

NEIGHBORHOOD STABILIZATION PROGRAM
LOAN AGREEMENT

589 Pacifica Avenue, Bay Point, California

This Neighborhood Stabilization Program Loan Agreement (the "Agreement") is dated _____, 2021, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County"), and HABITAT FOR HUMANITY EAST BAY/SILICON VALLEY, INC., a California nonprofit public benefit corporation ("Borrower").

Recitals

A. Defined terms used but not defined in these recitals are defined in Article 1 of this Agreement.

B. The County has received funds from the United States Department of Housing and Urban Development ("HUD") pursuant to Title III of Division B of the Housing and Economic Recovery Act of 2008, also known as the Neighborhood Stabilization Program (the "NSP1"). The funds provided under the NSP1 (the "NSP1 Funds") may be used to acquire vacant or demolished property to provide or improve permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income. The NSP1 Funds and any income generated from the use of the NSP Funds, must be used by the County in accordance with the NSP1 Regulations.

C. Borrower owns certain real property located at 589 Pacifica Avenue, in the unincorporated area of the County of Contra Costa known as Bay Point, California that is more particularly described in Exhibit A (the "Property"). Borrower intends to construct three (3) single-family townhomes (each a "Unit") and attendant improvements on the Property for use as housing affordable to very low- and low- income households (the "Improvements").

D. To finance a portion of the construction of the Improvements, Borrower (i) is contributing Nine Hundred Fifty-Four Thousand One Hundred Sixty Eight Dollars (\$954,168) (the "Borrower Contribution"), (ii) will be applying for Forty-Five Thousand Dollars (\$45,000) in AHP/WISH Program funds; and (iii) wishes to borrow NSP1 Funds from the County in the amount of Nine Hundred Ninety-Nine Thousand Dollars (\$999,000) (the "Loan").

E. The Loan is evidenced by the Note and secured by the Deed of Trust.

F. In accordance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) ("CEQA"), and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) ("NEPA"), the County has completed and approved all applicable environmental review for the activities proposed to be undertaken under this Agreement.

G. The Loan is being made to finance the construction of the Improvements in order to increase the supply of affordable for-sale housing in Contra Costa County.

The parties therefore agree as follows:

AGREEMENT

ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1 Definitions

The following capitalized terms have the meanings set forth in this Section 1.1 wherever used in this Agreement, unless otherwise provided:

- (a) "Accessibility Requirements" has the meaning set forth in Section 3.7.
- (b) "Administration Fee" means the fee for administrative services in the amount of Forty-Six Thousand Two Hundred Fourteen Dollars (\$46,214) per Unit that Borrower will receive pursuant to Section 3.16 below.
- (c) "Agreement" means this Neighborhood Stabilization Program Loan Agreement.
- (d) "Approved Development Budget" means the proforma development budget, including a detailed cost breakdown, sources and uses of funds, and evidence of donations received as approved by the County, and attached hereto and incorporated herein as Exhibit B.
- (e) "Approved Development Schedule" means the development schedule, attached hereto and incorporated herein as Exhibit C.
- (f) "Bid Package" means the package of documents distributed to potential bidders as part of the process of selecting subcontractors to construct the Improvements. The Bid Package is to include the following: (i) an invitation to bid, (ii) a copy of the proposed construction contract, and (iii) all Construction Plans.
- (g) "Borrower" means Habitat for Humanity East Bay/Silicon Valley, Inc., a California nonprofit public benefit corporation.
- (h) "Borrower Contribution" has the meaning set forth in Recital D.
- (i) "CDBG Regulations" means the regulations issued by HUD at 24 C.F.R. 570 et seq., for the Community Development Block Grant Program pursuant to Title I of the Housing and Community Development Act of 1974, as amended.
- (j) "CEQA" has the meaning set forth in Paragraph G of the Recitals.

(k) "Closing Costs" means the actual costs paid through escrow by the title company upon the sale of a Unit to an Eligible Purchaser, provided such costs are usual and customary costs, as determined by the County.

(l) "Construction Plans" means all construction documentation upon which Borrower and Borrower's contractors rely on in constructing all the Improvements on the Property (including the Units, landscaping, parking, and common areas) and includes, but is not limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings").

(m) "County" means the County of Contra Costa, a political subdivision of the State of California.

(n) "Deed of Trust" means the deed of trust that will encumber the Property to secure repayment of the Loan and performance of the covenants of the Loan Documents.

(o) "Default" has the meaning set forth in Section 6.1 below.

(p) "Director" means the County's Director of the Department of Conservation and Development, or his/her designee.

(q) "Eligible Purchaser" means a person who (i) qualifies as a Very Low or Low Income Household, each as defined below, (ii) will occupy a Unit as his or her primary residence, and (iii) has completed at least eight hours of pre-purchase counseling through a counseling agency certified by HUD.

(r) "Habitat Partnership Agreement" means the agreement to be entered into by and between an Eligible Purchaser and Borrower in connection with the purchase of a Unit.

(s) "Hazardous Materials" has the meaning set forth in Section 5.6 below.

(t) "Hazardous Materials Claims" has the meaning set forth in Section 5.6 below.

(u) "Hazardous Materials Law" has the meaning set forth in Section 5.6 below.

(v) "HUD" means the United States Department of Housing and Community Development.

(w) "Loan" has the meaning set forth in Recital D.

(x) "Loan Documents" means this Agreement, the Note, and the Deed of Trust.

(y) "Low Income Household" means a household with an annual income calculated in accordance with 24 CFR 570.3 that does not exceed eighty percent (80%) of Median Income.

(z) "Median Income" means the median gross yearly income for households in the Oakland PMSA, as published periodically by the United States Department of Housing and Urban Development ("HUD"). In the event such income determinations are no longer published by HUD, or are not updated for a period of at least twenty four (24) months, the County shall provide Borrower with other income determinations that are reasonably similar with respect to methods of calculation to those previously published by HUD.

(aa) "NEPA" has the meaning set forth in Paragraph G of the Recitals.

(bb) "Note" means the promissory note that evidences Borrower's obligation to repay the Loan.

(cc) "NSP1" has the meaning set forth in Recital B.

(dd) "NSP1 Funds" has the meaning set forth in Recital B.

(ee) "NSP Regulations" means Section 2301 of Title III, Division B, of the Housing and Economic Recovery Act of 2008, Title XII, Division A, of the American Recovery and Reinvestment Act of 2009, and implementing regulations, including, but not limited to, 24 C.F.R 570 *et seq.*, and applicable guidance, including, but not limited to, the Notices of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Development of Abandoned and Foreclosed Homes Grantees under HERA and such corrections (including, but not limited to, Docket Nos. FR-5255-N-01, FR-5255-N-02, FR-5321-N-03, FR-5435-N-01, and FR-5447-N-01), as amended.

(ff) "Owner Occupancy Certification" has the meaning set forth in Section 4.2(e) below.

(gg) "Parties" means the County and Borrower.

(hh) "Property" has the meaning set forth in Recital C.

(ii) "Senior Lender" has the meaning set forth in Section 2.5.

(jj) "Senior Loan" has the meaning set forth in Section 2.5.

(kk) "Term" means the term of the Loan, commencing on the date of this Agreement and continuing until the Loan is forgiven or repaid in full in accordance with the terms of this Agreement.

(ll) "Transfer" has the meaning set forth in Section 5.12 below.

(mm) "Unit" has the meaning set forth in Paragraph C of the Recitals.

(nn) "Unit Allocation" means Three Hundred Thirty-Three Thousand Dollars (\$333,000) for each of the Units sold to an Eligible Purchaser, which is equal to the NSP1 Funds allocated to each Unit.

(oo) "Very Low Income Household" means a household with an annual income calculated in accordance with 24 CFR 570.3 that does not exceed fifty percent (50%) of Median Income.

Section 1.2 Exhibits

The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A: Legal Description of the Property
- Exhibit B: Approved Development Budget
- Exhibit C: Approved Development Schedule
- Exhibit D: Mortgage Loans
- Exhibit E: Form of Purchaser Income Certification
- Exhibit F: Contract Activity Form
- Exhibit G: NEPA Mitigations

ARTICLE 2
LOAN PROVISIONS

Section 2.1 Loan.

Upon satisfaction of the conditions set forth in Section 2.6, the County shall loan to Borrower the Loan for the purposes set forth in Section 2.3 of this Agreement. Borrower's obligation to repay the Loan is evidenced by the Note.

Section 2.2 Interest.

(a) Subject to the provisions of Section 2.2(b) below, no interest will accrue on the Loan.

(b) In the event of a Default, (i) interest on the Loan will begin to accrue as of the date of Default and continue until such time as the Loan is repaid in full or the Default is cured, at an interest rate of ten percent (10%), compounded annually, or the highest rate permitted by law, whichever is less.

Section 2.3 Use of Loan Funds.

(a) Borrower shall use the Loan for construction of the Improvements, which may include preconstruction costs, consistent with the Approved Development Budget.

(b) Borrower may not use the Loan funds for any other purpose without the prior written consent of the County.

Section 2.4 Security.

Borrower shall secure its obligation to repay the Loan as evidenced by the Note, by executing the Deed of Trust, and recording it as a lien against the Property.

Section 2.5 Subordination.

Any agreement by the County to subordinate the Deed of Trust to an encumbrance securing a County-approved construction loan(s) for the Improvements (each, a "Senior Loan"), will be subject to the satisfaction of each of the following conditions:

(a) All of the proceeds of the proposed Senior Loan, less any transaction costs, are used to finance predevelopment expenses and construction of the Improvements or to provide financing to an Eligible Purchaser at the time the Eligible Purchaser purchases a Unit.

(b) The proposed lender of a Senior Loan (each, a "Senior Lender") is a state or federally chartered financial institution, a nonprofit corporation or a public entity that is not affiliated with Borrower or any of Borrower's affiliates, other than as a depositor or a lender.

(c) Borrower must provide to the County, in addition to any other information reasonably required by the County, evidence that demonstrates to the County's satisfaction that subordination of the Deed of Trust is necessary to secure adequate construction and/or homebuyer financing to ensure the viability of the Improvements, including the sale of the Units for affordable housing, as required by the Loan Documents.

(d) The subordination agreement(s) is structured to minimize the risk that the Deed of Trust will be extinguished as a result of a foreclosure by the holder of the Senior Loan. To satisfy this requirement, the subordination agreement must provide the County with adequate rights to cure any defaults by Borrower, including: (i) providing the County or its successor with copies of any notices of default at the same time and in the same manner as provided to Borrower; and (ii) providing the County with a cure period of at least sixty (60) days to cure any default.

(e) The subordination(s) of the Loan is effective only during the original term of the Senior Loan and any extension of its term that is approved in writing by the County.

(f) The subordination does not limit the effect of the Deed of Trust before a foreclosure, nor require the consent of the Senior Lender prior to the County exercising any remedies available to the County under the Loan Documents.

Upon a determination by the Director that the conditions in this Section have been satisfied, the Director or his/her designee will be authorized to execute the approved subordination agreement without the necessity of any further action or approval.

Section 2.6 Conditions Precedent to Disbursement of Loan.

The County has no obligation to disburse any portion of the Loan unless all of the following conditions have been and continue to be satisfied:

(a) There exists no Default nor any act, failure, omission or condition that would constitute a Default under this Agreement;

(b) Borrower has executed and delivered to the County all documents, instruments, and policies required under the Loan Documents;

(c) All environmental review necessary for the acquisition of the Property and construction of the Improvements has been completed, and Borrower has provided the County evidence of compliance, or plan for compliance, with all NEPA and CEQA requirements and mitigations measures.

(d) Borrower has furnished the County with evidence of the insurance coverage meeting the requirements of Section 5.13 below.

(e) Borrower has furnished the County with copies of corporate authorizing resolutions evidencing that Borrower's Board of Directors has duly authorized Borrower to obtain the Loan and all other Approved Financing, execute the Loan Documents, construct the Improvements, and sell the Units to Eligible Purchasers.

(f) A title insurer reasonably acceptable to the County is unconditionally and irrevocably committed to issuing an ALTA Lender's Policy of insurance insuring the priority of the Deed of Trust in the amount of the Loan, subject only to such exceptions and exclusions as may be reasonably acceptable to the County, and containing such endorsements as the County may reasonably require.

(g) The Deed of Trust has been recorded against the Property in the Office of the Recorder of the County of Contra Costa.

(h) The undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that Borrower has obtained in connection with constructing the Improvements are not less than the amount that the County determines is necessary to pay for the construction of the Improvements and to satisfy all of the covenants contained in this Agreement.

(i) The County has received and approved the final scope of work for the construction of the Improvements, as required pursuant to Section 3.3 below (required only for disbursements to fund construction costs).

(j) The County has received and approved all contracts greater than One Hundred Thousand Dollars (\$100,000) that Borrower has entered or proposed to enter for construction of the Improvements (required only for disbursements to fund construction costs).

(k) Borrower has received all permits and approvals necessary to perform the planned construction work (required only for disbursements to fund construction costs).

(l) Borrower is in compliance with all requirements of this Agreement concerning construction of the Improvements, including the timing set forth in the Approved Development Schedule.

(m) The County has reviewed and approved Borrower's marketing plan for the sale of each Unit to an Eligible Purchaser, as required pursuant to Section 3.8 below.

(n) The County has received a written draw request from Borrower, including certification that the conditions set forth in Section 2.6(a) continue to be satisfied, and setting forth the proposed uses of funds consistent with the Approved Scope of Work and the Approved Development Budget and the amount of the draw funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay any contractor in connection with Improvements, the written request must be accompanied by (i) certification by Borrower's architect or third party consultant reasonably acceptable to the County that the work for which the disbursement is requested has been completed (although the County reserves the right to inspect the Property and make an independent evaluation); and (ii) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the County.

Section 2.7 Repayment of Loan.

Repayment Credit. When a Unit is sold to an Eligible Purchaser, the County shall:

(i) Execute and record a partial reconveyance of the Deed of Trust with respect to the Unit that was sold.

(b) **Repayment in Full.** Borrower shall pay all outstanding principal and accrued interest on the Loan, in full, on (i) the date a Transfer occurs, (ii) the date the sale of the last Unit to an Eligible Purchaser occurs in compliance with the terms of this Agreement, or (iii) December 31, 2022, whichever occurs first.

(c) **Loan Deemed Paid.** If all Units are sold to Eligible Purchasers, upon the satisfaction of the conditions set forth in Section 2.9, the entire principal amount of the Loan will be deemed by the County to be paid in full and the Note will be cancelled and returned to Borrower.

Section 2.8 Prepayment of Loan.

Borrower may prepay the Loan at any time without premium or penalty. Regardless of any prepayment, Borrower acknowledges that the provisions of this Agreement, including but not limited to the requirement that all three Units be sold to an Eligible Purchaser, is applicable even if Borrower has prepaid all or a portion of the Loan amount.

Section 2.9 Conditions Precedent to Note Cancellation.

The County is not obligated to cancel the Note upon the sale of the last Unit until the County has received all of the following from Borrower:

(a) A financial accounting of all sources and uses of funds used in the construction.

(b) All relevant contract activity information, including compliance with

Section 3 requirements in Section 5.5(b) (xi) below.

(c) If Borrower is required to pay prevailing wages under the Davis-Bacon Act (40 U.S.C. 3141-3148), a confirmation from Borrower that Borrower has submitted all certified payrolls to the County, and any identified payment issues have been resolved.

Section 2.10 Non-Recourse.

Except as provided below, Borrower does not have any direct or indirect personal liability for payment of the principal of, and interest on, the Loan. Following recordation of the Deed of Trust, the sole recourse of the County with respect to the principal of, or interest on, the Note will be to the property described in the Deed of Trust; provided, however, that nothing contained in the foregoing limitation of liability limits or impairs the enforcement of all the rights and remedies of the County against all such security for the Note, or impairs the right of the County to assert the unpaid principal amount of the Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto. The foregoing limitation of liability is intended to apply only to the obligation to repay the principal and interest on the Note. Nothing contained herein is intended to relieve Borrower of its obligation to indemnify the County or for liability for (i) loss or damage of any kind resulting from waste, fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; and (iv) the misappropriation of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property.

ARTICLE 3
CONSTRUCTION OF IMPROVEMENTS

Section 3.1 Construction Schedule.

Borrower shall diligently prosecute construction of the Improvements to completion, and shall cause construction of the Improvements to be completed in accordance with the Approved Development Schedule and the Approved Development Budget.

Section 3.2 Permits and Approvals.

Borrower shall obtain all necessary building permits and approvals for the construction of the Improvements not later than the date set forth in the Approved Development Schedule.

Section 3.3 Construction Plans.

Borrower shall construct the Improvements in accordance with all drawings and plans approved by the applicable governmental jurisdiction.

Section 3.4 Approved Development Budget; Revisions to Budget.

The Approved Development Budget is set forth in Exhibit B. Borrower shall request approval of any required amendments to the Approved Development Budget to the County within five (5) days of the date Borrower becomes aware that the actual costs of the rehabilitation has or will vary from the costs shown on the Approved Development Budget. Written consent of the County is required to amend the Approved Development Budget.

Section 3.5 Work Schedule.

Borrower shall cause construction of the Improvements to commence on or before the date set forth in the Approved Development Schedule, which is attached as Exhibit C. Borrower shall diligently prosecute construction of the Improvements and shall cause the construction of the Improvements to be completed by the date set forth in the Approved Development Schedule.

Section 3.6 Construction Pursuant to Laws and Contract.

(a) Laws. Borrower shall cause all work performed in connection with the Improvements to be performed in compliance with (i) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, including (without limitation and where applicable) the prevailing wage provisions of the federal Davis-Bacon Act and the California Labor Code and implementing rules and regulations (as further set forth in Section 3.6(e) below), (ii) the County Building Code and any applicable City building code, and (iii) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. Borrower shall permit the work to proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction in connection with work performed by Borrower or any other entity working on the Property, and Borrower is responsible to the County for the procurement and maintenance of each such permit, license, or other authorization.

(b) Bid Package. Not later than sixty (60) days prior to Borrower's proposed date for advertising the Bid Package, Borrower shall submit to the County a copy of Borrower's proposed Bid Package for contracts over One Hundred Thousand Dollars (\$100,000). The County's Assistant Deputy Director of Housing and Community Improvement, or his or her designee, shall respond to the Bid Package within thirty (30) days after receipt of the Bid Package by the County. If the County rejects the proposed Bid Package, the reasons therefor must be given to Borrower. Borrower will then have fifteen (15) days to revise the proposed Bid Package and resubmit it to the County. The County will then have thirty (30) days to review and approve Borrower's new or corrected Bid Package. The provisions of this Section will continue to apply until a proposed Bid Package has been approved by the County. Borrower may not publish a proposed Bid Package until it has been approved by the County.

(c) Construction Contract.

(i) Not later than thirty (30) days prior to commencing construction of the Improvements, Borrower shall submit to the County for its approval a draft of any proposed construction contract(s) for the Improvements exceeding One Hundred Thousand Dollars

(\$100,000). All construction work and professional services are to be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California. Each contract that Borrower enters for construction of the Improvements is to provide that at least ten percent (10%) of the costs incurred will be payable only upon completion of the construction, subject to early release of retention for specified subcontractors upon approval by the County. The construction contract will include all NSP and CDBG requirements set forth in Section 5.5 below. The County's approval of the construction contract may not be deemed to constitute approval of or concurrence with any term or condition of the construction contract except as such term or condition may be required by this Agreement.

(ii) Upon receipt by the County of the proposed construction contracts exceeding One Hundred Thousand Dollars (\$100,000), the County shall promptly review same and approve or disapprove such contracts within thirty (30) days. If the construction contract(s) is/are not approved by the County, the County shall set forth in writing and notify Borrower of the County's reasons for withholding such approval. Borrower shall thereafter submit revised construction contract(s) for County approval, which approval is to be granted or denied in twenty (20) days in accordance with the procedures set forth above. Any construction contract(s) over One Hundred Thousand Dollars (\$100,000) executed by Borrower for the Improvements is to be in the form approved by the County.

(d) Green Construction. Environmentally sensitive ("green") and energy efficient building is encouraged.

(e) State Prevailing Wages. To the extent required by applicable law and not exempt pursuant to the "volunteer" provisions of California Labor Code Section 1720.4(a), Borrower shall pay and shall cause all contractors and subcontractors to pay prevailing wages in the construction of the Improvements as those wages are determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices as required by California Labor Code Section 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the "DIR"). Borrower shall and shall cause the contractor and subcontractors to comply with the other applicable provisions of California Labor Code Sections 1720 et seq. and 1777.5 et seq., and implementing regulations of the DIR. Borrower shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to California Labor Code Section 1720 et seq., and apprentices have been employed are required by California Labor Code Section 1777.5 et seq. Copies of the currently applicable per diem prevailing wages are available from DIR. During the construction of the Improvements, Borrower shall or shall cause the contractor to post at the Property the applicable prevailing rates of per diem wages. Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its contractor and subcontractors) to pay prevailing wages as determined pursuant to California Labor Code Section 1720 et seq., to employ apprentices pursuant to California Labor Code Section 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of California Labor Code Sections 1720 et seq. and 1777.5 et seq., and the implementing regulations of the DIR in connection with the construction of the Improvements or

any other work undertaken or in connection with the Property. The requirements in this Subsection shall survive the repayment of the Loan, and the reconveyance of the Deed of Trust.

(f) Bonds. Not later than thirty (30) days prior to the proposed Commencement of Construction, Borrower shall deliver to the County copies of labor and material bonds and performance bonds for the site work construction of the Improvements in an amount equal to one hundred percent (100%) of the scheduled cost of the site work construction of the Improvements. Such bonds must name the County as a co-obligee.

Section 3.7 Units Available to Persons with Disabilities

Borrower shall construct the Improvements in compliance with all applicable federal and state disabled persons accessibility requirements, including, but not limited to, the Federal Fair Housing Act; Section 504 of the Rehabilitation Act of 1973 ("Section 504"); Title II and/or Title III of the Americans with Disabilities Act; and Title 24 of the California Code of Regulations (collectively, the "Accessibility Requirements"). In compliance with Section 504, a minimum of one (1) Unit of all Units must be constructed to be accessible to households with a mobility impaired member, and an additional one (1) Unit of all Units must be constructed to be accessible to hearing and/or visually impaired persons, as required by Uniform Federal, Affordability Standards. Non-substantial alterations must comply with 24 C.F.R. 8.23(b), including the requirement that any alterations to common areas and parts of the Improvements affecting accessibility must, to the maximum extent feasible, be made accessible. In compliance with Section 504, Borrower shall provide the County with a certification from the Improvements architect that to the best of the architect's knowledge, the Improvements comply with all federal and state accessibility requirements applicable to the Improvements. Borrower shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the County) the County against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Borrower, its architect, contractor and subcontractors) to construct the Improvements in accordance with the Accessibility Requirements. The requirements in this Section survive repayment of the Loan and the reconveyance of the Deed of Trust.

Section 3.8 Marketing Plan.

No later than three (3) months prior to the date of commencement of construction work, Borrower shall submit to the County for approval its plan for marketing the Units to Eligible Purchasers as required pursuant to Article 4 of this Agreement, including information on affirmative marketing efforts, compliance with fair housing laws, proposed form of purchase and sale agreement for sale of Units to Eligible Purchasers and information to be provided to Eligible Purchasers on mortgage assistance available from the County. Upon receipt of the marketing plan, the County shall promptly review the marketing plan and shall approve or disapprove it as soon as possible after submission, and if disapproved, provide comments or edits within thirty (30) days to Borrower. Both parties acknowledge the importance of timely response to requests to review required documents.

Section 3.9 Equal Opportunity.

During the construction of the Improvements, Borrower shall cause there to be no discrimination on the basis of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin, ancestry, or disability in the hiring, firing, promoting, or demoting of any person engaged in the construction work.

Section 3.10 Minority and Women-Owned Contractors.

Borrower shall use its best reasonable efforts to afford minority-owned and women-owned business enterprises the maximum practicable opportunity to participate in the construction of the Improvements. Borrower shall, at a minimum, notify applicable minority-owned and women-owned business firms located in Contra Costa County of bid opportunities. A listing of minority-owned and women-owned businesses located in the County and neighboring counties is available from the County. Borrower shall maintain documentation of such notifications and make it available to the County as requested.

Section 3.11 Relocation.

(a) Borrower represents and warrants to the County that the Property was vacant at the time it was acquired by Borrower. If and to the extent that construction of the Improvements results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, Borrower shall comply with all applicable local, state, and federal statutes and regulations with respect to preparation of a relocation plan, relocation planning, advisory assistance, and payment of monetary benefits, including, without limitation, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.) and implementing regulations at 49 C.F.R. 24 et seq. and 24 C.F.R. 570.606.; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. Part 42 and 24 C.F.R. 570.601; and California Government Code 7260 et seq., and implementing regulations at 25 California Code of Regulations 6000 et seq. (together, the "Relocation Laws").

(b) Borrower shall prepare and submit a relocation plan to the County for approval if required by the Relocation Laws.

(c) Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and for compliance with the Relocation Laws.

(d) Borrower shall indemnify, defend and hold harmless, (with counsel reasonably acceptable to the County), the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns, against any claim for damages, compensation, fines, penalties, relocation payments or other amounts and expenses (including reasonable attorneys' fees) arising out of the failure or alleged failure of any person or entity (including Borrower, or the County) to satisfy relocation obligations related to the Improvements. This obligation to indemnify shall survive termination of this Agreement.

Section 3.12 Progress Reports.

Until such time as Borrower has sold all of the Units, Borrower shall provide the County with quarterly progress reports regarding the status of its construction, including compliance with Section 3 and local hiring and Minority Owned Business and Women Owned Business requirements as set forth in Section 3.10. Until the construction of the Improvements are complete, Borrower shall include in the monthly progress reports a certification that the actual construction costs to date conform to the Approved Budget, as it may be amended pursuant to Section 3.4.

Section 3.13 Construction Responsibilities.

Borrower is solely responsible for all aspects of Borrower's conduct in connection with the Improvements, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by the County with reference to the Improvements is solely for the purpose of determining whether Borrower is properly discharging its obligations to the County, and should not be relied upon by Borrower or by any third parties as a warranty or representation by the County as to the quality of the design or construction of the Improvements.

Section 3.14 Mechanics Liens, Stop Notices, and Notices of Completion.

(a) If any claim or lien is filed against the Property or a stop notice affecting the Loan is served on the County or any other lender or other third party in connection with the Property, then Borrower shall, within twenty (20) days after such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the County a surety bond in sufficient form and amount, or provide the County with other assurance satisfactory to the County that the claim or lien or stop notice will be paid or discharged.

(b) If Borrower fails to discharge any lien, encumbrance, charge, or claim in the manner required in this Section, then in addition to any other right or remedy, the County may (but is under no obligation to) discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternately, the County may require Borrower to immediately deposit with the County the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The County may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

(c) Borrower shall file a valid notice of cessation or notice of completion upon cessation of construction of the Units for a continuous period of thirty (30) days or more and take all other reasonable steps to forestall the assertion of claims of lien against the Property. The County may, but is not obligated to, record any notices of completion or cessation of labor, or any other notice that the County deems necessary or desirable to protect its interest in the Property.

Section 3.15 Inspections.

Upon prior reasonable notice, Borrower shall permit and facilitate, and shall cause its contractors to permit and facilitate, observation and inspection of the Property by the County and by public authorities during reasonable business hours for the purposes of determining compliance with this Agreement.

Section 3.16 Administration Fee.

Borrower is entitled to an Administration Fee as follows: Forty-Six Thousand Two Hundred Fourteen Dollars (\$46,214) upon the completion of the sale of each Unit to an Eligible Purchaser.

Section 3.17 NEPA Mitigation Requirements.

Borrower shall comply with the NEPA mitigation requirements set forth in the attached Exhibit G in the rehabilitation of the Improvements.

ARTICLE 4
SALE OF UNITS

Section 4.1 Sale of Units to Eligible Purchasers.

Borrower shall sell two (2) Units (one two-bedroom Unit, and one three-bedroom Unit) to Eligible Purchasers that qualify as Very Low Income Households and one (1) four-bedroom Unit to an Eligible Purchaser that qualifies as a Low-Income Household. Borrower shall cause such sales to occur promptly following completion of the Improvements and Borrower's satisfaction of the conditions precedent set forth in Section 4.2 below. Before any sale can occur, Borrower shall obtain written County approval of the Eligible Purchaser and the sale price and shall provide the Director with evidence satisfactory to the Director that the following conditions have been met:

- (a) The proposed purchaser is an Eligible Purchaser.
- (b) The sale price meets applicable NSP and CDBG requirements and is affordable to the Eligible Purchaser, as determined by Borrower, and approved by the County.
- (c) The sale price is equal to or less than the total cost of constructing the Unit, including acquisition of the Property, construction and soft costs, as documented by Borrower to the County.
- (d) The sale price does not exceed the fair market value of the Unit, as determined by an independent appraiser.
- (e) The Eligible Purchaser's first priority home loan is a fixed rate, fully amortizing loan from an institutional lender at a market rate of interest.

(f) If the sale is of the last Unit to be sold, then (i) the sale is to an Eligible Purchaser that qualifies as a Very Low-Income Household, or (ii) a sale of a Unit to an Eligible Purchaser that qualifies as a Very Low-Income Household has already occurred.

Section 4.2 Conditions Precedent to Close of Escrow with Eligible Purchasers.

Borrower shall not close escrow on the sale of a Unit to an Eligible Purchaser unless the following conditions are satisfied to the reasonable satisfaction of the County:

(a) Borrower has obtained certifications of household income, and household size from the Eligible Purchaser in the form attached to this Agreement as Exhibit E (the "Income Certification"), with any necessary updates to household income resulting from changes to Area Median Income after the date of this Agreement, to ensure that the proposed homebuyer is an Eligible Purchaser. Borrower shall verify that the income provided by an Eligible Purchaser in an Income Certification is accurate by taking two or more of the following steps as a part of the verification process: (i) obtain a pay stub for the most recent pay period; (ii) obtain an income tax return for the three most recent tax years; (iii) conduct a credit agency or similar search; (iv) obtain an income verification form from the Eligible Purchaser's current employer; (v) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the Eligible Purchaser receives assistance from either of such agencies; or (vi) if the Eligible Purchaser is unemployed and has no such tax return, obtain another form of independent verification. Borrower shall receive confirmation from the County that the Eligible Purchaser is income qualified prior to execution of the Habitat Partnership Agreement pursuant to which the Eligible Purchaser agrees to provide labor to assist in constructing the Unit. The County acknowledges that the sale of the Unit to a particular Eligible Purchaser may occur within twelve (12) months of such Eligible Purchaser's income certification but Borrower shall not be required to recertify the income of the Eligible Purchaser prior to transferring the Unit, which will be the date a purchase and sale agreement is executed between the Eligible Purchaser and Borrower.

(b) The County has received and approved documentation from Borrower that the proposed sales price for the sale of the Unit to the Eligible Purchaser meets the requirements of this Agreement and the NSPI.

(c) The County has received a cost certification for the Unit from Borrower showing all uses and sources related to its construction and sale (including any ancillary costs).

(d) The County has received from Borrower copies of the final certificate of occupancy for the Unit, or other equivalent document indicating construction is complete, and a completed contract activity form in the form attached to this Agreement as Exhibit F.

(e) The County has received from Borrower copies of certification that the Eligible Purchaser will occupy the Unit as his or her principal place of residence and that in no event will he or she lease the Unit to another (the "Owner Occupancy Certification").

(f) The County has received from Borrower evidence of marketing for the Unit, such as copies of flyers, list of media ads, list of agencies and organizations receiving information on availability of the Property, as applicable.

Section 4.3 Continuing Affordability Requirements.

At the time a Unit is conveyed to an Eligible Purchaser, the County and Borrower shall ensure compliance with NSP1 continuing affordability requirements, consistent with 24 CFR 92.254(a)(5). The continuing affordability requirement is twenty (20) years from the date of occupancy.

ARTICLE 5
LOAN REQUIREMENTS

Section 5.1 Financial Accountings and Post-Completion Audits.

Borrower shall provide to County a financial accounting of all sources and uses of funds for the construction of the Improvements prior to the sale of a Unit to an Eligible Purchaser, and, in any event, no later than sixty (60) days after construction of the Improvements is complete.

Section 5.2 Information.

Borrower shall provide any information reasonably requested by the County in connection with the construction of the Improvements, including (but not limited to) any information related to Borrower's use of the Loan funds

Section 5.3 Records.

(a) Borrower shall keep and maintain full, complete and appropriate books, records and accounts relating to the Property, including all books, records and accounts necessary or prudent to evidence and substantiate in full detail Borrower's compliance with the terms and provisions of this Agreement. Borrower shall keep and maintain such books, records and accounts in accordance with (i) generally accepted accounting principles consistently applied, and (ii) the requirements of this Agreement. All such books, records, and accounts are to be open to and available for inspection and copying by HUD, the County, its auditors or other authorized representatives at reasonable intervals during normal business hours. Borrower shall preserve such records for a period of not less than five (5) years from the date of sale of the last Unit by Borrower, in compliance with all HUD records and accounting requirements including but not limited to those set forth in 24 C.F.R. Section 570.506 and Section 570.502(b). If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Loan is pending at the end of the record retention period stated herein, then Borrower shall retain such records until such action and all related issues are resolved. Such records shall include all invoices, receipts, and other documents related to expenditures from the Loan funds Borrower shall cause records to be accurate and current and in such a form as to allow the County to comply with the record keeping requirements contained in 24 C.F.R. 570.506 and the NSP Regulations. Such records are to include, but are not limited to:

- (i) Records providing a full description of the activities undertaken with the use of the Loan funds.
 - (ii) Records demonstrating the eligibility of activities under the NSP Regulations and that the use of the NSP Funds meets one of the national objectives of the NSP program set forth in the NSP Regulations.
 - (iii) Records demonstrating compliance with HUD property standards and lead-based paint requirements.
 - (iv) Records documenting the acquisition, improvement, use or disposition of real property acquired or improved with NSP assistance.
 - (v) Records documenting compliance with the fair housing, equal opportunity and affirmative marketing requirements of the NSP program.
 - (vi) Records documenting compliance with the changes in use restrictions specified in 24 C.F.R Part 570.505 (for any properties that are retained).
 - (vii) Records as required by 24 C.F.R Part 570.502, 24 C.F.R 84.21-28 and OMB Circular A-110 (24 C.F.R Part 84).
 - (viii) Records demonstrating compliance with local hiring and MBE/WBE requirements.
 - (ix) Records demonstrating compliance with Section 3 requirements.
 - (x) Records demonstrating compliance with applicable acquisition and relocation requirements, which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments.
 - (xi) Records demonstrating compliance with labor requirements, including certified payrolls from Borrower's general contractor evidencing that applicable prevailing wages have been paid.
 - (xii) Other records necessary to document compliance with Subpart K of 24 C.F.R 570 and the NSP Regulations.
- (b) Borrower shall retain all financial records, supporting documents, statistical records, and all other records pertinent to services performed and expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all litigation, claims, Federal audits, negotiation or other actions that involve any of the records cited, whichever occurs later. Borrower shall retain records for non-expendable property acquired with funds under this Agreement for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she receives final payment.

(c) The County shall notify Borrower of any records it deems insufficient. Within fifteen (15) calendar days after the receipt of such a notice Borrower shall correct any deficiency in the records specified by the County in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Section 5.4 Access to and Audit of Records.

The County has the right to examine, monitor and audit all records, documents, conditions, and activities of Borrower and its contractors and subcontractors related to performance of Borrower's obligations under this Agreement. Pursuant to California Government Code section 8546.7, at the request of County or as part of any audit of the County, the parties to this Agreement are subject to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of four (4) years after termination of this Agreement.

Section 5.5 NSP and CDBG Requirements.

(a) Borrower shall comply with all applicable laws and regulations governing the use of the Loan funds as set forth in the NSP Regulations and the CDBG Regulations. In the event of any conflict between this Agreement and applicable laws and regulations governing the use of the Loan funds, the applicable laws and regulations govern.

(b) The laws and regulations governing the use of the Loan include (but are not limited to) the following:

(i) Environmental and Historic Preservation. 24 C.F.R. Part 58, which prescribes procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4361), and the additional laws and authorities listed at 24 C.F.R. 58.5.

(ii) Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

(iii) Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 C.F.R. Part 24.

(iv) Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 U.S.C. 3601 et seq.) and implementing regulations at 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794, et seq.); the Age Discrimination Act of 1975 (42 USC 6101, et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 C.F.R. Part 107; Executive Order 11246 as amended by Executive Orders

11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; Executive Order 12138 as amended by Executive Order 12608.

(v) Equal Opportunity. The non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 C.F.R. 570.607, as revised by Executive Order 13279, and the applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act of 1974. Borrower may not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, age, marital status, or status with regard to public assistance. Borrower shall take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Borrower shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(vi) Land Covenants. The requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 C.F.R. 570.601. In regard to the sale, lease, or other Transfer of land acquired, cleared or improved with assistance provided under this Agreement, Borrower shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that County and the United States are beneficiaries of and entitled to enforce such covenants. Borrower, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

(vii) Lead-Based Paint. If applicable, the requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 U.S.C. 4851 et seq.), and implementing regulations at 24 C.F.R. Part 35.

(viii) Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), and implementing regulations at 49 C.F.R. Part 24; 24 C.F.R. 92.353; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 C.F.R. 42 et seq.; and California Government Code Section 7260 et seq. and implementing regulations at 25 California Code of Regulations Sections 6000 et seq.

(ix) Clean Air and Water Acts. The Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the regulations of the Environmental Protection County with respect thereto, at 40 C.F.R. Part 1500, as amended from time to time.

(x) Uniform Administrative Requirements – CDBG and NSP. If applicable, the requirements of applicable sections of 24 C.F.R. Part 85, as amended from time to

time, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and 24 C.F.R. 570.502 regarding cost and auditing requirements.

(xi) Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the areas of the project. Borrower agrees to include the following language in all subcontracts executed under this Agreement:

(1)The work to be performed under this contract is subject to the requirements of 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.

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

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

(4)The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

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

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

(7) 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) ("Section 7(b)") also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

(xii) Labor Standards. The labor requirements set forth in 24 CFR Section 92.354; the prevailing wage requirements of the Davis Bacon Act and implementing rules and regulations (40 U.S.C. 3141 – 3148); the Copeland "Anti-Kickback" Act (40 U.S.C. 276(c)), which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act – CWHSSA (40 U.S.C. 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1-1/2 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

(xiii) Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 C.F.R. Part 24.

(xiv) Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800.

(xv) Flood Disaster Protection. The requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under this Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act. The use of any assistance provided under this Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program is subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act. Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement is to contain certain provisions. These provisions will apply if such land is located in an area identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq. These provisions obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood

insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(s) of the Flood Disaster Protection Act of 1973.

(xvi) Procurement. The requirements of 24 C.F.R. 84.40-48 and the procurement standards set forth in OMB Circular A-110, and the property standards, covering utilization and disposal of property, set forth in OMB Circular A-110.

(xvii) Hatch Act. The requirements of the Hatch Act, 5 U.S.C. 15, which provides that funds provided through this Agreement, and personnel employed using funds provided through this Agreement, may not be used to conduct political activities.

(xviii) Section 2304 Requirements. Section 2304 of the Act, which states that no NSP funds may be distributed to (a) an organization that has been indicted for a violation under federal law relating to an election for federal office or (b) an organization that employs Applicable Individuals. An "Applicable Individual" means an individual who has been indicted for a violation under federal law relating to an election for federal office and is (a) employed by the organization in a permanent or temporary capacity or is contracted or retained by the organization or (b) acting on behalf of, or with the express or apparent authority of the organization.

(xix) Religious Organization. The prohibitions against the use of Loan funds for religious activities, to promote religious interests, or for the benefit of a religious organization federal pursuant to 24 C.F.R 570.200(j).

(xx) HUD Regulations. Any other applicable HUD regulations in their current form or as may be amended, added, or waived in the future that are applicable to Borrower or the Loan.

Section 5.6 Hazardous Materials.

(a) Borrower shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions. Borrower shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be customarily used in construction of single family homes like the Property or kept and used in and about residential property of this type.

(b) Borrower shall immediately advise the County in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party

against Borrower or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Law.

(c) The County has the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Borrower. Borrower shall indemnify and hold harmless the County and its board members, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by the County in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees. This obligation to indemnify shall survive termination of this Agreement.

(d) Without the County's prior written consent, which the County may not unreasonably withhold, Borrower may not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the County's reasonable judgment, impair the value of the County's security hereunder; provided, however, that the County's prior consent is not necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the County's consent before taking such action, provided that in such event Borrower shall notify the County as soon as practicable of any action so taken. The County agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Borrower will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Borrower establishes to the reasonable satisfaction of the County that there is no reasonable alternative to such remedial action that would result in less impairment of the County's security hereunder; or (iv) the action has been agreed to by the County.

(e) Borrower hereby acknowledges and agrees that (i) this Section is intended as the County's written request for information (and Borrower's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Agreement (together with any

indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the Property is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

(f) In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1), then, without otherwise limiting or in any way affecting the County's or the trustee's rights and remedies under the Deed of Trust, the County may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against Borrower to judgment, and (b) judgment, and (c) any other rights and remedies permitted by law. For purposes of determining the County's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), Borrower will be deemed to have willfully permitted or acquiesced in a release or threatened release of Hazardous Materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and Borrower knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the County in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the lesser of ten percent (10%) or the maximum rate permitted by law, until paid, will be added to the indebtedness secured by the Deed of Trust and is due and payable to the County upon its demand made at any time following the conclusion of such action.

Section 5.7 Maintenance and Damage.

(a) During the course of both the construction and the marketing and sale of the Units, Borrower shall maintain the Property in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if Borrower does not cure such condition within thirty (30) days after receiving a County notice of such a condition, then in addition to any other rights available to the County, the County has the right to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Property.

(b) Prior to the sale of the Units to Eligible Purchasers, subject to the requirements of any Senior Lender, and if economically feasible in the County's reasonable judgment, if any improvement now or in the future on the Property is damaged or destroyed, then Borrower shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the Approved Scope of Work, with such changes as have been approved by the County. Borrower shall commence such work or repair no later than the later of one hundred twenty (120) days after the damage or loss occurs and thirty (30) days following receipt of the insurance proceeds, and Borrower shall cause the work to be completed within one

(1) year thereafter. Any insurance proceeds collected for such damage or destruction are to be applied to the cost of such repairs or restoration and, if such insurance proceeds are insufficient for such purpose, then Borrower shall make up the deficiency.

Section 5.8 Recovery of Capital Costs.

Borrower shall not attempt to recover any capital costs of public improvements assisted with NSP1 Funds by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP1 Funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP1 Funds) financed from other revenue sources, an assessment or charge may be made against the Property with respect to the public improvement financed by a source other than Community Development Block Grant or NSP1 Funds.

Section 5.9 Fees and Taxes.

Borrower is solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property while it is owned by Borrower and shall pay such charges prior to delinquency. However, Borrower is not required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the County, Borrower deposits with the County any funds or other forms of assurance that the County in good faith from time to time determines appropriate to protect the County from the consequences of the contest being unsuccessful.

Section 5.10 Notice of Litigation.

Borrower shall promptly notify the County in writing of any litigation materially affecting Borrower or the Property and of any claims or disputes that involve a material risk of such litigation.

Section 5.11 Nondiscrimination.

Borrower covenants by and for itself and its successors and assigns that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property. The foregoing covenant runs with the land.

Section 5.12 Transfer.

(a) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of (i) any rights and/or duties under this

Agreement, and/or (ii) any interest in the Property or any Unit, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Property or Unit is transferred and Borrower retains title.

(b) Except as otherwise permitted in this Section 5.12, no Transfer is permitted without the prior written consent of the County, which the County may withhold in its sole discretion. The Loan automatically accelerates and is due in full upon any unauthorized Transfer.

(c) The County hereby consents to the sale of the Units to Eligible Purchasers in compliance with Article 4 of this Agreement.

(d) The County hereby approves a Transfer of the Property from Borrower to a wholly owned affiliate of Borrower, and an assumption of the Loan by such transferee provided that (i) the County is provided the organizational documents of the transferee, and (ii) the transferee expressly assumes the obligations of the Borrower under the Loan Documents, utilizing a form of assignment and assumption agreement provided by the County.

Section 5.13 Insurance Requirements.

(a) Borrower shall maintain the following insurance coverage throughout the Term of the Loan:

(i) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

(ii) Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, that if Borrower does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(iv) Builders' Risk insurance during the course of construction, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the County, naming the County as a Loss Payee, as its interests may appear. Flood insurance shall be obtained if required by applicable federal regulations.

(v) Commercial crime insurance covering all officers and employees, for loss of Loan proceeds caused by dishonesty, in an amount approved by the County, naming the County a Loss Payee, as its interests may appear.

(b) Borrower shall cause any general contractor, subcontractor, or agent working on the Improvements under direct contract with Borrower or subcontract to maintain insurance of the types and in at least the minimum amounts described in subsections (i), (ii), and (iii) above, except that the limit of liability for comprehensive general liability insurance for subcontractors shall be One Million Dollars (\$1,000,000), and shall require that such insurance shall meet all of the general requirements of subsections (d) and (e). Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insureds the County, its officers, agents, employees and members of the County Board of Supervisors.

(c) The required insurance shall be provided under an occurrence form, and Borrower shall maintain the coverage described in subsections (i) through (v) continuously so long as the Note is outstanding. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, Borrower shall cause such annual aggregate limit to be three times the occurrence limits specified above.

(d) Commercial General Liability, Comprehensive Automobile Liability and Property insurance policies are to be endorsed to name as an additional insured the County and its officers, agents, employees and members of the County Board of Supervisors.

(e) All policies and bonds are to contain (i) the agreement of the insurer to give the County at least ten (10) days' notice prior to cancellation or material change for non-payment of premium, and thirty (30) days' notice prior to cancellation for any other change or cancellation in said policies; (ii) an agreement that such policies are primary and non-contributing with any insurance that may be carried by the County; (iii) a provision that no act or omission of Borrower shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (iv) a waiver by the insurer of all rights of subrogation against the County and its authorized parties in connection with any loss or damage thereby insured against.

Section 5.14 Anti-Lobbying Certification.

Borrower certifies, to the best of Borrower's knowledge or belief, that:

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

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a

Member of Congress in connection with the awarding of any Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and no more than One Hundred Thousand Dollars (\$100,000) for such failure.

Section 5.15 Covenants Regarding Other Financing.

(a) Borrower shall promptly pay the principal and interest when due on any financing secured by a lien on the Property.

(b) Borrower shall promptly notify the County in writing of the existence of any default under any documents evidencing any loans secured by a lien on the Property, whether or not a default has been declared by the lender and provide the County copies of any notice of default.

(c) Borrower may not amend, modify, supplement, cancel or terminate any documents related to any loan approved by the County without the prior written consent of the County.

(d) Borrower may not incur any indebtedness that is secured by a lien on the Property or encumber the Development with any liens without the prior written consent of the County.

Section 5.16 Representations and Warranties. Borrower hereby represents and warrants to the County as follows and acknowledges, understands, and agrees that the representations and warranties set forth in this Section 5.16 are deemed to be continuing during all times when any portion of the Loan remains outstanding:

(a) Organization. Borrower is a duly organized California nonprofit public benefit corporation, validly existing and in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Borrower. Borrower has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, to execute and deliver the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons

who are duly authorized to execute and deliver the same for and on behalf of Borrower, and all actions required under Borrower's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and the Loan Documents and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. The Loan Documents and all other documents or instruments executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of Borrower enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of the Loan Documents or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will (i) conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever that is binding on Borrower, or conflict with any provision of the organizational documents of Borrower, or conflict with any agreement to which Borrower is a party, or (ii) result in the creation or imposition of any lien upon any assets or property of Borrower, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. Borrower shall cause the construction of the Development to be in compliance with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Borrower is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the Development, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to Borrower, materially affect Borrower's ability to repay the Loan or impair the security given to the County pursuant hereto.

(h) Title to Land. At the time of recordation of the Deed of Trust, Borrower will have good and marketable fee title to the Development and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than liens for current real property taxes and liens in favor of the County or approved in writing by the County.

(i) Financial Statements. The financial statements of Borrower and other financial data and information furnished by Borrower to the County fairly and accurately present the information contained therein. As of the date of this Agreement, there has not been any material adverse change in the financial condition of Borrower from that shown by such financial statements and other data and information.

(j) Taxes. Borrower and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or the Property otherwise due and payable, except those that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with generally accepted accounting principles. There is no proposed tax assessment against Borrower or any of its subsidiaries that could, if made, be reasonably expected to have a material adverse effect on the property, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Borrower and its subsidiaries, taken as a whole, or which could result in (i) a material impairment of the ability of Borrower to perform under any loan document to which it is a party, or (ii) a material adverse effect upon the legality, validity, binding effect or enforceability against Borrower of any Loan Document.

ARTICLE 6 DEFAULT AND REMEDIES

Section 6.1 Events of Default.

Each of the following constitutes a "Default" by Borrower under this Agreement:

(k) Failure to Construct Units. Subject to Section 7.14, failure of Borrower to commence and prosecute to completion, construction of the Improvements within the times set forth in Article 3 above.

(l) Failure to Sell. Failure to sell the Units to Eligible Purchasers in compliance with the requirements of Article 4 above.

(m) Failure to Make Payment. Failure to repay the principal and any interest on the Loan within ten (10) days of receipt of written notice from the County that such payment is due pursuant to the Loan Documents.

(n) Breach of Covenants. Failure by Borrower to duly perform, comply with, or observe any of the conditions, terms, or covenants of any of the Loan Documents, and such failure continues uncured for thirty (30) days after receipt of written notice thereof from the County to Borrower. If, in County's reasonable judgment, the breach cannot be cured within thirty (30) days, Borrower is not in breach if Borrower undertakes to cure the breach and diligently and in good faith continues to cure the breach as soon as reasonably possible and such breach is cured within ninety (90) days. Notwithstanding the above, if a different period or notice requirement is specified under any other section of this Article 6, the specific provisions control.

(o) Default Under Other Loans. Failure to make any payment or perform any of Borrower's covenants, agreements, or obligations under the documents evidencing and securing any other loans to Borrower secured by the Property following expiration of all applicable notice and cure periods.

(p) Insolvency. A court having jurisdiction making or entering any decree or order (i) adjudging Borrower to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Borrower or seeking any arrangement for Borrower under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of Borrower in bankruptcy or insolvency or for any of their properties, (iv) directing the winding up or liquidation of Borrower, if any such decree or order described in clauses (i) to (iv), inclusive, continues unstayed or undischarged for a period of ninety (90) days; or (v) Borrower admits in writing its inability to pay its debts as they fall due or voluntarily submits to or files a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of Default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(q) Assignment; Attachment. Borrower assigns its assets for the benefit of its creditors or suffers a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon is returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this paragraph shall act to accelerate automatically, without the need for any action by the County, the indebtedness evidenced by the Note.

(r) Suspension; Termination. Borrower voluntarily suspends its business or its business is dissolved or terminated.

(s) Liens on Property. Any claim or lien (other than liens approved in writing by the County) is filed against the Property or any part thereof, or any interest or right made appurtenant thereto, or the service of any notice to withhold proceeds of the Loan and the continued maintenance of said claim or lien or notice to withhold for a period of twenty (20) days without discharge or satisfaction thereof or provision therefore (including, without limitation, the posting of bonds) satisfactory to the County.

(t) Condemnation. The condemnation, seizure, or appropriation of all or a substantial part of the Property.

(u) Unauthorized Transfer. Any Transfer other than as permitted by Section 5.11.

(v) Representation or Warranty Incorrect. Any Borrower representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the County in connection with any of the Loan Documents, proves to have been incorrect in any material respect when made.

Section 6.2 Remedies.

The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the County or automatically where so specified, (i) cause the Loan to be immediately due and payable, (ii) relieve the County of any obligation to make or continue the Loan, and (iii) give the County the right to proceed with any and all

remedies set forth in this Agreement and the Loan Documents, including but not limited to the following:

(a) Acceleration of Note. The County has the right to cause all indebtedness of Borrower to the County under this Agreement and the Note, together with any accrued interest thereon, to become immediately due and payable. Borrower waives all right to presentment, demand, protest or notice of protest or dishonor. The County may proceed to enforce payment of the indebtedness and to exercise any or all rights afforded to the County as a creditor and secured party under the law including the Uniform Commercial Code, including foreclosure under the County Deed of Trust. Borrower is liable to pay the County on demand all reasonable expenses, costs and fees (including, without limitation, reasonable attorney's fees and expenses) paid or incurred by the County in connection with the collection of the Loan and the preservation, maintenance, protection, sale, or other disposition of the security given for the Loan.

(b) Specific Performance. The County has the right to mandamus or other suit, action or proceeding at law or in equity to require Borrower to perform its obligations and covenants under the Loan Documents or to enjoin acts on things that may be unlawful or in violation of the provisions of the Loan Documents.

(c) Right to Cure at Borrower's Expense. The County has the right (but not the obligation) to cure any monetary default by Borrower under a loan other than the Loan. Borrower agrees to reimburse the County for any funds advanced by the County to cure a monetary default by Borrower upon demand therefore, together with interest thereon at the lesser of the maximum rate permitted by law or ten percent (10%) per annum from the date of expenditure until the date of reimbursement.

Section 6.3 Right of Contest.

Borrower has the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the County or the rights of the County hereunder.

Section 6.4 Remedies Cumulative.

No right, power, or remedy given to the County by the terms of this Agreement or the Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of any such instrument, or by any statute or otherwise against Borrower and any other person. Neither the failure nor any delay on the part of the County to exercise any such rights and remedies will operate as a waiver thereof, nor will any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

ARTICLE 7
GENERAL PROVISIONS

Section 7.1 Relationship of Parties.

Nothing contained in this Agreement may be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the County and Borrower or its agents, employees or contractors, and Borrower is at all times an independent contractor and is wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. Borrower has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. In regards to the purchase and construction of the Improvements, Borrower is solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and shall contractually require that its contractors be solely responsible for similar matters relating to their employees. Borrower is solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims.

Nothing contained in this Agreement creates or justifies any claim against the County by any person that Borrower may have employed or with whom Borrower may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the construction of the Improvements or the sale of the Units, and Borrower shall include similar requirements in any contracts entered into for the construction of the Improvements, or the sale of the Units.

Section 7.3 Amendments.

No alteration or variation of the terms of this Agreement is valid unless made in writing by both Parties.

Section 7.4 Indemnification.

Borrower shall indemnify, defend and hold the County harmless against all claims made against it and expenses (including reasonable attorneys' fees) that arise out of or in connection with the construction of the Improvements and the marketing and sale of the Units, except to the extent such claim arises from the grossly negligent or willful misconduct of the County, its agents, and its employees. The provisions of this Section 7.4 will survive the expiration of the Term and the reconveyance of the Deed of Trust.

Section 7.5 Non-Liability of County Officials, Employees and Agents.

No member, official, employee or agent of the County is personally liable to Borrower in the event of any default or breach by the County or for any amount that may become due to Borrower or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third-Party Beneficiaries.

There are no third-party beneficiaries to this Agreement.

Section 7.7 Discretion Retained by County.

The County's execution of this Agreement in no way limits the discretion of the County in the permit and approval process in connection with construction of the Improvements.

Section 7.8 Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no person described in Section 7.8(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. Borrower shall exercise due diligence to ensure that the prohibition in this Section 7.8(a) is followed.

(b) The conflict of interest provisions of Section 7.8(a) above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

(c) In accordance with California Government Code Section 1090 and the Political Reform Act, California Government Code Section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of Borrower, or immediate family member of any of the preceding, shall make or participate in a decision, made by the County or a County board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Borrower. Interpretation of this Section shall be governed by the definitions and provisions used in the Political Reform Act, California Government Code Section 87100 et seq., its implementing regulations manual and codes, and Government Code Section 1090.

(d) Borrower shall comply with the conflict of interest provisions set forth in 24 C.F.R. Section 570.611.

Section 7.9 Notices, Demands and Communications.

Formal notices, demands, and communications between the Parties must be given by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

County:

County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attention: Affordable Housing Program Manager

Borrower:

Habitat for Humanity East Bay/Silicon Valley, Inc.
2619 Broadway
Oakland, CA 94612
Attention: President and CEO

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt will be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.10 Applicable Law.

This Agreement is governed by California law.

Section 7.11 Parties Bound.

Except as otherwise limited herein, the provisions of this Agreement bind and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns. This Agreement is intended to run with the land and bind Borrower and its successors and assigns in the Property for the entire Term, and the benefit hereof inures to the benefit of the County and its successors and assigns.

Section 7.12 Attorneys' Fees.

If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing Party has the right to recover its reasonable attorneys' fees and costs of suit from the other Party.

Section 7.13 Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 7.14 Force Majeure.

In addition to specific provisions of this Agreement, performance by either Party will not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; lack of transportation; or court order; or any other similar causes (other than lack of funds of Borrower or Borrower's inability to finance the construction of the Improvements) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within ten (10) days from the commencement of the cause and such extension of time is not rejected in writing by the other Party within ten (10) days of receipt of the notice. In no event is the County required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 7.15 County Approval.

Whenever this Agreement calls for County approval, consent, or waiver, the written approval, consent, or waiver of the Director will constitute the approval, consent, or waiver of the County, without further authorization required from the County Board of Supervisors. The County hereby authorizes the Director to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the County. The Director is also hereby authorized to approve, on behalf of the County, requests by Borrower for reasonable extensions of time deadlines set forth in this Agreement. The County will not unreasonably delay in reviewing and approving or disapproving any proposal by Borrower made in connection with this Agreement.

Section 7.16 Waivers.

Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to take action on any breach or default of Borrower or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Borrower to perform any obligation under this Agreement does not operate as a waiver or to release Borrower from any of its obligations under this Agreement. Consent by the County to any act or omission by Borrower is not a consent to any other or subsequent act or omission or a waiver of the requirement for the County's written consent to future waivers.

Section 7.17 Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and are to be disregarded in interpreting any part of the Agreement's provisions.

Section 7.18 Entire Understanding of the Parties

This Agreement, the Deed of Trust, and the Note constitute the entire understanding and agreement of the Parties with respect to the Loan.

Section 7.19 Multiple Originals; Counterpart.

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[signatures on following page]

This Agreement has been entered into by the undersigned as of the date first above written.

COUNTY:

COUNTY OF CONTRA COSTA, a political subdivision of the State of California

By: _____
John Kopchik
Director, Conservation and Development

APPROVED AS TO FORM:

Sharon L. Anderson, County Counsel

By: _____
Kathleen M. Andrus
Deputy County Counsel

BORROWER:

Habitat for Humanity East Bay/Silicon Valley, Inc., a California nonprofit public benefit corporation.

By: _____
Janice Jensen
President and CEO

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED TO HABITAT FOR HUMANITY EAST BAY, A CALIFORNIA NONPROFIT CORPORATION , RECORDED DECEMBER 31, 2009 UNDER DOCUMENT NUMBER 2009-306056-00 IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED "RESOLUTION OF ACCEPTANCE OF DEED" BY THE BOARD OF EDUCATION OF MT. DIABLO UNIFIED SCHOOL DISTRICT OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, RECORDED APRIL 23, 1953 IN LIBER 2109, PAGE 504, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, CALIFORNIA, BEING ON THE SOUTH RIGHT OF WAY LINE OF PACIFICA AVENUE, AS SAID RIGHT OF WAY IS SHOWN AND SO DESIGNATED ON THAT CERTAIN MAP ENTITLED "RIGHT OF WAY PACIFICA AVENUE, WEST OF SHORE ACRES UNIT #2, DRAWING NO. RW-5094B-57-1", REVISED AUGUST 9, 1957; THENCE FROM SAID **POINT OF BEGINNING**, ALONG THE WESTERLY LINE OF SAID MT. DIABLO UNIFIED SCHOOL DISTRICT DEED (2109 OR 504) SOUTH 0° 29' 56" EAST 305.31 FEET TO A POINT ON THE NORTHERLY LINE OF THE EAST BAY MUNICIPAL UTILITY DISTRICT (EBMUD) MOKELUMNE AQUEDUCTS RIGHT OF WAY, AS SAID RIGHT OF WAY IS SHOWN AND SO DESIGNATED ON THAT CERTAIN MAP ENTITLED "MOKELUMNE AQUEDUCTS RIGHT OF WAY, "P" STATIONS 3838+00 TO 3805+00, DRAWING NO. 4195-G-42, DATED NOVEMBER 2, 1967, REVISED JANUARY 19, 2001"; THENCE LEAVING SAID WESTERLY LINE, AND ALONG SAID NORTHERLY RIGHT OF WAY, NORTH 65° 55' 33" WEST 758.86 FEET MORE OR LESS TO SAID SOUTH RIGHT OF WAY LINE OF PACIFICA AVENUE; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE OF PACIFICA AVENUE, SOUTH 89° 38' 48" EAST 690.20 FEET TO THE **POINT OF BEGINNING**.

APN: 098-210-001

END OF DESCRIPTION

EXHIBIT B

APPROVED DEVELOPMENT BUDGET

| Phase 1 - 2 Very Low Units (<50%AMI) & 1 Low Unit (<80%AMI) | | | | | | |
|---|------|------|-------|-------|-------------|------------|
| | 1 BR | 2 BR | 3 BR | 4 BR | Total Homes | Percentage |
| Living Sq. Ft. | 638 | 992 | 1,192 | 1,442 | | |
| Very Low (<50% AMI) | - | 1 | 1 | 0 | 2 | 67% |
| Low (<80% AMI) | - | 0 | 0 | 1 | 1 | 33% |
| Moderate (<120% AMI) | - | 0 | 0 | 0 | - | 0% |
| Market | - | 0 | 0 | 0 | - | 0% |
| Total Units | - | 1 | 1 | 1 | 3 | 100% |
| Total Sq. Ft. | 0 | 992 | 1,192 | 1,442 | 3,628 | |

Project Time Line

| | Start | Finish |
|-------------------------------------|-------|--------|
| Land Contract | 2016 | 2017 |
| Entitlement & CD | 2017 | 2020 |
| Infrastructure and Site Development | 2021 | 2021 |
| Construction of All Homes | 2021 | 2022 |

Permanent Sources

| | Total | Per Unit | % of Total Cost |
|--------------------------------------|---------------------|-------------------|--------------------|
| Contributions - Habitat for Humanity | 233,871 | \$ 77,957 | 11.83% |
| County Financing - NSP | 1,000,000 | \$ 333,333 | 50.57% |
| County Financing - HOME | - | \$ - | 0.00% |
| Funding Gap | - | | 0.00% |
| Home Sales Proceeds -Very Low & Low | 698,600 | \$ 232,867 | 35.33% |
| Home Sales Proceeds - Mods | - | \$ - | 0.00% |
| Home Sales Proceed - AHP/WISH Funds | 45,000 | \$ 15,000 | 2.28% |
| Total Permanent Sources | \$ 1,977,471 | \$ 659,157 | 100% |

Development Costs

| | Total | Per Unit | % of Total Cost |
|--------------------------------|---------------------|-------------------|--------------------|
| Site Acquisition/Due Diligence | \$ 73,451 | \$ 24,484 | 3.71% |
| Site Remediation & Demolition | - | \$ - | 0.00% |
| Design Consultants | 81,272 | \$ 27,091 | 4.11% |
| Site Development | 519,567 | \$ 173,189 | 26.27% |
| Home Construction | 726,106 | \$ 242,035 | 36.72% |
| Permits and Fees | 194,838 | \$ 64,946 | 9.85% |
| Administration | 140,642 | \$ 48,881 | 7.11% |
| Finance & Carrying | 70,098 | \$ 23,366 | 3.54% |
| Marketing/Homeowner Relations | 33,122 | \$ 11,041 | 1.67% |
| Project Contingency | 138,373 | \$ 46,124 | 7.00% |
| Total Development Costs | \$ 1,977,471 | \$ 659,157 | 100% |

(Inflation = ±2% per year from 2019 \$)

EXHIBIT C

DEVELOPMENT SCHEDULE

January 2021 – Record Final Map

February 2021 – Sitework Construction

May 2021 – Start Construction

July 2022 – Construction Substantially complete

August 2022 – Home Sale Closing/Occupancy

EXHIBIT D

MORTGAGE LOANS [PLACEHOLDER]

| |
|---|
| Phase 1 - 2 Very Low Units (<50%AMI) & 1 Low Unit (<80%AMI) |
|---|

Prior to Final Map

| | | |
|-----------------------------------|-----|-----------|
| 589 Pacifica Avenue Low Income | | |
| 1st Deed of Trust | NSP | 1,000,000 |

After Final Map Recorded, Prior to Home Sales (Estimated)

| | | |
|--------------------------|--------------|-----------|
| Lots 1 - 3 Low Income | | |
| 1st Deed of Trust | Private Bank | 553,000 |
| 2nd Deed of Trust | NSP | 1,000,000 |
| | | 1,553,000 |

At Home Sales to Buyers (Estimated) *

| | Lot #: 1 | | Lot #: 2 | | Lot #: 3 | |
|-------------------|--------------------|---------|--------------------|---------|--------------------|---------|
| | 2 Bdrm, Low Income | | 3 Bdrm, Low Income | | 4 Bdrm, Low Income | |
| 1st Deed of Trust | Habitat | 160,000 | Habitat | 186,150 | Habitat | 200,300 |
| 2nd Deed of Trust | AHP | 15,000 | AHP | 15,000 | AHP | 15,000 |
| | 175,000 | | 201,150 | | 215,300 | |

* Deeds of Trust are estimated based on current interest rates, AMI, HOA dues, utility allowances and other assumptions. Deeds of Trust are subject to change based upon updated assumptions in the future.

EXHIBIT E

FORM OF INCOME CERTIFICATION

Income Certification

Property Address: _____

City: _____ **Zip:** _____

Telephone _____ **Work Number:** _____

Cell Number: _____ **Email:** _____

HOUSEHOLD COMPOSITION

| HH Mbr # | Head of Household Last Name | First Name & Middle Initial | Relationship to Head HH | Age | DL# | SS# or Alien Reg. No. |
|----------|-----------------------------|-----------------------------|-------------------------|-----|-----|-----------------------|
| 1 | | | HEAD | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |

INCOME (USE ALL INCOME SOURCES FOR ALL HOUSEHOLD MEMBERS OVER 18)

| HH Mbr# | (A) Employment or Wages | | (B) Soc. Security/Pensions | | (C) Public Assistance | | (D) Other Income | |
|---------------|-------------------------|--------|----------------------------|--------|-----------------------|--------|------------------|--------|
| | Monthly | Yearly | Monthly | Yearly | Monthly | Yearly | Monthly | Yearly |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Totals | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

Add totals from (A) through (D) above

(E) TOTAL INCOME:

| | |
|----|--|
| \$ | |
|----|--|

Signature of Applicant: _____ **Date:** _____

Signature of Co-Applicant: _____ **Date:** _____

Certificación de Ingresos

Dirección: _____

Ciudad: _____ Código Postal: _____

Teléfono _____ Número telefónico de trabajo: _____

Número Celular: _____ Correo electrónico: _____

COMPOSICIÓN DEL HOGAR

| HH Mbr # | Apellido de la Cabeza del Familia/Hogar | Primero Nombre e Inicial del segundo nombre | Relación a la cabeza del familia/hogar | Edad | # de licencia (pa manejar, si se aplica) | # de Seguro Social o # de extranjero |
|----------|---|---|--|------|--|--------------------------------------|
| 1 | | | Cabeza del Familia/Hogar | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |

INGRESOS (USAR TODAS LAS FUENTES DE INGRESOS PARA TODOS LOS MIEMBROS DEL HOGAR SOBRE 18)

| HH Mbr# | (A) Empleo o Salarios | | (B) Seguro Social / Pensiones | | (C) Asistencia pública | | (D) Otra entrada | |
|----------------|-----------------------|------------|-------------------------------|------------|------------------------|------------|------------------|------------|
| | Mensual | Anualmente | Mensual | Anualmente | Mensual | Anualmente | Mensual | Anualmente |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| Totales | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

Añadir totales de (A) a (D) por encima

(E) TOTAL INGRESOS::

\$

Firma del solicitante: _____

Fecha:: _____

Firma del Co-Solicitante: _____

Fecha:: _____

**CONTRA COSTA COUNTY CONSORTIUM
NEIGHBORHOOD STABILIZATION PROGRAM
FY 2020/21 INCOME CERTIFICATION FORM**

The service being provided to you is funded in part by the U. S. Department of Housing and Urban Development (HUD). HUD monitors the County as to the income and ethnicity of program participants. The information being requested is only for monitoring and auditing purposes, as required by HUD, and is not intended for public dissemination. Please provide the information requested below. Thank you for your cooperation.

Male Female

Name

1. **Status** (Check all that apply): 62 years or older Disabled
2. **Head of Household:** Are you the head of the household? Yes No
3. **If you are not the head of the household, is the head of the household female?** Yes No
4. **Household Size and Total Annual Household Income:**
 A. Circle the total number of people in your household in the first column.
 B. On the line corresponding to your household size, check the income range that includes your household's annual income.

A. Household Size

B. Total Household Income

| | | | |
|----------|---|---|--|
| 1 | <input type="checkbox"/> up to \$45,700 | <input type="checkbox"/> \$45,701-\$73,100 | <input type="checkbox"/> \$73,101-\$100,150 |
| 2 | <input type="checkbox"/> up to \$52,200 | <input type="checkbox"/> \$52,201-\$83,550 | <input type="checkbox"/> \$83,551-\$114,450 |
| 3 | <input type="checkbox"/> up to \$58,750 | <input type="checkbox"/> \$58,751-\$94,000 | <input type="checkbox"/> \$94,001-\$128,750 |
| 4 | <input type="checkbox"/> up to \$65,250 | <input type="checkbox"/> \$65,251-\$104,400 | <input type="checkbox"/> \$104,401-\$143,050 |
| 5 | <input type="checkbox"/> up to \$70,500 | <input type="checkbox"/> \$70,501-\$112,800 | <input type="checkbox"/> \$112,801-\$154,500 |
| 6 | <input type="checkbox"/> up to \$75,700 | <input type="checkbox"/> \$75,701-\$121,150 | <input type="checkbox"/> \$121,151-\$165,950 |

Check here if your income does not fall into any of the income ranges corresponding with your household size.

5. Do you receive assistance from any of the following sources?

- CalWORKs General Assistance Social Security Food Stamps
 Medi-Cal Section 8 WIC

6. Race/Ethnicity (Check only one, unless noted):

- American Indian/Alaskan Native Asian White
 Native Hawaiian/Pacific Islander Asian & White Black/African American
 American Indian/Alaskan Native & White Black/African American & White
 American Indian/Alaskan Native & Black/African American
 Other Multi-Racial: _____

Hispanic Ethnicity (you must also check one of the racial categories if you select this category)

I hereby certify that the above information is true and correct to the best of my knowledge. I acknowledge and understand that the information provided here will be relied upon for purposes of determining my eligibility for this program. I acknowledge that a material misstatement fraudulently or negligently made in this or in any other statement made by me may constitute a federal violation and may result in the denial of my participation in this program.

Signature

(Income Limits as of 11/25/2020)

Date

**Consortio de Contra Costa
Programa para el Desarrollo de la Comunidad
Información sobre los participantes del año 2020**

Hombre Mujer

Nombre

Domicilio

Ciudad

Código postal

1. **Marque lo que es aplicable:** 62 años o mas de edad Discapacitada/o
2. **Jefe de Casa:** ¿Es usted el jefe de casa? __Si __No
3. **Si no es el jefe de casa, ¿es dirigida la casa por una mujer?** Si No
4. **Número de Personas en el Hogar y Ingresos Anuales:**
 - A. Circule en la primera columna el número de personas en su hogar
 - B. Al lado derecho del número que circuló, por favor marque las cajas que indican el ingreso total de todas las personas en su hogar (aproxime)

| <i>A. Numero de personas en el hogar</i> | <i>B. Total de ingresos</i> | | |
|--|---|---|--|
| 1 | <input type="checkbox"/> up to \$45,700 | <input type="checkbox"/> \$45,701-\$73,100 | <input type="checkbox"/> \$73,101-\$100,150 |
| 2 | <input type="checkbox"/> up to \$52,200 | <input type="checkbox"/> \$52,201-\$83,550 | <input type="checkbox"/> \$83,551-\$114,450 |
| 3 | <input type="checkbox"/> up to \$58,750 | <input type="checkbox"/> \$58,751-\$94,000 | <input type="checkbox"/> \$94,001-\$128,750 |
| 4 | <input type="checkbox"/> up to \$65,250 | <input type="checkbox"/> \$65,251-\$104,400 | <input type="checkbox"/> \$104,401-\$143,050 |
| 5 | <input type="checkbox"/> up to \$70,500 | <input type="checkbox"/> \$70,501-\$112,800 | <input type="checkbox"/> \$112,801-\$154,500 |
| 6 | <input type="checkbox"/> up to \$75,700 | <input type="checkbox"/> \$75,701-\$121,150 | <input type="checkbox"/> \$121,151-\$165,950 |

Marque esta caja si sus ingresos no llegan a las tarifas que corresponden con el tamaño de su hogar.

5. ¿Recibe usted asistencia de alguna de estas organizaciones?

- CalWORKs Asistencia General Seguro Social vales para alimentos
 Medi-Cal Sección 8 WIC

6. ¿Eres Hispano/Latino? Si No

7. Raza (Marque uno):

- Indio Americano/Nativo de Alaska Asiático Blanco
 Nativo de Hawái/de las Islas del Pacifico Asiático/Blanco Negro/Africano Americano
 Indio Americano/Nativo de Alaska/Blanco Negro/Africano Americano/Blanco
 Indio Americano/Nativo de Alaska/Negro
 Otro Multirracial: _____

Yo juro bajo pena de perjurio que la información proveída es verdadera y correcta. Yo reconozco que la información solicitada será para determinar mi elegibilidad para este programa. Yo acepto que material o declaraciones hechas mal o negligentemente por mí, pueden constituir una violación federal y pueden tener un resultado negativo en mi participación en este programa.

Firma

Fecha

EXHIBIT F - Contract Activity Form

EXHIBIT G
NEPA Mitigations

NEPA Mitigation and Monitoring Plan – Pacifica Landing

All the mitigations / conditions for approval included in the Statutory Worksheet, Environmental Assessment, and/or Environmental Impact Statement are required to be included in this plan.

All mitigations / conditions for approval must be included in project agreement and/or legal documents.

Compliance with mitigations / conditions for approval must be documented prior to final payment of County funds

| Mitigation Measure(s) | Source | Method and date County staff informed Project Sponsor | Included in County loan document and /or project agreement | Verification of Mitigation Measure(s) | Responsible for implementation | Mitigation Timing | Responsible for monitoring and reporting on implementation | Monitoring and reporting frequency | Verification of compliance |
|--|--|---|--|---|--|---------------------------|--|------------------------------------|---|
| Air Quality AQ1 | Bay Area Air Quality Management Air District Basic Construction Mitigation Measures | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Ongoing | <input type="checkbox"/> Letter from Architect <input type="checkbox"/> Copy of final building permit |
| Contamination and Toxic Substances CT1 | Cornerstone Earth Group Phase II Soil Quality – Lead Evaluation December 19, 2019 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Ongoing | <input type="checkbox"/> Copy of final Soil Management Plan <input type="checkbox"/> Copy of final building permit |
| Endangered Species ES1 ES2 ES3 | Monk & Associates, Inc. National Environmental Policy Act Site Assessment August 6, 2019 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Ongoing | <input type="checkbox"/> Letter from Architect <input type="checkbox"/> Copy of final building permit |

| | | | | | | | | | |
|--|---|--|--------------------------|---|--|---------------------------------|-----------------------------|--|--|
| Historic Preservation CR1 CR2 CR3 CR4 | AEM Consulting Historic & Cultural Resources Evaluation March 2019 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Ongoing during construction | <input type="checkbox"/> Letter from AEM Consulting |
| Land Use LU1 | Contra Costa County CEQA Final Initial Study/Mitigated Neg. Dec. July 2019 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Ongoing | <input type="checkbox"/> Copy of final building permit |
| Noise N1 N2 N3 N4 N5 N6 | AMG & Associates, LLC Geotechnical Study | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | Once – after construction has been completed. | <input type="checkbox"/> Letter from Architect <input type="checkbox"/> Copy of final building permit |
| Soil Suitability G1 | Rockridge Geotechnical Investigation December 21, 2017 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | | <input type="checkbox"/> Letter from Architect <input type="checkbox"/> Copy of final building permit |
| Storm Water SW1 | Contra Costa County CEQA Final Initial Study/Mitigated Neg. Dec. July 2019 | | <input type="checkbox"/> | <input type="checkbox"/> Approved Construction Plans | Project Sponsor, architect, contractor | Pre and post construction | Architect and contractor | | <input type="checkbox"/> Copy of approved Storm Water Control Plan <input type="checkbox"/> Copy of final building permit |

AQ1. The following Bay Area Air Quality Management District, Basic Construction Mitigation Measures shall be implemented during project construction and shall be included on all construction plans.

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction and operational equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

CT1. The developer or developer's contractor shall prepare and implement a Soil Management Plan (SMP) that addresses how lead-impacted soil in localized areas of the site will be properly removed and disposed prior to construction. The Plan shall include, at a minimum:

- a. The removal of the soil exceeding the residential lead screening level prior to development;
- b. the protocol for the removal of the soil, verification soil sampling (either prior to excavation or during excavation);
- c. dust control; and
- d. stockpile management.

ES1. To avoid impacts to nesting birds, a nesting survey shall be conducted 15 days prior to commencing with construction work or tree removal, if this work would commence between February 1 and August 31. The nesting survey should include an examination of the building and all trees onsite and within 200 feet of the entire project site (i.e., within a zone of influence of nesting birds), not just trees slated for removal. The zone of influence includes those areas outside the project site where birds could be disturbed by earth-moving vibrations and/or other construction-related noise.

ES2. If birds are identified nesting on or within the zone of influence of the construction project, a qualified biologist shall establish a temporary protective nest buffer around the nest(s). The nest buffer should be staked with orange construction fencing. The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 50 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive nesting birds that include several raptor species known the region of the project site.

- ES3.** No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1, unless it is determined by a qualified ornithologist/biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, or that the nesting cycle is otherwise completed. In the region of the project site, most species complete nesting by mid-July. This date can be significantly earlier or later and would have to be determined by the qualified biologist. At the end of the nesting cycle, as determined by a qualified biologist, the temporary nesting buffers may be removed, and construction may commence in established nesting buffers without further regard for the nest site.
- CR1.** If during project construction activities previously unidentified archeological resources are discovered, all project activities in the immediate vicinity of the discovery would be halted and the procedures of 36 CFR Part 800.13(b) and (c) would be followed. [Paragraph I.A. Inadvertent Archeological Resource Discovery]
- CR2.** Upon discovery of Native American human remains and associated or unassociated funerary objects, the City of Walnut Creek shall treat them in accordance with provisions of California Public Resources Code Section 5097.94, 5097.98, and 5097.99 and the California Health and Safety Code Section 7050.5 or as provided in federal implementing regulations found in 36 CFR 800.13(b)(2). [Paragraph I.B. Treatment of Native American human remains and cultural properties]
- CR3.** For any archaeological resources discovered during the excavation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.
- CR4.** If paleontological resources were found during site excavation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources: project activities in the immediate vicinity of the discovery would halt, and procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.
- LU1** The project applicant shall obtain the required General Plan Amendment and zoning change to allow the proposed density. The change shall be from designation Single-Family Residential Medium Density (SM) to Multiple-Family Residential Medium Density (MM), and zoning from Single-Family Residential (R-10) and General Agricultural (A-2) to Planned Unit District (P-1).
- N1.** The following noise reduction measures shall be implemented during project construction and shall be included on all construction plans.
- N2.** The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.

- N3. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
- N4. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.
- N5. All construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on state and federal holidays on the calendar dates that these holidays are observed by the state or federal government.

- G1 Follow all recommendations (as may be amended) in the *Geotechnical Engineering Services Report* prepared for the project by Rockridge Geotechnical dated December 21, 2017 and found in Appendix G.

- SW1 The application shall submit a Storm Water Control Plan for review and approval by the Building Official. The draft plan provides for an underground storm water drain system with bio retention basin tied to the existing storm drain system in Pacifica Avenue. Storm water will be filtered before it is discharged to the offsite storm drain system. The application is required to obtain approval of these improvements or modify them, as directed by the Building Official.

NSP1 LOAN AGREEMENT

Between

County of Contra Costa

And

Habitat for Humanity East Bay/Silicon Valley, Inc.

May1, 2021

589 Pacifica Avenue, Bay Point, California

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| ARTICLE 1 DEFINITIONS AND EXHIBITS | 2 |
| Section 1.1 Definitions..... | 2 |
| Section 1.2 Exhibits | 5 |
| ARTICLE 2 LOAN PROVISIONS | 5 |
| Section 2.1 Loan. | 5 |
| Section 2.2 Interest..... | 5 |
| Section 2.3 Use of Loan Funds..... | 5 |
| Section 2.4 Security. | 6 |
| Section 2.5 Subordination..... | 6 |
| Section 2.6 Conditions Precedent to Disbursement of Loan. | 6 |
| Section 2.7 Repayment of Loan..... | 8 |
| Section 2.8 Prepayment of Loan..... | 8 |
| Section 2.9 Conditions Precedent to Note Cancellation..... | 8 |
| Section 2.10 Non-Recourse. | 9 |
| ARTICLE 3 CONSTRUCTION OF IMPROVEMENTS | 9 |
| Section 3.1 Construction Schedule..... | 9 |
| Section 3.2 Permits and Approvals..... | 9 |
| Section 3.3 Construction Plans. | 9 |
| Section 3.4 Approved Development Budget; Revisions to Budget..... | 9 |
| Section 3.5 Work Schedule..... | 10 |
| Section 3.6 Construction Pursuant to Laws and Contract..... | 10 |
| Section 3.7 Units Available to Persons with Disabilities | 12 |
| Section 3.8 Marketing Plan..... | 12 |
| Section 3.9 Equal Opportunity..... | 12 |
| Section 3.10 Minority and Women-Owned Contractors. | 13 |
| Section 3.11 Relocation. | 13 |
| Section 3.12 Progress Reports. | 13 |
| Section 3.13 Construction Responsibilities. | 14 |
| Section 3.14 Mechanics Liens, Stop Notices, and Notices of Completion..... | 14 |
| Section 3.15 Inspections. | 14 |
| Section 3.16 Administration Fee..... | 15 |
| Section 3.17 NEPA Mitigation Requirements. | 15 |
| ARTICLE 4 SALE OF UNITS..... | 15 |
| Section 4.1 Sale of Units to Eligible Purchasers..... | 15 |
| Section 4.2 Conditions Precedent to Close of Escrow with Eligible Purchasers. | 16 |
| Section 4.3 Continuing Affordability Requirements. | 17 |
| ARTICLE 5 LOAN REQUIREMENTS..... | 17 |
| Section 5.1 Financial Accountings and Post-Completion Audits..... | 17 |
| Section 5.2 Information. | 17 |
| Section 5.3 Records. | 17 |

TABLE OF CONTENTS

(Continued)

| | <u>Page</u> |
|--|-------------|
| Section 5.4 Access to and Audit of Records..... | 19 |
| Section 5.5 NSP and CDBG Requirements..... | 19 |
| Section 5.6 Hazardous Materials..... | 23 |
| Section 5.7 Maintenance and Damage..... | 25 |
| Section 5.8 Recovery of Capital Costs..... | 26 |
| Section 5.9 Fees and Taxes..... | 26 |
| Section 5.10 Notice of Litigation..... | 26 |
| Section 5.11 Nondiscrimination..... | 26 |
| Section 5.12 Transfer..... | 26 |
| Section 5.13 Insurance Requirements..... | 27 |
| Section 5.14 Anti-Lobbying Certification..... | 28 |
| Section 5.15 Covenants Regarding Other Financing..... | 29 |
| Section 5.16 Representations and Warranties..... | 29 |
| | |
| ARTICLE 6 DEFAULT AND REMEDIES..... | 31 |
| Section 6.1 Events of Default..... | 31 |
| Section 6.2 Remedies..... | 32 |
| Section 6.3 Right of Contest..... | 33 |
| Section 6.4 Remedies Cumulative..... | 33 |
| | |
| ARTICLE 7 GENERAL PROVISIONS..... | 34 |
| Section 7.1 Relationship of Parties..... | 34 |
| Section 7.2 No Claims..... | 34 |
| Section 7.3 Amendments..... | 34 |
| Section 7.4 Indemnification..... | 34 |
| Section 7.5 Non-Liability of County Officials, Employees and Agents..... | 34 |
| Section 7.6 No Third-Party Beneficiaries..... | 35 |
| Section 7.7 Discretion Retained by County..... | 35 |
| Section 7.8 Conflict of Interest..... | 35 |
| Section 7.9 Notices, Demands and Communications..... | 35 |
| Section 7.10 Applicable Law..... | 36 |
| Section 7.11 Parties Bound..... | 36 |
| Section 7.12 Attorneys' Fees..... | 36 |
| Section 7.13 Severability..... | 36 |
| Section 7.14 Force Majeure..... | 36 |
| Section 7.15 County Approval..... | 37 |
| Section 7.16 Waivers..... | 37 |
| Section 7.17 Title of Parts and Sections..... | 37 |
| Section 7.18 Entire Understanding of the Parties..... | 37 |
| Section 7.19 Multiple Originals; Counterpart..... | 37 |
| | |
| EXHIBIT A: Legal Description of the Property | |
| EXHIBIT B: Approved Development Budget | |
| EXHIBIT C: Approved Development Schedule | |
| EXHIBIT D: Mortgage Loans | |

TABLE OF CONTENTS
(Continued)

Page

| | |
|---|--|
| EXHIBIT E: Form of Purchaser Income Certification | |
| EXHIBIT F: Contract Activity Form | |
| EXHIBIT G: NEPA Mitigations | |