postage prepaid; (iii) if sent by telex, upon receipt by the sender of an answer back; and (iv) if sent by telecopier, upon confirmed receipt.

The Secretary:

U.S. Dept. of Housing and Urban Development  
Attention: Paul Webster, Director  
Financial Management Division  
451 7th Street SW, Room 7180  
Washington, DC 20410

Borrower:

Sacramento Housing and Redevelopment Agency  
801 12<sup>th</sup> Street  
Sacramento, CA 95814  
Attention: LaShelle Dozier

Unit of General Local Government:

City of Sacramento  
915 I Street  
Sacramento, CA 95814

13. **Limited Liability.** Notwithstanding any other provision of this Contract, the Fiscal Agency/Trust Agreements or the Note, any recovery against the Borrower or the Unit of General Local Government for any liability for amounts due pursuant to the Note, the Fiscal Agency/Trust Agreements and this Contract shall be limited to the sources of security pledged in paragraphs D., 5 or any Special Conditions of this Contract, as applicable. Neither the general credit nor the taxing power of the Borrower or the Unit of General Local Government, or of the State in which the Borrower is located, is pledged for any payment due under the Note, the Contract, or the Fiscal Agency/Trust Agreements.
14. **Incorporated Grant Agreement.** The Contract and the Note are hereby incorporated in and made a part of the Grant Agreement authorized by the Secretary on \_\_\_\_\_ under the Funding Approval for grant number B-97-MC-06-0003 to the Unit of General Local Government. In carrying out activities with the Guaranteed Loan Funds hereunder, the Borrower and the Unit of General Local Government agree to comply with the Act and 24 CFR Part 570, as provided in Subpart M thereof.
15. **Special Conditions and Modifications:**
- (a) The Guaranteed Loan Funds shall be used only to prepay principal amounts payable on or after February 1, 2012, under that certain promissory note issued by the Borrower and identified as Note Number B-97-MC-06-0003, dated 2001-A. The Guaranteed Loan Funds shall be deposited in a defeasance account established with the Trustee pursuant to the Contract for Loan Guarantee Assistance executed in connection with the issuance of such promissory note. The Borrower agrees to pay to the Trustee moneys in an amount equal to the amount of principal and interest to become due on such promissory note on August 1, 2011 for deposit in such defeasance account. Such payment shall be in addition to any payment required under paragraph 4(a) of this Contract and shall be made by wire transfer to the Trustee on the day prior to the Public Offering Date. In addition to the Secretary's rights under paragraph 9 of this Contract, the Secretary may use funds pledged under paragraph 5(a) of this Contract or funds restricted under grants pursuant to paragraph 8 of this Contract to make any payment required of the Borrower under this paragraph

15(a), if such payment has not been timely made by the Borrower.

(b) Additional Grounds for Default. Notice of Default. Restriction of Pledged Grants. Availability of Other Remedial Actions.

(i) The Borrower and the Unit of General Local Government acknowledge and agree that the Secretary's guarantee of the Note is made in reliance upon the availability of grants pledged pursuant to paragraph 5(a) (individually, a "Pledged Grant" and, collectively, the "Pledged Grants") in any Federal fiscal year subsequent to the Federal fiscal year ending September 30, 2012 to: (A) pay when due the payments to become due on the Note, or (B) defease (or, if permitted, prepay) the full amount outstanding on the Note. The Borrower and the Unit of General Local Government further acknowledge and agree that if the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are unlikely to be available for either of such purposes, such determination shall be a permissible basis for any of the actions specified in paragraphs (ii) and (iii) below (without notice or hearing, which the Borrower and the Unit of General Local Government expressly waive).

(ii) Upon written notice from the Secretary to the Borrower and the Unit of General Local Government at the address specified in paragraph 12(f) above that the Secretary (in the Secretary's sole discretion) has determined that Pledged Grants are unlikely to be available for either of the purposes specified in (A) and (B) of paragraph (i) above (such notice being hereinafter referred to as the "Notice of Impaired Security"), the Secretary may limit the availability of Pledged Grants by withholding amounts at the time a Pledged Grant is approved or by disapproving payment requests (drawdowns) submitted with respect to Pledged Grants.

(iii) If after 60 days from the Notice of Impaired Security the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are still unlikely to be available for either of the purposes specified in (A) and (B) of paragraph (i) above, the Secretary may declare the Note in Default and exercise any and all remedies available under paragraph 12. This paragraph (iii) shall not affect the right of the Secretary to declare the Note and/or this Contract in Default

pursuant to paragraph 11 and to exercise in connection therewith any and all remedies available under paragraph 12.

- (iv) All notices and submissions provided for hereunder shall be submitted as directed in paragraph 12(f) above.

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THE UNDERSIGNED, as authorized officials on behalf of the Unit of General Local Government, the Borrower or the Secretary, respectively, have executed this Contract for Loan Guarantee Assistance, which shall be effective upon delivery of the Note and Guarantee as of the Public Offering Date (except that paragraphs 4 and 15(a) hereof shall be effective when this Contract is executed on behalf of the Borrower and Unit of General Local Government and delivered to the Secretary).

The Sacramento Housing And Redevelopment Agency  
Borrower

BY:

\_\_\_\_\_  
(Signature)  
  
LaShelle Dozier  
\_\_\_\_\_  
(Name)  
  
Executive Director  
\_\_\_\_\_  
(Title)

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

UNIT OF GENERAL LOCAL GOVERNMENT

BY:

\_\_\_\_\_  
(Signature)  
  
Kevin Johnson  
\_\_\_\_\_  
(Name)  
  
Mayor of Sacramento  
\_\_\_\_\_  
(Title)

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

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

BY:

\_\_\_\_\_  
(Signature)  
  
Yolanda Chávez  
\_\_\_\_\_  
(Name)  
  
Deputy Assistant Secretary  
for Grant Programs  
\_\_\_\_\_  
(Title)

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