



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** December 11, 2012

From: Lori Lamson **Item No:** 10
Community Development Director
Community Development Department

Subject: DEVELOPMENT AGREEMENT FOR ACQUISITION AND REHABILITATION OF FORECLOSED SINGLE-FAMILY RESIDENCES FOR RESALE WITH NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE (NHSIE)

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council approve the attached Development Agreement between the Town of Apple Valley and Neighborhood Housing Services of the Inland Empire (NHSIE) for the Acquisition/Rehabilitation for Single Family Uses project under the Neighborhood Stabilization Program 3 funding as identified in the Town's Five Year Consolidated Plan 2010-2011.

SUMMARY:

On September 25, 2012, the Town Council adopted an amendment to the Town's Five Year Consolidated Plan for 2010-2011. The amendment included adding an additional activity under the Neighborhood Stabilization Program 3 (NSP 3) Funds. The additional activity allows the Town to acquire and rehabilitate for resale, single-family residences in foreclosure. The resale of these residences would be to a targeted low income buyer that meets the required standards of the program. By adding the additional activity for Acquisition/Rehabilitation for Single-Family Uses, the Town is able to utilize funds to acquire and rehabilitate single-family homes for the purposes of providing affordable home ownership opportunities. In addition, the amendment expanded the NSP scope of services to enable the Town to meet the deadlines for expenditures under the NSP regulations. Attached is the staff report from the September 25th Council Meeting.

Staff has met with several different non-profit housing agencies to discuss the potential of partnering with the Town to acquire and rehab single-family residences in foreclosure. Several agencies have been working with local jurisdictions on similar programs. Staff was impressed with NHSIE and their ability to fund and complete the rehabilitation of the units and the

qualification and resale of the units all within their agency. They have similar agreements with local jurisdictions such as the City of San Bernardino.

The program design for the Town would include the Town to use NSP3 funds to purchase the residence in foreclosure and turn it over to NHSIE. They would rehabilitate the structure and place it on the market. NHSIE would qualify the potential homebuyer to ensure that they meet the regulated standards for the NSP3 program for low income households. Upon the sale of the residence, NHSIE would receive a construction management fee of no more than 10% of the project cost and the funds invested in the rehab and sale of the property. Any remaining funds would be returned to the Town for reinvestment in the NSP3 programming. Covenants would be placed on the property for twenty (20) years to ensure that any resale of the residence would be to a qualified low income buyer.

This program enables the rehabilitation of foreclosed homes and puts them back on the market for ownership opportunities for qualified low income buyers.

Based upon the foregoing, staff recommends adoption of the form motion.

ATTACHMENTS:

1. Development Agreement between the Town of Apple Valley and NHSIE
2. Town Council Staff Report from September 25, 2012

DEVELOPMENT AGREEMENT

ACQUISITION, REHABILITATION AND RESALE
MASTER AGREEMENT

by and between

TOWN OF APPLE VALLEY
a California municipal corporation

and

NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE, INC.
a California 501(c)(3) public benefit corporation

for a loan in the principal amount of:
not to exceed \$1,200,000.00 in NSP Funds

December 11, 2012

THIS 2012 SINGLE-FAMILY ACQUISITION, REHABILITATION AND RESALE MASTER AGREEMENT (this “Agreement”) is dated as of December 11, 2012, by and between Town of Apple Valley, a California municipal corporation (“Town”), and Neighborhood Housing Services of the Inland Empire, Inc., a California 501(c)(3) public benefit corporation (“Developer”). Town and Developer are sometimes referred to as collectively herein as the “Parties” and each individually as a “Party.” This Agreement is entered into with respect to the facts presented in the following Recitals:

RECITALS

A. Pursuant to Title III of Division B of HERA (Public Law 110-289, 122 Stat. 2650), the United States Government created a program known as the Neighborhood Stabilization Program (“NSP 1”) to make funding available for certain qualified uses in order to assist state and local governments with emergency assistance for the redevelopment of abandoned and foreclosed upon homes and residential properties, which funds are subject to the U.S. Department of Housing and Urban Development’s (“HUD”) “Notice of allocations, waivers granted, alternative requirements applied, and statutory program requirements” for the NSP in the Federal Register, Volume 73, No. 194, Docket No. FR-5255-N-01, published on October 6, 2008 and subsequently revised on June 11, 2009 pursuant to HUD’s “Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees under the Housing and Economic Recovery Act, 2008; Revisions to Neighborhood Stabilization Program (NSP) and Technical Corrections” in the Federal Register, Volume 74, No. 117, Docket No. FR-5255-N-02.

B. Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (75 FR 64322), the Federal government provided additional funding for the Neighborhood Stabilization Program, commonly referred to as “NSP 3”, to be awarded by HUD to mitigate the negative impact of the nation's economic decline and housing market collapse and to stabilize and revitalize communities.

C. Town is authorized under a contract with HUD to distribute NSP3 funds under this Agreement (the “NSP Funds”) for the specific and special purpose of assisting in the redevelopment of abandoned and foreclosed homes under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes for resale to individuals and families with incomes at or below one hundred twenty percent (120%) of the Area Median Income.

D. In furtherance of its contract with HUD, Town desires to use a portion of the Funds to acquire, rehabilitate, and resell abandoned and foreclosed homes to households at or below one hundred twenty percent (120%) of the area median income applicable to the City, adjusted for household size, as determined by HUD.

E. Developer desires to assist Town in undertaking its goals for use of the NSP Funds by undertaking the acquisition, rehabilitation and resale of certain Eligible Properties in accordance with the terms and conditions of this Agreement.

F. After acquiring Eligible Properties with NSP Funds, the Town desires to convey the Eligible Properties to the Developer who shall rehabilitate the Eligible Properties and resell them to qualified Households as defined herein.

G. The Eligible Properties shall be located within an area of the Town (the “NSP Target Area”) as depicted in **Attachment “A”** to this Agreement (the “Target Area Map”).

H. In furtherance of the Town’s desire to acquire Eligible Properties for rehabilitation and resale to Eligible Households and as more particularly provided below, Developer will deliver to Town, among other items, a “Site Agreement”, a “Town Deed of Trust”, a “Town Promissory Note” and the “Town Housing Affordability Covenants” (as those terms are defined below) each time that the Developer requests NSP Financing to acquire and rehabilitate an Eligible Property, to, respectively, secure repayment of such NSP Financing by Developer as provided herein and to ensure that the affordability and habitability of the Eligible Property is maintained in accordance with the terms of these instruments and this Agreement.

I. Town desires to provide the NSP Financing to Developer, on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the above recitals, the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt, legal sufficiency and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Incorporation of Recitals.

The Recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

SECTION 2. Definitions.

In addition to the meaning ascribed to certain words and phrases as set forth in the Recitals of this Agreement or in other sections of this Agreement including any of the Attachments to this Agreement, other words and phrases shall have the meaning described below:

A. **Acquisition Escrow.** The words “Acquisition Escrow” shall mean and refer to the land transfer transaction account by and among the Escrow Agent, the Developer and Town. The Developer shall acquire the Eligible Property from the Town upon the close of the Acquisition Escrow.

B. **Affordable Housing Cost.** The words “Affordable Housing Cost” shall have the meaning as set forth in HOME Investment Partnerships Program Final Rule 24 CFR Part 92 and other applicable NSP documents.

C. **Area Median Income.** The words “Area Median Income” shall mean the median income for the Ontario/Riverside/San Bernardino Metropolitan Statistical Area, adjusted for family size as defined and periodically adjusted by the HUD, or any successor entity designated under state law as responsible for establishing such area median income.

D. **Days.** The word day or days shall mean calendar days in all instances unless modified specifically to mean business days to thus exclude weekends and holidays from the calculation of the number of days.

E. **Developer.** The word “Developer” means Neighborhood Housing Services of the Inland Empire, Inc., a California 501(c)(3) public benefit corporation.

F. **Effective Date.** The words “Effective Date” mean and refer to the date this Agreement has been fully executed by the Developer and Town.

G. **Eligible Property.** The words “Eligible Property” shall mean and refer to single family residences that have been foreclosed and/or abandoned, are located within the NHSIE Target Area and conform to those conditions stipulated in **Attachment “C,”** Section B(2)(a).

H. **Escrow Agent.** The words “Escrow Agent” mean and refer to _____ Title Insurance Company or such other escrow agent as mutually acceptable to the Developer and Town. The Escrow Agent shall administer the Acquisition Escrow, unless the parties to such escrow may otherwise appoint another agent to serve as escrow agent for a particular transfer or transaction.

I. **Lead-Based Paint Risk Assessment.** The words “Lead-Based Paint Risk Assessment” shall mean and refer to: 1. An on-site investigation to determine the existence, severity, nature and location of lead-based paint hazards; and 2. The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead based paint hazards, as such term is defined in HUD Regulations 24 CFR Part 35.110.

J. **Moderate-Income Households.** The words “Moderate-Income Households” mean and refer to persons and households whose income does not exceed one hundred twenty percent (120%) of Area Median Income, adjusted for household size.

K. **NSP Target Area.** The term “NSP Target Area” shall mean and refer to that area within Town as shown in **Attachment “A”** to this Agreement.

L. **Project.** The acquisition, rehabilitation and resale of an Eligible Property within the NSP Target Area to a Qualified Homebuyer.

M. **Qualified Homebuyer.** The term “Qualified Homebuyer” shall mean and refer to a household whose annual income does not exceed or is equal to one hundred twenty percent (120%) of the Area Median Income and meets all of the requirements for purchasing an Eligible Property as set forth in this Agreement.

N. **Sales Escrow.** The words “Sales Escrow” shall mean and refer to the property transfer transaction account by and among the Escrow Agent, the Qualified Homebuyer, the Developer and Town. The Qualified Homebuyer shall acquire the Eligible Property from the Developer after it has been rehabilitated upon the close of the Sales Escrow.

O. **Title Company.** The term “Title Company” shall mean _____ Title Insurance Company or such other title company mutually agreeable to Town and the Developer.

P. **Total Development Cost.** The term “Total Development Cost” shall mean the total cost required to acquire, rehabilitate and sell an Eligible Property to a Qualified Homebuyer. The Total Development Cost for an Eligible Property shall be determined by the sum total of the cost line items included in the Total Development Cost Pro Forma in the form of **Attachment “H”**.

Q. **Town Deed of Trust.** The words “Town Deed of Trust” mean and refer to the Deed of Trust which encumbers the Eligible Property as security for the repayment of the Town NSP Loan. The general form of the Town Deed of Trust is **Attachment “E”** of this Agreement.

R. **Town Housing Affordability Covenants.** The term “Town Housing Affordability Covenants” means and refers to that certain Housing Affordability Covenants and Restrictions by and between the Developer and Town affecting the repayment provisions and other terms and conditions affecting the Town NSP Loan. The form of the Town Housing Affordability Covenants is **Attachment “F”** of this Agreement.

S. **Town Loan Documents.** The words “Town Loan Documents” mean and refer to collectively, all of the documents executed by the Developer in favor of Town which either evidence the Town NSP Loan or provide Town with security for the repayment of the Town NSP Loan. The Town Loan Documents include without limitation the Town Note, the Town Deed of Trust and the Town Housing Affordability Covenants.

T. **Town Note.** The words “Town Note” mean and refer to a promissory note by Developer in favor of Town, as lender, which evidences each Town NSP Loan. The form of the Town Note is **Attachment “D”** of this Agreement.

U. **Town NSP Loans.** The words “Town NSP Loans” mean and refer to the loans to be originated by Town in favor of the Developer for the cost of acquisition and rehabilitation of Eligible Properties in an aggregate principal amount not to exceed one million and two hundred thousand Dollars (\$1,200,000.00). The terms of the Town NSP Loans are set forth in Section 15. The Town NSP Loans shall be evidenced by an Town Note (**Attachment “D”**) and shall be secured by an Town Deed of Trust (**Attachment “E”**) and the other Town Loan Documents.

SECTION 3. Parties to the Agreement.

A. The parties to this Agreement are the Developer and the Town.

B. The Developer is as identified above. The principal office of the Developer for purposes of this Agreement is currently located at 1390 North “D” Street, San Bernardino, CA 92405.

C. Prior to the Effective Date, the Developer has provided Town with satisfactory evidence of the legal formation and existence of the Developer and the good standing of the Developer to transact business within the State.

SECTION 4. Entire Agreement.

This Agreement including all attachments and addenda referenced herein constitutes the entire agreement between the parties. This Agreement supersedes all prior negotiations, discussions and agreements between the parties concerning the subject matters covered herein. The Parties intend this Agreement to be the final expression of their agreement with respect to the subjects covered herein and a complete and exclusive statement of such terms.

Included as an integral part of this Agreement are the Attachments as listed below for reference purposes. All Attachments as set forth below and as attached to this Agreement are incorporated herein by reference regardless of the prior reference of any or all of said Attachments in the text of this Agreement. All Attachments to this Agreement shall have the same force and effect as though the content of each and every one of said Attachments had been included within the text of this Agreement. Unless the context requires to the contrary, all references to this Agreement shall include each and every Attachment as set forth below and as attached hereto.

Attachment “A”	NSP Target Area Map
Attachment “B”	Supervisory Staff Personnel
Attachment “C”	Scope of Services
Attachment “D”	Town Note
Attachment “E”	Town Deed of Trust
Attachment “F”	Town Housing Affordability Covenants
Attachment “G”	Site Agreement
Attachment “H”	Total Development Cost Pro Forma Template
Attachment “I”	Rehabilitation Scope of Work Template
Attachment “J”	Project Timeline Template
Attachment “K”	Sources and Uses Schedule Template
Attachment “L”	Affirmative Marketing Requirements
Attachment “M”	NSP Housing Rehabilitation Guidelines

SECTION 5. Supervision.

The Town officers or staff designated in **Attachment “B”** shall be responsible for the direction of any work to be performed by Developer and any other contractors or subcontractors to Town under this Agreement. Developer shall not undertake any work under the terms of this

Agreement, unless instructed to do so by one of the designated officers or staff members. No other officers or staff members are authorized by Town to request services from Developer.

SECTION 6. Term of Agreement.

The term of this Agreement shall commence on the date this Agreement is fully executed by the Developer and Town (the “Effective Date”) and will terminate one (1) year after the Effective Date, unless earlier terminated as provided in this Agreement. Town will have the option to extend the term of this Agreement for two (2) additional one-year terms at the sole option and discretion of Town with the consent of Developer. In any event, the term of this Agreement shall not extend beyond December 31, 2015. Town reserves the right through the actions of the Town Manager or his designee to terminate this Agreement at anytime either with or without cause and at the sole convenience of Town upon delivery of notice of termination to Developer as set forth in Section 20 hereof; provided, however, that upon the effective date of any such termination, Town shall be responsible to pay and/or reimburse Developer for all services, materials and supplies as may have been furnished to Town in accordance with the Scope of Services as referenced in **Attachment “C”**.

SECTION 7. Scope of Developer Services.

A. Town hereby retains Developer to provide the professional services set forth in the Scope of Services attached hereto as Attachment “C” and incorporated herein by this reference. Developer hereby agrees to perform the work set forth in the Scope of Services, in accordance with the terms of this Agreement and all guidelines and regulations governing the NSP Program. Developer shall perform the services as set forth on said Scope of Services within the time periods to be identified by the appropriate Town representative.

B. The Parties agree that the rehabilitation work as contemplated by the Scope of Services shall be related specifically to the rehabilitation and resale of Eligible Properties acquired by Town and subsequently conveyed to Developer in accordance with this Agreement, that are located in the NSP Target Area. Both the number of properties and the boundaries of the NSP Target Area may be changed by Town in its sole discretion.

C. It is the intent of the Parties that the Town shall acquire title to each of the Eligible Properties by means of its own efforts. All such acquisitions shall be funded, to the extent NSP Funds remain available, with NSP Funds prior to the acquisition of an Eligible Property by Town, Town and Developer shall agree upon the Total Development Cost Pro Forma in accordance with the requirements of this Agreement, which shall include the costs incurred by Town for conveyance of the Property. The Parties recognize that Town has approved an original aggregate amount of NSP Funds not to exceed \$1,200,00.00 for the acquisition and rehabilitation of the Eligible Properties within the Project, as necessary.

D. Following the acquisition of each Eligible Property within the NSP Target Area, the Town shall convey each Eligible Property to Developer through an Acquisition Escrow. Developer shall execute a Town Promissory Note in the form of Attachment “D”, a Town Deed of Trust in the form of Attachment “E”, Town Housing Affordability Covenants in the form of Attachment “F” and a Site Agreement in the form of Attachment “G”. Each such document shall

be delivered upon the close of the Acquisition Escrow. After the conveyance of an Eligible Property within the NSP Target Area from Town to Developer, the Developer shall not resell that Eligible Property or any interest in such property without the prior written approval of Town which may be granted or denied at the sole and absolute discretion of Town.

SECTION 8. Payment by Town for Services Performed by Developer.

The amount of the Developer Fee is negotiated and established prior to the commencement of each project to acquire, rehabilitate and resell an Eligible Property, and is recorded in the Total Development Cost Pro Forma, that the Developer is required to submit for each Eligible Property. In all cases the Developer Fee shall be fixed and limited to no more than ten percent (10%) of the Total Development Cost. The Total Development Cost consists of all those cost line items included in Attachment "H". The Developer Fee must be approved by Town staff prior to the Acquisition of any Eligible Property by the Town and subsequent conveyance to Developer.

The general contractor profit and overhead and the sales brokerage commission are paid separately from the Developer Fee.

The fee paid to Developer for services performed pursuant to this Agreement (the "Developer Fee") and all costs for which Developer is to be reimbursed, such as the purchase of any materials or payments made to subcontractors that were not financed by Town, shall be paid upon the final cost reconciliation and upon the presentation of adequate invoices and/or other cost documentation to Town, which may occur at the close of the Sales Escrow or later.

SECTION 9. Records Retention.

Records, maps, field notes and supporting documents and all other records pertaining to the use of funds disbursed to the Developer hereunder shall be retained by the Developer and available to Town for examination and for purposes of performing an audit at all times during the term of this Agreement and for a period of five (5) years from the date of expiration or termination of this Agreement or for a longer period, as required by law. Such records shall be available to Town and to appropriate county, state or federal agencies and officials for inspection during the regular business hours of the Developer. If the Developer does not maintain regular business hours, then such records shall be available for inspection between the hours of 9 a.m. and 5 p.m. Monday through Friday, excluding federal and state government holidays. In the event of litigation or an audit relating to this Agreement or funds paid to the Developer by Town under this Agreement, such records shall be retained by the Developer until all such litigation or audit has been resolved.

SECTION 10. Indemnification.

The Developer shall defend, indemnify and hold harmless Town, its officers, employees, representatives, and agents from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys fees, for injury or damage of any type claimed as a result of the acts or omissions of the Developer, its officers, employees, subcontractors and agents, arising from or related to performance by the Developer

of the work required under this Agreement, except that arising from the sole negligence or willful misconduct of Town.

SECTION 11. Insurance.

The Developer shall maintain insurance, as set forth below, throughout the term of this Agreement. The Developer shall remain liable to Town pursuant to Section 10 above to the extent the Developer is not covered by applicable insurance for all losses and damages incurred by Town that are caused directly or indirectly through the actions or inactions, willful misconduct or negligence of the Developer in the performance of the duties incurred by the Developer pursuant to this Agreement.

The Developer shall maintain insurance policies issued by an insurance company or companies authorized to do business in the State of California and that maintain during the term of the policy a "General Policyholders Rating" of at least A(v), as set forth in the then most current edition of "Bests Insurance Guide," as follows:

A. Automobile Insurance. The Developer and each of its subcontractors shall maintain comprehensive automobile liability insurance of not less than \$1,000,000.00 combined single limit per occurrence for each vehicle leased or owned by the Developer or its subcontractors and used in performing work under this Agreement.

B. Worker's Compensation Insurance. The Developer and each of its subcontractors shall maintain worker's compensation coverage in accordance with California workers' compensation laws for all workers under the Developer's and/or subcontractor's employment performing work under this Agreement

C. Liability Insurance. Town requires comprehensive liability insurance, including coverage for personal injury, death, property damage and contractual liability, with a limit of at least One Million Dollars (\$1,000,000), including products and completed operations coverage. Said insurance shall be primary insurance with respect to Town. The Developer shall require and ensure that the Developer's contractors include Town as additional insured on all general liability insurance covering work at the Eligible Property. If required by Town from time to time, the Developer shall increase the limits of the Developer's liability insurance to reasonable amounts customary for owners of improvements similar to the Project. The policy shall contain a waiver of subrogation for the benefit of Town.

D. Property Insurance. The Developer shall maintain insurance against loss or damage to real property under an "all risk" or "special form" property insurance policy, which shall include coverage against all risks of direct physical loss, including loss by fire, lightning, terrorism, ordinance or law, and other risks normally included in the standard ISO special form (which shall include flood insurance if the property is located within a flood hazard area and which shall include earthquake insurance if the property is located in an area where earthquake insurance is customarily maintained for similar residential property). Such insurance shall be in amounts sufficient to prevent Town from becoming a co-insurer under the policy, and in any event, after application of deductible, in amounts not less than 100% of the full insurable

replacement cost. Town shall be named as a “loss payee” for amounts invested by the Developer up until the time that each Eligible Property is sold.

Concurrent with the execution of this Agreement and prior to the commencement of any work by the Developer, the Developer shall deliver to Town copies of policies or certificates evidencing the existence of the insurance coverage required herein, which coverage shall remain in full force and effect continuously throughout the term of this Agreement. Each policy of insurance that the Developer purchases in satisfaction of the insurance requirements of this Agreement shall be endorsed naming Town as an additional insured and shall provide that the policy may not be cancelled, terminated or modified, except upon thirty (30) days prior written notice to Town.

Failure on the part of the Developer to procure or maintain the insurance coverage required herein for fifteen (15) days or longer shall constitute a material breach of this Agreement pursuant to which Town may exercise all rights and remedies set forth herein and, at its sole discretion, and without waiving such default or limiting the rights or remedies of Town, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by Town shall be reimbursed by the Developer to Town upon demand including interest thereon at the rate of ten percent (10%) per annum interest compounded annually from the date paid by Town to the date reimbursed by the Developer. Town shall have the right, at its election, to participate in and control any insurance claim adjustment or dispute with the insurance carrier. The Developer’s failure to assert or delay in asserting any claim shall not diminish or impair the rights of Town against the Developer or the insurance carrier.

SECTION 12. Press Releases.

Press or news releases, including photographs or public announcements, or confirmation of the same related to the work to be performed by the Developer under this Agreement shall be made by the Developer only with the prior written consent of Town.

SECTION 13. Defaults and Remedies.

A. Events of Default

The occurrence of any of the following shall, after the giving of any notice and the expiration of any applicable cure period, shall, constitute a default by Developer hereunder (“Event of Default”):

1. The failure of Developer to pay or perform any monetary covenant or obligation hereunder or any of the documents executed in connection herewith, without curing such failure within ten (10) calendar days after receipt of written notice of such default from Town (or from any party authorized by Town to deliver such notice as identified by Town in writing to Developer);

2. The failure of Developer to perform any nonmonetary covenant or obligation hereunder or any of the documents executed in connection herewith, without curing such failure within thirty (30) calendar days after receipt of written notice of such default from Town (or from any party authorized by Town to deliver such notice as identified by Town in

writing to Developer) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency; provided, however, that if any default with respect to a nonmonetary obligation is such that it cannot be cured within a thirty-day period, it shall be deemed cured if Developer commences the cure within said thirty-day period and diligently prosecutes such cure to completion thereafter.

Notwithstanding anything herein to the contrary, the herein described notice requirements and cure periods shall not apply to any Event of Default described in Paragraphs (3) through (6) below:

3. The material falsity of any representation or breach of any warranty or covenant made by Developer under the terms of this Agreement or any documents executed in connection herewith;

4. Developer or any constituent member or partner, or majority shareholder, of Developer shall (a) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition that is not withdrawn within ten (10) calendar days after the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;

5. If without the application, approval or consent of Developer, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Developer or any constituent member or partner, or majority shareholder, of Developer, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Developer or of all or any substantial part of Developer's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Developer, in good faith, the same shall (a) result in the entry of an order for relief or any such adjudication or appointment, or (b) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive calendar days;

6. Voluntary cessation of the operation of the Project for a continuous period of more than thirty (30) calendar days or the involuntary cessation of the operation of the Project in accordance with this Agreement for a continuous period of more than sixty (60) calendar days;

7. A mechanic's lien or any other type of encumbrance on any Eligible Property resulting from the Developer's failure to fulfill its financial or other contractual obligations with respect to any of its vendors or sub-contractors is not removed within ten (10) calendar days after receipt of written notice of such default from Town (or from any party authorized by Town to deliver such notice as identified by Town in writing to Developer).

B. Town Remedies

Upon the occurrence of an Event of Default hereunder, Town may, in its sole discretion, take any one or more of the following actions:

1. By notice to Developer declare the entire then unpaid principal balance of any Town NSP Loans immediately due and payable, and the same shall become due and payable without further demand, protest or further notice of any kind, all of which are expressly waived. Upon such declaration, outstanding principal and (to the extent permitted by law) interest and any other sums outstanding in connection with the Town NSP Loans shall thereafter bear interest at the Default Rate, payable from the date of such declaration until paid in full;

2. Subject to any nonrecourse provisions in this Agreement, take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of Town, to collect the amounts then due and thereafter to become due hereunder and under the Town NSP Loans, to exercise its rights under any outstanding Town Deeds of Trust, and to enforce performance and observance of any obligation, agreement or covenant of the Developer under this Agreement or under any other document executed in connection herewith;

3. Cease making any payment of fees or reimbursement of eligible expenses to the Developer unless and until the Event of Default (if curable) is cured;

4. Demand reimbursement from the Developer for any payments made to it by Town for which the contracted work product was not satisfactorily delivered by the Developer;

5. Confiscate any material or other work product purchased or produced by the Developer for the Project;

6. Take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of Town, to enforce performance and observance of any obligation, agreement or covenant of the Developer under this Agreement or under any other document executed in connection herewith;

7. Upon the occurrence of an Event of Default which is occasioned by Developer's failure under this Agreement to pay money, Town may, but shall not be obligated to, make such payment. If such payment is made by Town, the Developer shall deposit with Town, upon written demand therefore, such sum plus interest at the rate of ten percent (10%) per annum interest compounded annually. In either case, the Event of Default with respect to which any such payment has been made by Town shall not be deemed cured until such repayment (as the case may be) has been made by the Developer;

8. Upon the occurrence of an Event of Default described in Section 13(A)(4) or 13(A)(5) hereof, Town shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for any amount owing to Town under this Agreement and unpaid and, in the case of commencement of any judicial proceedings, to file such proof of claim

and other papers or documents as may be necessary or advisable in the judgment of Town and its counsel to protect the interests of Town and to collect and receive any monies or other property in satisfaction of its claim.

C. Town Default and Developer Remedies

Upon fault or failure of Town to meet any of its obligations under this Agreement without curing such failure within thirty (30) calendar days after receipt of written notice of such failure from Developer specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency, Developer may, as its sole and exclusive remedies.

1. Bring an action in equitable relief seeking the specific performance by Town of the terms and conditions of this Agreement or seeking to enjoin any act by Town which is prohibited hereunder; and/or

2. Bring an action for declaratory relief seeking judicial determination of the meaning of any provision of this Agreement. Without limiting the generality of the foregoing, Developer shall in no event be entitled to, and hereby waives, any right to seek indirect or consequential damages of any kind or nature from Town arising out of or in connection with this Agreement, and in connection with such waiver Developer is familiar with and hereby waives the provisions of Section 1542 of the California Civil Code which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

Initials of Developer: _____

SECTION 14. Termination.

A. This Agreement may be terminated by either party for any reason by giving the other party thirty (30) calendar days' prior written notice. Town shall pay the Developer for all work authorized by Town prior to the date of such notice and completed thereafter prior to the effective termination date.

B. In the event of a termination of this Agreement under this Section 14, the Developer shall provide all documents, notes, maps, reports, data or other work product developed in performance of the Scope of Services of this Agreement to Town, within ten (10) calendar days after the effective date of such termination and without additional charge to Town.

SECTION 15. Town NSP Loans.

A. Subject to the terms and conditions of this Agreement and the provision of funds from the Agency, Town shall make affordable housing development loans for the purpose of paying the cost of the acquisition, rehabilitation and soft costs involved in the development of Eligible Properties (the “Town NSP Loans”) to the Developer. Town shall commit the aggregate principal amount not to exceed one million two hundred thousand Dollars (\$1,200,000.00) to

funding the Town NSP Loans. The principal amount of each individual Town NSP Loan shall be negotiated by Town and the Developer based on the total development costs for each Eligible Property as shown on the Total Development Cost Pro Forma (please see **Attachment “H”**) to be submitted by Developer prior to the acquisition of any Eligible Property. Each NSP Loan shall include the cost of acquisition of the Eligible Properties, which cost is incurred by Town but passed through to Developer. Proceeds from the Town NSP Loans shall not be used by Developer for any off-site costs, such as utility installations outside the boundaries of the Eligible Property.

B. Except as provided in Section 15(C) below, the disbursed and unpaid principal balance of the Town NSP Loans (which disbursed amount shall include the costs of acquisition incurred by Town) shall bear interest commencing on the date on which the Town NSP Loan proceeds are first disbursed for the account of Developer at the rate of three percent (3%) per annum, simple interest (“Basic Rate”). Interest shall be computed on the basis of actual number of days elapsed and a 360-day year. The Town NSP Loans shall stop bearing interest on the date paid or on the date that the conditions for forgiving the Town NSP Loan have been met by the Developer, as discussed in Section 15(J).

C. Any amounts (including but not limited to amounts of principal and interest on the Town NSP Loans) which Developer does not pay when due under the terms of the Town Note shall bear interest at the rate of ten percent (10%) per annum, simple interest (“Default Rate”), from the date due until the date paid or the date that the Town NSP Loan is forgiven as stipulated in Section 15(J).

D. Each Town NSP Loan shall be for a term of one (1) year from the date when the Acquisition Escrow for the Eligible Property is closed and the Escrow Agent disburses the proceeds of the Town NSP Loan to the Developer for any or rehabilitation costs associated with the development of the Eligible Property. Town shall have the option of extending the term of any Town NSP Loan in its sole discretion.

E. Disbursements made from the Town NSP Loans will only be made for reimbursement of expenditures incurred. An exception is made for rehabilitation work performed on the Eligible Property, in which case disbursements will be allowed for direct payment of services rendered or products delivered. Non-acquisition or non-rehabilitation related costs (“Soft Costs”) will only be paid on a reimbursement basis. As used here “Soft Costs” means predevelopment, indirect, financing and sales closing costs and the Developer Fee.

F. Town NSP Loans shall be evidenced by a Town Note to be executed by the Developer upon execution of the Site Agreement for the Eligible Property, and shall be secured by a deed of trust on the Eligible Property substantially in the form of the Town Deed of Trust and the other Town Loan Documents.

G. Town Deeds of Trust and the other Town Loan Documents shall be executed by the Developer prior to the close of the Acquisition Escrow for the Eligible Property.

H. Each Town Note shall be secured by a Town Deed of Trust, pursuant to which the Developer grants to Town a lien on the Eligible Property for the purpose of providing financing for the acquisition and rehabilitation of the Eligible Property.

I. At the time of the close of the Acquisition Escrow, the Developer must not be in default under this Agreement or under any Town Loan Documents for any Eligible Property.

J. Notwithstanding any other provision of the Town Note to the contrary, the outstanding principal balance of the Town Note and all accrued and unpaid interest there under shall be due and payable upon the earliest of the Maturity Date of the Town Note or the close of the Sales Escrow for the Eligible Property. In the event that the Developer has completed all of the rehabilitation work within the time frame specified in Attachment "C," Section B(2)(g) and the Eligible Property has been sold to a Qualified Homebuyer at an Affordable Housing Cost prior to the Maturity Date of the Town Note, the principal and any accrued and unpaid interest shall be forgiven. The net proceeds derived from the sale of the Eligible Property to the Qualified Homebuyer shall be collected by Town upon the close of the Sales Escrow. No net proceeds other than those approved by Town shall accrue to the Developer.

K. Town hereby acknowledges that the Town Note is a non-recourse obligation of the Developer and shall contain substantially the following text:

"The sole recourse of the Holder to recover any sum under the Town Note shall be to the Eligible Property subject to the Town Deed of Trust, except in the event of: (A) fraud by the Developer (or its assignee), (B) any material misrepresentation made by the Developer to Town under the Agreement, (C) misappropriation by the Developer (or its assignee) of any tax collection amounts or insurance or condemnation awards resulting from ownership of the Eligible Property, (D) commission of bad faith waste by the Developer (or its assignee) or (E) the presence of "Hazardous Substances" on the site of the Eligible Property, as this term is defined in the Town Deed of Trust."

SECTION 16. Closing Conditions.

A. Acquisition and Rehabilitation Financing

Except to the extent the Town Manager or his designee directs in writing that some or all of the disbursement and/or deliveries shall occur outside of escrow, conveyance of the Eligible Property to Developer, disbursement of Town NSP Loans to Developer for the purpose of rehabilitating Eligible Properties, delivery of the executed loan documents (as specified in Subparagraphs 1 and 2 below), and recordation of the appropriate documents (as specified in Subparagraphs 1 and 2 below) to be recorded shall be carried out through the Acquisition Escrow to be established by the Parties with the Escrow Agent. The Parties may execute supplemental instructions to Escrow Agent consistent with the terms of this Agreement, but in the event of a conflict between the terms of this Agreement and any supplemental escrow instructions, the terms of this Agreement shall control. Except as otherwise expressly provided

herein, any fees and costs incurred by Escrow Agent in the performance of its duties hereunder and agreed to be paid by the Parties shall be paid exclusively by the Developer.

1. Conveyance of the Eligible Property and any disbursements by Town for the purpose of acquiring and rehabilitating Eligible Properties under the Town NSP Loans and subject to this Agreement shall be expressly subject to satisfaction of all of the following conditions (collectively, the “Closing Conditions”) on or before the date (“Closing Deadline”) which is thirty (30) calendar days following the execution date of a Site Agreement initially entered into by Town and Developer for the purposes of implementing the conveyance and rehabilitation of an Eligible Property in accordance with the conditions set forth in this Master Agreement.

(i) Execution of the Master Agreement and delivery of a fully executed copy of the Site Agreement in the form attached hereto as **Attachment “G”** to the Escrow Agent;

(ii) Execution of a grant deed for the Eligible Property (“Grant Deed”) by Town and delivery of such Grant Deed to the Escrow Agent;

(iii) Developer’s due execution and deposit into the Acquisition Escrow of a certified copy of the Town Note, in the form attached hereto as **Attachment “D”**;

(iv) Developer’s due execution (with notary acknowledgment) and deposit into the Acquisition Escrow of the Town Housing Affordability Covenants in the form attached hereto as **Attachment “F”**, recorded against the ownership interest of the Developer, prior to the start of construction;

(v) Developer’s due execution (with notary acknowledgment) and deposit into the Acquisition Escrow of the Town Deed of Trust, in the form attached hereto as **Attachment “E”**;

(vi) Receipt by Town from Developer of such other documents, certifications and authorizations as are reasonably required by Town, in form and substance satisfactory to Town, evidencing that (i) the Site Agreement, the Town Note, the Town Deed of Trust, the Town Regulatory Housing Affordability Covenants and all other documents given or executed in connection herewith (collectively the Site Agreement, the Town Note, the Town Deed of Trust and the Town Housing Affordability Covenants are referred to herein as the “Town Loan Documents”) are duly and validly executed by Developer and constitute the valid and enforceable obligation of Developer pursuant to the respective terms, and (ii) the execution and delivery of the Town Loan Documents, and the performances there under by Developer, will not breach or violate any law applicable or governmental regulation to which Developer is subject nor constitute a breach of or default under any instrument or agreement to which Developer may be a party;

(vii) The Title Company shall have assured Town in writing that upon recordation of the Town Deed of Trust there will be provided to Town, at Developer’s sole expense, a lender’s policy of title insurance (with customary endorsements, including but not

limited to Nos. 100 and 122 and such other endorsements as Town shall reasonably require) issued by the Title Company in the amount of the Town NSP Loan, insuring Town's security interest in the Property as beneficiary under the Town Deed of Trust, and specifically insuring that the lien of the Town Deed of Trust and the Town Housing Affordability Covenants against the Property are subject only to any exceptions to title applicable to the Property which were expressly approved in writing by Town, (the, "Permitted Encumbrances"). Standard lender's title insurance coverage (without the need for a survey) will be accepted by Town;

(viii) No Event of Default shall exist under this Agreement, the Site Agreement or under any agreement or instrument relating to any junior or other financing obtained by the Developer for the purpose of acquiring or rehabilitating an Eligible Property;

(ix) Developer shall have provided to Town, in a form satisfactory to Town, certified copies of (i) Developer's governing partnership agreement, operating agreement, or articles and bylaws, together with a certification by the managing member, managing general partner, or president that such agreement or articles and bylaws has not been amended or modified except as described in the certification (ii) a good standing certificate from the California Secretary of State, certifying that Developer is duly qualified and in good standing, and (iii) all other documents necessary to evidence to Town's satisfaction that the individuals and entities executing this Agreement and the Town Loan Documents, and other entities on whose behalf such documents are executed, are fully authorized to do so and to bind the respective entities, including Developer, to the terms hereof and thereof;

(x) Developer shall have furnished Town with evidence satisfactory to Town evidencing the insurance coverage required by Section 11 of this Agreement.

(xi) Developer shall have commenced or be ready to commence rehabilitation of the Eligible Property, and shall have furnished Town with copies of (1) a contract for the rehabilitation work and materials ("Construction Contract") entered into with a general contractor ("General Contractor") previously approved in writing by Town; and (2) shall have submitted to Town and received Town's approval of any design plans or other design documents requested by Town, if any.

2. Not as a Closing Condition, but at least thirty (30) calendar days prior to occupancy and prior to the commencement of homebuyer selection for the Eligible Property, Developer shall have obtained Town's written approval of an affirmative marketing plan for the sale of the Eligible Property including specifically the procedures to be employed by which the Qualified Homebuyers of the Eligible Property shall be selected in the event that there are many homebuyers qualified to purchase the Eligible Property.

3. When, and only when, Escrow Agent has confirmed that Closing Conditions (i), (ii), (iii), (iv), and (vi) of Subparagraph (a)(1) above have been satisfied, and has received written certification from the Town Manager, or his designee, that all other Closing Conditions have been timely satisfied or waived, then Escrow Agent shall carry out the close of the Acquisition Escrow ("Close of Acquisition Escrow") by:

(i) causing the Grand Deed, the Town Deed of Trust and the Town Housing Affordability Covenants to be recorded in the Official Records of San Bernardino County, California;

(ii) delivering the executed original Town Note to Town;

(iii) causing the Title Policy to be issued to Town in the form and amount specified above; and

(iv) promptly following recordation, delivering conformed copies of the recorded documents to Town and Developer;

B. Sale of Eligible Properties

The Developer shall initiate the sale of an Eligible Property to a Qualified Homebuyer by submitting to Town a purchase/sale agreement executed by the prospective homebuyer, verifying documentation from the prospective buyer with respect to residency, income and the property condition as Town, or its designee, may reasonably request (collectively, "Homebuyer Application"). The Homebuyer Application shall consist of the following information in the form provided or approved by Town:

1. Last Three (3) Years Tax Returns (State and Federal) (1040's) signed with W2's attached. Two (2) Current Pay Stubs for all household members who will reside in the home.

2. A California Association of Realtors California Residential Purchase Agreement fully executed by the prospective homebuyer.

3. Verification for Applicant Eligibility Form completely filled out.

4. Application Affidavit — Completely filled out and signed by the prospective homebuyer.

5. Signed Lead-Based Paint Disclosure Form (for homes built prior to 1978). Town does not supply this form.

6. Copy of employment verification for each Homebuyer.

7. 2 Months of current bank statements.

8. 3 Year housing history.

9. Income certification form in a form provided by Town.

10. Proof of legal residency in the United States for all members of the household who are applying for consideration as the Qualified Homebuyer.

Within seven (7) calendar days after the receipt of the Homebuyer Application by Town,

Town staff will notify the Developer in writing of approval or denial of the prospective homebuyer's eligibility and confirmation of such eligibility. Upon notification by Town staff of the prospective homebuyer's eligibility, the Developer shall open the Sale Escrow with _____ Title Company or another Town approved escrow company (the "Sale Escrow Agent"). Town shall furnish the Sale Escrow Agent with executed escrow instructions. The Developer shall not permit any escrow to close for the sale of an Eligible Property until and unless the escrow instructions executed by Town (and countersigned, if requested by Town staff, by the First Trust Deed Lender) have been submitted to the Sale Escrow Agent. As provided in the Town escrow instructions, the Sales Escrow shall also not close unless and until:

1. The Sale Escrow Agent holds the following documents : (1) an Acknowledgement of the Town Housing Affordability Covenants executed by the Qualified Homebuyer in favor of Town and in a form approved by Town; (2) Town Notice of Affordability executed by the Qualified Homebuyer; and (3) a grant deed with respect to the Eligible Property, executed and acknowledged by the Developer; and

2. Proof of hazard insurance for the full replacement cost of the Eligible Property is provided to Town naming Town as additionally insured; and

3. Rehabilitation of the Eligible Property shall have been completed in accordance with this Agreement and with all applicable City permits and ordinances, and the City shall have issued a final certificate of occupancy, if applicable, for the Eligible Property.

No Event of Default shall exist under this Agreement or under any agreement or instrument relating to any financing for the Eligible Property.

SECTION 17. Use of the Eligible Property.

A. Developer hereby covenants and agrees, for itself and its successors and assigns, that each Eligible Property shall be rehabilitated and sold to a household whose total annual income is at or below one hundred twenty percent (120%) of Area Median Income ("AMI");

B. Developer covenants and agrees that it shall not devote the Eligible Property to uses inconsistent with either this Agreement or the Town Housing Affordability Covenants;

SECTION 18. Discrimination Prohibited.

Except as provided in the Town Housing Affordability Covenants with respect to the reservation of the Eligible Property for occupancy by a Qualified Homebuyer, there shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, familial status, physical or mental disability, ancestry or national origin in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Eligible Property, or any portion thereof. The nondiscrimination and nonsegregation covenants contained in the Town Housing Affordability Covenants shall remain in effect in perpetuity.

The Developer shall not discriminate against any person on the basis of race, color, creed, religion, natural origin, ancestry, sex, marital status or physical handicap in the performance of the Scope of Services of this Agreement. Without limitation, the Developer hereby certifies that

If to Developer: Neighborhood Housing Services of the Inland Empire, Inc.
Attn: Dawn M. Lee, Executive Director
1390 North "D" Street
San Bernardino, CA 92405
Phone: (909) 963-5215
Fax: (909) 884-8899

Notices shall be effective upon receipt, if given by personal delivery; upon receipt, if faxed, provided there is written confirmation of receipt (except that if received after 5 p.m., notice shall be deemed received on the next business day); the earlier of (i) three (3) business days after deposit with United States Mail, or (ii) the date of actual receipt as evidenced by the return receipt, if delivered by certified mail; or (iii) one (1) day after deposit with the delivery service, if delivered by overnight guaranteed delivery service. Each party shall promptly notify the other party of any change(s) of address to which notice shall be sent pursuant to this Note.

SECTION 21. Compliance with Laws.

The Developer shall comply with all Applicable Governmental Restrictions. As used herein, "Applicable Governmental Restrictions" shall mean and include any and all laws, statutes, ordinances, codes, rules, regulations, directives, writs, injunctions, orders, decrees, rulings, conditions of approval, or authorizations, now in force or which may hereafter be in force, of any governmental entity, agency or political subdivision as they pertain to the performance of this Agreement or rehabilitation of the Project, including specifically but without limitation all code and other requirements of the jurisdiction in which the Project is located; the National Environmental Policy Act of 1969, as amended; fair housing laws, prevailing wage laws per Davis-Bacon Act 40 U.S.C. 276a, and any other applicable federal, state and local law. The Developer shall maintain all necessary licenses and registrations for the lawful performance of the work required of the Developer under this Agreement. The Developer shall indemnify, defend and hold Town harmless for any suit, cost, attorneys' fees, claim, administrative proceeding, damage, wage award, fine, penalty or liability arising out of or relating to Developer's failure to comply with any Applicable Governmental Restrictions, including, without limitation, the nonpayment of any prevailing wages required to be paid in connection with the Project. Developer is solely responsible for determining the applicability of laws, and should not rely on statements by Town.

SECTION 22. Developer and each Subcontractor are Independent Contractors.

The Developer shall at all times during the performance of any work described in the Scope of Services be deemed to be an independent contractor. Neither the Developer nor any of its subcontractors shall at any time or in any manner represent that it or any of its employees are employees of Town. Town shall not be requested or ordered to assume any liability or expense for the direct payment of any salary, wage or benefit to any person employed by the Developer or its subcontractors to perform any item of work described in the Scope of Services. The Developer is entirely responsible for the immediate payment of all subcontractor liens.

SECTION 23. Severability.

Each and every section of this Agreement shall be construed as a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof to certain circumstances shall be declared invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24. Amendment or Modification.

This Agreement may only be modified or amended by written instrument duly approved and executed by each of the Parties hereto. Any such modification or amendment shall be valid, binding and legally enforceable only if in written form and executed by each of the Parties hereto, following all necessary approvals and authorizations for such execution.

SECTION 25. Governing Law.

This Agreement shall be governed by the laws of the State of California. Any legal action arising from or related to this Agreement shall be brought in the Superior Court of the State of California in and for the County of San Bernardino.

SECTION 26. Non-waiver.

Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the same provision or any remaining provisions of this Agreement.

SECTION 27. Assignment.

This Agreement shall be assignable by Developer only with the prior express written consent of Town, which consent may be withheld by Town in its sole discretion. Notwithstanding anything to the contrary in this Agreement, no purported assignment of this Agreement shall be effective if not approved by Town, and/or, if such assignment would violate the terms, conditions and restrictions of any applicable governmental restrictions. Town's consent to such assignment shall be expressly conditioned upon (i) the assignee's execution of such documents as required by Town in its sole discretion, including, without limitation, any and all documents deemed necessary by Town to provide for said assignee's assumption of all of the obligations of Developer hereunder and under any documents executed by Developer in connection herewith, and (ii) Town's approval of the financial and credit-worthiness of such proposed assignee and the assignee's ability to perform all of the Developer's obligations under this Agreement and all documents executed in connection herewith, as may be determined by Town in its sole discretion.

SECTION 28. Representations of Persons Executing this Agreement.

The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and are legally able to bind the respective Party that each purports to represent.

SECTION 29. Execution in Counterparts.

This Agreement may be executed in one (1) or more counterparts, each of which will constitute an original.

SECTION 30. Effectiveness of This Agreement as to Town.

This Agreement shall not be binding on Town until signed by an authorized representative of the Developer, approved by Town and executed by the Town Manager or his designee.

SECTION 31. Conflicts of Interest.

The Developer hereby represents that it has no interests adverse to Town, at the time of execution of this Agreement. The Developer hereby agrees that, during the term of this Agreement, the Developer shall not enter into any agreement or acquire any interests detrimental or adverse to Town. Additionally, the Developer hereby represents and warrants to Town that the Developer and any partnerships, individual persons or any other party or parties comprising the Developer, together with each subcontractor who may hereafter be designated to perform services pursuant to this Agreement, do not have and, during the term of this Agreement, shall not acquire any property ownership interest, business interests, professional employment relationships, contractual relationships of any nature or any other financial arrangements relating to Town, property over which Town has jurisdiction or any members or staff of Town that have not been previously disclosed in writing to Town, and that any such property ownership interests, business interests, professional employment relationships, contractual relationships or any nature or any other financial arrangements will not adversely affect the ability of the Developer to perform the services to Town as set forth in this Agreement.

SECTION 32. Non-Exclusivity.

This Agreement shall not create an exclusive relationship between Town and the Developer for the Scope of Services as set forth in Attachment "C" or any similar or related services. Town may, during the term of this Agreement, contract with other real estate development entities for the performance of the same, similar or related services as those that may be performed by the Developer under this Agreement. Town reserves the discretion and the right to determine the amount of services to be performed by the Developer for Town under this Agreement, including not requesting any services at all. This Agreement only sets forth the terms upon which any such services will be provided to Town by the Developer, if such services are requested by Town, as set forth in this Agreement.

SECTION 33. Consequential Damages and Limitation of Liability.

Town and the Developer agree that except as otherwise provided in this Section 33, in no event will either Party be liable to the other under this Agreement for any damages, including, but not limited to, special damages, loss of revenue, loss of profit, operating costs or business interruption losses, regardless of cause, including breach of contract, negligence, strict liability or otherwise. The limitations and exclusions of liability set forth in this Section 33 shall apply regardless of fault, breach of contract, tort, strict liability or otherwise of the Developer and Town, their employees, contractors, agents, subcontractors, or officials.

SECTION 34. Business License.

The Developer warrants that it possesses, or shall obtain immediately after the execution and delivery of this Agreement, and maintain during the period of time that this Agreement is in effect, a business license pursuant to Chapter 5.02 of the Town of Apple Valley Municipal Code, together with any and all other licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to be maintained by the Developer to conduct its business activities within the Town.

SECTION 35. Enforced Delays: Extension of Time for Performance.

A. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default, or considered to be a default, where delays or defaults are due to force majeure events beyond the control of such Party, including, without limitation, war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, government imposed moratorium legislation, freight embargoes, lack of transportation, weather-caused delays, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, that are not attributable to the fault of the Party claiming an extension of time, that suspends the commencement of construction of any Project, or, if after such construction is commenced, suspends the prosecution of the work of improvement of the Project. An extension of time for any such force majeure cause shall be for the period of the enforced delay and shall commence to run from the date of occurrence of the delay; provided, however, that the Party claiming the existence of the delay first provides the other Party with written notice of the occurrence of the delay, within ten (10) calendar days after the commencement of such occurrence of a force majeure event and, thereafter, takes prompt and reasonable action within its control to restore, reconstruct or rebuild any damage to the Project caused by such force majeure event and resume regular business operation.

B. The failure of the Town to provide any necessary approval relating to the development of any Project or the inability of the Developer to satisfy any other condition of this Agreement relating to the design, financing or development of a Project, shall not be deemed to be a force majeure event or otherwise provide grounds for the assertion of the existence of a forced delay under this Section 35. The Parties each expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of either of them that provided a basis for entering into this Agreement occurring at any time after the execution of this Agreement, are not force majeure events and do not provide either Party with grounds for asserting the existence of a forced delay in the performance of any covenant or

undertaking arising under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions or changes in their economic assumptions could impose an inconvenience or hardship on the continued performance by such Party under this Agreement and that such inconvenience or hardship is not a force majeure event and does not excuse the performance by such Party of its obligations under this Agreement.

SECTION 36. Hazardous Materials.

Developer represents and warrants that it has not deposited “Hazardous Materials” (as defined below) in, on or upon an Eligible Property and Developer covenants that it shall not deposit or permit the deposit of Hazardous Materials in, on or upon any Eligible Property. Developer further covenants to remove or remediate, at its expense (subject to any reimbursement it may be able to obtain from third parties) any Hazardous Materials located in, on or upon an Eligible Property as of the date hereof or which are deposited in, on or upon the Eligible Property from and after the date hereof and during Developer’s ownership of an Eligible Property, including any asbestos, lead-based paint and any other Hazardous Materials located on an Eligible Property, to the extent required by and in accordance with the requirements of all Applicable Governmental Restrictions, including, without limitation, all applicable environmental laws. The foregoing shall not be construed or understood to prohibit Developer from allowing Hazardous Materials to be brought upon the Project so long as they are materials which are customary to the normal course of business in the operation of a well-designed housing facility and so long as such materials are used, stored and disposed of in accordance with all Applicable Governmental Restrictions. Except with respect to any claims solely caused by Town, Developer shall indemnify, defend and hold Town and its members, directors, agents, officers and employees harmless from and against any Claims arising directly or indirectly out of the presence of Hazardous Materials in, on or upon the Eligible Property, existing as of the date hereof or deposited (or claimed to have been deposited) in, on or upon the Eligible Property from and after the date hereof and during Developer’s ownership of the Eligible Property, including without limitation any Claims arising out of any deposits of Hazardous Materials described in (1) and (ii) hereinabove or out of Developer’s failure to remove or remediate all such Hazardous Materials in, on or upon the Eligible Property, as required above. Except with respect to any claims solely caused by Town, Developer hereby releases and forever discharges Town and its agents, officials and representatives from all present and future claims, demands, suits, legal and administrative proceedings and from all losses and liabilities arising out of or in any way connected with Developer’s ownership or operation of the Eligible Property, or any condition of environmental contamination in, on, under, upon or around the Eligible Property, or the existence of Hazardous Materials in any state in, on, under, upon or around the Eligible Property, and in connection with such release and waiver Developer is familiar with and hereby waives the provisions of Section 1542 of the California Civil Code which provides as follows: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

Initials of Developer: _____

For purposes of this Agreement, the term “Hazardous Materials” means, without limitation, gasoline, petroleum products, explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls or related or similar materials, asbestos or any other substance or material as may now or hereafter be defined as a hazardous or toxic substance by any federal, state or local environmental law, ordinance, rule or regulation, including, without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 9601 et seq.), (ii) the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), (iii) the Clean Air Act (42 U.S.C. Section 7401 et seq.), (iv) the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. Section 6902 et seq.), (v) the Toxic Substances Control Act (15 U.S.C. Section 2601-2629), (vi) the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.), (vii) the Carpenter-Presley-Tanner Hazardous Substance Account Act (CA Health & Safety Code Section 25300 et seq.), (viii) the Hazardous Waste Control Law (CA Health & Safety Code Section 25100, et seq.), (ix) the Porter-Cologne Water Quality Control Act (CA Water Code Section 13000 et seq.), (x) the Safe Drinking Water and Toxic Enforcement Act of 1986. (xi) the Hazardous Materials Release Response Plans and Inventory (CA Health & Safety Code Section 25500 et seq.), (xii) the Air Resources Law (CA Health & Safety Code Section 39000 et seq.), or (xiii) in any of the regulations adopted and publications promulgated pursuant to the foregoing.

In the event that archeological resources are exposed during Project rehabilitation, all earth disturbing work within the Eligible Property must be temporarily suspended or redirected until a professional archaeologist has evaluated the nature and significance of the find. After the find has been appropriately mitigated, work in the area may resume.

SECTION 37. LABOR PROVISIONS – Federal Law.

A. Prevailing Wages.

1. All laborers and mechanics employed or working upon any site as part of the Project will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor regardless of any contractual relationship which may be alleged to exist between the Developer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to laborers or mechanics, subject to the provisions of subparagraph (A)(4) below; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraph (D) of this Section. Laborers or mechanics performing work in more than one classification may be compensated at the rate

specified for each classification for the time actually worked therein: provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under subparagraph (A)(2) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Developer and its Subcontractors at the site of the Project in a prominent and accessible place where it can easily be seen by the workers.

2. (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under this Agreement shall be classified in conformance with the wage determination. Town shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(B) The classification is utilized in the area by the construction industry; and

(C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(ii) If the Developer and the laborers and mechanics to be employed in the classification (if known), or their representatives, and Town agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by Town to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise Town or will notify Town within the 30-day period that additional time is necessary.

(iii) In the event the Developer, the laborers or mechanics to be employed in the classification or their representatives and Town do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), Town shall refer the questions, including the views of all interested parties and the recommendation of Town, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise Town or will notify Town within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

3. The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (A)(2)(ii) or (iii) of this Section, shall be paid to all workers performing work in the classification under this Agreement from the first day on which work is performed in the classification.

4. Whenever the minimum wage rate prescribed in the Agreement for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Developer shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

5. If the Developer does not make payments to a trustee or other third person, the Developer may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Developer, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Developer to set aside in a separate account assets for the meeting of obligations under the plan or program.

B. Withholding. Town shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Developer under this Agreement or any other Federal contract with the same Developer, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Developer, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Developer or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the Project, all or part of the wages required by the agreement, Town may after written notice to the Developer, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and Basic Records.

1. Payrolls and basic records relating thereto shall be maintained by the Developer during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the Project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under paragraph (A)(4) of this Section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Developer shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. If the Developer employs apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

2. (i) The Developer shall submit weekly for each week in which any Agreement work is performed a copy of all payrolls to Town. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (c)(1) above. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, and Washington, D.C. 20402. The Developer is responsible for the submission of copies of payrolls by all Subcontractors. Payroll shall be submitted to an Agency approved third party consultant to monitor payroll and ensure Developer is adhering to all governing prevailing wage laws.

(ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Developer or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Agreement and shall certify the following:

(A) That the payroll for the payroll period contains the information required to be maintained under paragraph (C)(1) above and that such information is correct and complete;

That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Agreement.

(B) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (C)(2)(ii) of this section.

(C) The falsification of any of the above certifications may subject the Developer or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Developer or Subcontractor shall make the records required under paragraph (C)(1) of this section available for inspection, copying or transcription by authorized representatives of Town, the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Developer or Subcontractor fails to submit the required records or to make them available, the Department of Labor may, after written notice to the Developer or Town take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for Debarment of the Developer or Subcontractor pursuant to 29 CFR 5.12.

D. Apprentices and Trainees.

1. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the Project site in any craft classification shall not be greater than the ratio permitted to the Developer as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination of the work actually performed. Where a Developer is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Developer's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Developer will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

2. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the United States Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the Project site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee

listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the Project site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Developer will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

3. Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

E. Compliance with Copeland Act Requirements. The Developer shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference into this Agreement.

F. Subcontracts. The Developer and each Subcontractor shall insert in any subcontracts the clauses contained in paragraphs (A) through (J) of this Agreement and such other clauses may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The Developer shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all the Agreement clauses in 29 CFR 5.5.

G. Agreement Termination: Debarment. A breach of this Agreement clauses in paragraphs (A) through (J) of this Section 37 and Section 38 below are grounds for termination of this Agreement, and for the Debarment of the Developer or Subcontractor as provided in 29 CFR 5.12.

H. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Agreement.

I. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this Agreement shall not be subject to the general disputes provision of this Agreement. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the Developer (and any of its subcontracts) and Town, the U.S. Department of Labor, or the employees or their representatives.

J. Certification of Eligibility.

1. By entering into this Agreement, the Developer certifies that neither it (nor he or she) nor any person or firm who has an interest in the Developer's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

2. No part of this Agreement shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

3. The penalty for making false statements or certifications in the making of this Agreement is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

SECTION 38. LABOR PROVISIONS – California Law.

Unless otherwise exempted pursuant to applicable provisions of California Law, the prevailing wage provisions, including but not limited to those regarding payrolls, records, apprentices and trainees shall apply.

A. THE DEVELOPER ACKNOWLEDGES THAT THE TOWN HAS INFORMED THE DEVELOPER THAT LABORERS EMPLOYED RELATIVE TO THE CONSTRUCTION, INSTALLATION OR OPERATION OF THE PROJECT MAY BE SUBJECT TO THE PREVAILING PER DIEM WAGE RATE FOR THEIR LABOR CLASSIFICATION, AS DETERMINED BY THE STATE OF CALIFORNIA, PURSUANT TO LABOR CODE SECTIONS 1720, ET SEQ. THE DEVELOPER AGREES WITH THE TOWN THAT THE DEVELOPER SHALL ASSUME THE RESPONSIBILITY AND BE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE PROVISIONS OF THE CALIFORNIA LABOR CODE AND RELATED ADMINISTRATIVE REGULATIONS GOVERNING THE PAYMENT OF LABORERS EMPLOYED RELATIVE TO THE CONSTRUCTION, INSTALLATION OR OPERATION OF THE PROJECT, AS DETERMINED BY THE STATE OF CALIFORNIA, PURSUANT TO LABOR CODE SECTIONS 1720, ET SEQ.

B. THE DEVELOPER, ON BEHALF OF ITSELF, ITS SUCCESSORS, AND ASSIGNS, WAIVES AND RELEASES THE AGENCY FROM ANY RIGHT OF ACTION THAT MAY BE AVAILABLE TO ANY OF THEM PURSUANT TO LABOR CODE SECTION 1781. THE DEVELOPER ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542 RELATIVE TO THE WAIVER AND RELEASE CONTAINED IN THIS SECTION 38. WHICH READS AS FOLLOWS: A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR. BY INITIALING BELOW, THE DEVELOPER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY EN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION 5.1:

Initials of Developer _____

Additionally, the Developer shall indemnify, defend and hold harmless the Town, pursuant to Section 10 against any claims pursuant to Labor Code Section 1781 arising from this Agreement or the construction, installation or operation of all or any portion of the Project.

LABOR STANDARDS. Developer, and each of its contractors and all subcontractors engaged under contracts in excess of One Thousand and No/100 Dollars (\$1,000.00) for the construction, alteration, and/or repair of the Improvements shall comply with State of California Labor Code Sections 1720, et seq., pertaining to public works projects and the applicable requirements of the regulations of the State of California Department of Industrial Relations under Title 8 California Code of Regulations Sections 16000, et seq., governing 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 the State of California, nothing in this Agreement shall relieve the Developer of its obligation to require payment by its contractors and subcontractors of such higher wage rates. The Developer shall instruct in writing each contractor and subcontractor engaged to perform construction work related to the Improvements, or such portion thereof as constructed or installed by such person, to keep accurate payroll records for the Improvements as provided in Labor Code Section 1776. The Developer for itself and for each such contractor and subcontractor engaged for the construction of the Improvements shall cause to be delivered to the Agency a certified copy of the payroll records enumerated in Labor Code Section 1776(a) related to the Improvements performed by the Developer, contractor or subcontractor, as applicable, within ten (10) days after receipt of a written request from the Agency for a certified copy of such records. The Developer shall provide the Agency promptly upon its written request with a current listing of all contractors and subcontractors who are engaged in connection with construction of the Improvements on the Site.

SECTION 39. Section 3 of the Housing and Community Development Act of 1968, as Amended.

A. The work to be performed under this Agreement 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.

B. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

C. The Developer agrees to send to each labor organization or representative of workers with which the Developer has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Developer's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training

positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The Developer agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate 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 CFR Part 135. The Developer will not subcontract with any subcontractor 'there the Developer has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the Developer is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Developer's obligations under 24 CFR Part 135.

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

G. 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 Agreement. 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 Agreement 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).

IN WITNESS WHEREOF Town and Developer have each executed this Agreement as of the date first written above.

TOWN

Town of Apple Valley, a California municipal corporation

Date: _____

By: _____

Frank W. Robinson, Town Manager

DEVELOPER

Neighborhood Housing Services of the Inland Empire, Inc., a California 501(c)(3) public benefit corporation

Date: _____

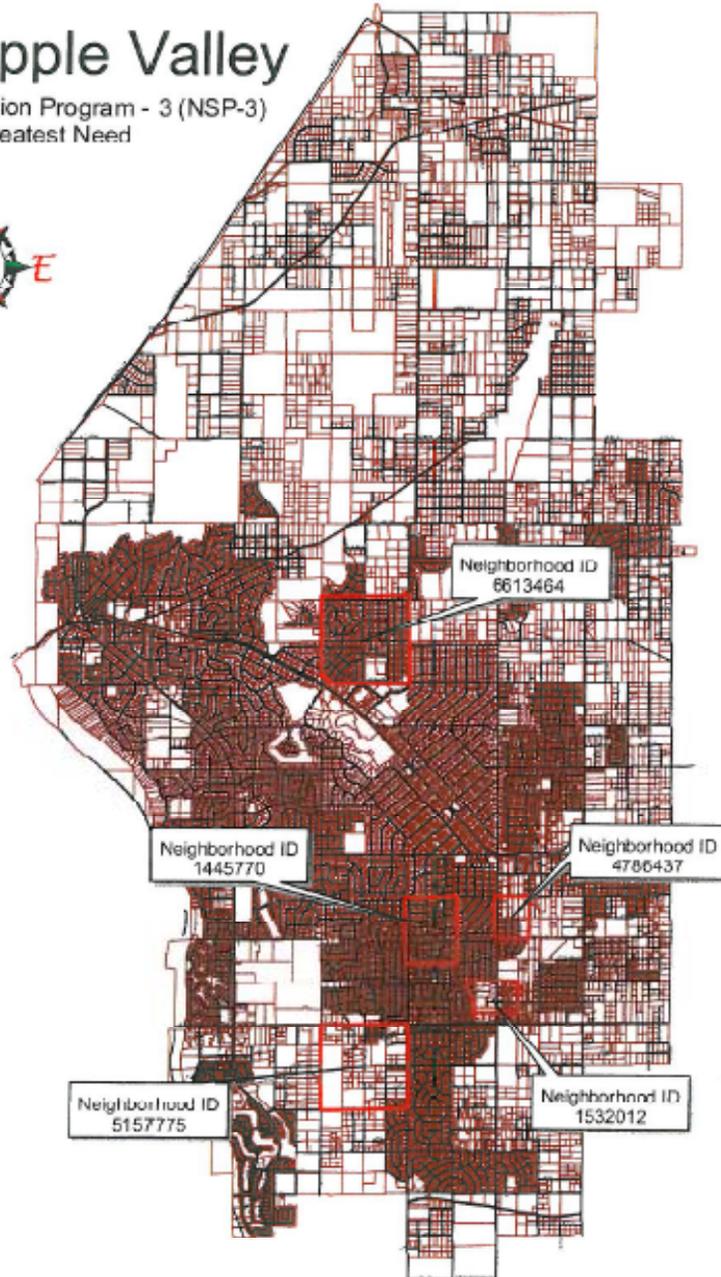
By: _____

Dawn M. Lee
Executive Director

ATTACHMENT "A"
NSP Target Area Map

Town of Apple Valley

Neighborhood Stabilization Program - 3 (NSP-3)
Areas of Greatest Need



ATTACHMENT “B”

Supervisory Staff Personnel

Town Officers or Designees:

Frank W. Robinson, Town Manager

Lori Lamson, Community Development Director

Joseph Moon, Special Projects Manager

Chris Moore, Housing and Community Development Specialist

ATTACHMENT “C”

Scope of Services

A. **Activities** Developer shall supply all labor, services, items of expense and consultation (hereinafter collectively referred to as “Services”) necessary to fully and adequately meet the Program Delivery requirements set forth in Section B below, and to satisfy all other requirements of Developer under this Agreement. The program shall be carried out in a manner satisfactory to Town and consistent with this Agreement and any standards required as a condition of providing the NSP Financing funds.

B. Program Delivery

1. General Requirements.

a. As part of the Services, Developer agrees that it shall make available a primary staff person on an as needed basis within close proximity to each project site in order to successfully complete program activities.

b. As part of the Services, Developer shall provide or cause to be provided and shall enter into agreements for construction manager services, property management, property acquisition and relocation consultant services.

c. Developer shall utilize realtors, appraisal services, escrow services and title companies as approved by Town. If such services have not been identified by Town within a pool of Town pre-approved service providers, Developer shall utilize businesses located within the City and if they are deemed to be unavailable, then utilize businesses in the County of San Bernardino.

d. Developer warrants that it has the expertise and experience to perform the Services set forth in this Agreement and that it shall perform said Services pursuant to this Agreement and as stated in this Scope of Services.

e. Developer shall document performance on a monthly basis by submittal of a Monthly Report, which report shall be in a form satisfactory to Town. The Monthly Report shall be due by the tenth (10th) calendar day of the following month after the Services were rendered.

f. Developer shall provide notification to Town of any audits or investigations including results, findings and/or liens within ten (10) calendar days after Developer has obtained information regarding such audits or investigations and the results, finding and/or liens.

2. Property Acquisition and Rehabilitation.

a. Developer shall work with Town to identify Eligible Properties to be purchased by Town. Town shall obtain an appraisal for each Eligible Property prior to acquisition and shall determine that the sales price is at least one percent less than the current market appraised value in accordance with the requirement of the NSP Program.

b. The Eligible Properties shall only be located within the NSP Target Area identified in **Attachment “A”**.

c. Developer shall submit the completed forms as attached hereto as **Attachment “H”**, the Total Development Cost Pro Forma, **Attachment “I”**, the Rehabilitation Scope of Work and **Attachment “J”**, the Project Timeline prior to the acquisition of any Eligible Property to be approved by Town.

d. The Developer is required to present and obtain approval for a financing plan in the form of **Attachment “K”**, the Sources and Uses Schedule, that encompasses the acquisition, rehabilitation and the sale phases of each Eligible Property prior to the conveyance of any such property to Developer. Such financing plan shall demonstrate that enough funds are available for the acquisition of the property, payment for the labor, materials and other services required to complete the Town approved Rehabilitation Scope of Work. Additionally, the Financing Plan must contain a calculation of the estimated sales price of the home after rehabilitation, the estimated amount of the first mortgage loan to be obtained by the Qualified Homebuyer, any down payment expected from the Qualified Homebuyer towards the purchase of the Eligible Property and the amount expected to be granted to the development cost of the Eligible Property by Town. Each financing plan is subject to Town’s approval in its sole discretion. The conveyance of each Eligible Property to Developer and the financing made available for the acquisition and rehabilitation of each Eligible Property shall be subject to the conditions and requirements set forth in Section 16 of the Agreement.

e. Other than those liens approved by Town, Developer shall ensure that title to the Eligible Property shall be and remain free and clear from any and all security interests, liens or other encumbrances. In carrying out the Services, Developer promises and agrees that it will not pledge, hypothecate or otherwise encumber title to the Eligible Property in any manner that would result in any lien, security interest, charge or claim upon or against said property.

f. Rehabilitation of Eligible Properties conveyed to Developer pursuant to this Agreement shall be completed, and said properties shall be ready for sale as evidenced by a Certificate of Occupancy issued by the City and/or a Certificate of Completion issued by Town within ninety (90) calendar days following the close of Acquisition Escrow on the Eligible Property.

g. Developer shall rehabilitate Eligible Properties in accordance with **Attachment “M”**, the Town’s NSP Rehabilitation Guidelines, and pursuant to the terms of this Agreement and in accordance with the plans and specifications approved by the City.

h. As part of the Developer’s rehabilitation process for each Eligible Property, Developer shall:

(1) Budget Estimate - Provide a budget estimate for the total development cost of the Eligible Property in the form of **Attachment “H”**, and a budget estimate for the Town approved Rehabilitation Scope of Work to be written in Town’s format as set forth in **Attachment “I”**.

(2) Project Timeline - Provide a timeline in the form of **Attachment “J”** for the completion of the various steps involved in the rehabilitation and sale of the Eligible Property.

(3) Secure Property - Upon receipt of title to an Eligible Property, Developer shall provide locked fencing on the perimeter of the site to preclude unauthorized entry upon an Eligible Property. Developer shall board up the Eligible Properties in accordance with HUD board up standards.

(4) Property Maintenance During Rehabilitation Period - Maintain utilities service, pay for monthly utilities bill(s) during the holding period, interior and exterior appearance and of the property.

(5) Construction Management Services - Provide construction management services for the rehabilitation of the Eligible Property, which shall include but not be limited to: establishing a scope of work, confirm that the financing is adequate to pay for all labor and materials, conducting weekly on-site project inspections, managing relationships with all sub-contractors, verifying permits and City compliance, administering both conditional and unconditional lien releases.

(6) Files - Maintain adequate files for each property, ensuring compliance with all Town requirements, all documents required to verify compliance with the Affirmative Marketing Guidelines as attached hereto as **Attachment "L"** such as tenant waiting lists, copies of advertisements published in local and community newspapers, etc.

(7) Environmental - Obtain a Lead-Based Paint Risk Assessment as defined in Section 2 of the Agreement and order an asbestos, mold and hazardous materials inspection from qualified environmental consultants. Implement all lead-based paint, asbestos, mold or any other environmental mitigation measures required by Town and further implement as part of the rehabilitation work performed on the property. Provide proof of completion of these mitigation measures.

3. Marketing and Sale of Eligible Property.

a. Marketing - Market the Eligible Property through advertising, published promotional materials and community outreach. Adhere to Town's Affirmative Marketing Guidelines as described in **Attachment "L"**.

b. Sale to Qualified Homebuyer.

i. Identify Homebuyer - Identify prospective Qualified Homebuyers to be approved by Town in writing, facilitate adequate homebuyer training and pre-qualify the homebuyer for eligibility to purchase the home. Collect the following application documents from the Qualified Homebuyer:

(a) Last three (3) years tax returns (State and Federal) (1040's) signed with W2's. Two (2) current pay stubs for all household members who are working and will reside in the home.

(b) Verification for Applicant Eligibility Form completely filled out and signed by both the Qualified Homebuyer and Lender.

(c) A California Association of Realtors California Residential Purchase Agreement fully executed by the prospective homebuyer.

(d) Application Affidavit -- Completely filled out and signed by Qualified Homebuyer.

(e) Signed Lead-Base Paint Disclosure Form (pre 1978). Town does not supply this form.

(f) Copy of Employment Verification for each Homebuyer.

(g) 2 months of Current Bank Statements.

(h) 3 year Housing History.

(i) Income Certification Form.

(j) Homebuyer Education Certificate from HUD Certified Housing Counseling Agency.

(k) Proof of legal residency in the United States for all members of the household who are applying for consideration as the Qualified Homebuyer.

c. Income Eligibility - In determining whether a prospective homebuyer is income eligible, the Developer shall adhere to the procedures specified in 24 CFR Part 92.203, which include but are not limited to:

i. Income must initially be determined by examining the source documents evidencing annual income, which may include:

(a) Wage statement (such as a W-2)

(b) Interest statement

(c) Unemployment compensation statement

ii. When determining whether a family is income eligible, one of the following three definitions of "annual income" must be used:

(a) "Annual Income" as defined at 24 CFR 5.609; or

(b) Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(i) Wages, salaries, tips, commissions, etc.;

(ii) Self-employment income from owned non-farm business, including proprietorships and partnerships;

- (iii) Farm self-employment income;
- (iv) Interest, dividends, net rental income, or income from estates or trusts;
- (v) Social Security or railroad retirement;
- (vi) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance of public welfare programs;
- (vii) Retirement, survivor, or disability pensions: and
- (viii) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

(c) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes. If using the 1040 Form, it must be obtained directly from the IRS.

(1.) Financing - Facilitate financing of the Eligible Property, and pre-qualify the homebuyer for eligibility to receive the Down Payment Assistance. In addition, the Developer is required to make best efforts to ensure that a fixed rate permanent loan secured by a first trust deed ("First Mortgage Loan") is made available to each Qualified Homebuyer at the lowest commercially available rate and most favorable terms.

(2.) Appraisal - Obtain an appraisal from an appraiser approved by Town to determine the sales price for the Eligible Property. Such appraisal must be approved by Town and it must conform to all requirements of the federal NSP Program.

(3) Escrow - Work with the Town selected title company and manage the escrow process through closing on behalf of the Qualified Homebuyer, ensure that all Town loan and property documents are executed, notarized and recorded as needed.

4. Closing Requirements.

a. Developer shall cause the closing of the acquisition and rehabilitation financing for the Eligible Properties by following the procedures and complying with the requirements set forth in Section 16.A. of this Agreement.

b. Developer shall cause the closing of the sale of the Eligible Properties in accordance with the procedures and requirements established in Section 16.B. of this Agreement.

5. Construction Requirements.

Developer shall cause the rehabilitation work to proceed diligently no later than fourteen (14) calendar days following the close of the Acquisition Escrow. "Completion of the Project" shall occur no later than ninety (90) calendar days following the close of the Acquisition Escrow for the Eligible Properties. "Completion of the Project" shall be deemed to have occurred when

Town has completed the final inspection for the particular Eligible Property and has authorized the unconditional provision of utilities to the Eligible Property.

Developer shall provide evidence that the rehabilitation work on the Eligible Property has been completed in compliance with this Agreement. and that all final permits and certificates necessary for the sale of the Eligible Property have been obtained, including, without limitation, the following, each of which is subject to Town's review and approval: (1) a minimum 5-year warranty from the general contractor, in a form reasonably acceptable to Town, with respect to the rehabilitation work performed and all components and systems constructed or installed upon the Eligible Property; (2) a certificate of occupancy or completion, as may be warranted, and other final permits and licenses necessary to permit the use and occupancy of the Eligible Property for its intended purposes, which have been issued by proper governmental agencies; and (3) evidence satisfactory to Town that the Eligible Property is free from any mechanics' liens. Rehabilitation shall proceed in accordance with the Project Timeline attached as **Attachment "J"** to be submitted for each Eligible Property and approved by Town prior to the execution of the Site Agreement for any particular Eligible Property.

6. Relocation Requirements.

In the event relocation is determined to be a requirement for the successful implementation of the Agreement, the Developer shall be required to submit a relocation plan to Town for consideration. It is the preference of Town that the Developer acquire only Eligible Properties that have been non-occupied for 90 days or more, but in the event that acquired properties require relocation assistance Developer shall be responsible for funding and compliance with all relocation requirements as governed by federal relocation laws and regulations for projects funded in whole or in part with NSP funding, including the Federal Uniform Relocation Assistance and Real Property Policies Act (42 U.S.A. 4601, et seq., as amended), Federal Relocation Regulations (49 CFR Part 24), and HUD Relocation Handbook 1378.

ATTACHMENT "D"

Town Note

**TOWN NEIGHBORHOOD STABILIZATION PROGRAM
PROMISSORY NOTE**

Total Not to Exceed \$1,200,000.00

December 11, 2012

For value received, the undersigned, NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE, INC., a California 501(c)(3) public benefit corporation (“Borrower”), whose principal address is set forth herein below, promises to pay to the order of the TOWN OF APPLE VALLEY, a California municipal corporation (“Town”) at 14955 Dale Evans Parkway, Apple Valley, California 92307 (or to such designee and/or at such other address as Town may from time to time designate in writing), the principal sum not to exceed _____ DOLLARS (\$_____) with interest to accrue from and after the date of each disbursement (the “Loan”), or such amount as may be advanced hereunder, plus accrued and unpaid interest as provided herein below, and all other charges due hereunder, in accordance with the terms and conditions of that certain Master Agreement dated as of December 11, 2012 entered into between Borrower and Town (the “Master Agreement”) and that certain Site Agreement dated as of , 2012 entered into between Borrower and Town (the “Site Agreement”), and the terms and conditions of this Promissory Note (this “Note”). As set forth in greater detail in the Site Agreement, the purpose of the Loan is to provide Borrower with acquisition and rehabilitation financing in connection with an affordable housing project (“Project”) on a site more particularly described in the Site Agreement and the legal description attached herewith as Exhibit “A” (“Eligible Property”). The words set out here shall have the same definitions as in the Master Agreement.

1. Interest.

1.1. Basic Interest. Except as provided in Section 1.6 below, the disbursed and unpaid principal balance of the Loan shall bear interest commencing on the date on which the Loan proceeds are first disbursed for the account of Borrower at the rate of three percent (3%) per annum, simple interest (“Basic Rate”). Interest shall be computed on the basis of actual number of days elapsed and a 360-day year. The Loan shall stop bearing interest on the date paid or on the date that the conditions for forgiving the Loan have been met by the Borrower, as specified in Section 1.4.

1.2. Term. The term of the Loan expires on the “Maturity Date” which is one (1) year from the date when the Acquisition Escrow (as is defined in the Section 2 of the Master Agreement) for the Eligible Property is closed and the Escrow Agent (as is defined in Section 2 of the Master Agreement) disburses the proceeds of the Loan to the Borrower for any acquisition, predevelopment or rehabilitation costs associated with the development of the Eligible Property. Town shall have the option of extending the term of any Loan in its sole discretion.

1.3. Time and Amount of Payment. The entire outstanding principal balance of the Loan together with any outstanding interest and any other sums payable under this Note shall be due and payable in full on the first to occur of the following dates (the “Due Date”): (i) the

date of the first Sale or Transfer of the Property; (ii) the date on which Town accelerates all sums due under this Note as a result of a “default” by Borrower under Section 9 hereof and the expiration of any applicable cure periods; and (iii) the Maturity Date of the Loan. If no Due Date has occurred, then the entire principal of the Loan and any accrued and unpaid interest shall be forgiven when the conditions stipulated in Section 1.4 below have been met by the Borrower.

1.4. Loan Forgiveness. In the event that the Borrower has completed all of the work required for the rehabilitation of the Eligible Property pursuant to the Master Agreement, the Eligible Property has been sold to a Qualified Homebuyer at an Affordable Housing Cost prior to the Maturity Date of the Loan, and the Borrower is not in default under any of the provisions in the Master Agreement and the Site Agreement, the entire principal of the Loan and any accrued and unpaid interest shall be forgiven, provided that the proceeds derived from the sale of the Eligible Property (“Sale Proceeds”) shall be due to Town upon the close of the Sales Escrow, and the amounts due under this Note shall not be forgiven unless and until the Sales Proceeds are provided to Town. No net proceeds shall accrue to the Borrower unless approved by Town.

1.5. Calculation of Sale Proceeds. Borrower shall provide to Town for inspection and copying any records, receipts, account books, ledgers, checks, or other documents or other evidence requested by Town for the purpose of verifying Borrower’s calculation of the Sale Proceeds, and shall promptly pay to Town any further amount due but not paid as a result of any miscalculation by Borrower. In no event shall any Loan payment attributable to an Event of Default (as hereafter defined) or acceleration be deferred.

1.6. Default Rate. Any amounts (including but not limited to amounts of principal and interest on the Loan) which Borrower does not pay when due under the terms of this Note shall bear interest at the rate of ten percent (10%) per annum, simple interest (“Default Rate”), from the date due until the date paid.

2. Acceleration.

Notwithstanding the payment terms set forth in Section 1 above, upon the occurrence of any “Event of Default” as set forth in Section 9 below, the entire outstanding principal balance of this Note, together with any outstanding interest and other amounts payable hereunder, shall, at the election of Town and upon notice to Borrower thereof become immediately due and payable without presentment, demand, protest or other notices of any kind, all of which are hereby waived by Borrower.

3. Prepayment: Application of Payments.

At any time after the disbursement of the Loan proceeds, Borrower may prepay all or a portion of the unpaid principal amount of the Loan and accrued interest and any other sums outstanding without penalty. All payments, including any prepayments or funds received upon acceleration pursuant to Section 2 above, shall be applied first toward any outstanding costs of collection or other amounts (excluding Loan principal or interest thereon) due under this Note or the Master Agreement or the Site Agreement, then toward outstanding interest accrued at the

Default Rate, if any, then toward outstanding interest accrued at the Basic Rate, if any, and finally toward the remaining principal balance under the Note.

4. Security and Source of Payment.

Borrower's obligations under this Note and the Agreement shall, at all times during which any amount remains outstanding, be secured by the deed of trust ("Town Deed of Trust") of even date herewith, and of which Town is the beneficiary, recorded against Borrower's interest in the Eligible Property and the Project (collectively, the "Property"). The security interest in the Property granted to Town pursuant to the Town Deed of Trust shall be subordinate only to the exceptions to title shown in the title report for the Property which are approved in writing by Town. Except to the extent any Event of Default hereunder results directly or indirectly from any willful misconduct, fraud or intentional and material misrepresentation by Borrower in connection with this Note, the Master Agreement, the Site Agreement or the Loan, the Loan is a nonrecourse obligation of Borrower and, in the event of the occurrence of an Event of Default, Town's only recourse under the Town Loan Documents shall be against the Property, the proceeds thereof, the rents and other income arising from its use and occupancy as provided in the Town Deed of Trust, and any other collateral given to Town as security for repayment of the Loan.

5. Obligation of Borrower Unconditional.

The obligation of Borrower to repay the Loan and all accrued interest thereon and all other sums due there under shall be absolute and unconditional, and until such time as all of the outstanding principal of, interest on and all other sums due under, this Note shall have been fully paid, Borrower agrees that it: (a) will use the funds solely for the purposes set forth herein; and (b) will not terminate or suspend any payment or obligations under this Note, the Master Agreement, the Site Agreement or any other document executed hereunder or in connection herewith for any cause, including without limitation, any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, or any duty, liability or obligation arising out of or in connection with this Note, the Master Agreement, the Site Agreement or any document executed hereunder or in connection herewith.

6. Purpose of Loan.

The Loan proceeds shall be used by Borrower only to provide acquisition and rehabilitation financing for the housing development described in the Site Agreement. In no event shall Borrower use or otherwise invest the proceeds of the Loan except as expressly provided in this Note.

7. Covenants of Borrower.

As additional consideration for the making of the Loan by Town, Borrower covenants as follows:

7.1. Compliance with the Master Agreement, the Site Agreement and the Town Deed of Trust. Borrower shall comply with all of its obligations under the Master

Agreement, the Site Agreement and the Town Deed of Trust. Any amounts payable by Borrower under the Town Deed of Trust (other than amounts also payable hereunder) shall be deemed added to the principal amount of the Loan payable hereunder.

8. Assignment of this Note.

This Note shall be assignable by Borrower only if Borrower obtains the prior express written consent of Town, which consent may be withheld by Town in its sole discretion. Notwithstanding anything to the contrary in this Note, no purported assignment of this Note and the Loan shall be effective if such assignment would violate the terms, conditions and restrictions of any Applicable Governmental Restrictions. Town's consent to such assignment shall be expressly conditioned upon (i) the assignee's execution of such documents as required by Town in its sole discretion, including, without limitation, any and all documents deemed necessary by Town to provide for said assignee's assumption of all of the obligations of Borrower hereunder and under Town Loan Documents, and (ii) Town's approval of the financial and credit worthiness of such proposed assignee and the assignee's ability to perform all of the Borrower's covenants under this Note, the Master Agreement, the Site Agreement and any of the other Town Loan Documents.

9. Events of Default and Remedies.

9.1. Borrower Events of Default. The occurrence of any of the following shall, after the giving of any notice and the expiration of any applicable cure period described therein, constitute an event of default by Borrower hereunder ("Event of Default"):

9.1.1 The failure of Borrower to pay or perform any monetary covenant or obligation hereunder or under the terms of this Note or the Town Deed of Trust, the Master Agreement or the Site Agreement, without curing such failure within ten (10) calendar days after the date such payment is due. Notwithstanding anything herein to the contrary, the herein described cure period shall not apply to a failure by Borrower to timely repay the Loan at the Maturity Date of this Note, and no notice or opportunity for cure need be given;

9.1.2 The failure of Borrower to perform any nonmonetary covenant or obligation hereunder or under the terms of this Note, the Town Deed of Trust, the Master Agreement or the Site Agreement, without curing such failure within thirty (30) calendar days after receipt of written notice of such default from Town (or from any party authorized by Town to deliver such notice as identified by Town in writing to Borrower) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency; provided, however, that if any default with respect to a nonmonetary obligation is such that it cannot be cured within a thirty day period, it shall be deemed cured if Borrower commences the cure within said thirty day period and diligently prosecutes such cure to completion thereafter with the cure completed in any event within 180 calendar days after the notice. Notwithstanding anything herein to the contrary, the herein described notice cure periods shall not apply to any Event of Default described in Sections 9.1(c) through 9.1(g) below;

9.1.3 The material falsity of any representation or breach of any warranty or covenant made by Borrower under the terms of this Note, the Master Agreement, the Site Agreement or the Town Deed of Trust;

9.1.4 Borrower shall (a) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition that is not withdrawn within ten (10) calendar days after the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;

9.1.5 If without the application, approval or consent of Borrower, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Borrower or any constituent member or partner or majority shareholder of Borrower, for an order for relief or an adjudication in bankruptcy, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Borrower or of all or any substantial part of Borrower's assets, or other like relief in *respect* thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Borrower, in good faith, the same shall (a) result in the entry of an order for relief or any such adjudication or appointment, or (b) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days;

9.1.6 Voluntary cessation of the operation of the Project during the rehabilitation phase for a continuous period of more than thirty (30) calendar days or the involuntary cessation of the operation of the Project during the rehabilitation phase in accordance with this Note for a continuous period of more than sixty (60) calendar days;

9.1.7 Borrower shall be in default under the Town Housing Affordability Covenants, unless the default is cured within the cure period, if any, applicable thereto under the terms of the obligation which is in default.

9.2. Town Remedies. Upon the occurrence of an Event of Default hereunder, Town may, in its sole discretion, take any one or more of the following actions:

9.2.1 By notice to Borrower, declare the entire then unpaid principal balance of the Loan immediately due and payable, and the same shall become due and payable without further demand, protest or further notice of any kind, all of which are hereby expressly waived by Borrower. Upon such declaration, outstanding principal and (to the extent permitted by law) interest and any other sums outstanding in connection with the Loan shall thereafter bear interest at the Default Rate, payable from the date of such declaration until paid in full;

9.2.2 Subject to the nonrecourse provisions of Section 4 above, take any and all actions and do any and all things which are allowed, permitted or provided by law, in equity or by statute, in the sole discretion of Town, to collect the amounts then due and thereafter

to become due hereunder, to exercise its rights under the Town Deed of Trust, and to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Note or under any other document executed in connection herewith;

9.2.3 Subject to the nonrecourse provisions of Section 4 above, upon the occurrence of an Event of Default, which is occasioned by Borrower's failure to pay money, whether under this Note, the Master Agreement or the Site Agreement, Town may, but shall not be obligated to, make such payment. If such payment is made by Town, Borrower shall deposit with Town, upon written demand therefore, such sum plus interest at the Default Rate. The Event of Default with respect to which any such payment has been made by Town shall not be deemed cured until such repayment has been made by Borrower. Until repaid, such amounts shall have the security afforded disbursements under this Note;

9.2.4 Subject to the nonrecourse provisions of Section 4 above, upon the occurrence of an Event of Default described in Section 9.1(c) or 9.1(d) hereof, Town shall be entitled and empowered by intervention in such proceedings or otherwise to file and prove a claim for the whole amount owing and unpaid on the Loan and, in the case of commencement of any judicial proceedings, to file such proof of claim and other papers or documents as may be necessary or advisable in the judgment of Town and its counsel to protect the interests of Town and to collect and receive any monies or other property in satisfaction of its claim.

9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to Town is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Note or now or hereafter existing at law or in equity or by statute; and may be exercised in such number, at such times and in such order as Town may determine in its sole discretion. No delay or omission to exercise any right or power upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by Town. In order to entitle Town to exercise any right or remedy reserved to it under this Note, no notice shall be required except as expressly provided herein.

9.4. Town Default and Borrower Remedies. Upon fault or failure of Town to meet any of its obligations under this Note without curing such failure within thirty (30) calendar days after receipt of written notice of such failure from Borrower specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency, Borrower may, as its sole and exclusive remedies:

10. Demand and obtain payment from Town of any sums due to or for the benefit of Borrower pursuant to the express terms of this Note;

11. Bring an action in equitable relief seeking the specific performance by Town of the terms and conditions of this Note or seeking to enjoin any act by Town which is prohibited hereunder; or

12. Bring an action for declaratory relief seeking judicial determination of the meaning of any provision of this Note.

13. Without limiting the generality of the foregoing, Borrower shall in no event be entitled to, and hereby waives, any right to seek indirect or consequential damages of any kind or nature from Town arising out of or in connection with this Note, and in connection with such waiver Borrower is familiar with and hereby waives the provisions of Section 1542 of the California Civil Code which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Initials of Borrower

14. Agreement to Pay Attorneys' Fees and Expenses.

In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Note or any of the other Town Loan Documents as a consequence of any breach by the other party of its obligations hereunder or there under, the prevailing party in such action or proceed reasonable attorneys' fees and out-of-pocket expenditures paid by the losing party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees, the prevailing party in any lawsuit on this Note or any other Loan Document shall also be entitled to its attorneys' fees incurred in any post- judgment proceedings to collect or enforce the judgment. In addition to the foregoing, Borrower agrees to pay or reimburse Town, upon demand by Town, for all costs incurred by Town in connection with the enforcement of this Note, and any other Town Loan Document, including without limitation, reasonable attorneys' fees and costs, if there shall be filed by or against Borrower any proceedings under any federal or state bankruptcy or insolvency laws, whether Town is a creditor in such proceeding or otherwise.

15. Conflict of Interest: No Individual Liability.

No official or employee of Town shall have any personal interest, direct or indirect, in this Note, nor shall any official or employee of Town participate in any decision relating to this Note which affects such official's or employee's pecuniary interest in any corporation, partnership or association in which such official or employee is directly or indirectly interested. No official or employee of Town shall be personally liable in the event of a breach of this Note by Town.

16. Amendments, Changes and Modifications.

This Note may not be amended, changed, modified, or altered without the prior written consent of the parties thereto.

17. Notices.

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Note shall be in writing and shall be given by personal delivery, facsimile, certified mail (return receipt requested), or overnight guaranteed delivery service and faxed or addressed as follows:

If to Town: Town of Apple Valley
 14955 Dale Evans Parkway
 Apple Valley, California 92307
 Attn: Community Development Director
 Phone: 760-240-7000 ext. 7204
 Fax No.: 760-240-7399

With a copy to: Town of Apple Valley
 14955 Dale Evans Parkway
 Apple Valley, California 92307
 Attn: Joseph Moon, Special Projects Manager
 Phone: 760-240-7000 ext. 7521
 Fax No.: 760-240-7399

If to Borrower: Neighborhood Housing Services of the Inland Empire, Inc.
 Attention: Dawn M. Lee, Executive Director
 1390 North "D" Street
 San Bernardino, California 92405
 Phone: (909) 963-5215
 Fax No. (909) 884-8899

Notices shall be effective upon receipt, if given by personal delivery; upon receipt, if faxed, provided there is written confirmation of receipt (except that if received after 5 p.m., notice shall be deemed received on the next business day); the earlier of (i) three (3) business days after deposit with United States Mail, or (ii) the date of actual receipt as evidenced by the return receipt, if delivered by certified mail; or (iii) one (1) day after deposit with the delivery service, if delivered by overnight guaranteed delivery service. Each party shall promptly notify the other party of any change(s) of address to which notice shall be sent pursuant to this Note.

18. Severability.

The invalidity or unenforceability of any one or more provisions of this Note will in no way affect any other provision.

19. Interpretation.

Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Note are for convenience only and do not define or limit any terms or provisions. Time is of the essence in the performance of this Note by Borrower. Each

Party has been represented by counsel in the negotiation of this Note, and it shall not be interpreted in favor of or against any Party on account of relative responsibilities in drafting. Notwithstanding any other provision of this Note, nothing herein or in this Note shall be deemed to require Borrower to pay interest in the amount of any applicable usury law or other legal limitation on interest, and the terms hereof and of this Note shall be interpreted to require in each instance the lesser of (i) the amount stated in this Note; and (ii) the maximum applicable legal limit. Defined terms not otherwise defined herein shall have the meaning assigned to them by the Master Agreement.

20. No Waiver: Consents.

Any waiver by Town must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure by Town to take action on account of any default of Borrower. Consent by Town to any act or omission by Borrower will not be construed as consent to any other or subsequent act or omission or to waive the requirement for Town's consent to be obtained in any future or other instance.

21. Governing Law.

This Note shall be governed by the laws of the State of California.

22. Representations, Warranties and Additional Covenants of Borrower.

Borrower hereby represents, warrants and covenants to Town that:

23. Organization and Standing. Borrower is a California legal entity as described in the Agreement, duly formed, qualified to operate in California and validly existing and in good standing under all applicable laws, and has all requisite power and authority to enter into and perform its obligations under this Note, the Master Agreement, the Site Agreement, the Town Deed of Trust, the Town Regulatory Agreement and all other documents executed in connection herewith.

24. Enforceability. This Note and all other instruments to be executed by Borrower in connection with the Loan constitute the legal, valid and binding obligation of Borrower, without joinder of any other party.

25. Authorization and Consents. The execution, delivery and performance of this Note and all other instruments to be executed in connection herewith is consistent with the operating agreement, partnership agreement or articles and bylaws governing Borrower and have been duly authorized by all necessary action of Borrower's members, partners, directors, officers and shareholders.

26. Due and Valid Execution. This Note and all other instruments to be executed in connection herewith, will, as of the date of their execution, have been duly and validly executed by Borrower.

27. Licenses. Borrower will obtain and maintain all material licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the Project.

28. Litigation and Compliance. There are no suits, other proceedings or investigations pending or threatened against, or affecting the business or the properties of Borrower (other than those as have been previously disclosed in writing to Town) which could impair its ability to perform its obligations under this Note, nor is Borrower in violation of any laws or ordinances which could materially impair Borrower's ability to perform its obligations under this Note.

29. Default. There are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute an "Event of Default" hereunder, as described in Section 9.

30. No Violations. The execution and delivery of this Note and all other documents executed or given there under, and the performances hereunder and there under by Borrower, as applicable, will not constitute a breach of or default under any instrument or agreement to which Borrower may be a party nor will the same constitute a breach of or violate any law or governmental regulation.

31. Approvals.

Except with respect to those matters set forth hereinabove providing for Town's approval, consent or determination to be at Town's "sole discretion" or "sole and absolute discretion," Town hereby agrees to act reasonably with regard to any approval, consent, or other determination given by Town hereunder. Town agrees to give Borrower written notice of its approval or disapproval following submission of items to Town for approval, including, in the case of any disapproved item, the reasons for such disapproval.

Any review or approval of any matter by Town or any Town official or employee under this Note shall be solely for the benefit of Town, and neither Borrower nor any other person shall rely upon such review or approval as an indication of the wisdom, soundness, safety, appropriateness, or presence or absence of any matter. Without limiting the generality of the foregoing, Borrower and not Town shall be solely responsible for assuring compliance with laws, the suitability of the Eligible Property for the Project, the adequacy of the plans, and the safety of the Project construction site, the completed Project, and the operation thereof.

Any consent to a Transfer given by Town under this Note, the Town Deed of Trust, the Master Agreement, the Site Agreement, or any of the other documents executed in connection therewith, may be given by the Town Manager or his designee without action by the Town Council, unless the Town Manager elects to refer the matter to the Council.

32. Good Faith and Fair Dealing.

The Town and Borrower agree to perform all of their obligations and the actions required of each hereunder in good faith and in accordance with fair dealing.

33. Waiver.

Notwithstanding anything to the contrary herein, Borrower agrees that it will still be liable for repayment of this Note, subject to the nonrecourse provision of Section 4 above, even if the holder hereof does not follow the procedures of presentment, protest, demand, diligence, notice of dishonor and of nonpayment, which requirements are hereby waived. Failure of Town or other holder hereof to exercise any right or remedy hereunder shall not constitute a waiver of any future or other default. No acceptance of a past due installment or indulgence granted from time to time shall be construed to be a waiver of, or to preclude the exercise of, the right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively, or to waive or preclude the exercise of any other rights which Town may have.

IN WITNESS WHEREOF, Borrower has executed this Note as of the date and year first above written.

BORROWER:

**NEIGHBORHOOD HOUSING SERVICES OF THE
INLAND EMPIRE, INC.**, a California 501(c)(3) public
benefit corporation

By: _____
Dawn M. Lee
Executive Director

ATTACHMENT “E”

Town Deed of Trust

Recording Requested by and
When Recorded Mail To:

Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Attn.: Lori Lamson,
Community Development Director

Above Space For Recorder's Use Only

Document entitled to free
recording per Govt. Code
Section 6103

DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Town Deed of Trust") is made as of December 11, 2012, by and between NEIGHBORHOOD HOUSING-SERVICES OF THE INLAND EMPIRE, INC., a California 501(c)(3) public benefit corporation ("Trustor"), _____ ("Trustee"); and TOWN OF APPLE VALLEY, a California municipal corporation ("Town" or "Beneficiary").

R E C I T A L S

WHEREAS, the Town shall be the "Beneficiary" of this Town Deed of Trust.

WHEREAS, the Town is making a loan to Trustor in the original principal amount of _____ DOLLARS (\$_____) (the "Loan") pursuant to that certain Master Agreement (the "Master Agreement") entered into by Trustor and Beneficiary and dated as of December 11, 2012 and that certain Site Agreement (the "Site Agreement") entered into by Trustor and Beneficiary and dated as of December 11, 2012. The Loan is evidenced by a promissory note of even date herewith executed by Trustor (the "Town Note") in the principal amount of the Loan.

WHEREAS, the Loan proceeds shall be used solely for the cost of acquisition and to provide rehabilitation financing for the home described in the Site Agreement (the "Project"). The Project will be developed on a site legally described on Attachment "1" to this Town Deed of Trust (the "Eligible Property"). The words set out here shall have the same definitions as in the Master Agreement.

NOW THEREFORE, in consideration of the Loan, Trustor hereby irrevocably grants, conveys, transfers and assigns to Trustee, its successors and assigns, in trust, with power of sale and right of entry and possession as provided below all of its present and future estate, right, title

and interest in and to the Eligible Property, together with all right, title and interest of Trustor therein and in and to, and grants to Beneficiary a security interest in, the following:

A. All development rights, air rights, water, water rights, and water stock relating to the Eligible Property.

B. All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Eligible Property, including but not limited to all apparatus, attached equipment and appliances used in connection with the operation or occupancy of the Eligible Property, such as heating and air-conditioning systems and facilities used to provide any utility services, ventilation, vehicular cleaning, storage or other services on the Eligible Property, and all signage, carpeting and floor coverings, partitions, generators, screens, awnings, boilers, furnaces, pipes, plumbing, vacuum systems, brushes, blowers, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, heating, ventilating, air conditioning and air cooling equipment, and electric machinery and equipment, it being intended and agreed that all such items will be conclusively considered to be a part of the Eligible Property conveyed by this Town Deed of Trust, whether or not attached or affixed to the Eligible Property.

C. All appurtenances of the Eligible Property and all rights of Trustor in and to any streets, roads or public places, easements or rights of way, relating to the Eligible Property.

D. All of the rents, royalties, profits and income related to the Eligible Property, to the extent not prohibited by any applicable law.

E. All proceeds and claims arising on account of any damage to or taking of the Eligible Property and all causes of action and recoveries for any loss or diminution in value of the Eligible Property.

F. All existing and future goods, inventory, equipment and all other personal property of any nature whatsoever now or hereafter located on the Eligible Property which are now or in the future owned by Trustor and used in the operation or occupancy of the Eligible Property or in any construction on the Eligible Property but which are not effectively made real property under Clause (B) above, including but not limited to all appliances, furniture and furnishings, building service equipment, and building materials, supplies, equipment, machinery, plumbing and plumbing material and supplies, concrete, lumber, hardware, electrical wiring and electrical material and supplies, roofing material and supplies, doors, paint, drywall, insulation, cabinets, ceramic material and supplies, flooring, attached appliances, fencing, landscaping and all other materials, supplies and property of every kind and nature.

G. All present and future accounts, general intangibles, chattel paper, contract rights, deposit accounts, instruments and documents as those terms are defined in the California Uniform Commercial Code, now or hereafter relating or arising with respect to the Eligible Property and/or the use thereof or any improvements thereto, including without limitation: (i) all rights to the payment of money, including escrow proceeds arising out of the sale or other disposition of all or any portion of the estate of Trustor upon the Eligible Property now or hereafter existing thereon; (ii) all plans, specifications and drawings relating to the development

of the Eligible Property and/or any construction thereon; (iii) all use permits, licenses, occupancy permits, construction and building permits, and all other permits and approvals required by any governmental or quasi-governmental authority in connection with the development, construction, use, occupancy or operation of the Eligible Property; (iv) any and all agreements relating to the development, construction, use, occupancy and/or operation of the Eligible Property between Trustor and any contractor, subcontractor, project manager or supervisor, architect, engineer, laborer or supplier of materials; (v) all lease or rental agreements; (vi) all names under which the Eligible Property is now or hereafter operated or known and all rights to carry on business under any such names or any variant thereof; (vii) all trademarks relating to the Eligible Property and/or the development, construction, use, occupancy or operation thereof; (viii) all goodwill relating Eligible Property and/or the development, construction, use, occupancy or operation thereof; (ix) all reserves, deferred payments, deposits, refunds, cost savings, bonds, insurance policies and payments of any kind relating to the Eligible Property; (x) all loan commitments issued to Trustor in connection with any sale or financing of the Eligible Property; (xi) all funds deposited with Beneficiary by Trustor, and all accounts of Trustor with Beneficiary, including all accounts containing security deposits and prepaid rents paid to Trustor in connection with any leases of the Eligible Property, and all proceeds thereof; and (xii) all supplements, modifications and amendments to the foregoing.

H. All of the right, title and interest of Trustor in and to all sales contracts of any nature whatsoever now or hereafter executed covering any portion of the Eligible Property, together with all deposits or other payments made in connection therewith.

I. All of the right, title and interest of Trustor in and to any construction contracts, plans and specifications, building permits, and all other documents necessary for completion of the improvements to the construction of the Eligible Property.

J. All water stock relating to the Eligible Property, all shares of stock or other evidence of ownership of any part of the Eligible Property that is owned by Trustor in common with others, and all documents of membership in any owner's or members' association or similar group having responsibility for managing or operating any part of the Eligible Property.

Trustor does hereby covenant with Trustee and Beneficiary, that Trustor has good right to bargain, sell and convey Trustor's interest in the Eligible Property in manner and form as above written; and Trustor warrants and will defend same to Beneficiary, forever, against all lawful claims and demands whatsoever except as stated above.

THIS DEED OF TRUST IS FOR THE PURPOSE OF SECURING:

1. performance of each agreement of Trustor herein contained or incorporated herein by reference;
2. payment of the indebtedness (including, without limitation, interest thereon) evidenced by the Town Note, and any extension or renewal or modification thereof;
3. performance of each agreement of Trustor contained in the Master Agreement, the Site Agreement or any of the other "Town Loan Documents" (as defined in the

Master Agreement), and any extension, renewal or modification of such other Town Loan Documents;

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

1. Payment of Secured Obligations. To pay when due (a) the principal of, and the interest on, the indebtedness evidenced by the Town Note, (b) charges, fees and all other sums as provided in the Agreement, and (c) the principal of, and interest on, any future advances secured by this Town Deed of Trust.

2. Maintenance, Repair, Alterations. To keep the Eligible Property in good condition and repair; to complete promptly and in a good and workmanlike manner all improvements to be constructed on the Eligible Property, including specifically all improvements described in the Master Agreement and the Site Agreement, and promptly restore in like manner any structure that may be damaged or destroyed thereon; to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Eligible Property or any part thereof or requiring any alterations or improvements thereon; not to commit or permit any waste or deterioration of the Eligible Property; to keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; not to commit, suffer or permit, to the extent Trustor is able by the exercise of commercially reasonable best efforts, any act to be done in or upon the Eligible Property in violation of any law, ordinance or regulation.

3. Insurance. To provide, maintain at its expense and deliver to Beneficiary at all times until payment in full of all obligations secured hereby, insurance as required by the Master Agreement, the Site Agreement or the Town Note. In the event of any loss or damage, Trustor shall give immediate notice thereof to Beneficiary, and Beneficiary may thereupon make proof of such loss or damage, if the same is not promptly made by Trustor. Trustor and Beneficiary hereby agree to cooperate in making any adjustment and compromise of any loss covered by the aforementioned insurance policies upon the Eligible Property, and Trustor authorizes and empowers Beneficiary, at its option, to collect and receive the proceeds, and endorse checks and drafts issued therefor. Beneficiary agrees that in the event of any loss covered by insurance policies on the Eligible Property subject to this Town Deed of Trust, provided there is not then existing any material default (or such existing default will be cured by the proceeds of such insurance) in the observance or performance of any of the covenants and agreements contained herein or in the Town Note or any future notes secured hereby, or in any other agreement with or for the benefit of the Beneficiary in connection with any indebtedness secured hereby, the proceeds of such insurance shall be used for the repair or restoration of the Eligible Property and will be disbursed in accordance with such protective terms and conditions as Beneficiary may reasonably impose.

Trustor hereby fully assigns to Beneficiary all current and future claims it may have under any policy of insurance related to the Eligible Property or the Project, regardless of whether such insurance was required to be maintained under the Town Loan Documents. Any and all unexpired insurance shall inure to the benefit of and pass to the purchaser of the Eligible Property at any foreclosure sale, or any Trustee's sale held pursuant hereto.

Further, Beneficiary may at the time in its sole discretion require Trustor to submit satisfactory evidence of insurance policies obtained pursuant to this Paragraph 3 and of Trustor's compliance with all the provisions of said policies.

4. Lawsuits. To appear in and defend, or otherwise take such action therein as the Beneficiary and Trustee or either of them may deem advisable with respect to, any action or proceeding affecting the security for the Loan in which Beneficiary or Trustee may appear.

5. Beneficiary Statement. To pay all charges for all court costs and expenses which Beneficiary may elect to advance in order to keep unimpaired, protect, and preserve the title thereto; and to pay for any statement provided for by law in effect at the date hereof regarding the obligations secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

6. Condemnation. That all judgments, awards of damages and settlements, hereafter made as a result of or in lieu of any condemnation or other proceedings for public use of, or for any damage to, the Eligible Property or the improvements thereon, are hereby assigned to Beneficiary. If (i) Trustor is not then in material default hereunder (or such default will be cured with the proceeds from the foregoing), and (ii) the taking is a partial taking, all proceeds thereof shall be applied to restoring the Eligible Property, if practicable, as reasonably determined by Beneficiary. In the event (i) Trustor is then in material default hereunder (and such default will not be cured with the proceeds of the foregoing), (ii) the taking is a total taking, or (iii) the taking is a partial taking and Beneficiary has reasonably determined that restoration of the Eligible Property is not practicable, the proceeds shall be paid to Beneficiary to the extent of those monies due and owing under the Town Note, this Town Deed of Trust, future notes or future deeds of trust, and Beneficiary is hereby authorized to receive such monies. Trustor agrees to execute such further assignments of any such award, judgment or settlement which may be received by Trustor. Beneficiary may apply any and all such sums to the indebtedness secured hereby in such manner as it elects or, at its option, the entire amount so received by it or any part thereof may be released. Neither the application nor the release of any such sums shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

7. Permitted Acts of Beneficiary. That without affecting the liability of any person, including Trustor (other than any person released pursuant hereto), for the payment of any indebtedness secured hereby, Beneficiary is authorized and empowered as follows: Beneficiary may at any time, and from time to time, either before or after the maturity of the obligations secured hereby, and without notice (a) release any person liable for the payment of any of the indebtedness, (b) make any agreement extending the time or otherwise altering the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, or (d) release any property, real or personal, securing the indebtedness.

8. Reconveyance of Eligible Property. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Town Deed of Trust and the Town Note to Trustee for cancellation and retention, and upon payment of its fees, Trustee shall reconvey, without warranty, the Eligible Property then held hereunder. The recitals in such reconveyance of any matters of fact shall be conclusive proof of the truthfulness

thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto.

9. Default and Trustee’s Sale. That upon the occurrence of an “Event of Default” under this Town Deed of Trust (as defined in Section 18 below) Beneficiary may declare all principal remaining unpaid, all interest then earned and remaining unpaid, and all sums other than principal or interest secured hereby, immediately due and payable (and thenceforth at the option of the Beneficiary and except as otherwise prohibited by law, the entire balance of the unpaid principal shall thereafter bear interest at the Default Rate of interest per annum set forth in the Town Note until paid) and may proceed to exercise the power of sale granted by this Town Deed of Trust by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said Eligible Property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Town Deed of Trust, the Town Note and all documents evidencing expenditures secured hereby.

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

After deducting all costs, fees and expenses of Trustee, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of first, all sums expended by the Beneficiary under the terms hereof or under the HOME Note, not then repaid, with accrued interest at the Deferral Rate; second, all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

10. Substitute Trustees. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the Office of the Recorder of the County of San Bernardino, and by otherwise complying with the provisions of California Civil Code Section 2934a, or any successor section, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, right, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Town Deed of Trust is recorded and the name and address of the new Trustee.

11. Successors Bound. That this Town Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, assigns, trustees and receivers. In this Town Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

12. Evidence of Title. That if, because of any default hereunder, or because of the filing or contemplated filing of any legal proceedings affecting the Eligible Property, Beneficiary deems it necessary to obtain an additional evidence of title or to cure any defect in title, Beneficiary may procure such evidence or cure such defect, pay the cost thereof, and shall have an immediate claim against Trustor therefor, together with a lien upon the Eligible Property for the amount so paid, with interest at the Deferral Rate. Beneficiary is further authorized to require an appraisal of the Eligible Property at any time that Beneficiary may reasonably request.

13. Intentionally Omitted.

14. Statute of Limitations. That the pleading of any statute of limitations as a defense to any and all obligations secured by this Town Deed of Trust is hereby waived by the Trustor, to the full extent permissible by law.

15. Severability. That the invalidity of any one or more covenants, phrases, clauses, sentences, paragraphs or sections of this Town Deed of Trust shall not affect the remaining portions of this Town Deed of Trust or any part hereof and this Town Deed of Trust shall be constructed as if such invalid covenants, phrases, sentences, paragraphs or sections, if any, had not been inserted herein.

16. Order of Application. That if the indebtedness secured hereby is now or hereafter becomes further secured by a security agreement, deed of trust, pledge, contract of guaranty or other additional securities, Beneficiary may to the full extent allowed by law, at its option, exhaust any one or more of said securities as well as the security hereunder, either concurrently or independently and in such order as it may determine, and may apply the proceeds received upon the indebtedness secured hereby without affecting the status of, or waiving any right to exhaust all or any other security including the security there under and without waiving any breach or default in any right or power, whether exercised hereunder or contained herein, or in any such other security.

17. Covenants of Trustor.

(i) Audit by State and Federal Agencies. In the event the Town Loan is subjected to audit, monitoring or other inspections by appropriate state and federal agencies, Trustor shall comply with such inspections and pay, on behalf of itself and Beneficiary, the full amount of the cost to the inspecting agency of such inspections (unless such inspection and any resulting liability arises solely from the gross negligence or willful misconduct of Beneficiary).

(ii) Program Evaluation and Review Trustor shall allow Beneficiary's authorized personnel to inspect and monitor its facilities and program operations as they relate to

the Project or the Eligible Property, including the interview of Trustor's staff and other program participants, as reasonably required by Beneficiary during the term of the Town Loan.

18. Default. The Trustor shall be in default under this Town Deed of Trust upon any of the following events which, if not cured within the applicable cure period provided, if any, shall constitute an event of default hereunder ("Event of Default"):

(i) The failure of Trustor to pay or perform any monetary covenant or obligation hereunder or under the terms of the Town Note, the Master Agreement, the Site Agreement or any other documents executed in connection therewith, without curing such failure within ten (10) calendar days the date such payment is due. Notwithstanding anything herein to the contrary, the herein described cure period shall not apply to a failure by Trustor to timely repay the Town Loan at the Maturity Date of the Town Note;

(ii) The failure of Trustor to perform any nonmonetary covenant or obligation hereunder or under the terms of the Master Agreement, the Site Agreement, the Town Note or any other documents executed in connection therewith, without curing such failure within thirty (30) calendar days after receipt of written notice of such default from Beneficiary (or from any party authorized by Beneficiary to deliver such notice as identified by Beneficiary in writing to Trustor) specifying the nature of the event or deficiency giving rise to the default and the action required to cure such deficiency; provided, however, that if any default with respect to a nonmonetary obligation is such that it cannot be cured within a 30-day period, it shall be deemed cured if Trustor commences the cure within said 30-day period and diligently prosecutes such cure to completion thereafter. Notwithstanding anything herein to the contrary, the herein described notice requirements and cure periods shall not apply to any Event of Default described in Sections 18(c) through 18(g) below;

(iii) The material falsity of any representation or breach of any warranty or covenant made by Trustor under the terms of this Town Deed of Trust, the Town Note, the Master Agreement, the Site Agreement or any other document executed in connection therewith;

(iv) Trustor or any constituent member or partner, or majority shareholder, of Trustor shall (a) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian or the like of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition that is not withdrawn within ten (10) days of the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding;

(v) If without the application, approval or consent of Trustor, a proceeding shall be instituted in any court of competent jurisdiction, under any law relating to bankruptcy, in respect of Trustor or any constituent member or partner, or majority shareholder, of Trustor, for an order for relief or an adjudication in bankruptcy, a composition or arrangement

with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or custodian or the like of Trustor or of all or any substantial part of Trustor's assets, or other like relief in respect thereof under any bankruptcy or insolvency law, and, if such proceeding is being contested by Trustor, in good faith, the same shall (a) result in the entry of an order for relief or any such adjudication or appointment, or (b) continue undismissed, or pending and unstayed, for any period of ninety (90) consecutive days;

(vi) Trustor shall suffer or attempt to affect a "Transfer" (as defined in Section 33 below) other than in full compliance with the terms of this Town Deed of Trust.

(vii) Trustor shall not be in default under the Town Regulatory Agreement, unless the default is cured or waived within the cure period, if any, applicable thereto under the terms of the obligation which is in default; or

(viii) Voluntary cessation of the operation of the Project during the rehabilitation phase for a continuous period of more than thirty (30) calendar days or the involuntary cessation of the operation of the Project during the rehabilitation phase in accordance with this Town Deed of Trust for a continuous period of more than sixty (60) calendar days;

19. Acceleration. The entire principal and all accrued and unpaid interest on the Town Note shall be due and payable as therein set forth; provided, however, that the entire balance of the outstanding principal and all accrued and unpaid interest on the Town Note, together with any outstanding interest and other amounts payable there under, shall, at the election of Beneficiary and upon notice to Trustor thereof (except in the case of default described in Section 18 (c) or (d), in which case no notice shall be required), become immediately due and payable upon any Event of Default as set forth in the Town Note, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Trustor.

20. Breach by Trustor. Cure by Beneficiary or Trustee. In the event of Trustor's failure to comply with any or all of the promises and agreements set forth in this Town Deed of Trust or to make any payment or to do any act as provided in this Town Deed of Trust, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either in its sole judgment may deem necessary to protect the security hereof (including, without limitation, to procure insurance and pay the premiums therefor; to pay unpaid water rents, sewer service charges, and other governmental or municipal charges and rates, and all or any part of the unpaid taxes, assessments, and reassessments, if in its and extensions of title; to enter or have its agents enter upon the Eligible Property whenever reasonably necessary for the purpose of inspecting the Eligible Property or making repairs or installations as it deems necessary to preserve the Eligible Property or to protect the same from vandalism, without thereby becoming liable as a trespasser or mortgagee or beneficiary in possession, and to pay for such repairs and installations). Beneficiary and Trustee are hereby authorized to enter upon the Eligible Property for such purposes; to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; to pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, to pay necessary expenses, employ counsel of its choice and pay the reasonable

fees of such counsel. Trustor agrees to pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from the date of expenditure at the amount allowed by law in effect at the date hereof, and that Beneficiary shall have a lien upon the Eligible Property for the sums so expended and such interest thereon.

21. Security Agreement. That all property covered by this Town Deed of Trust be deemed to constitute real property or interests in real property to the maximum extent permitted under applicable law. To the extent that any tangible property, equipment or other property covered by this Town Deed of Trust constitutes personal property, such personal property shall constitute additional security. This Town Deed of Trust shall create in Beneficiary a security interest in such personal property and shall in respect thereof constitute a security agreement (the "Security Agreement"). Beneficiary shall be entitled to all of the rights and remedies in respect of any personal property included in the Eligible Property covered by this Town Deed of Trust afforded a secured party under the Uniform Commercial Code and other applicable law. At Beneficiary's request Trustor will at any time and from time to time furnish Beneficiary for filing financing statements signed by Trustor in form satisfactory to Beneficiary. Trustor acknowledges and agrees that thirty (30) days' notice as to the time, place and date of any proposed sale of any personal property shall be deemed reasonable for all purposes. Trustor agrees that the Security Agreement created hereby shall survive the termination or reconveyance of this Town Deed of Trust unless Beneficiary executes documentation expressly terminating the Security Agreement.

22. Assumption of Liability. Except as provided in Section 33, the assumption of liability for the payment of the indebtedness hereby secured, by any successor in interest to Trustor in the Eligible Property (in the event Beneficiary elects not to accelerate the repayment of the Town Loan pursuant to any transfer or disposition of the Eligible Property by operation of law or otherwise) shall not release Trustor from any liability Trustor has hereunder or under the other Town Loan Documents for the payment of such indebtedness or any sums advanced under and secured by this Town Deed of Trust. Any forbearance or indulgence of Beneficiary, or extensions of time for the payment of all or any part of the indebtedness secured hereby, or the release of a part of the Eligible Property from the lien of this Town Deed of Trust, for, or without, payment of a consideration, shall not in any manner diminish or reduce the liability of Trustor (subject to the nonrecourse provisions of Section 27) for the payment of the indebtedness now or hereafter secured hereby; and that any payments made upon the said indebtedness shall be deemed to have been made on behalf and for the benefit of all parties obligated to pay the same. The acceptance of payments in excess of the installments provided to be paid upon the Town Note or the consideration paid for any such release shall not alter or diminish the obligation of Trustor to thereafter make payments in the amounts and on the dates provided therein, until the same are fully paid.

23. Future Advances. That upon the request of the Trustor or its successor in ownership of the Eligible Property, Beneficiary may, at its option, at any time before full payment of the Town Note secured hereby, make further advances to the Trustor or its successors in ownership, and the same, with interest and late charges as permitted by law, shall be secured by this Town Deed of Trust; and provided further that if Beneficiary, at its option, shall make a further advance or advances as aforesaid, the Trustor or its successors in ownership agree to execute and deliver to Beneficiary a note to evidence the same, payable on or before the

maturity of the indebtedness under the Town Note secured hereby and bearing such other terms as Beneficiary shall require.

Trustor further acknowledges and agrees: that this Town Deed of Trust is intended to, and shall, secure not only the original indebtedness under the Town Note, but any and all future advances made directly by Town to Trustor, or indirectly by the Agency through Town to Trustor, that this Town Deed of Trust shall secure any unpaid balances of advances made with respect to the Eligible Property; that Beneficiary shall have the benefit of all statutes now existing or henceforth enacted to assure repayment of any such future advances plus interest thereon; that to secure the payment of said original indebtedness and future advances Beneficiary shall also have a lien upon all other personal property and securities now or hereafter in its possession belonging to Trustor; that all rights, powers and remedies conferred upon Beneficiary herein are in addition to each and every other right which Beneficiary has hereunder; that all rights, powers and remedies conferred upon Beneficiary in equity or by law may be enforced concurrently therewith; that Beneficiary shall be subrogated to the rights and seniority of any prior lien paid or released by reason of the application thereon of any of the proceeds hereof, and that each and all of the covenants, agreements, and provisions hereof shall bind the respective heirs, executors, administrators, successors, and assigns of Trustor and Beneficiary herein, and all others who subsequently acquire any right, title, or interest in the Eligible Property, or to this TOWN Deed of Trust and the indebtedness secured hereby.

24. Captions. That the captions of the sections of this Town Deed of Trust are for convenience only and shall not be considered in resolving questions of interpretation or construction.

25. Estoppel Certificates. That Trustor shall from time to time at Beneficiary's request furnish Beneficiary or any person designated by Beneficiary, a certified statement in form reasonably satisfactory to Beneficiary confirming as of the date of the certificate the unpaid principal balance and accrued interest on the Town Note and stating that Trustor is not in default hereunder (or describing any default), and stating that Trustor has no defense, right of set off or counterclaim in the payment of the indebtedness, or any part thereof, or the observance or performance of any obligation (or describing any such defense, set off or counterclaim). Any purchaser or assignee of the Town Note or this Town Deed of Trust or any interest therein may rely on such certificate.

26. Intentionally Omitted.

27. Obligation Nonrecourse. Except to the extent any Event of Default hereunder results directly or indirectly from any fraud or intentional and material misrepresentation by Borrower in connection with the Loan, the Loan is a nonrecourse obligation of Trustor and in the event of the occurrence of an Event of Default, Beneficiary's only recourse under this Town Deed of Trust shall be against the Eligible Property, the proceeds thereof, the rents and other income arising from its use and occupancy as provided in the Town Deed of Trust, and any other collateral given to Beneficiary as security for repayment of the Loan.

28. Fixture Filing. This Town Deed of Trust is also a fixture tiling with respect to the personal property which is or is to become fixtures on the Eligible Property, and is to be recorded in the real property records of San Bernardino County, California.

29. Assignment of Rents. All of the existing and future rents, royalties, income, and profits of the Eligible Property that arise from its use or occupancy are hereby absolutely and presently assigned to Beneficiary. However, until Trustor is in default under this Town Deed of Trust, Trustor will have a license to collect and receive those rents, royalties, income and profits. Upon any Event of Default by Trustor, Beneficiary may terminate Trustor's license in its discretion, at any time, without notice to Trustor, and may thereafter collect the rents, royalties, income and profits itself or by an agent or receiver. No action taken by Beneficiary to collect any rents, royalties, income or profits will make Beneficiary a "mortgagee in possession" of the Eligible Property, unless Beneficiary personally or by agent enters into actual possession of the Eligible Property. Possession by a court-appointed receiver will not be considered possession by Beneficiary. All rents, royalties, income and profits collected by Beneficiary or a receiver will be applied first to pay all expenses of collection, and then to the payment of all costs of operation and management of the Eligible Property, and then to the payment of the indebtedness and obligations secured by the Town Deed of Trust in whatever order Beneficiary directs in its absolute discretion and without regard to the adequacy of its security. If required by Beneficiary, each lease or occupancy agreement affecting any of the Eligible Property must provide, in a manner approved by Beneficiary, that the tenant will recognize as its lessor any person succeeding to the interest of Trustor upon any foreclosure of this Town Deed of Trust. The expenses (including receivers' fees, if any, compensation to any agent appointed by Beneficiary, counsel fees, costs and compensation to any agent appointed by Beneficiary, and disbursements) incurred in taking possession and making such collection, shall be deemed a portion of the expense of this trust. The entering upon and taking possession of the and/or the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any of default hereunder or invalidate any act done pursuant to such notice. Beneficiary may exercise any one or more of the remedies in this section without waiving its right to exercise any such remedies again or for the first time in the future. The foregoing shall be subject to the provisions of applicable law.

30. Applicable Law. This Town Deed of Trust shall be governed by, and construed in accordance with, the laws of the State of California.

31. Approvals. Except with respect to those matters set forth hereinabove providing for the Beneficiary's approval, consent or determination to be at the Beneficiary's "sole discretion" or "sole and absolute discretion," the Beneficiary hereby agrees to act reasonably with regard to any approval, consent, or other determination given by the Beneficiary hereunder. The Beneficiary agrees to give Trustor written notice of its approval or disapproval following submission of items to the Beneficiary for approval, including, in the case of any disapproved item, the reasons for such disapproval. Any consent to a transfer under Section 33 of this Town Deed of Trust, and any other consent or approval by Beneficiary under this Town Deed of Trust or any of the other Town Loan Documents, may be given by Beneficiary's Town Manager or his designee without action of Beneficiary's Town Council unless the Town Manager, or his designee, in his or her sole discretion elects to refer the matter to the Council.

32. Good Faith and Fair Dealing. The Beneficiary and Trustor agree to perform all of their obligations and the actions required of each hereunder in good faith and in accordance with fair dealing.

33. Assignment of Interest.

(i) Without the prior written approval of the Beneficiary, which approval the Beneficiary may withhold in its sole and absolute discretion, Trustor shall not (i) sell, encumber, assign or otherwise transfer (collectively, "Transfer") all or any portion of its interest in the Eligible Property or the Project, (ii) permit the Transfer of any portion of its ownership and/or control, (iii) Transfer any of its rights or obligations under the Town Loan Documents. Trustor hereby agrees that any purported Transfer not approved by the Beneficiary as required herein shall be ipso facto null and void, and no voluntary or involuntary successor to any interest of Trustor under such a proscribed Transfer shall acquire any rights pursuant to the Master Agreement, the Site Agreement or this Town Deed of Trust.

(ii) At any time Trustor desires to effect a Transfer hereunder, Trustor shall notify the Beneficiary in writing (the "Transfer Notice") and shall submit to the Beneficiary for its prior written approval (i) all proposed agreements and documents (collectively, the "Transfer Documents") memorializing, facilitating, evidencing and/or relating to the circumstances surrounding such proposed Transfer, and (ii) a certificate setting forth representations and warranties by Trustor and the proposed transferee to the Beneficiary sufficient to establish and ensure that all requirements of this Section 33 have been and will be met. No Transfer Document shall be approved by the Beneficiary unless they expressly provide for the assumption by the proposed transferee of all of Trustor's obligations under the Town Loan Documents. The Transfer Notice shall include a request that the Beneficiary consent to the proposed Transfer and shall also include a request that Trustor be released from further obligations under the Town Loan Documents. The Beneficiary agrees to make its decision on Trustor's request for consent to such Transfer, as promptly as possible, and, in any event, not later than thirty (30) calendar days after the Beneficiary receives the last of the items required by this Section 33. In the event the Beneficiary consents to a proposed Transfer, then such Transfer shall not be effective unless and until the Beneficiary receives copies of all executed and binding Transfer Documents which Transfer Documents shall conform with the proposed Transfer Documents originally submitted by Trustor to the Beneficiary. From and after the effective date of any such Transfer, Trustor shall be released from its obligations under this Town Deed of Trust and the other Town Loan Documents accruing subsequent to such effective date.

(iii) Notwithstanding anything in this Town Deed of Trust to the contrary, Trustor agrees that it shall not be permitted to make any Transfer, whether or not the Beneficiary consent is required therefor and even if the Beneficiary has consented thereto, if there exists an Event of Default under this Town Deed of Trust at the time the Transfer Notice is tendered to the Beneficiary or at any time thereafter until such Transfer is to be effective.

(iv) The provisions of this Section 33 shall apply to each successive Transfer and proposed transferee in the same manner as initially applicable to Trustor under the terms set forth herein.

///

///

IN WITNESS WHEREOF, the undersigned have executed this Town Deed of Trust as of the date first above written.

TRUSTOR:
NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE, INC.
a California 501(c)(3) public benefit corporation

Date: _____

By: _____
Dawn M. Lee
Executive Director

TOWN:
TOWN OF APPLE VALLEY, a California municipal corporation

Date: _____

By: _____
Frank W. Robinson
Town Manager

Approved as to Legal Form:

By: _____
Town Attorney

**Attachment “1”
to the
Town Deed of Trust**

Legal Description

ATTACHMENT ‘F’
Town Housing Affordability Covenants

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Town of Apple Valley

Apple Valley, CA 9_____

Attn: _____

(Space Above Line Reserved For Use By Recorder)

Recordation of this Instrument is exempt
from all fees and taxes pursuant to
Government Code Section 6103

**HOUSING AFFORDABILITY COVENANTS AND RESTRICTIONS
FOR THE TOWN OF APPLE VALLEY SINGLE-FAMILY
ACQUISITION, REHABILITATION AND RESALE PROGRAM
NSP FUNDS**

THIS AGREEMENT CONTAINING COVENANTS, CONDITIONS
RESTRICTIONS (the “Affordable Housing Covenant”) is made and entered into as of December
11, 2012 by and between the TOWN OF APPLE VALLEY, a California municipal corporation
(the “Town”) and NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE,
INC., a California 501(c)(3) public benefit corporation (“Owner”), as this Affordable Housing
Covenant relates to the following facts set forth in Recitals:

--- R E C I T A L S ---

A. Town and the Owner are parties to the Master Agreement (“Master Agreement”) dated December 11, 2012, and the Site Agreement (“Site Agreement”) dated _____ on the terms and conditions of which Owner shall borrow from Town. and Town shall lend Owner from Neighborhood Stabilization Partnership (“NSP”) funds an amount not to exceed _____ Dollars (\$ _____) for the purpose of providing financing for the acquisition and rehabilitation of the single family home described in the Site Agreement (the “Project”). The Project will be developed on a site legally described on Exhibit “A” to this Agreement (the “Eligible Property”).

B. As consideration for the loans of NSP funds from Town, the Owner shall sell the Project after rehabilitation for a Moderate Income Household, subject to the terms and conditions of this Affordable Housing Covenant.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND UNDERTAKINGS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY

ACKNOWLEDGED, THE TOWN AND THE OWNER DO HEREBY COVENANT AND AGREE FOR THEMSELVES, THEIR SUCCESSORS AND ASSIGNS, AS FOLLOWS:

SECTION 1. Definitions of Certain Terms. As used in this Affordable Housing Covenant, the following words and terms shall have the meaning as provided in this Section 1 unless the specific context of usage of a particular word or term may otherwise require:

Adjusted Family Income. The words “Adjusted Family Income” mean and refer to the “annual income” as this term is defined in HOME Final Rule 24 CFR 5.609 for the total annual income of each individual or household residing or treated as residing in the Rehabilitated Home.

Affordable Housing Cost. The words “Affordable Housing Cost” shall have the meaning as set forth in HOME Investment Partnerships Program Final Rule 24 CFR Part 92 and other applicable HOME documents

Affordable Housing Covenant. The words “Affordable Housing Covenant” mean and refer to these Housing Affordability Covenants and Restrictions by the Town pertaining to the Rehabilitated Home.

Area Median Income. The words “Area Median Income” shall mean the median income for the Ontario/Riverside/San Bernardino Metropolitan Statistical Area, adjusted for family size as defined and periodically adjusted by the HUD, or any successor entity designated under state law as responsible for establishing such area median income.

Sale Agreement. The words “Sale Agreement” mean and refer to the standard California Association of Realtors California Residential Purchase Agreement and Joint Escrow Instructions (“CAR Agreement”) as modified by any Addendums attached to the CAR Agreement required by Town, by and between Owner, as seller, and the Qualified Homebuyer, as purchaser of the Rehabilitated Home, as amended from time to time. Town is the beneficiary of this Sale Agreement.

Code. The word “Code” means the Internal Revenue Code of 1986, as amended, and any regulation, rulings or procedures with respect thereto.

Delivery Date. The words “Delivery Date” mean and refer to the date of delivery of title and possession of the Rehabilitated Home to the Qualified Homebuyer at the close of the Rehabilitated Home Escrow.

Eligible Property. The term “Eligible Property” shall mean and refer to the property described in Exhibit “A” to this Agreement.

Laws. The word “Laws” means and refers to all federal, state, municipal, local and governmental authority laws, statutes, codes, ordinances, rules, regulations, and orders, now or hereafter in effect, and as may be amended, replaced or substituted from time to time.

Moderate-Income Household. The words “Moderate-Income Household” mean and refer to persons and households whose income does not exceed one hundred twenty percent (120%) of area median income, adjusted for household size.

NSP Funds. Funds derived from the Neighborhood Stabilization Program, for the purpose of acquiring, rehabilitating and selling the Eligible Property to a Qualified Homebuyer.

Notice of Affordability Restrictions. The words “Notice of Affordability Restrictions” mean and refer to the Notice of Affordability Restrictions on sale, conveyance, transfer or assignment of the Rehabilitated Home executed and notarized by the Qualified Homebuyer and by Town in connection with the Sale Agreement. The Notice of Affordability Restrictions shall be recorded in the Official Records of the County Recorder’s Office for the County of San Bernardino, State of California.

Notice of Town Concurrence. The words “Notice of Town Concurrence” mean and refer to the acknowledgement in recordable form in which Town confirms that the proposed Qualified Successor-In-Interest of the Qualified Homebuyer satisfies all of the Adjusted Family Income and other requirements of this Affordable Housing Covenant for ownership and occupancy of the Rehabilitated Home by the Qualified Successor-In-Interest at any time during the Qualified Residence Period.

Project CC&Rs. The words “Project CC&Rs” mean and refer to all covenants, conditions and restrictions, if any, affecting and applicable to and relating to the Rehabilitated Home, as amended from time to time.

Qualified Homebuyer. The words “Qualified Homebuyer” mean the purchaser of the Rehabilitated Home (e.g.: all persons identified as having a property ownership interest vested in the Rehabilitated Home at the close of the Rehabilitated Home Escrow). At the close of the Rehabilitated Home Escrow, the Qualified Homebuyer shall: (i) have an annual Adjusted Family Income which does not exceed the household income qualification limits of a Moderate-Income Household; and (ii) pay no more than an Affordable Housing Cost for the Rehabilitated Home pursuant to the terms of the purchase transaction for the Rehabilitated Home, including all sums payable by the Qualified Homebuyer for its purchase money mortgage financing, insurance, escrow and other fees and costs under the Town’s Acquisition, Rehabilitation and Resale Program.

Qualified Residence Period. The words “Qualified Residence Period” mean and refer to the period of time beginning on the Delivery Date and ending on the date which is fifteen (15) years after the Delivery Date.

Qualified Successor-In-Interest. The words “Qualified Successor-In-Interest” mean and refer to the person or household which may acquire the Rehabilitated Home from the Qualified Homebuyer at any time during the Qualified Residence Period by purchase, assignment, transfer or otherwise. The Qualified Successor-In-Interest shall have an income level which does not exceed the maximum income level for a Low-Income Household as applicable to the Qualified Homebuyer under the Sale Agreement and the

Qualified Successor-In-Interest shall agree to own and occupy the Rehabilitated Home as its principal residence. Upon acquisition of the Rehabilitated Home, the Qualified Successor-In-Interest shall be bound by each of the covenants, conditions and restrictions of this Affordable Housing Covenant.

Rehabilitated Home. The words “Rehabilitated Home” mean and refer to the affordable single-family residential dwelling unit (including the land and landscape improvements thereon) as acquired by the Qualified Homebuyer upon the close of the Rehabilitated Home Escrow. A legal description of the Rehabilitated Home is attached to this Affordable Housing Covenant as Exhibit “A” and is incorporated herein by this reference.

Rehabilitated Home Escrow. The words “Rehabilitated Home Escrow” mean and refer to the real estate conveyance transaction or escrow by and between the Qualified Homebuyer and the Owner. The transfer of the Rehabilitated Home to the Qualified Homebuyer shall be accomplished upon the close of the Rehabilitated Home Escrow.

The titles and headings of the sections of this Affordable Housing Covenant have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict the meaning of any of the terms or provisions hereof.

SECTION 2. Use of the Eligible Property.

The Eligible Property shall be used as a single-family detached home to be occupied and owned by persons or households whose income is equal to or below one hundred twenty percent (120%) of Area Median Income and that meet all of the other requirements to be a Qualified Homebuyer or as a Qualified Successor-in-Interest as those terms are defined in Section 1.

SECTION 3. Covenants of the Qualified Homebuyer.

A. During the term of the Qualified Residence Period, the Rehabilitated Home shall be owned, used and occupied by the Qualified Homebuyer as its principal residence, and the Rehabilitated Home shall be reserved for sale, use and occupancy by the Qualified Homebuyer and/or for another Low-Income Household as a Qualified Successor-In-Interest at an Affordable Housing Cost. In addition, during the term of the Qualified Residence Period the Qualified Homebuyer and any subsequent heirs, successors and/or assigns shall permit Town, as its right and duty as provided in this Section 3, to verify that each proposed Qualified Successor-In-Interest of the Qualified Homebuyer in the Rehabilitated Home satisfies the income requirements and Affordable Housing Cost limitations of a Low-Income Household (based upon the Adjusted Family Income of each household) and that the completion of any resale or transfer of the Rehabilitated Home to a Qualified Successor-In-Interest shall be subject to the recordation of the “Notice of Town Concurrence” as provided in Section 3(g).

B. The Qualified Homebuyer agrees to provide Town with the following items of information for inspection by Town or its contracted designee, promptly upon written request of Town:

1. State and federal income tax returns tiled by all persons who reside in the Rehabilitated Home for the calendar year preceding the close of the Rehabilitated Home Escrow for inspection of such state and federal income tax returns;

2. Current wage, income and salary statements for all persons residing in the Rehabilitated Home at the close of the Rehabilitated Home Escrow;

C. The Qualified Homebuyer shall abide by and comply with all Project CC&Rs, and, at the request of Town, shall assign to Town the right to enforce the Project CC&Rs on behalf of the Qualified Homebuyer, during the Qualified Residence Period;

D. The Qualified Homebuyer shall enforce all Project CC&Rs against all individuals and entities, including, without limitation, against all non-complying members of a homeowner's association, who are subject to, bound by and obligated to perform and comply with the Project CC&Rs, during the Qualified Residence Period, at the sole cost and expense of the Qualified Homebuyer;

E. During the term of Qualified Residence Period, each Qualified Homebuyer accepting title to the Rehabilitated Home, for itself, its heirs, its successors and assigns, shall not sell, transfer or otherwise dispose of the Rehabilitated Home (or any interest therein) to a Qualified Successor-In-Interest without first giving written notice to Town and without first obtaining the written concurrence of Town as provided herein. At least sixty (60) calendar days prior to the date on which the Qualified Homebuyer proposes to transfer title in the Rehabilitated Home to a Qualified Successor-In-Interest, the Qualified Homebuyer shall send a written notice to Town as provided in Section 17 of the intention of the Qualified Homebuyer to sell the Rehabilitated Home to a Qualified Successor-In-Interest which includes the following true and correct information:

1. Name of the proposed Qualified Successor-In-Interest (including the identity of all persons in the household of the Qualified Successor-In-Interest, proposing to reside in the Rehabilitated Home) together with a completed Town Qualified Homebuyer Application Affidavit, as applicable, executed by the proposed Qualified Successor-In-Interest;

2. Copies of state and federal income tax returns for the Qualified Successor-In-Interest for the calendar year preceding the year in which the notice of intention to sell the Rehabilitated Home is given to Town;

3. Resale price of the Rehabilitated Home payable by the Qualified Successor-In-Interest, including the terms of all purchase money mortgage financing to be assumed, provided or obtained by the Qualified Successor-In-Interest, escrow costs and charges, realtor broker fees and all other resale costs or charges payable by either the Qualified Homebuyer or the Qualified Successor-In-Interest;

4. Name, address, and telephone number of the escrow company which shall coordinate the transfer of the Rehabilitated Home from the Qualified Homebuyer to the Qualified Successor-In-Interest;

5. Appropriate mortgage credit reference for the Qualified Successor-In-Interest with a written authorization signed by the Qualified Successor-In-Interest authorizing Town to contact each such reference; and such other relevant information as Town may reasonably request, as provided in Section 3(b).

F. Within thirty (30) calendar days following receipt of the notice of intention described in Section 3(e), Town shall provide the Qualified Homebuyer with either a preliminary confirmation of approval or a preliminary rejection in writing of the income and household occupancy qualifications of the Qualified Successor-In-Interest. Town shall not unreasonably withhold approval of any proposed sale of the Rehabilitated Home to a Qualified Successor-In-Interest who satisfies the Adjusted Family Income and the Affordable Housing Cost requirements for occupancy of the Rehabilitated Home and for whom the other information as described in Section 2(b) has been provided to Town. In the event that Town may request additional information relating to the confirmation of the matters described in Section 3(b), the Qualified Homebuyer shall provide such information to Town as promptly as feasible.

G. Upon its final confirmation of approval of the Adjusted Family Income and Affordable Housing Cost eligibility of the Qualified Successor-In-Interest to acquire the Rehabilitated Home, Town shall deliver a written acknowledgment and approval Notice of Town Concurrence of the resale of the Rehabilitated Home to the seller of the Rehabilitated Home, regardless of whether the seller is the initial Qualified Homebuyer or a Qualified Successor-In-Interest selling the house subsequently, in recordable form to the escrow holder referenced in Section 3(e)(iv) above, and thereafter the Qualified Successor-In-Interest may acquire the Rehabilitated Home subject to the satisfaction of the following conditions:

1. The recordation of the Notice of Town Concurrence executed by Town verifying that the Qualified Homebuyer, or the Qualified Successor-In-Interest of a subsequent sale complied with the resale requirements of the Affordable Housing Covenant at the close of the resale escrow;

2. The escrow holder shall have provided Town with a copy of the customary form of the final escrow closing statement of the Qualified Homebuyer and the final escrow closing statement for the Qualified Successor-In-Interest; and

3. The other conditions of the resale escrow as established by the Qualified Homebuyer and Qualified Successor-In-Interest shall have been satisfied.

H. During the Qualified Residence Period, the Qualified Homebuyer and any heirs, successors and/or assigns shall abide by and comply with all Project CC&Rs, to the extent that they are applicable to the Rehabilitated Home, and, at the request of Town, shall assign to Town on behalf of the Qualified Homebuyer the right to enforce the Project CC&Rs on behalf of the Qualified Homebuyer.

I. During the Qualified Residence Period, the Qualified Homebuyer and any heirs, successors and/or assigns shall not lease, sublease, or rent the Rehabilitated Home to any third person, except for a temporary period (not to exceed 3 months) in the event of an emergency or other unforeseen circumstance as may be expressly approved in writing by Town subject to

compliance during the temporary rental period with the reasonable temporary rental occupancy conditions required by Town. The Qualified Homebuyer shall submit a written request to Town prior to the commencement of the temporary occupancy, as practicable, but in any event within not more than sixty (60) calendar days following the commencement of a temporary rental occupancy of the Rehabilitated Home by a third party, which notice shall set forth the grounds on which the Qualified Homebuyer believes an emergency or other unforeseen circumstance has occurred and that a temporary rental occupancy is necessary.

J. The Qualified Homebuyer and any heirs, successors and/or assigns shall agree to the listing of the Rehabilitated Home in any database as may be deemed necessary by the City in order to measure production performance or comply with the regulatory requirements imposed by the Neighborhood Stabilization Program. Any databases compiled by the Town for the purposes named above must include, at a minimum, the following information: the street address and assessor's parcel number of the property; the number of bathrooms in each unit; the year in which construction or substantial rehabilitation was completed; the date of recordation and the document number of the affordability restrictions; the date that the affordability restrictions expire; and, for any owner-occupied home that changed ownership in the last year, the date and document number of the new affordability restrictions or other recorded documents ensuring that the restrictions run with the land. However, property used to "confidentially" house victims of domestic violence must be omitted from such databases.

SECTION 4. Acknowledgment of the First Mortgage Lender Financing.

It is expected and acknowledged by Town that concurrently with the Delivery Date, the Qualified Homebuyer shall obtain certain purchase money mortgage financing for the acquisition of the Rehabilitated Home from a qualified financial institution (the "First Mortgage Lender"). The Qualified Homebuyer shall provide Town with a true and correct copy of the loan agreement by and between the First Mortgage Lender and the Qualified Homebuyer, prior to the Delivery Date.

SECTION 5. Maintenance Condition of the Rehabilitated Home. During the term of the Qualified Residence Period, the Qualified Homebuyer and any heirs, successors and/or assigns shall:

A. Maintain the exterior areas of the Rehabilitated Home, which are subject to public view (e.g.: all improvements, paving, walkways, landscaping, and ornamentation), in good repair and a neat, clean and orderly condition, ordinary wear and tear excepted. In the event that at any time during the term of the Qualified Residence Period, there is an occurrence of an adverse condition on any area of the Rehabilitated Home which is subject to public view in contravention of the general maintenance standard described above, (a "Maintenance Deficiency") then Town shall notify the Qualified Homebuyer in writing of the Maintenance Deficiency and give the Qualified Homebuyer thirty (30) calendar days from the date of such notice to cure the Maintenance Deficiency as identified in the notice. The words "Maintenance Deficiency" include without limitation the following inadequate or non-conforming property maintenance conditions and/or breaches of single family dwelling residential property use restrictions:

1. Failure to properly maintain the windows, structural elements, and painted exterior surface areas of the dwelling unit in a clean and presentable manner;
2. Failure to keep the front and side yard areas of the property free of accumulated debris, appliances, inoperable motor vehicles or motor vehicle parts, or free of storage of lumber, building materials or equipment not regularly in use on the property;
3. Failure to regularly mow lawn areas or permit grasses planted in lawn areas to exceed nine inches (9") in height, or failure to otherwise maintain the landscaping in a reasonable condition free of weeds and debris;
4. Parking of any commercial motor vehicle in excess of 7,000 pounds gross weight anywhere on the property, or the parking of motor vehicles, boats, camper shells, trailers, recreational vehicles and the like in any side yard or on any other parts of the property which are not covered by a paved and impermeable surface;
5. The use of the garage area of the dwelling unit for purposes other than the parking of motor vehicles and the storage of personal possessions and mechanical equipment of persons residing in the Rehabilitated Home.

In the event the Qualified Homebuyer fails to cure or commence to cure the Maintenance Deficiency within the time allowed, Town may thereafter conduct a public hearing following transmittal of written notice thereof to the Qualified Homebuyer ten (10) calendar days prior to the scheduled date of such public hearing in order to verify whether a Maintenance Deficiency exists and whether the Qualified Homebuyer has failed to comply with the provision of this Section 5(A). If, upon the conclusion of a public hearing, Town makes a finding that a Maintenance Deficiency exists and that there appears to be non-compliance with the general maintenance standard, as described above, thereafter Town shall have the right to enter the New Home (exterior areas only) and perform all acts necessary to cure the Maintenance Deficiency, or to take other action at law or equity Town may then have to accomplish the abatement of the Maintenance Deficiency. Any sum expended by Town for the abatement of a Maintenance Deficiency as authorized by this Section 5(A) shall become a lien on the Rehabilitated Home. If the amount of the lien is not paid within thirty (30) calendar days after written demand for payment by Town to the Qualified Homebuyer, Town shall have the right to enforce the lien in the manner as provided in Section 5(C).

B. Graffiti which is visible from any public right-of-way which is adjacent or contiguous to the Rehabilitated Home shall be removed by the Qualified Homebuyer from any exterior surface of a structure or improvement on the Rehabilitated Home by either painting over the evidence of such vandalism with a paint which has been color-matched to the surface on which the paint is applied, or graffiti may be removed with solvents, detergents or water as appropriate. In the event that graffiti is placed on the Rehabilitated Home (exterior areas only) and such graffiti is visible from an adjacent or contiguous public right-of-way and thereafter such graffiti is not removed within 72 hours following the time of its application, then in such event and without notice to the Qualified Homebuyer, Town shall have the right to enter the Rehabilitated Home and remove the graffiti. Notwithstanding any provision of Section 5(A) to the contrary, any sum expended by Town for the removal of graffiti from the Rehabilitated

Home as authorized by this Section 5(B) shall become a lien on the Rehabilitated Home. If the amount of the lien is not paid within thirty (30) calendar days after written demand for payment by Town to the Qualified Homebuyer, Town shall have the right to enforce its lien in the manner as provided in Section 5(C).

C. The parties hereto further mutually understand and agree that the rights conferred upon Town under this Section 5 expressly include the power to establish and enforce a lien or other encumbrance against the Rehabilitated Home in the manner provided under Civil Code Sections 2924, 2924b and 2924c in the amount as reasonably necessary to restore the Rehabilitated Home to the maintenance standard required under Section 5(a) or Section 5(b), including, without limitation, attorneys' fees, court costs and costs of Town associated with the abatement of the Maintenance Deficiency or removal of graffiti and the collection of the costs of Town in connection with such action. In any legal proceeding for enforcing such a lien against the Rehabilitated Home, the prevailing party shall be entitled to recover its attorneys' fees, court costs and other costs of suit. The provisions of this Section 5 shall be a covenant running with the land for the Qualified Residence Period and shall be enforceable by Town in its discretion, cumulative with any other rights or powers granted by Town under applicable law. Nothing in the foregoing provisions of this Section 5 shall be deemed to preclude the Qualified Homebuyer from making any alterations, additions, or other changes to any structure or improvement or landscaping on the Rehabilitated Home, provided that such changes comply with the zoning and development regulations of the Town and other applicable law.

SECTION 6. Protection of Town Investment of Moneys Derived From the NSP Financing funds in the Rehabilitated Home - Town Investment Reimbursement.

A. For the purpose of this Section 6 and during the full term of the Qualified Residence Period, the following terms shall have the meanings as provided below as the same shall be applicable to the Qualified Homebuyer, each Qualified Successor-In-Interest and each other successor-in-interest acquiring title to the Rehabilitated Residence during the Qualified Residence Period regardless of the method any such other successor-in-interest may have acquired such title:

“Town Investment Reimbursement” means and refers to a portion of the Resale Profit, if any, which shall be payable to Town upon the occurrence of the sale of the Rehabilitated Home during the Qualified Residence Period. The formula for the calculation of the amount of Town Investment Reimbursement which may hereafter be payable to Town during the Qualified Residence Period is set forth in this Section 6. In the event that the application of the formula for determining Town Investment Reimbursement in any particular year during the term of the Qualified Residence Period may produce a sum which is Zero Dollars (\$0) or less than Zero Dollars (\$0), then in such event no Town Investment Reimbursement amount shall be payable by the Qualified Homebuyer to Town.

“Town Resale Price” means the price paid by Town to the Qualified Homebuyer in the case where Town exercises its right of first refusal as stipulated in Section 7(b). The Town Resale Price shall be equivalent to the price and terms which the Qualified Homebuyer may propose to offer the Rehabilitated Home for resale to a Qualified Successor-In-Interest, including real estate broker fees and commissions for the purchase of the Rehabilitated Home, but

excluding escrow fees and mortgage financing costs payable or otherwise allocated to Town as the buyer, in connection with the transfer of the Rehabilitated Home from the Qualified Homebuyer to Town.

“Costs of Eligible Capital Improvements” means and refers to any substantial and permanent structural improvements to the Rehabilitated Home which are made to the Rehabilitated Home completed and paid for by the Qualified Homebuyer after the Delivery Date which satisfy all of the following conditions: (i) the improvements are made or installed and conform with all applicable provisions of the Town of Apple Valley Municipal Code and for which the Town has issued building permits, (ii) the particular improvement is recognized under the Code as a capital improvement, (iii) if the total amount of Eligible Capital Improvements made by the Qualified Homebuyer exceeds the sum of Five Thousand Dollars (\$5,000) in any calendar year, the Qualified Homebuyer has given the Town prior written notice of its intention to make such capital improvements to the Rehabilitated Home, (iv) the particular capital improvement shall exceed the sum of Two Thousand Dollars (\$2,000) in value, as installed in the Rehabilitated Home, and (v) the Qualified Homebuyer has provided suitably detailed written evidence to Town of the actual cost of the particular capital improvement to the Rehabilitated Home.

“First Mortgage Lender” means and refers to the financial institution providing certain money mortgage financing for the acquisition of the Rehabilitated Home by the Qualified Homebuyer.

“Purchase Money Mortgage” means the original principal balance on the Delivery Date of the Rehabilitated Home mortgage provided to the Qualified Homebuyer by the conventional mortgage lender (e.g., the First Mortgage Lender identified in this Section 6, above).

“Qualified Homebuyer Equity” means the downpayment amount in cash paid by the Qualified Homebuyer for the Rehabilitated Home on the Delivery Date, plus the reduction, if any, of the outstanding principal balance of the Purchase Money Mortgage secured by the Rehabilitated Home through the date of, the resale of the Rehabilitated Home.

“Resale Price” means the total consideration paid by the Qualified Successor-In-Interest, including real estate broker fees and commissions payable from the proceeds upon the purchase of the Rehabilitated Home, but excluding escrow fees, the total amount paid for any personal property and mortgage financing costs payable or otherwise allocated to the Qualified Successor-In-Interest in connection with the transfer of the Rehabilitation Home from the Qualified Homebuyer to each Qualified Successor-In-Interest.

“Resale Profit” means the balance of the following calculation:

$(\text{Resale Price}) - (\text{Purchase Money Mortgage}) - (\text{Qualified Homebuyer Equity} + \text{Costs of Eligible Capital Improvements}) = \text{Resale Profit}$.

A portion of the Resale Profit shall be payable to Town by the Qualified Homebuyer in accordance with Section 6(B).

B. Town has used and applied certain moneys from NSP Funds of Town to assist with the purchase of the Rehabilitated Home. Upon the sale, assignment, conveyance or otherwise transfer of the Rehabilitated Home, either voluntary or as a result of an event of default as defined in Section 11 below, during the Qualified Residence Period, a portion of the Resale Profit realized by the Qualified Homebuyer and each Qualified Successor-In-Interest and each successor-in-interest shall be payable to Town as “Town Investment Reimbursement” in the amounts as follows:

Portion of Resale Profit Payable to Town from Resale of Rehabilitated Home (“Town Percentage”):

The Town Percentage of the Resale Profit realized by the Qualified Homebuyer from the resale of the Rehabilitated Home shall be equal to ten percent (10%).

C. An example of the application of the formula described above as “Resale Profit” to determine the amount of Town Investment Reimbursement payable on the date of a hypothetical resale of the Rehabilitated Home is presented as follows:

EXAMPLE:

Assume that on the Delivery Date the purchase price of the Rehabilitated Home paid by the Qualified Homebuyer was \$130,000 and that the resale occurs on the 7th anniversary following the Delivery Date;

Assume the Resale Price of the Rehabilitated Home is \$175,000;

Assume that Qualified Homebuyer Equity as of the date of the resale is \$16,000; and

Assume that the Costs of Eligible Capital Improvements as of the date of the resale is \$5,000.

EXAMPLE CALCULATION OF RESALE PROFIT:

$\$175,000^1 - \$128,000^2 - (\$16,000^3 + \$5,000^4) = \$26,000^5$: Resale Profit (SEE ALSO FOOTNOTES, BELOW).

¹The Resale Price of the Rehabilitated Home to the New Buyer in the Example.

² The Purchase Money Mortgage amount of \$128,000 (conventional mortgage).

³ The Qualified Homebuyer Equity in the Rehabilitated Home (\$2,000 cash down payment plus a \$14 000 reduction of outstanding principal balance on the First Mortgage Lender loan).

⁴ The aggregate amount of Costs of Eligible Capital Improvements is \$6,000 in this example.

⁵ The Resale Profit of \$28,000 is subject to a 10% allocation to pay the Agency Investment Reimbursement, or \$2,600 payable to the Agency (as provided in Section 5(b)). The seller of this Rehabilitated Home could retain only \$23,400 of the “Resale Profit”. However, the portion of the “Resale Profit,* if any, allocated to the seller in this example would be in addition to the seller’s recapture of its equity in the Rehabilitated Home, plus the Costs of Eligible Capital Improvements which in this particular example is a total sum of \$21,000 payable to the seller. Thus in this example, the seller’s total cash realized at time of this hypothetical sale would be \$44,400. (See also Footnote No. 3 and Footnote No. 4, above)

The Town Investment Reimbursement amount under Example A payable at close of the resale escrow in this hypothetical example is \$2,600 (e.g., 10% of \$26,000)

D. The sole source of funds of the Qualified Homebuyer to pay Town Investment Reimbursement shall be from the Resale Profit amount, if any, realized at the time of resale.

SECTION 7. Foreclosure of Purchase Money Mortgage Loan of the First Mortgage Lender and Town Right of First Refusal.

A. During the Qualified Residence Period, Town shall have the right (but not the obligation) to bid on the purchase of mortgage loan lien of the First Mortgage Lender secured by the Rehabilitated Home at the time of any trustee foreclosure sale or any judicial foreclosure sale.

B. During the Qualified Residence Period, Town shall have the right of first refusal to purchase the Rehabilitated Home from the Qualified Homebuyer at Town Resale Price as defined above. The Town must exercise such a right of first refusal within thirty (30) calendar days following written notification of the intention of the Qualified Homebuyer to resell the Rehabilitated Home, and if Town accepts the offer in writing within such time period Town shall be bound to complete the purchase of the Rehabilitated Home strictly in accordance with the offer. Thereafter Town shall pay Town Resale Price to the Qualified Homebuyer and close an escrow for the transfer of the Rehabilitation Home to Town within sixty (60) calendar days following written notification of the intention of the Qualified Rehabilitated Home.

C. In the event that Town may purchase the Rehabilitated Home under Section 7(B), Town shall cause the Rehabilitated Home to be reserved for sale and occupancy by an income qualified purchaser of the Rehabilitated Home who is a person or household of Moderate Income.

SECTION 8. Covenants to Run With the Land. The covenants, reservations and restrictions set forth herein are part of a plan for the promotion and preservation of affordable single family housing dwelling units within the territorial jurisdiction of Town and that each shall be deemed covenants running with the land and shall pass to and be binding upon the Rehabilitated Home for the term provided in Section 10. The Qualified Homebuyer shall assume the duty and obligation to perform each of the covenants and to honor each of the reservations and restrictions set forth in this Affordable Housing Covenant. Each and every contract, deed or other instrument hereafter executed covering or conveying the Rehabilitated Home or any interest therein shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

SECTION 9. Burden and Benefit. The burden of the covenants set forth herein touch and concern the land in that the Qualified Homebuyer's legal interest in the Rehabilitated Home is affected by the affordable single family dwelling use and occupancy covenants hereunder. The benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Rehabilitated Home by the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the affordable single family housing development goals and

objectives of Town and in order to make the Rehabilitated Home available for acquisition and occupancy by the Qualified Homebuyer.

SECTION 10. Term.

A. All of the other provisions of this Affordable Housing Covenant shall apply to the Rehabilitated Home for a term of fifteen (15) years after the Delivery Date.

B. Any provision or section of this Affordable Housing Covenant may be terminated after the Delivery Date upon the written agreement by Town and the Qualified Homebuyer, if there shall have been provided to Town an opinion of special legal counsel that such a termination under the terms and conditions approved by Town in its reasonable discretion will not adversely affect the affordable single family housing and development goals and obligations of Town.

SECTION 11. Breach and Default and Enforcement.

A. Failure or delay by the Qualified Homebuyer to honor or perform any material term or provision of this Affordable Housing Covenant shall constitute a breach hereunder; provided, however, that if the Qualified Homebuyer commences to cure, correct or remedy the alleged breach within thirty (30) calendar days after the date of written notice specifying such breach and shall diligently complete such cure, correction or remedy, the Qualified Homebuyer shall not be deemed to be in default hereunder.

Town shall give the Qualified Homebuyer written notice of breach specifying the alleged breach which if uncured by the Qualified Homebuyer within thirty (30) calendar days, shall be deemed to be an event of default. Delay in giving such notice shall not constitute a waiver of any breach or event of default nor shall it change the time of breach or event of default; provided, however, Town shall not exercise any remedy for an event of default hereunder without first delivering the written notice of breach as specified in this Section 11.

Except with respect to rights and remedies expressly declared to be exclusive in this Affordable Housing Covenant, the rights and remedies of Town are cumulative with any other right or power of Town or other applicable law, and the exercise of one or more of such rights or remedies shall not preclude the exercise by Town at the same or different times, of any other right or remedy for the same breach or event of default.

In the event that a breach by the Qualified Homebuyer may remain uncured for more than thirty (30) calendar days following written notice, as provided above, an event of default shall be deemed to have occurred. In addition to the remedial provisions of Section 5 as related to a Maintenance Deficiency at the Rehabilitated Home, upon the occurrence of any event of default Town shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings as follows:

1. By mandamus or other suit, action or proceeding at law or in equity, to require the Qualified Homebuyer to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of Town; or

Notices shall be effective upon receipt, if given by personal delivery; upon receipt, if faxed, provided there is written confirmation of receipt (except that if received after 5 p.m., notice shall be deemed received on the next business day); the earlier of (i) three (3) business days after deposit with United States Mail, or (ii) the date of actual receipt as evidenced by the return receipt, if delivered by certified mail; or (iii) one (1) day after deposit with the delivery service, if delivered by overnight guaranteed delivery service. Each party shall promptly notify the other party of any change(s) of address to which notice shall be sent pursuant to this Note.

IN WITNESS WHEREOF, Town and Owner have each executed this Agreement as of the date first written above.

TOWN

Town of Apple Valley,
a California municipal corporation

Date: _____

By: _____
Frank W. Robinson, Town Manager

APPROVED AS TO FORM:

By: _____
Town Attorney

OWNER

Neighborhood Housing Services of the Inland
Empire, Inc. a California
501(c)(3) public benefit corporation

Date: _____

By: _____
Dawn M. Lee
Executive Director

EXHIBIT "A"

Legal Description of the Eligible Property

ATTACHMENT "G"

Site Agreement

ATTACHMENT "G"

SITE AGREEMENT

THIS SITE AGREEMENT ("Agreement") is made as of the _____ day of, _____, 20__ , by and between TOWN OF APPLE VALLEY, a California municipal corporation ("Town"), and NEIGHBORHOOD HOUSING SERVICES OF THE INLAND EMPIRE, INC., a California 501(c)(3) public benefit corporation ("Developer"), for the purpose of acquiring, rehabilitating, and reselling the property whose address is indicated below ("Project") in accordance with the terms of that certain Master Agreement dated as of _____, 20_ entered into between Developer and Town (the "Master Agreement").

Town agrees, subject to the terms and conditions of the Master Agreement and this Agreement and in consideration of the representations, covenants and obligations of Developer contained in the Master Agreement and this Agreement, to make a Loan to Developer in the amount not to exceed _____ DOLLARS (\$_____) (the "Loan"), which funds the acquisition and rehabilitation of a detached, single-family home located at _____, Apple Valley, CA _____ (the "Eligible Property"), which Eligible Property will be reserved for a household whose income is less than or equal to 120% of Area Median Income ("AMI") as defined in the Master Agreement, and whose legal description is attached herewith as Exhibit "A", to be used solely for the purposes described herein and secured by the Town Deed of Trust. The Town's source of funding for the Loan is provided from the Neighborhood Stabilization Program ("NSP") administered and funded by the United States Department of Housing and Urban Development ("HUD"). No other sources of financing are anticipated for the Project.

Developer will deliver to the Agency, among other items, the "Town Deed of Trust", "Town Promissory Note" and the "Town Housing Affordability Covenants", in the respective forms attached as Exhibits "F", "G" and "H", herewith to, respectively, secure repayment of the Loan by Developer as provided herein and to ensure that the affordability and habitability of the Project is maintained in accordance with the terms of those instruments, the Master Agreement and this Agreement.

Developer will further attach to this Site Agreement: (i) a completed version of Exhibit "B" Development Pro Forma, attached herewith, for the above described Eligible Property and Project; and (ii) a project timeline in the format of Exhibit "C" for completion of the Project, attached herewith; (iii) a scope of the rehabilitation work to be completed as part of the Project in a format provided by the Developer and acceptable to Town and attached as Exhibit "D" to this Agreement; and (iv) a completed version of Exhibit "E", the Sources and Uses Schedule, attached herewith. Together these documents shall memorialize the Development Budget required to complete the Project, the Schedule of Performance for the Project, Scope of Work to be completed as part of the Project, and the Financing Plan for the Project agreed upon by the Developer and Town.

By the execution and submittal of this Site Agreement, and upon acceptance hereof by Town, the Developer shall apply all requirements of the NSP program as required by federal law, rules and regulations in addition to all other requirements contained in the Master Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

DEVELOPER:
**NEIGHBORHOOD HOUSING SERVICES OF
THE INLAND EMPIRE, INC.,**
a California 501(c)(3) public benefit corporation

Date: _____

By: _____
Dawn M. Lee
Executive Director

TOWN:
TOWN OF APPLE VALLEY,
a California municipal corporation

Date: _____

By: _____
Frank W. Robinson, Town Manager

ATTACHMENT "H"

Total Development Cost Pro Forma

Acquisition Costs

Purchase Price _____
Closing Costs _____
Appraisal _____

Subtotal of Acquisition a. _____

Rehabilitation Costs

Direct Rehabilitation _____
General Conditions _____
Profit/Overhead _____
Contingency _____

Subtotal of Rehabilitation Costs b. _____

Indirect Costs

Hazard Insurance _____
Building Fees & Permits _____
Lead Based Paint Risk Assessment _____
Asbestos and Mold Inspection _____
Security During Construction _____
Property Taxes _____
Homebuyer Education Course Fee _____

Subtotal Indirect Costs c. _____

Sale Costs

Commissions _____
Appraisal _____
Escrow/Title Fees _____

Subtotal Sale Costs d. _____

Developer Fee e. _____

TOTAL DEVELOPMENT COST f. _____

FINAL SALES PRICE g. _____

AMOUNT GRANTED TO PROJECT (write-off) _____ (f-g)

ATTACHMENT ‘T’

Rehabilitation Scope of Work Template

ATTACHMENT "T"
Rehabilitation Scope Of Work

Address:

	Item	Estimate
1	DEMOLITION	
2	ROOF	
3	ELECTRICAL; SERVICE AND SYSTEM UPGRADE	
4	REPLUMB WITH COPPER	
5	WATER HEATER	
5a	WATER HEATER CLOSET	
6	HVAC	
6a	DUCT WORK	
7	WINDOWS	
8	ENTRY DOOR	
8a	NEW PASSAGE DOOR FROM HOUSE TO GARAGE	
9	GARAGE DOOR	
10	INTERIOR DOORS	
11	FIREPLACE MANTLE	
12a	NEW STUCCO	
12b	PAINT STUCCO	
13	PAINT TRIM	
14	INTERIOR PAINT	
15	VINYL FLOORING	
16	CARPET	
17	BASE MOLDING	
18	CABINETS AND COUNTERTOPS	
19	RANGE HOOD	
20	OVEN	
21	STOVE TOP	
22	DISHWASHER	
23	GARBAGE DISPOSAL	
24	RECESSED LIGHTING	
25	CEILING FANS	
26	EXTERIOR LIGHTING	
27	CLOSET DOORS	
28	SINK AND VANITY	
29	TUB AND SURROUND	
30	MASTER BATHROOM SHOWER	
31	NEW TOILETS	
32	MEDICINE CABINET	
33	BATHROOM ACCESSORIES	
34	GARAGE	
35	FENCING	
36	RAIN GUTTERS	
36	LANDSCAPING	
37	FINAL CLEANING	
	Permits	
	Sub-Total	
	Profit and Overhead	
	Total	

ATTACHMENT “J”
Project Timeline Template

ATTACHMENT “J”

Project Timeline

Task No.	Task	Duration	Beginning Date	Ending Date
1	Identify Property			
2	Review and Execute Sub-agreement with Agency			
3	Close Acquisition Escrow			
4	Rehab Construction Drawings Submitted (if applicable)			
5	Subcontractors selected			
6	Lead Paint and Asbestos/Environmental Permits			
7	Building Department Approval			
8	Pull permit for Construction			
9	Construction Start			
10	Construction Rehab Improvements			
11	Dept. of Building Inspection Approval			
12	Certificate of Occupancy (if applicable)			
13	Marketing of Property			
14	Identify Buyer and Qualify for Program Eligibility			
15	Provide Homebuyer Education Certificate			
16	Submit Homebuyer Application to Agency			
17	Open Escrow			
18	Process and Record Loan Documents on behalf of Buyer			
19	Close Escrow and Deliver Property to Homebuyer			

ATTACHMENT “K”
Sources & Uses Schedule Template

ATTACHMENT "K"

Sources And Uses Schedule

SOURCES: CONSTRUCTION	-	USES:	
HOME Acq./Rehab Loan	-	Acquisition Costs	-
*Deferred Developer Fee	-	Rehabilitation Costs	-
Other	-	Indirect Costs	-
	-	Sale Costs	-
	-	Developer Fee	-
	-	Other	-
	-		-
TOTAL	<u><u>\$0</u></u>		<u><u>\$0</u></u>
SOURCES: PERMANENT		USES:	
First Mortgage Loan	-	Acquisition Costs	-
Homebuyer Downpayment	-	Rehabilitation Costs	-
Agency Down Payment Assistance	-	Indirect Costs	-
HOME Loan Write-off	-	Sales Costs	-
Other	-	Developer Fee	-
	-	Other	-
	-		-
TOTAL	<u><u>\$0</u></u>		<u><u>\$0</u></u>

*Note: Equal to 100% of the total Developer Fee.

ATTACHMENT “L”

Affirmative Marketing Requirements

In accordance with the California Fair Employment and Housing, property owners or their designees must adhere to the following affirmative marketing guidelines in order to create awareness for the general public and certain community groups as to the availability of units designated for lower and/or moderate-income.

APPLICABILITY

PROPERTY OWNERS OR THEIR DESIGNEES ARE REQUIRED TO PROVIDE AN AFFIRMATIVE MARKETING PLAN AND PROCEDURES FOR ALL DEVELOPMENTS WITH DESIGNATED UNITS. PROCEDURES TO BE USED MUST IDENTIFY HOW PERSONS IN THE HOUSING MARKET AREA WHO ARE NOT LIKELY TO APPLY FOR THE HOUSING WITHOUT SPECIAL OUTREACH SHALL BE INFORMED AND MADE AWARE OF AVAILABLE AFFORDABLE HOUSING OPPORTUNITIES. TOWN HAS IDENTIFIED THREE GROUPS AS LEAST LIKELY TO APPLY WITHOUT SPECIAL OUTREACH EFFORTS, NAMELY, AFRICAN-AMERICAN, ASIAN AMERICAN AND PACIFIC ISLANDERS AND HISPANIC PERSONS.

THE AFFIRMATIVE MARKETING PLAN

The Property Owner or designee’s Affirmative Marketing Plan shall consist of a written marketing strategy designed to provide information and to attract eligible persons in the housing market area to the available units without regard to race, color, national origin, sex, religion, marital and familial status, disability, medical condition., sexual orientation, or ancestry. It shall describe initial advertising, outreach (community contacts) and other marketing activities, which will inform potential buyers of the availability of the units. It shall also outline an outreach program which includes special measures designed to attract those groups identified as least likely to apply without special outreach efforts, (because of existing neighborhood racial or ethnic patterns, location of housing or other factors) and other efforts designed to attract persons from the total eligible population.

The Property Owner must do the following

1. Insert Equal Housing Opportunity logotype, statement or slogan on all written outreach tools (i.e. signs, advertisements, brochures, direct mail solicitations, press releases, etc.)
2. In addition to the above, the Affirmative Fair Housing Marketing Plan shall outline:
 - a. Commercial Media to be used (i.e., community newspapers and non-English language newspapers, radio, television, billboards, religious or local real estate publications, etc.).

- b. Marketing efforts to be used (i.e., brochures, letters, handouts, direct mail, signs, etc.)
- c. Community Contacts to supplement formal communications media for the purpose of soliciting group(s) least likely to purchase the available housing without special outreach efforts. They should be individuals or organizations (i.e., service agencies, community organizations, places of worship, etc) that have direct and frequent contact with those identified as least likely to apply. The contacts should also be chosen on the basis of their positions of influence within the general community and the particular target group. The Property Owner must agree to establish and maintain contact with the identified contacts.

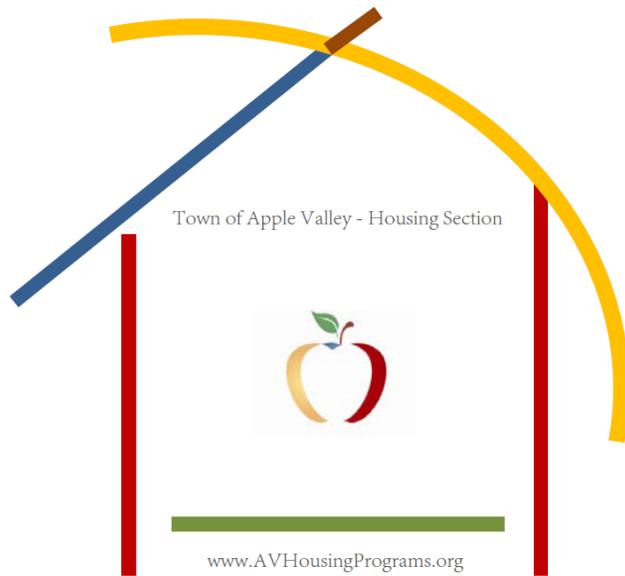
BUYER SELECTION

1. The Property Owner or designee shall maintain records of all prospective homebuyer applicants, including their race, ethnicity and gender, reasons for denial of application, placement on a waiting list, etc.
2. The Property Owner or designee shall also provide for the selection of applicants from a written waiting list in the chronological order of their application, insofar as is practicable, and provide prompt written notification to any rejected applicants of the grounds for any rejection.

ATTACHMENT ‘M’

NSP Housing Rehabilitation Guidelines

**(As Referenced in the Town of Apple Valley Residential Rehabilitation Loan
Program (RRLP) Guidelines)**



Town of Apple Valley

Residential Rehabilitation Loan Program (RRLP)

Program Guidelines

Council Meeting Date: 12/11/12



10-105

**TOWN OF APPLE VALLEY
ECONOMIC DEVELOPMENT & HOUSING DEPARTMENT
RESIDENTIAL REHABILITATION LOAN PROGRAM (RRLP)**

INTRODUCTION

The Town of Apple Valley offers a program to eligible homeowners which will enable eligible applicants to obtain a deferred loan to rehabilitate and improve their owner-occupied, single-family residential property. Deferred loans are available to those households in the low-, very low- and extremely low-income categories. The loan is a zero percent (0%) loan for a term of 30 years, or due upon the sale or transfer of the property. The minimum amount of assistance in the form of a deferred loan that shall be provided is \$1,000; the maximum loan amount is \$20,000. Single-family attached and detached homes are eligible for assistance. There is a limit of one loan per resident per life. Funds may only be used for eligible housing improvements.

The amount of assistance to be provided shall be based upon the bid amount provided by a licensed general contractor, who is in good standing with the licensing Board and with the Department of Housing and Urban Development (HUD). A Program Inspector determines that items to be addressed along with the homeowner(s). Loans shall be utilized by resident owners to address issues which threaten the health and safety of all residents within the dwelling by providing funding to correct local code violations, as well as addressing incipient repairs.

As of October 30, 2008, due to a declining real estate market and the resulting 'upside down' status of mortgages, the equity requirement is being suspended in determining eligibility. The equity requirement may be reestablished as the real estate market improves. The maximum total loan amount shall be determined by the value of the property. The RRLP loan will be limited by the value determined at time of application for the property. Loan maximum will be \$20,000 or value of property, whichever is less.

The Town of Apple Valley continues to compile a list of interested, low-income owners who are waiting to participate as funding becomes available.

PROGRAM ELIGIBILITY

Properties must be owner-occupied; that is, applicants must own and occupy the homes for which they are applying for assistance. The housing unit to be rehabilitated must be the principal residence of the owner. Applicant households must be income eligible, earning eighty percent (80%) or less of area median income. Income eligibility will be determined per 24 CFR Part 5, Code of Federal Regulations criteria. Applicants must be current on their mortgage payment(s) and property taxes and must not have declared bankruptcy within the last three (3) years. The Town of Apple Valley will not record behind any liens or judgments. All liens and judgments must be satisfied before an application for assistance will be considered. It is the homeowner's responsibility to provide acceptable documentation.

Persons qualifying for the Town of Apple Valley Residential Rehabilitation Loan Program (RRLP) shall have an annual household gross income equal to or less than the U.S. Department of Housing and Urban Development (HUD) Section 8 (of the United States Housing Act of 1937) Income Limits. The HUD Section 8 Income Limits define the maximum annual household gross income for low-and moderate-income households in the Riverside-San Bernardino Metropolitan Statistical Area (MSA) and are updated by HUD annually.

METHOD OF SELECTING HOUSEHOLDS AND PROPERTIES

The method of selecting households is based upon a first-come first-serve basis to eligible low-income applicants. However, priority will be given to applicants that have emergency conditions as determined by the Program Administrator/Construction Manager.

The method of selecting properties is based upon eligible improvements that address code violations, incipient code violations, and health and safety code violations. All applicable local codes, rehabilitation standards and local ordinances must be complied with at the completion of the rehabilitation.

Emergency Repairs. The Program Administrator will allow for the consideration of applications deemed an emergency on a case by case. Emergency repairs are limited to code-related repairs only, such as leaking roofs, plumbing or electrical emergencies, or other repairs necessary to prevent injury to occupants or conditions that render the home uninhabitable or as determined by the Town of Apple Valley's Residential Rehabilitation Loan Program (RRLP) Construction Manager. The applicant must be eligible under the existing income, property requirements, and must be current on mortgage and property tax payments. These 'emergency repairs' are eligible for CDBG funds if available. Documentation must be provided to establish emergency status. If documented, then file with 'urgent need' will be given priority in mailing application over 'non-urgent needs' applications.

PROGRAM ELIGIBILITY

Income eligibility will be determined according to guidelines as stated in Code of Federal Regulations, Title 24, Volume 1, Part 5 (24 CFR Part 5). Furthermore, all persons in residence at the property are considered household members for the purpose of determining income eligibility.

RESIDENCE RESTRICTIONS

The housing unit to be rehabilitated under the Town of Apple Valley's Residential Rehabilitation Loan Program must be the principal residence of the owner.

MAXIMUM ASSISTANCE PER UNIT

Deferred loans are available to those households in the low and very low-income categories. The minimum amount of the deferred loan assistance to be provided is \$1,000, while the maximum loan amount is \$20,000 for single-family attached and detached homes. Maximum amount of loan will be limited by the value of the property;

100 YEAR FLOODPLAIN

All units to be rehabilitated which are in the 100 year floodplain must maintain flood insurance sufficient to correct flood damage until such time as the loan is repaid due to sale, or transfer of the property or refinance.

MAXIMUM AFTER-REHABILITATION PROPERTY VALUE

The after rehabilitation of the building and the land value may not exceed \$163,400 or ninety-five percent (95%) of the 2012 area median Purchase Price/Value Limits.

LEAD BASED PAINT REQUIREMENTS

Properties constructed prior to 1978 may require a lead based paint testing. Lead based paint notification and information will be given to occupants. All properties will be inspected for defective paint surfaces and, if test results show defective paint surfaces found, the homeowner will be required to properly abate such surfaces.

**TOWN OF APPLE VALLEY
ECONOMIC DEVELOPMENT DEPARTMENT
LEAD-BASED PAINT ACTION PLAN
RESIDENTIAL REHABILITATION LOAN PROGRAM (RRLP)**

STEPS	≤\$5,000	\$5,000 - \$26,000
1. Determine Approach to Lead Hazard Evaluation and Reduction	Identify and control lead hazards	Identify and control lead hazards
2. Provide Notification	Yes	Yes
3. Lead Paint Hazard Evaluation	Paint Testing, as needed	Risk Assessment and Paint Testing, as needed
4. Lead Paint Hazard Reduction	Repair surfaces disturbed during rehabilitation	Interim controls
5. Other Requirements	Safe work practices, clearance of work site	Safe work practices, clearance of work site
6. Ongoing Maintenance	No	No

ASSISTANCE TO BE PROVIDED

Deferred loans at an interest rate of 0% for a term of thirty (30) years are available to those households in the low-, very low- and extremely low-income categories. The minimum amount of deferred loan assistance to be provided is \$1,000, while the maximum loan amount is \$20,000, for single-family attached and detached homes. *Manufactured housing: Funds may be used to rehabilitate a manufactured housing unit provided the unit is installed on a permanent foundation and is located on land that is owned by the homeowner.*

Loans are deferred for a period of 30 years or due upon sale, transfer, refinance or if the owner(s) ceases to occupy the property as their primary residence, whichever occurs first (whether voluntary or involuntary).

Subordination of an RRLP loan, if considered, will be at the sole discretion of the Town and will generally be discouraged. In the event that the program participant dies and the assisted property is inherited by an eligible family member that actually does occupy the property, (defined as a natural or adopted child who qualifies as a low-income person, earning eighty percent or less of area Median Family Income (MFI)), the loan may be transferred to that individual pursuant to the original terms of the loan.

ELIGIBLE APPLICANTS -- PROPERTY AND HOUSEHOLD SELECTION

Assistance from the Town shall be available only to persons who:

- A. Are of legal age and have capacity to competently enter into financial and contractual agreements.
- B. Are owner occupants of the property and possess valid proof of ownership such as a grant deed (real property) located in the Town of Apple Valley.
- C. Have income that does not exceed eighty percent (80%) of the area median income adjusted by family size as determined by the U.S. Department of Housing and Urban Development (HUD).
- D. Agree to comply with any and all applicable permit, code and other regulations of the Town.

Property owned by a Trust is eligible for Program participation. All trustees must sign all appropriate documentation. **The income of all beneficiaries is used to determine income eligibility.** Transfer of an assisted property into a trust would not automatically trigger any repayment clause.

In the event of a program participant decease, and the assisted property is inherited by an eligible family member that intends to occupy the property, and becomes the verifiable owner occupant of the property (defined as a natural or adopted child who qualifies as a low income person, earning eighty percent (80%) or less of area Median Family Income (MFI)), the loan may be transferred to that individual pursuant to the original terms of the loan.

DETERMINATION OF ADJUSTED GROSS INCOME

In calculating adjusted gross income (AGI), all of the income of the applicant and other household members 18 years of age or older and not full-time students shall be considered as follows:

1. The full gross amount of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services, before any payroll deductions;
2. The net income from an operation of a business or profession, as calculated by averaging the net income manifested by their Federal income taxes for the past three years;
3. Interest, dividends, and other net income of any kind from real or personal property (where the family assets are in excess of \$5,000, excluding property adjusted gross income shall include the greater of the actual income derived from all assets or percentage of such assets based on the current passbook savings rate);

4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
5. Payment in lieu of earnings, such as unemployment, workers' compensation, severance pay, welfare assistance (NOTE: Such payments may be excluded by the lending institution providing the first mortgage, for purposes of underwriting, but shall be included in eligibility determinations for this program);
6. Periodic and determinable allowances, such as alimony and child support payment, and regular contributions or gifts received from persons not residing in the dwelling to the extent that such payments are reasonably expected to continue;
7. All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the family, spouse, or other person whose dependents are residing in the unit;
8. Any earned income tax credit to the extent it exceeds income tax liability;
9. Any other income that must be reported for Federal and State income tax purposes.
10. Gross self-employed income as reported on Schedule C, IRS 1040, will be adjusted to reflect deductions for necessary and reasonable business expenses.

PROGRAM PROCEDURES

This section sets forth the steps that are to be followed in the application processing of an RRLP loan.

Initial Intake

- Property owner contacts Town representatives.
- Staff provides Program information.
- If eligible, applicant(s) is placed on a waiting list.
- When the applicant's name reaches the top of the list, an application is mailed.
- Complete application is submitted to the Town.
- Staff establishes file and determines initial eligibility by reviewing income, household size and location of subject property.
- If application is not eligible, Staff forwards file to Program Administrator for a

final review. Program Administrator notes disposition and requests staff to notify the interested applicant(s) of finding in writing. The application is filed under “Ineligible Projects.”

- If application is eligible, Staff sends out verifications and orders title and credit reports. The applicant is notified that the Town of Apple Valley remains uncommitted to funding any loan until the execution of loan documents have been completed.
- Upon review and approval of verifications and reports, a determination is made as to the preliminary loan amount and notification is sent to the applicant(s).

Initial Inspection Procedures

Program Administrator assigns the file to the Program Inspector/Construction Manager to schedule an appointment for a site inspection and work write-up/cost estimate.

Construction Manager conducts Property inspection to document existing code violations, incipient code violations, otherwise eligible items and any requested home improvements. A written explanation is provided to the Construction Manager regarding the maximum eligibility and a list of the requested improvements.

The Construction Manager implements the following steps:

- Conducts property inspections to ensure that the property is brought into conformance with the Town of Apple Valley’s rehabilitation standards.
- Prepares a work write-up that accurately describes the existing conditions and necessary repairs and improvements.
- Prepares a cost estimate and bid documents.
- Evaluates submitted bids in relationship to the cost estimate and documents the process employed to determine cost reasonableness.
- Requires the contractor to complete the work in accordance with the bid, homeowners’ product selection and approved work schedule.

Work Write Ups/Written Cost Estimates

Applicant is provided with a Work Write-up which includes:

- * Scope of work
- * Construction method
- * Quantity
- * Quality
- * Location

Interim Inspection Procedures

The Construction Manager will conduct interim and final inspections to ensure all construction is completed in compliance with the construction contract and all program requirements. The Construction Manager visits the job site and verifies that the work included for payment is completed and that all necessary inspections by the Building and Safety Division regarding building permits has been satisfactorily accomplished. It is the policy of the Program to disburse funds for items that have been completed.

The Construction Manager transmits a Disbursement request to the Program Administrator. A completed Disbursement form includes the amount of payment, name and address of the applicant, a description of the work completed, the date of inspection and the signature of the Construction Manager, homeowner and contractor. Prior to payment, lien release by contractor is also required.

Determination of Cost Reasonableness

Construction Manager will prepare a work write-up and cost estimate, and review selected bid(s) to determine cost reasonableness and compliance with Program requirements. (Such as determination of debarment) The selected bid must come within twenty percent (20%) of the in-house cost estimate to be eligible to receive assistance through this Program.

Method for Determining Maximum Amount of Assistance

The maximum amount of assistance to be provided to an eligible household is determined by need as based upon scope of work and the bid amount. The total amount of assistance is also determined by the value of the home. At no time shall the maximum amount of assistance provided exceed \$20,000 the maximum amount of assistance to be provided through the RRLP. This assistance shall be provided as a zero percent (0%) deferred loan with a term of 30 years, due on sale, transfer of the property, refinance or if the owner(s) ceases to occupy the property as their primary residence.

Contractor Selection Process

The Program Administrator shall ensure that all contractors submitting bids for services under the Town of Apple Valley Residential Rehabilitation Loan Program are not on the Department of Housing and Urban Development (HUD)'s debarment list, that their contractor's license is in good standing with the California State Contractors License Board and Town of Apple Valley and that they are properly insured.

Applicant is provided with a courtesy list of eligible general contractors; however, final responsibility for the selection of a contractor rests with the owner-occupant. No agreements, written or otherwise may be entered without prior approval of the Program Administrator.

The Program Administrator organizes a 'job walk' for a specific time and day so that all parties (contractors, homeowner and program administrator) are present to review scope of work and assess actual property conditions. Questions and concerns are clarified at this time for the benefit of all attendees. Bids are normally due in one week. Homeowner and contractors are encouraged to interact as needed after initial job walk to clearly define scope of work, develop accurate bids and encourage communication and understanding. A bid summary is prepared by the program administrator and reviewed with the homeowner to assist the homeowner in contractor selection. The decision to award may be based on the sum of variables including price, professionalism, referrals and personal interaction. The selected contractor(s) must give a minimum one-year guarantee on all labor and materials to the owner.

File Preparation

Town compiles application materials and creates a complete loan "package" prior to loan funding for each qualified applicant including:

File Creation - Town creates a project file for each qualified applicant that contains all of the items accompanying the loan application in addition to all other necessary information required for loan processing. Town will qualify property owners for rehabilitation assistance.

Verification - Town mails the appropriate verification forms, as required. Using a computerized "tickler" system, Town monitors the receipt of information and contacts the appropriate agency(ies) if the information has not been received within (15) business days from the date of mailing.

Credit Report- A credit report is ordered. Applicants shall address and remedy all past due accounts, collections and judgments shown in the report. Bankruptcies can be allowed if older than three years.

Title Reports - Town orders a Policy of Insurance of Record Title (PIRT) or lot book, as required. These are delivered to Town within approximately three days from the date of order. Review title report for how title is held and title holders, legal description of property, taxes, encumbrances, and any issues for insuring title listed in 'exceptions' (judgments, liens, clouds, homesteads, etc.). Town orders a title update upon loan closing.

Underwriting - Town calculates the amount which the property owner(s) can borrow and determines the applicant's eligibility for participation in the rehabilitation program. Loan amount is limited by the property value, up to a maximum of \$20,000. Example: older a manufactured home may value for \$15,000; loan maximum is 94% of equity = \$14,100.

Preparation of Work Specification/Cost Estimate and Construction Management - Program Inspector/Construction Manager prepares a work specification/cost estimate for each property based on the applicants needs as listed in application, and compliance with eligibility guidelines. Determination is based on a site visit and property inspection. The Program Inspector/Construction Manager monitors the progress of construction, helps clarify scope of work, makes determinations when there are new discoveries that affect scope of work, approves change orders and inspects and approves completed work for payment authorization.

Preparation of Loan Documents

Upon receipt of the Notice of Loan Approval, Staff prepares all required loan documents. Town standard loan document package includes:

- Promissory Note
- Notice of Rescission
- Deed of Trust
- Truth-In-Lending Disclosure Statement
- Request for Notice
- Loan Disbursement Instructions
- Construction Contract(s)
- Notice to Proceed
- Other Necessary Documents

Staff coordinates with homeowner(s) and executes the loan closing documents. The Deed of Trust and the Request for Notice are sent to Title to be forwarded to the County Recorder for recordation.

Loan Closing

Staff submits the Town's Loan application package for approval/denial to the Program Administrator.

Staff schedules and Program Administrator holds the loan closing/pre-construction meeting at the Town offices. Staff mails loan closing notification, construction contractor and work write-up to the homeowner and the contractor in advance of the loan closing.

The applicant executes all loan documents and construction contract. The payment schedule is outlined so all parties are aware of the timeline and order of job progression. The contact information of the Construction Manager is provided to homeowner(s) and contractor(s).

Upon completion of the loan closing, the necessary documents are sent to the Title Company to be forwarded to the recording entity. Program Administrator forwards appropriate documents (original Promissory Note and recorded Deed of Trust and Request for Notice) to the Finance Department file for RRLP legal documents and the funding is sent to Rehab Financial (escrow). For manufactured homes, HCD title is filed with promissory note in Finance Department RRLP file for legal documents.

Fund Disbursement

The Construction Manager conducts a pre-construction conference to review all projected work with the involved parties.

The Construction Manager monitors construction for compliance with the construction contract and program requirements by conducting on site inspections of the rehabilitation work performed.

The Construction Manager prepares Progress Payment Escrow Disbursement Forms, executed by the owner, construction manager and contractor, which authorizes the issuance of payments to the Contractor. These are forwarded to the Town for processing.

The selected Contractor(s) contacts the Construction Manager to arrange job site inspections for progress payment.

In the event of any dispute between the owner and the selected contractor concerning the contracted scope of work, the Construction Manager will work with both parties to negotiate a satisfactory solution. If necessary, the Program Administrator will conduct a resolution meeting. Should a resolution not be possible on an informal basis, the parties may elect to have a hearing by a professional arbitrator.

Project Completion and Close Out

Upon completion, a Notice of Completion is signed by the construction manager and provided to the homeowner who may record with the County Recorders Office.

Town executes contract closure by acquiring lien releases from contractor, providing Notice of Completion to homeowner, securing all necessary sign-off documents, obtaining owner's authorization for final payment and executes case close out by ensuring each homeowner's permanent file contains complete documentation as required for governmental audit purposes. Upon project closing, Town prepares a Project Closing Form that will provide all necessary RRLP file documents as required.

Town maintains complete and accurate records which comply with federal reporting requirements. Town assures that the file will contain complete documentation required for all audit purposes.

PROGRAM ADMINISTRATION

- A. The Town of Apple Valley shall administer this program.
- B. The Town of Apple Valley may utilize consultants in the administration of this program; however, the Assistant Town Manager shall designate a Program Administrator to administer the day-to-day operations of this program.
- C. In the event of any disputes arising under this program, the homeowner, contractor or any other party shall submit a written letter detailing the nature of the complaint to the Assistant Town Manager for resolution of this dispute.

PROGRAM DEFINITIONS

APPLICANT:

Any person or other legal entity that applies for a loan under the Residential Rehabilitation Loan Program.

APPLICATION PACKET:

Program forms disbursed to potential participants.

BORROWER:

Any person or other legal entity who holds title to a property being rehabilitated with the assistance of the Program and who is legally responsible for any repayment of said loan.

BUILDING AND PROPERTY REHABILITATION STANDARDS:

The standards contained in the Building and Safety Code of the Town and other local codes and ordinances pertaining to housing construction, land use, occupancy, and maintenance of existing residential properties which are applicable to the property through Code Enforcement action.

BUILDING INSPECTOR:

Town employee(s) responsible for inspection(s) of structural, electrical, and plumbing repairs and improvements. The inspector assures compliance of work to applicable Building and Safety Codes.

BUILDING DIVISION:

The Department of the Town responsible for issuance of building permits.

BUILDING PERMIT:

Building Division authorization to commence building repairs or improvements. Permits must be issued for most home improvements, including, but not limited to, roofing, electrical, plumbing, structural changes, foundations, etc. A fee is charged for permits, and inspections are included in the permit cost.

CALIFORNIA PRELIMINARY NOTICE:

A notice sent to owner of dwelling by any person or supplier providing labor, services, equipment, or materials for the rehabilitation work. The notice is sent in the event that the primary contractor is listing, as security, the property being rehabilitated with the person or supplier sending notice.

CONTRACT:

A legally-binding, standardized form which spells out, in detail, the entire scope of work, specific quality, brands of materials, and all other data pertinent to the rehabilitation of the property. The Contract must be signed by both contractor and applicant.

CONTRACTOR:

An eligible contractor is a contractor licensed in compliance with Town and State regulations to do the necessary housing rehabilitation work. No contractor may be utilized who has been disbarred or suspended by order of the Town, the State of California or the U.S. Department of Housing and Urban Development.

DEED OF TRUST:

The legal document which secures the loan with the property which is being rehabilitated. The Deed of Trust is for the same amount as the loan and must be signed by the borrower in the presence of a notary public.

DEFERRED LOAN:

A loan available on a Town-wide basis for households of low-income and in need of repair. The loan is a zero percent (0%) loan deferred for a term of 30 years, due and payable upon sale of the property, transfer, refinance or if homeowner(s) cease to occupy the property as their primary residence. The maximum loan amount is \$20,000 for single-family dwellings based upon need as determined by the bid amount and value in the home, unless extraordinary conditions exist and warrant additional funding.

DISBURSEMENT:

Approved portion of escrow account which is paid out to the contractor and service providers as the rehabilitation work progresses; the Disbursement may be in accordance with a contractual agreement between participant and contractor. Prior to disbursement, the work accomplished must be in accordance with the scope of work as detailed in the Work Write-Up. If inspection by the Building Division is required for the particular rehabilitation item, the inspector must sign off for said work prior to disbursement.

ELIGIBLE IMPROVEMENTS:

All improvements required to bring the dwelling unit up to Housing Quality Standards (safe, sanitary, and decent) and Local Housing Codes.

INCOME VERIFICATION:

The process used to determine gross household income, including participant submittal of most current income tax returns, employer verification of wages, W-2 Forms, Social Security verification, profit/loss statements, etc. Income eligibility will be determined according to guidelines as stated in Code of Federal Regulations, Title 24, Volume 1, Part 5 (24 CFR Part 5).

INSPECTION CARD:

Card posted at the site of rehabilitation once building permits are issued. Building Inspector(s) sign off various inspections on Card as job progresses.

LIEN RELEASE:

A form signed by the contractor upon payment for labor services in the rehabilitation process. A Material Lien Release may also be provided which is also signed by the material supplier or contractor.

LOAN DOCUMENTS:

All forms relevant to the actual execution of the loan include 3-Day Rescission Notice, Truth-In-Lending Form, Promissory Note, and Deed of Trust.

OWNER/OCCUPIED PROPERTY:

A property used entirely for residential purposes and occupied by the owner.

PARTICIPANT: Any person or legal entity that has applied for and is in the process of rehabilitating a property through the Program.

OCCUPANT:

One or more persons who occupy a property to be rehabilitated.

PROGRAM ADMINISTRATOR:

The staff member having the primary responsibility for administering and coordinating the housing rehabilitation projects for the Program.

PROMISSORY NOTE:

A form, part of the loan documents, which is the borrower's agreement to pay back the amount borrowed in accordance with the established terms of the loan. The Promissory Note must be signed by all persons on Title to the Property.

CONSTRUCTION MANAGER:

The person who conducts inspections for the purpose of authorizing payments and produces Work Write-Ups/Cost Estimates.

REHABILITATION COST:

The total cost of repairs and improvements and other costs for rehabilitation to be incurred by the participant that may be included in a Loan.

RIGHT OF RESCISSION:

The borrower's right, within a three working day period from the date of loan settlement to rescind the entire loan transaction.

TRUTH-IN-LENDING:

The form included in the loan document package which details all terms of the Loan. Participant must sign receipt of said form.

WORK WRITE-UP:

A form to be completed by the Construction Manager outlining a complete and suggested scope of work to be performed in the rehabilitation project. It also includes the name and address of the applicant and other pertinent information.

**TOWN OF APPLE VALLEY
ECONOMIC DEVELOPMENT DEPARTMENT
RESIDENTIAL REHABILITATION LOAN PROGRAM (RRLP)
LOAN PROCESS**

1. Homeowner completes a Program Application and returns it to the Town with all the back up information requested.
2. Town staff reviews the application and verifies preliminary eligibility. Staff mails out verifications and orders reports. Staff determines preliminary maximum loan amount and reviews rehabilitation needs.
3. Staff notifies homeowner about their eligibility and forwards the request to the Construction Manager to schedule an appointment to prepare the scope of work for this project.
4. Upon completion of the scope of work, the scope is forwarded to the Building and Safety Department for review. If approved, a complete scope along with copies is forwarded to the applicant(s) and contractors to obtain a minimum of three bids from approved contractors. For a contractor to be approved, they must be licensed, insured and cannot have been debarred from participating in any federal projects. Program Administrator reviews the bids and prepares a summary for the home owner(s). A pre-construction conference with the homeowner and Contractor is schedule at the time of closing and contract signing.
5. Upon agreement of terms, loan is closed, agreement is signed and construction is scheduled to commence after end of three day right of rescission. Term of contract is normally 30 working days but may be changed on mutual agreement of parties. Prior to Notice to Proceed, contractor will submit signoffs by applicant of all products and materials that require choices to be made in materials, products and colors.
6. When work is completed, Homeowner or contractor notifies Staff and an appointment is made for the final inspection. Contractor provides a copy of the Release of Lien and Invoice. Staff makes final payment to contractor.
7. The 0 percent deferred loan is due upon sale, transfer of property, refinance or if an owner ceases to occupy the property as their primary residence.
8. Due to limited funds, priority for funding will be given to households with the greatest repair needs.
9. Emergency funding shall be provided in extraordinary circumstances, with repairs addressing situations which affect the health, safety, and welfare of low income households receiving the first priority.
10. **WORK MUST NOT BEGIN PRIOR TO TOWN APPROVAL**

**TOWN OF APPLE VALLEY
SINGLE-FAMILY OWNER-OCCUPIED
REHABILITATION LOAN PROGRAM
REQUIRED ELIGIBILITY DOCUMENTATION**

The following documents are required in order to determine your eligibility. Please attach copies of all requested documents to your application.

1. VERIFICATION OF PROPERTY OWNERSHIP

A. Real Property- Copy of Grant Deed, or current property tax bill, copy of year end mortgage statement and copy of Home Insurance Policy statement of coverage.

2. VERIFICATION OF INCOME

Please review the Income Source Check List below and attach copies of all applicable documents. Verification of income is necessary for all adults residing in the household over the age of 18.

INCOME SOURCE	VERIFICATION REQUIRED
✓ Everyone	Most recent W-2 and State and Federal Tax Returns
✓ Employment	Two recent consecutive pay check stubs
✓ Aid to Families with Dependent Children	Verification statement from Social Services Agency
✓ Social Security Benefits SSA/SSI	Copy of check or verification statement from Social Security Administration or Bank Statement
✓ Veteran's Benefits	Copy of check or verification statement from Veteran's Administration
✓ Child Support/Alimony	Copy of final divorce paper.
✓ Retirement/Pension	Copy of check or verification statement from Pension Fund
✓ Unemployment Benefits	Copy of check or verification statement from California State Department of Employment
✓ Disability Benefits	Copy of check or statement of verification from Payer.
✓ Self-Employment	Copies of year-to-date profit/loss statement and previous two years State and Federal tax returns. If incorporated, previous two years

	Corporation Tax Returns and current Financial Statement.
✓ Rental Income	Copy of operating statement showing rents received, expenditures and net income; and copy of previous two years' State and Federal tax returns including "Schedule of Real Estate Owned."
✓ School Scholarship/Grant	Statement of grant award, school related expenditures, and net income.
✓ Interest Income from Bank Account	Copies of 2 months Bank Statements or interest income on all accounts with annual interest over \$100.
✓ Interest Income from stocks, bonds and mutual fund	Copies of current income earned statement on all stocks, bonds and mutual funds.

**SINGLE-FAMILY OWNER-OCCUPIED
REHABILITATION LOAN PROGRAM
APPLICANT CHECKLIST**

Please read carefully and check off each item as it is completed and enclosed.

Is the application complete with all spaces completed accurately and legibly? Have you included account numbers and complete addresses with zip codes for each mortgage loan?

Have you signed the Fair Lending Notice, Credit Authorizations, Lead Based Paint Notification, and all of the verification forms? **BE SURE THAT YOU DO NOT FILL OUT ANY PORTION OF THE VERIFICATION FORMS. YOUR SIGNATURE IS ALL THAT IS REQUIRED ON THESE FORMS.**

Have you included a signed and dated copy of your Federal Tax Return for last year?

Have you included a copy of your most recent paycheck stub showing year to date totals? Have you included Social Security Award letters, retirement and/or pension award letters, or copies of checks to substantiate the awards?

Have you enclosed a copy of your property tax bill, a copy of your most recent mortgage statement and homeowner insurance?

Have you included a copy of the Property Asset Declaration form and Property Appraisal form?

I/We hereby acknowledge that the information is needed and as provided is correct to the best of our knowledge. I/We also understand that the above information falls under the laws and guidelines of the RIGHT TO PRIVACY ACT and as such will not be disclosed to anyone other than to those necessary for the approval of our application, or when necessary, as prescribed by law.

Signature of Applicant Date

Signature of Applicant Date

**SINGLE-FAMILY OWNER-OCCUPIED
REHABILITATION LOAN PROGRAM
ADDITIONAL REQUIREMENTS**

IF YOU ARE SELF-EMPLOYED:

Please provide us with:

- Copies of your last three years Federal Tax Returns (all schedules), signed and dated
- Your most recent year-to-date profit and loss statement, and a balance sheet prepared and signed by your accountant

IF YOU ALSO CLAIM OTHER INCOME:

Additional evidence will be required such as:

- Property Asset Declaration Form** if you own income property, signed and dated copies of your last two years' Federal Tax Returns (all schedules)
- Social Security Income** requires a copy of your award letter and/or copies of your Social Security income checks
- Retirement Income** requires a copy of your award letter and/or copies of the checks
- Interest Income** requires the last two years' Federal Tax Returns (all schedules), signed and dated
- Alimony/Child Support** requires Divorce Decree and tax return evidence that payments are received regularly
- AFDC, Unemployment, Disability** documentation
(i.e., one month's payments or other verification)

TO SIMPLIFY AND EXPEDITE THE PROCESSING OF YOUR LOAN APPLICATION:

- Enclose a copy of your most recent mortgage payment statement
- Enclose a copy of your home fire insurance cover page showing your agent's name, address, phone number and the amount of your coverage.
- Enclose a copy of your most recent property tax bill.
- Enclose a copy of your most recent Federal Tax Returns.
- Enclose a copy of your last pay check stub showing year-to-date income totals.

To ensure that we have an accurate list of the items that are included, please mark the appropriate boxes for the items that you are enclosing

ELIGIBLE IMPROVEMENTS

Priority will be given to households with the lowest incomes and rehabilitation needs involving health and safety violations and improvements to repair deteriorated conditions within properties.

Emergency funding shall be provided in extraordinary circumstances, with repairs addressing situations which affect the health, safety, and welfare of low income households receiving the first priority.

Examples of eligible improvements include:

1. Exterior Premises
 - a. Repairs to walls and wall coverings
 - b. Painting and other exterior finishes
 - c. Repairs to roofing, down spouts, and gutters
 - d. Repairs to foundations, slabs, sidewalks, walkways, driveways, driveway aprons and fences
 - e. Repairs to porches, entryways, doors, windows, window screening, garage doors
 - f. Replacement of septic/seepage pits; abandonment of septic and tie in to existing sewer lines.

2. Interior Premises
 - a. Repairs to heating systems and/or installation of heating systems where absent
 - b. Repairs to plumbing systems including fixtures, tile or other waterproofing
 - c. Repairs to electrical systems and/or rewiring to safely accommodate normal modern usage
 - d. Repairs to interior flooring and floor covering
 - e. Repairs to walls, ceilings, including painting
 - f. Repairs to doors, closets and cabinets



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** September 25, 2012

From: Lori Lamson **Item No:** _____
Community Development Department

Subject: Amendment #2 to the Five Year Consolidated Plan – 2010-2011
Fourth Year Action Plan to Incorporate Proposed Changes to the
Neighborhood Stabilization Program 3 (NSP 3) Funds

T.M. Approval: _____ **Budgeted Item:** Yes No x N/A

RECOMMENDED ACTION:

That the Town Council approve the proposed amendment to its 2010-2011 Action Plan to incorporate the proposed changes to the Neighborhood Stabilization Program 3; and authorize and direct the Town Manager to execute any necessary contract related documents on behalf of the Town.

SUMMARY:

The Dodd-Frank Wall Street Reform and Consumer Protection Act appropriated \$1 billion in a third round of Neighborhood Stabilization Program funds to all states, along with a number of counties and local communities struggling to reverse the effects of the foreclosure crisis. Funding is targeted as emergency assistance to state and local governments to acquire, redevelop or demolish foreclosed properties. On Wednesday, September, 8, 2010, Town staff received notification from the U.S. Department of Housing and Urban Development (HUD) that the Town of Apple Valley would receive approximately \$1,463,014. In order to receive these funds, the Town prepared an additional action plan for the Neighborhood Stabilization Program 3 (NSP 3) and amended the 2010-2011 in March of 2011. At this time, a second amendment is proposed to incorporate an additional NSP activity in the Action Plan.

CONSOLIDATED PLAN SUMMARY

The Consolidated Plan is a comprehensive five-year strategy (2007-2012) that addresses the use of Federal grant/entitlement funds for the purpose of meeting the goals of providing decent housing, a suitable living environment and expanded economic opportunities, principally for low- and moderate-income persons.

The Consolidated Plan combines the application and reporting requirements for four Federal formula grant programs. It replaces the Comprehensive Housing Affordability Strategy (CHAS) and consolidates applications for the Community Development Block Grant (CDBG), Home Investment Partnerships Act (HOME), Emergency Shelter Grant (ESG), Housing Opportunities for Persons with AIDS (HOPWA), Neighborhood Stabilization Program 1 (NSP 1) and the most recent addition of the Neighborhood Stabilization Program 3 (NSP 3).

The Consolidated Plan is composed of three parts: 1). The first section of the Consolidated Plan evaluates the Housing and Community Development needs of the Apple Valley/Victorville Consortium. This includes an assessment of housing needs for extremely low, very low, and, low- and moderate-income families, including the needs of homeless individuals and families. In addition, a housing market analysis was completed that includes a review of housing; 2). Based on this information, a five-year strategic plan was developed, which includes priorities for assisting categories of residents by income level, objective statements, proposed programs, as well as accomplishments that are expected to be achieved in the next five years; 3). An annual Action Plan provides a one-year investment plan, which outlines the intended use of resources, descriptions of activities to be undertaken, and the specific objectives and priority needs to be addressed. The proposed amendment to the Consolidated Plan – Fourth Year Action Plan will add an additional activity to the Neighborhood Stabilization Program 3 (NSP 3).

COMMUNITY DEVELOPMENT BLOCK GRANT/ (CDBG)/NEIGHBORHOOD STABILIZATION PROGRAM 3 (NSP 3)

The Federal Housing and Community Development Act of 1974, as amended, provides Federal Community Development Block Grant funds for projects that promote the development of viable, urban communities by providing decent housing and suitable living environments and expanding economic activities, principally for persons of low- and moderate-income. The Dodd-Frank Wall Street Reform and Consumer Protection

Act provides \$1 billion in funds that are generally to be construed as CDBG program funds for CDBG entitlement communities to use for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties.

NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PROJECT FUNDING

Proposed Funding: The Town received \$1,463,014 in Neighborhood Stabilization Program 3 grant funds for FY 2010-2011. Per HUD regulations, jurisdictions are required to expend 50 percent of the grant within two (2) years (3/7/13) and 100 percent of the grant within three (3) years (3/7/14). Furthermore, 25% of the grant allocation or \$365,754 must be set-aside for households at 50% of Area Median Income (AMI) or less. Due to ever-changing market conditions, the Neighborhood Stabilization Program 3 (NSP 3) will continue to need to maintain a level of flexibility by permitting the transfer of funds between eligible activities as well as amending the boundaries of one or more neighborhoods without requiring a substantial amendment. These changes may be made administratively, depending on the location, size and scope of the project(s).

Existing Projects: The current Neighborhood Stabilization Program 3 (NSP 3) activities are outlined below:

Acquisition/New Construction for Multi-Residential Uses	854,000
Acquisition/Rehabilitation for Multi-Residential Uses	357,713
Down Payment Assistance	105,000
Program Administration (10% Cap)	146,301
Program Allocation	\$1,463,014

Proposed Projects: The proposed changes to the Neighborhood Stabilization Program 3 (NSP 3) activities are outlined below:

Acquisition/New Construction for Multi-Residential Uses	300,000
Acquisition/Rehabilitation for Multi-Residential Uses	357,713
Down Payment Assistance	105,000
Acquisition/Rehabilitation for Single Family Uses	554,000
Program Administration (10% Cap)	146,301
Program Allocation	\$1,463,014

By adding an activity for Acquisition/Rehabilitation for Single-Family Uses, the Town will be able to utilize funds to acquire and rehabilitate single-family homes for the purposes of providing affordable home ownership opportunities. In addition, it will expand the NSP scope of services and assist the Town in meeting the NSP deadlines for expenditures.

Based upon the foregoing, staff recommends adoption of the form motion.