

**CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY**

MEETING DATE: June 20, 2012

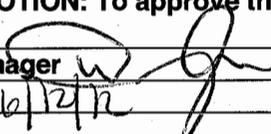
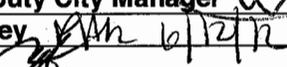
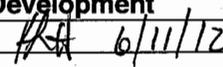
AGENDA ITEM SUMMARY NO. I-12-062-3

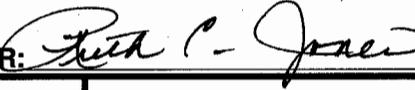
- AWARDS / PRESENTATIONS / PETITIONS
- CONSENT
- PUBLIC HEARING
- ORDINANCE ON SECOND READING
- ORDINANCE ON FIRST HEARING

- REGULAR
- RESOLUTION
- DISCUSSION & DELIBERATION
- BOARD APPOINTMENT
- WORKSHOP

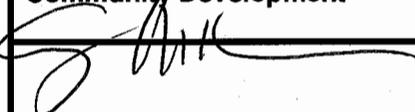
TITLE/SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND PALM BEACH COUNTY, EXTENDING THE DEADLINE FOR THE COMPLETION OF THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM THROUGH DECEMBER 31, 2012; AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

RECOMMENDATION / MOTION: To approve the resolution.

*Interim Deputy City Manager 	Library
*City Attorney 	Marina
*City Clerk 	Police
Community Development	Public Works
*Finance 	Purchasing
Fire	Recreation & Parks
Human Resources	Utilities

APPROVED BY CITY MANAGER: 

DATE: 6-14-12

Originating Dept. Community Development 	Costs: <u>\$577,400</u> Current FY: <u>2012</u> Funding Source: <input type="checkbox"/> Capital Improvement <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Other: NSP	City Council Actions: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/conditions <input type="checkbox"/> Denied <input type="checkbox"/> Tabled to _____ <input type="checkbox"/> Referred to Staff _____
Advertised: Date: Paper: <input checked="" type="checkbox"/> Not Required Affected Parties <input type="checkbox"/> Notified <input checked="" type="checkbox"/> Not Required	Budget Account Number: 116-0717-554-0-6251	Attachments: 1- Resolution 2- FIA 3- Exhibit A (Amendment)

SUMMARY: The City entered into an agreement (R 2010-0904) with Palm Beach County on May 1, 2010, which provided \$577,400 dollars of Neighborhood Stabilization Program Grant (NSP) funds for the acquisition and rehabilitation of foreclosed properties in the City of Riviera Beach. Palm Beach County had been awarded funds from the U.S. Department of Housing and Urban Development under the Housing and Economic Recovery Act of 2008, for the purpose of addressing the foreclosure crisis throughout the nation. These funds were to be used to acquire foreclosed properties, then to rehabilitate and sell the properties to low and moderate income purchasers. The City was able to acquire 4 properties and has obtained bids for the rehabilitation of the 4 homes. Palm Beach County has provided the City with an updated agreement which extends the expiration date to December 31, 2012. The extension will enable the City to continue its implementation of its NSP program activities, including the rehabilitation and sale of the 4 homes.

RECOMMENDATION/MOTION: Staff recommends approval of the Resolution to extend the Neighborhood Stabilization Program Grant agreement with the County.

Item No. 7

Attachment 2.

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact: Neighborhood Stabilization Program

Fiscal Years	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2014</u>	<u>2015</u>
Capital Expenditures	<u>\$577,400</u>				
Operating Costs					
External Revenues					
Program Income (City)	<u>\$577,400</u>				
In-Kind Match (City)					

NET FISCAL IMPACT

NO. ADDITIONAL FTE
POSITIONS (Cumulative)

0

Is Item Included in Current
Budget?

Yes X

No _____

Budget Account No.:
116-0717-554-0-6251

Fund

Dept/Div.

Org.

Object

Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact: Neighborhood Stabilization Program Grant

C. Departmental Fiscal Review:


Mary McKinney, Dir. of Community Development

III. REVIEW COMMENTS

A. Finance Department and/or Purchasing/Intergovernmental Relations/Grants Comments:


Finance Department

Purchasing and Grants

B. Other Department Review:


Department Director

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A NEW AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND PALM BEACH COUNTY, EXTENDING THE COMPLETION DATE OF THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM THROUGH DECEMBER 31, 2012; AMENDING THE DECLARATION OF RESTRICTIONS; AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE NEW AGREEMENT AND DECLARATION OF RESTRICTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach entered into an agreement with Palm Beach County on May 1, 2010 for the implementation of a Neighborhood Stabilization Program (NSP) within the City; and

WHEREAS, the City was awarded NSP funds in the amount of \$577,400 dollars in order to acquire foreclosed properties within the City, for rehabilitation and sale to qualified buyers; and

WHEREAS, the current agreement between the City and the County expired on October 31, 2011; and

WHEREAS, in order for the City to continue with the implementation of the NSP a new agreement is proposed extending the existing expiration date through December 31, 2012 and making all other changes consistent with the date change and other minor changes; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. That the City Council authorizes the Mayor and City Clerk to execute the new agreement and amendments to the Declaration of Restrictions with the County.

SECTION 2. This Resolution shall take effect immediately upon approval.

PASSED and APPROVED this _____ day of _____, 2012.

RESOLUTION NO. _____
PAGE 2

APPROVED:

THOMAS A. MASTERS
MAYOR

BILLIE E. BROOKS
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

DAWN S. PARDO
CHAIR PRO TEM

CEDRICK A. THOMAS
COUNCILPERSON

JUDY L. DAVIS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: _____

SECONDED BY: _____

B. BROOKS _____

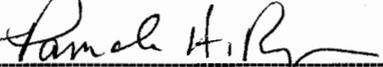
J. DAVIS _____

C. THOMAS _____

D. PARDO _____

S. LOWE _____

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 6/12/12

AGREEMENT BETWEEN PALM BEACH COUNTY
AND
CITY OF RIVIERA BEACH

THIS AGREEMENT, entered into this ____ day of _____, 20__, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the City of Riviera Beach, a Municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404.

WHEREAS, Palm Beach County has entered into an agreement with the United States Department of Housing and Urban Development for the use of grant funds made available under the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, these grant funds were made available pursuant to the authority of Sections 2301-2304 of HERA, which established the Neighborhood Stabilization Program (NSP); and

WHEREAS, Palm Beach County wishes to use grant funds provided under NSP for the herein described project; and

WHEREAS, the City of Riviera Beach, having entered into a prior Agreement with Palm Beach County (R2010-0904) dated May 1, 2010, as amended by Amendment 001 (R2011-0397) on March 15, 2011 (collectively hereinafter the "First Agreement"), for the use of NSP funds, has not fully expended all of the aforementioned funds, and both parties are in mutual agreement to continue the work commenced under the prior Agreement, and to utilize the remaining funds for the herein described project; and

WHEREAS, Palm Beach County desires to engage the City of Riviera Beach, to implement the herein described project; and

WHEREAS, the City of Riviera Beach, wishes to enter into this Agreement to implement the herein described project.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

PART I

DEFINITIONS AND PURPOSE

1. DEFINITIONS

- (1) "County" means Palm Beach County.
- (2) "HERA" means the Housing and Economic Recovery Act of 2008 (HERA).
- (3) "NSP" means the Neighborhood Stabilization Program as authorized under Sections 2301-2304 of HERA.
- (4) "CDBG" means the Community Development Block Grant Program of the United States Department of Housing and Urban Development.
- (5) "DES" means Palm Beach County Department of Economic Sustainability.
- (6) "Municipality" means the **City of Riviera Beach**.
- (7) "DES Approval" means the written approval of the DES Director or his designee.
- (8) "HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (9) "Low and moderate income persons" means the definition set by HUD.

2. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in Part II of this Agreement.

PART II

ELIGIBLE ACTIVITIES, NATIONAL OBJECTIVE, AND SCOPE OF SERVICES1. ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE

The Municipality will be rehabilitating four (4) dwelling units which it has acquired with NSP funds. The acquisition and rehabilitation of these units are eligible activities under the NSP Program as follows: "**Acquisition**" as referenced under 24 CFR 570.201(a) and "**Rehabilitation**" as referenced under 24 CFR 570.202. The Municipality certifies that the persons / households to benefit from the activities referenced above and as described in the Project Scope shown in Exhibit "A" will meet the **CDBG Low and Moderate Income Housing Benefits National Objective** as referenced under 24 CFR 570.208(a)(3). The Municipality certifies that at least one (1) of the beneficiaries will have an income which does not exceed 50% of, and the remainder of the beneficiaries will have an income which does not exceed 120% of the Area Median Income (AMI) for the West Palm Beach-Boca Raton Metropolitan Statistical Area, as defined herein.

2. SCOPE OF SERVICES

The Municipality shall, in a satisfactory and proper manner as determined by DES, perform the tasks necessary to implement the program outlined in Exhibit "A", which is attached hereto and made a part hereof.

PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD, AND CONDITIONS OF PAYMENT1. MAXIMUM COMPENSATION

The Municipality agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and DES Director or designee-approved expenditures and encumbrances made by the Municipality under this Agreement. These services shall be performed in a manner satisfactory to DES. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of **\$166,324.93**. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

Reimbursement for Eligible Project Costs: The Municipality, having entered into the First Agreement with the County covering the period of April 1, 2010, to October 31, 2011, for the use of \$577,400 in NSP funds, has not fully expended all of the aforementioned funds. Both parties are in mutual agreement to continue the herein described project using the sum of **\$166,324.93** remaining available after the expiration of the First Agreement. Both parties are in mutual agreement that the project whose implementation begun in the First Agreement shall continue from the beginning of the period covered by the First Agreement through the expiration date of this Agreement. Accordingly, the Municipality may submit reimbursement requests to DES for eligible costs incurred by the Municipality during the period of April 1, 2010 through and including December 31, 2012.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project by HUD under NSP Grant Number B-08-UN-12-0013. The effective date shall be the date of execution of this Agreement, and the services of the Municipality shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the Municipality prior to December 31, 2012.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Municipality for all budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Municipality or any subcontractors hereunder. The Municipality shall request payments or reimbursements from the County by submitting to DES proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Municipality may furnish copies if deemed acceptable by DES. Each request for payment or reimbursement submitted by the Municipality shall be accompanied by a letter from the Municipality, provided on the Municipality's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request.

NSP1 - CITY OF RIVIERA BEACH

Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by DES. The Municipality may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Municipality during the term of this Agreement by submitting to DES the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that DES has determined that the funds allocated to the Municipality through this Agreement are still available for payment, and provided that DES approves the payment.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

- (1) **IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES**
The Municipality shall implement this Agreement in accordance with applicable Federal, State, County, and local laws, ordinances and codes and with the procedures outlined in DES Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by DES. No payments for projects funded by more than one funding source will be made until a cost allocation plan has been approved by the DES Director or designee. Should a project receive additional funding after the commencement of this Agreement, the Municipality shall notify DES in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the DES Director or designee within forty-five (45) days of said official notification.
- (2) **FINANCIAL ACCOUNTABILITY**
The County may have a financial systems analysis and/or an audit of the Municipality or of any of its subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.
- (3) **SUBCONTRACTS**
Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to DES and approved by DES prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and HUD. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost. None of the work or services covered by this Agreement, including, but not limited to, consultant work or services, shall be subcontracted or reimbursed without prior written approval of the DES Director or his designee.
- (4) **PURCHASING**
All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Code, as well as Federal Management Circulars A-87, A-102, A-128, and 24CFR Part 85 (also known as the Common Rule), which are incorporated herein by reference.
- (5) **REPORTS, AUDITS, AND EVALUATIONS**
Payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.
- (6) **ADDITIONAL DES, COUNTY, AND HUD REQUIREMENTS**
DES shall have the right under this Agreement to suspend or terminate payments if after fifteen (15) days written notice the Municipality has not complied with any additional conditions that may be imposed, at any time, by DES, the County, or HUD.

(7) **PRIOR WRITTEN APPROVALS - SUMMARY**

The following activities among others require the prior written approval of the DES Director or designee to be eligible for reimbursement or payment:

- (a) All subcontracts and agreements pursuant to this Agreement;
- (b) All capital equipment expenditures of \$1,000 or more;
- (c) All out-of-county travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (d) All change orders; and
- (e) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit "A"; and
- (f) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.

(8) **PROGRAM - GENERATED INCOME**

All income earned by the Municipality from activities financed, in whole or in part, by funds provided hereunder for properties acquired by the Municipality for **rental** occupancy, must be reported annually and returned to DES at the end of the Municipality's fiscal year, and every year thereafter. The audited annual financial statements must be received by DES no later than February 1 of each year. For properties acquired by the Municipality for **resale**, the program income must be reported and returned to DES within thirty (30) days of the closing of the re-sold property.

In all cases, accounting and disbursement of program income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference. DES must verify and approve the eligibility and reasonableness of all expenses which the Municipality requests to be deducted from gross revenues in the calculation of program income.

After the Municipality has reported and returned program income, the Municipality may request that program income be used by the Municipality to fund other NSP-1 eligible activities, subject to DES approval, and provided that the Municipality is in compliance with its obligations as contained within this Agreement (including the attached Exhibits herein). Upon DES approval of this request, the Municipality shall use such program income to fund "NSP eligible uses", as defined in NSP regulations and all subsequent applicable HUD regulations. The Municipality agrees that the provisions of this Agreement shall also apply to these "NSP eligible uses" as funded with the Municipality's program income.

The requirements of this section shall survive the expiration of this Agreement.

PART IV

GENERAL CONDITIONS

1. **OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE**

The Municipality agrees that no person shall on the ground of race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The Municipality shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

2. OPPORTUNITIES FOR SMALL AND MINORITY / WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority / women-owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by HUD.

3. EVALUATION AND MONITORING

The Municipality agrees that DES will carry out periodic monitoring and evaluation activities as determined necessary by DES or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Municipality agrees to furnish upon request to DES, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by DES or the County. The Municipality shall submit status reports required under this Agreement on forms approved by DES to enable DES to evaluate progress. The Municipality shall provide information as requested by DES to enable DES to complete reports required by the County or HUD. The Municipality shall allow DES, the County, or HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by DES or HUD.

4. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as DES, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Municipality to DES, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

If during the year, the Municipality expends over \$500,000 of Federal awards, the Municipality shall comply with the provisions of OMB Circular A-133. The Municipality shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which DES-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. The County will be responsible for providing technical assistance to the Municipality, as deemed necessary by the County.

5. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Municipality agrees to comply with the applicable uniform administrative requirements as described in Federal Community Development Block Grant Regulations 24 CFR 570.502.

6. REVERSION OF ASSETS

Upon expiration of this Agreement, the Municipality shall transfer to the County any NSP funds on hand at the time of expiration and any accounts receivable attributable to the use of NSP funds. Any real property under the Municipality's control upon expiration of this Agreement which was acquired or improved in whole or part with NSP in the excess of \$25,000 must either be used to meet one of the national objectives in Federal Community Development Block Grant Regulations 24 CFR 570.508 for a period of five years after expiration of this Agreement (unless a longer period is specified elsewhere in this Agreement), or, the Municipality shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures by the Municipality of non-NSP funds for the acquisition of, or improvement to, the property.

7. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall be made available to the County by the Municipality at any time upon request by the County or DES. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to DES if requested. In any event the Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

8. INDEMNIFICATION

The County and the City acknowledge the waiver of sovereign immunity for liability in tort contained in S.768.28 F.S., the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or damage to property caused by the negligent or wrongful acts or omissions of an employee acting within the scope of the employee's office or employment. The County and the City agree to be responsible for all such claims and damages, to the extent and limits provided in S.768.28 F.S., arising from the actions of their respective employees.

The provisions of this indemnification clause shall survive the termination of this Agreement.

9. INSURANCE

Without waiving the right to sovereign immunity as provided by Chapter 768.28 F.S., the Municipality acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Municipality maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under S.768.28 F.S., the Municipality shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

The Municipality agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, the Municipality shall agree to provide an affidavit or **Certificate of Insurance** evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverage.

Compliance with the foregoing requirements shall not relieve the Municipality of its liability and obligations under this Agreement.

ASBESTOS LEGAL LIABILITY OR THIRD PARTY POLLUTION LIABILITY

When applicable the Municipality shall ensure that a contractor shall agree to maintain Pollution Liability, or similar Asbestos Legal Liability, at a minimum limit not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate providing coverage for damages including but not limited to, third-party liability, clean up, corrective action including assessment, remediation and defense costs. The coverage may be provided on a stand-alone policy or by way of endorsement to the Commercial General Liability policy. When a self-insured retention or deductible exceeds \$10,000, the County reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statements to evaluating the acceptability of a higher self-insured retention or deductible in relationship to the Contractor's financial condition. Coverage shall be endorsed to include "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents" as an "Additional Insured."

10. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

11. CONFLICT OF INTEREST

The Municipality covenants that no person who presently exercises any functions or responsibilities in connection with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to DES provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of very- low and middle-income residents of the project target area.

12. CITIZEN PARTICIPATION

The Municipality shall cooperate with DES in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist DES in the implementation of the Citizen Participation Plan, as requested by DES.

13. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The Municipality will include a reference to the financial support herein provided by DES in all publications and publicity. In addition, the Municipality will make a good faith effort to recognize DES's support for all activities made possible with funds made available under this Agreement.

14. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference and made a part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement, including its Exhibits, which the County may revise from time to time, as required, and to be provided for use by the Municipality;
- (2) Office of Management and Budget Circulars A-87, A-102, A-133, and 24CFR Part 85;
- (3) Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- (4) Executive Orders 11246, 11478, 11625, 12432, the Davis Bacon Act, and Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
- (5) Executive Orders 11063, 12259, 12892, the Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended;
- (6) Florida Statutes, Chapter 112;
- (7) Palm Beach County Purchasing Code;
- (8) Federal Community Development Block Grant Regulations (24 CFR Part 570), and Federal Consolidated Plan Regulations (24 CFR Part 91), as amended;
- (9) The Housing and Economic Recovery Act of 2008 (HERA);
- (10) The Municipality's personnel policies and job descriptions; and
- (11) The Municipality's Certificate of Insurance.

All of these documents will be maintained on file at DES. The Municipality shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

15. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Municipality with funds under this Agreement shall be returned to DES or the County.

In the event of termination, the Municipality shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Municipality, and the County may withhold any payment to the Municipality for set-off purposes until such time as the exact amount of damages due to the County from the Municipality is determined.

- (1) **TERMINATION FOR CAUSE**
If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.
 - (2) **TERMINATION FOR CONVENIENCE**
At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the County shall pay the Municipality for services rendered pursuant to this Agreement through and including the date of termination.
 - (3) **TERMINATION DUE TO CESSATION**
In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date HUD specifies.
16. **SEVERABILITY OF PROVISIONS**
If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
 17. **AMENDMENTS**
The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.
 18. **NOTICES**
All notices required to be given under this Agreement shall be sufficient when delivered to DES at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Municipality when delivered to the attention of the City Manager at the address listed on page one (1) of this Agreement. If either party changes its mailing address or its designated recipient to receive notices, such change shall be communicated in writing to the other party within ten (10) days of such change.
 19. **INDEPENDENT AGENT AND EMPLOYEES**
The Municipality agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.
 20. **NO FORFEITURE**
The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.
 21. **PUBLIC ENTITY CRIMES**
As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Municipality certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

- 22. **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL**
 Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Municipality, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

- 23. **COUNTERPARTS OF THE AGREEMENT**
 This Agreement, consisting of thirty-four (34) enumerated pages which include the Exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

- 24. **ENTIRE UNDERSTANDING**
 This Agreement and its provisions between the parties hereto constitute the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on this ____ day of _____, 20__.

(MUNICIPALITY SEAL BELOW)

CITY OF RIVIERA BEACH

By: _____
Thomas Masters, Mayor

By: _____
Carrie E. Ward, City Clerk

By: *Pamela H. B.* _____
Attorney for Municipality
(Signature Optional)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
FOR ITS BOARD OF COUNTY COMMISSIONERS**

By: _____
Shannon LaRocque-Baas,
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: _____
Journey Beard, Director
Contract Development and Quality Control

EXHIBIT "A"
WORK PROGRAM NARRATIVE

I. THE PARTIES AGREE THAT:

A. PRIOR AGREEMENTS:

The project contained in this Agreement is a continuation of the project contained in a prior Agreement between the Municipality and the County(R2010-0904) dated May 1, 2010, as amended by Amendment 001 (R2011-0397) on March 15, 2011 (collectively hereinafter the "First Agreement"). The terms and conditions of the First Agreement are incorporated herein by reference. The project requirements contained in the First Agreement are repeated herein in substantial form. However, changes have been made in order to update these requirements for this Agreement and to provide the Municipality flexibility to implement the project while in compliance with NSP requirements.

B. ELIGIBLE PAYMENTS AND/OR REIMBURSEMENTS:

All payments and/or reimbursements deemed eligible under the First Agreement shall be eligible under this Agreement.

C. PROJECT ACCOMPLISHMENTS:

The parties recognize that the following project activities have been accomplished, and where indicated below, the County has paid and/or reimbursed the Municipality for such project activities:

- a. The Municipality, through the First Agreement, has acquired four (4) dwelling units and received reimbursement from the County in the amount of \$411,075.07 for such property acquisition and other expenditures eligible under the First Agreement. The dwelling units already acquired by the Municipality are:

1067 Center Stone Lane
Riviera Beach, FL 33404

2529 Canterbury Drive South
Riviera Beach, FL 33407

2334 Center Stone Lane
Riviera Beach, FL 33404

2541 Canterbury Drive South
Riviera Beach, FL 33407

D. GENERAL PURPOSE OF THIS AGREEMENT:

The general purpose of this Agreement is to set forth the requirements associated with the use of funds made available through this Agreement for the rehabilitation of the above stated four (4) dwelling units that have already been acquired.

II. THE MUNICIPALITY AGREES TO:

A. TYPE OF PROPERTY TO BE FUNDED AND APPLICABLE REQUIREMENTS:

The Municipality shall rehabilitate (if necessary) the four (4) dwelling units for homeownership purposes.

All such properties shall be rehabilitated and sold by the Municipality according to the requirements of this Agreement, according to NSP requirements, and according to the requirements of the Residential Rehabilitation Program as approved (and amended from time to time) by the County. The Municipality shall seek a determination from DES for any conflicting requirements contained in the aforesaid that the Municipality believes to exist. DES shall advise the Municipality of its determination in writing and the Municipality shall accept, and abide by, such determination.

B. FUNDING EXPENDITURE REQUIREMENTS, AND ALLOWABLE COSTS:

1. Expenditure Deadline:

All funds associated with this Agreement shall be expended by the Municipality by December 31, 2012, unless such date is changed by HUD and approved by DES. DES shall inform the Municipality of any such change. The Municipality shall diligently undertake the activities outlined in this Agreement in order to fully expend these funds.

2. Expenditures and Income Levels:

The Municipality shall assure that no more than \$56,566.98 of the funds made available through this Agreement are expended on the dwelling unit located at **2541 Canterbury Drive South, Riviera Beach, FL 33407**, which shall be occupied by households, defined

NSP1 - CITY OF RIVIERA BEACH

as **Very-Low Income Households (VLIH)**, whose incomes are at or below fifty percent (50%) of the median income for the West Palm Beach-Boca Raton Metropolitan Statistical Area adjusted for family size, as determined by DES at its sole discretion. The Municipality understands that the median income level may be adjusted from time to time.

Additionally, the Municipality shall assure that no more than \$109,757.95 of the funds made available through this Agreement are expended on the below listed dwelling unit(s):

**1067 Center Stone Lane
Riviera Beach, FL 33404**

**2334 Center Stone Lane
Riviera Beach, FL 33404**

**2529 Canterbury Drive S.
Riviera Beach, FL 33407**

These units shall be occupied by households, defined as **Middle Income Households (MIH)**, whose incomes are at or below one hundred and twenty percent (120%) of the median income for the West Palm Beach-Boca Raton Metropolitan Statistical Area adjusted for family size, as determined by DES at its sole discretion. The Municipality understands that the median income level may be adjusted from time to time.

3. Allowable Costs:

The allowable costs that may be funded through this Agreement, subject to DES approval, are: rehabilitation construction costs, land surveys, building permit fees and other fees attributable to the rehabilitation of NSP-assisted homes, such as impact fees, guarantee or warranty fees, and utility connection fees, rehabilitation inspections, reasonable and necessary rehabilitation consultant services (including property inspections, cost estimating, writing of rehabilitation specification, review and evaluation of bids, pre-bid conferences, pre-job meeting, construction monitoring inspections, contractor payment approvals, and processing of change orders), lead-based paint inspection/risk assessment, asbestos inspection, lead-based paint/asbestos abatement, extermination of wood destroying organisms, costs of securing buildings or properties during the development period, and any other costs including, but not limited to, acquisition costs, rehabilitation costs, carrying costs, and disposition costs of the property as deemed eligible by DES. Requests for NSP reimbursement must be accompanied by invoices or other documents from subcontractors or other third parties indicating payment of eligible costs, attributed to a specific NSP-assisted property, and submitted according to the requirements described on Pages 2-3 of this Agreement.

C. RELATED REQUIREMENTS:

1. Year Built :

The Municipality shall establish the "year built" for each property to be rehabilitated. The source for the "year built" information shall be the Palm Beach County Property Appraiser web address at <http://www.co.palm-beach.fl.us/papa/index.htm>. Should the "year built" information not be available at this web address, then the Municipality shall provide DES documentation evidencing the "year built" from the building department with jurisdiction over the property, or from any other source acceptable to DES.

2. Lead-Based Paint

The parties acknowledge that all four (4) dwelling units referenced herein were built on or after January 1, 1978. As such, the rehabilitation of these properties shall not be affected by NSP regulations pertaining to lead-based paint.

3. Asbestos Requirements:

The Municipality shall inspect each property to be rehabilitated for asbestos containing materials. Inspections shall be performed by Florida licensed asbestos consultants. The Municipality shall abate any asbestos containing materials, if found, that will be disturbed in the process of rehabilitation as further addressed in this Agreement.

The Municipality shall provide DES a copy of the report containing the results of the asbestos inspection.

The services of the asbestos consultant retained by the Municipality shall be procured in accord with the requirements of this Agreement if the Municipality wishes to be reimbursed by the County for the cost of these services. It is the Municipality's responsibility to assure that these procurement requirements have been met before obligating itself to a contract for such services. Should the County have a contract for these services already in place, then the Municipality may request DES to obtain these services for properties to be acquired. Costs incurred by DES for these services shall be charged to the budget made available under this Agreement.

4. Property Insurance:

The Municipality shall maintain the below described insurance coverage in place for all properties whose acquisition was funded through the First Agreement and whose rehabilitation will be undertaken in connection with this Agreement. The Municipality shall provide DES satisfactory documentation evidencing that the Municipality is maintaining the following insurance on the aforesaid properties:

- a. All-Risk Property insurance for the full replacement value of the property, including betterments and improvements made by the Municipality with NSP funds,
- b. Windstorm insurance, unless included as a covered peril in the property insurance, for the full replacement value of the property, including betterments and improvements made by the Municipality with NSP funds; or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less, and
- c. Flood insurance, if the property is located in a specified flood zone as determine under NSP, for the maximum amount available from the National Flood Insurance Program.

Furthermore, the Municipality agrees to maintain the above insurance coverage for the period of the Declaration of Restrictions for each of the aforesaid properties. The Municipality may discontinue maintenance of said insurance coverage on the date the aforesaid properties are resold to homeowners who meet the definition of Very-Low Income Households and Middle Income Households as provided for herein.

The Municipality agrees to be fully responsible for any deductible or self-insured retention, and agrees to name the County as a Loss Payee/Mortgagee on each policy as their interest may appear.

The Municipality shall provide the County within ten (10) working days after the execution of this Agreement with a certificate of property, windstorm, and flood insurance as specified above, which certificate shall include the loss payee/mortgagee endorsement.

Failure to obtain and maintain the above described insurance shall be considered as an event of default under the Declaration of Restrictions.

The requirements of this clause shall survive the expiration of this Agreement.

D. INSPECTIONS AND WORK WRITE-UP PREPARATION:

1. Inspector Services:

The Municipality shall utilize an "Inspector" in connection with this Agreement. The Inspector shall either be a qualified employee of the Municipality, or be a qualified consultant under contract with the Municipality. If the Municipality utilizes an employee, the Municipality shall pay for the costs of such employee.

The "Inspector" shall be able to carry out the tasks described in this Agreement and be able to demonstrate the qualifications that enable him/her to do so. The Inspector shall at minimum perform inspections of residential structures for compliance with housing and building codes, determine the feasibility of undertaking rehabilitation, prepare construction specifications and cost estimates, review construction bids, inspect rehabilitation construction work in progress, and review and approve contractor payment requests. The Inspector shall be able, maintain inspection records and reports, prepare change orders, initiate various notification letters and conduct necessary correspondence.

If the Municipality utilizes an employee as an Inspector, the Municipality shall pay for the costs of such employee. Otherwise, the services of the Inspector retained by the Municipality shall be procured in accord with the requirements of this Agreement if the Municipality wishes to be reimbursed by the County for the cost of these services. It is the Municipality's responsibility to assure that these procurement requirements have been met before obligating itself to a contract for such services.

2. Work Write-up Preparation:

The Inspector shall prepare a work write-up for the rehabilitation project. The work write-up shall contain a detailed list of construction specifications the execution of which will correct the deficiencies at the property and will upgrade the property to the extent practicable and feasible to applicable housing and building code standards (including the HUD Section 8 Housing Quality Standards). The work write-up shall also contain items to address asbestos remediation, hurricane protection, energy efficiency and conservation, and ones that are intended for the removal of architectural barriers, as well as any construction related improvements to the property in order to comply with the requirements of the environmental review.

- a. **Code Related Items:** The work write-up shall include work items that are intended to correct code violations, that is, the correction of deficiencies at the property which are not in compliance with applicable housing and building code standards (including the HUD Section 8 Housing Quality Standards). These items shall also include compliance with any historic preservation requirements applicable to the property.
- b. **Hurricane Protection Items:** The work write-up shall include work items that address hurricane protection as required by code. Additional hurricane protection measures not required by code may be included in the work write-up to the extent practicable and feasible.
- c. **Homeowner Association Requirements:** Should the work write-up contain items that are also regulated by a homeowner association, then the work write-up shall address the requirements of the homeowner association for such items only, such as complying with color or style requirements for exterior building components, and obtaining homeowner association approval of building materials or exterior building components. In such instances, the work write-up shall require the contractor to submit such for approval by the homeowner association prior to the commencement of the work.
- d. **Rehabilitation/Demolition of Unpermitted Enclosures and Additions:** The work write-up shall provide for the improvement of existing unpermitted additions and enclosures such that they comply with applicable codes, if feasible and practical, and within the funding limits. Unpermitted additions and enclosures that are not feasible or practical to improve as part of the rehabilitation process, and within the funding limits, shall be demolished.

E. BIDDING AND BID EVALUATION:

1. The Bid Process:

Bids for the work detailed in the work write-up shall be solicited (on an itemized basis) by the Municipality and procured in accordance with the requirements of this Agreement if the Municipality wishes to be reimbursed by the County for the cost of these services. **Upon request by the Municipality, DES may provide example(s) of previous DES-approved bid documents relevant to the Municipality's project.**

All rehabilitation work items for each property shall be procured together and included in one solicitation and one contract. It is the Municipality's responsibility to assure that the procurement requirements have been met before obligating itself to a contract for such services. The Municipality shall procure construction services from duly licensed contractors. The Municipality shall determine the insurance and warranty requirements to be met by such contractors.

The bid documents to be used for this purpose shall identify the address, property owner, and property owner contact information for the property to be rehabilitated, shall require bidders to visit the property, and shall specify the location, date, and time by which bids must be submitted. The bid documents shall specify the number of days after bid opening that bids are to remain valid. The bid documents shall contain provisions for addressing

NSP1 - CITY OF RIVIERA BEACH

inconsistencies, interpretations, and supplemental instructions, as well as provisions for the modification, withdrawal, rejection, and award of bids. The bid documents shall contain the warranty and release of liens requirements as well as the insurance requirements for the contractor. The bid documents shall contain the Federal requirements applicable to projects funded hereunder.

The Municipality shall require contractors to submit sealed bids (when applicable) for the work contained in the work write-up after visiting the property to acquaint themselves with existing conditions. The Municipality shall only accept bids up to a pre-specified date and time, after which such bids shall be opened at the Municipality's offices. Bid openings shall be open to bidders and the general public. At the bid opening, the Municipality's designated employees shall open the bids and announce total amounts bid. The announced totals shall be recorded on a bid spreadsheet showing each bidder's name and total amount bid as announced.

After all bids are opened and announced, the Municipality shall calculate the sum of all the individual items contained in each bid to check for discrepancies between such sum and the amount read at the bid opening. Where a discrepancy exists in a bid between the true and correct sum of itemized costs and the total announced at the bid opening, the true and correct mathematical sum of itemized costs shall prevail and the bid spreadsheet shall be noted accordingly.

Upon close examination of all bids, the Municipality shall make a determination on the apparent lowest responsive responsible bidder that best meets the terms, conditions, and specifications of the bid and that will result in the best interest of the Municipality and the County. The Municipality shall evaluate the lowest bid to establish whether the total bid is within the funding limit, and shall consider contributing to the project any funds needed for the project above the funding limit. The Municipality shall recommend funding to DES for the lowest responsive responsible bidder.

2. Federal Requirements:

Prior to soliciting bids, the Municipality shall obtain from the County, and include in its bid documents, the applicable Federal requirements for the project being bid, which shall include the applicable Davis-Bacon wage decision, if any, for the project. The Municipality shall incorporate a copy of the Davis-Bacon wage decision and disclose the requirements of the Davis-Bacon and Related Acts (DBRA) in its construction bid solicitation and contract.

3. Bid Guarantees and Bonds:

Except as otherwise required by law, the following requirements are applicable to this project as it relates to bid guarantees, performance bonds and payment bonds for construction contracts and subcontracts exceeding \$100,000.

The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will upon acceptance of his bid, execute such contractual documents as may be required within the time specified. Each bid submitted to the Municipality shall be accompanied by a certified check, cashiers' check or bid bond in the amount of five percent (5%) of the total bid. Said check or bond shall be made payable to the Municipality as the owner of the project, and shall be given as a guarantee that the bidder, upon receipt of the notice of intent to award the contract, will enter into an agreement with the owner, and will furnish the necessary documents including, but not limited to: insurance certificates, Payment Bond and Performance Bond; each of the said bonds to be in the amount stated herein.

In case of refusal or failure to enter into said agreement, the check or bid bond, as the case may be, shall be forfeited to the Municipality. All bonds shall be written by a surety company of recognized standing, authorized to conduct business in the State of Florida, and shall have a registered agent in the State of Florida.

When the successful bidder delivers the executed agreement to the Municipality, it must be accompanied by a Performance Bond and a Payment Bond, each in the amount of one hundred percent (100%) of the contract price, executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida, as security for the faithful performance and payment of all contractor's obligations under the contract, and the bidder shall state in the bid proposal the name, address, telephone number and full name of the authorized agent of the surety or sureties who will sign these bonds in the event the contract is awarded to the bidder. During the bidding and construction periods the surety company shall hold a current certificate of authority as an acceptable surety on Federal Bonds, in accordance with U. S. Department of Treasury Circular 570, Current Revision.

4. Section 3 Requirements:

The Municipality agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. The Section 3 requirements are contained in Exhibit "B" attached hereto. The Municipality shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

Section 3 Clause

- a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170 1u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. The parties to this contract agree to comply with HUD's requirements in 24 CFR 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.
- c. 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 commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The 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 CFR Part 135.
- e. 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 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- f. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

5. Projects with Asbestos Abatement:

Should the inspection of the property reveal the presence of any asbestos containing materials that require abatement in the opinion of the County, then the Municipality shall comply with all applicable requirements contained in Exhibit "C", attached hereto, as well as any directives from the County regarding such abatement. All asbestos abatement work shall be performed by Florida licensed asbestos abatement contractors, and required by the County, shall be monitored by Florida licensed asbestos consultants. The Municipality shall comply with the requirements of the County's Risk Management Department in connection with all asbestos abatement work. If feasible in DES's opinion, the Municipality shall include the asbestos abatement work in the bid and contract for construction, otherwise such work shall be procured separately by the Municipality. If the Municipality wishes to be reimbursed by the County for the cost of these services, the services of the asbestos abatement contractor (including those of a Florida licensed asbestos consultant to monitor the abatement when such is required) shall be procured by the Municipality in accord with the requirements of this Agreement. It is the Municipality's responsibility to assure that these procurement requirements have been met before obligating itself to a contract for such services. Should the County have a contract for these services already in place, then the Municipality may request DES to obtain these services for properties to be abated. Costs incurred by DES for these services shall be charged to the budget made available under this Agreement.

The Municipality, shall in connection with properties it has acquired under this Agreement, and according to applicable laws and regulations, disclose to renters and purchasers the presence of any asbestos containing materials present in such properties at the time of rental or purchase.

6. DES Bid Solicitation Approval

The Municipality shall submit the bid documents for the rehabilitation of each property to DES for review and approval prior to soliciting pricing from contractors. The Municipality shall also obtain DES approval for all bid addenda to be issued to bidders by the Municipality.

7. Termite Treatment:

The bidding process shall also include obtaining bids for treatment of termites and other wood destroying organisms (extermination) where such infestation is found at properties to be rehabilitated in connection with this Agreement.

The services of companies licensed in Florida to treat such termites shall be procured by the Municipality in accord with the requirements of this Agreement if the Municipality wishes to be reimbursed by the County for the cost of these services. It is the Municipality's responsibility to assure that these procurement requirements have been met before obligating itself to a contract for such services.

F. CONSTRUCTION CONTRACT AWARD APPROVAL:

The Municipality shall request DES's approval to award the rehabilitation construction contract to the successful contractor. The Municipality's request shall contain the following:

- a. Provide a bid summary sheet,
- b. Identify the entity to whom you recommend contract award,
- c. State the contract amount that you recommend (note: the contract amount to be recommended shall include the bid amount plus a construction contingency amount not to exceed ten percent (10%) of the bid amount),
- d. State whether any bids were rejected and why,
- e. State whether any bid protests were filed and how such protests were addressed (for formal bids),
- f. Provide a copy of the recommended contractor's bid bond (when applicable),
- g. Provide a copy of your newspaper advertisement (when applicable), and
- h. Provide a copy of the forms included in our "Requirements for Federally Funded Projects" fully executed by the recommended contractor (Certification of Non-Segregated facilities, Certification of Eligibility of General Contractor, Non-Collusion Affidavit of Prime Bidder, Anti-kickback Affidavit),

Upon receipt of DES approval to award a construction contract, the Municipality shall enter into a contract with the approved contractor. Such contract shall be in the amount of the bid plus a construction contingency amount not to exceed ten percent (10%) of the bid amount (provided that the funding limits per unit established herein are not exceeded), and the contract shall contain a clause that requires the Municipality's written approval to use the allocated contingency funds. The Municipality shall, in turn, obtain DES approval for the use of any contingency funds.

G. REHABILITATION CONSTRUCTION:

The Inspector shall inspect the work in progress being performed by the contractor and review and approve all construction draws made against the contract. Throughout the term of this contract, the Municipality shall ensure that retainage is withheld upon each progress draw at the maximum percentage allowed by Florida law. The accumulated retainage amount shall only be released in conjunction with (1) final payment to the contractor upon satisfactory completion of the project, (2) satisfactory submission of all necessary project closeout documentation from the contractor(s), including but not limited to, final reimbursement requests, DBRA payrolls, etc., and (3) has DES has provided written approval that all necessary documents for project closeout have been received and approved.

Additionally, upon completion of the work, the Municipality shall ensure that all work by the contractor and subcontractors has been approved by the building department with jurisdiction over the project, and that the necessary permit approvals have been obtained.

The Municipality agrees that DES may recapture the above retainage if all required documents necessary for project closeout have not been satisfactorily submitted within forty-five (45) days after the contract expiration.

The final payment shall be subject to the Municipality's receipt of the following from the contractor:

- a. Original building permits with Bldg. Dept. final approval, and Certificate of Completion or Certificate of Occupancy.
- b. Original contractor's roof nailing affidavit.
- c. Original contractor's warranty showing the final inspection date/warranty start date.
- d. Original contractor's release of lien (with all subcontractors listed).
- e. Original subcontractors' releases of lien for subcontractors with Notices to Owner.
- f. Original abatement report for projects with asbestos abatement.
- g. Required product approvals.
- h. Manufacturers' warranties for equipment and appliances.

The Municipality shall pay the contractor for completed work contained in the construction contract, as approved by DES, and request DES for reimbursement of such costs. The County shall reimburse the Municipality for such costs as provided in this Agreement.

In connection with the first draw for each construction contract that is requested for reimbursement, the Municipality shall provide the following:

- a. A copy of the executed construction contract.
- b. A copy of the contractor's payment request approved by the Inspector which shows the work items approved for payment and their costs, and which provides an accounting of the contract amount, approved contingency allowances, retainages, payments to date, deductions and a computation of the approved payment.
- c. A copy of the check tendered in payment by the Municipality.
- d. A reimbursement request letter as required on Page 2 of this Agreement.

In connection with interim draws for each construction contract that are requested for reimbursement, the Municipality shall provide the following:

- a. A copy of the contractor's payment request as specified above.
- b. A copy of the check tendered in payment by the Municipality.
- c. A reimbursement request letter as required on Page 2 of this Agreement.

In connection with the final draw for each construction contract that is requested for reimbursement, the Municipality shall provide the following:

- a. A copy of the contractor's roof nailing affidavit.
- b. A copy of the contractor's release of lien.
- c. A copy of the abatement report(s).
- d. A copy of the contractor's payment request as specified above.
- e. A copy of the check tendered in payment by the Municipality.
- f. A reimbursement request letter as required and described herein.

Extermination, if necessary, shall be carried out after completion of construction. The Municipality shall inspect the extermination work and review and approve the payment for such services. The Municipality shall pay for the completed extermination work that is contained in the contract for exterminating services and request DES for reimbursement of such costs. The County shall reimburse the Municipality for such costs as provided in this Agreement.

Furthermore, in connection with the extermination services that are requested for reimbursement, the Municipality shall provide the following:

- a. A copy of the executed contract for exterminating services.
- b. A copy of the company's invoice.
- c. A copy of the check tendered in payment by the Municipality.
- d. A reimbursement request letter as required and described herein.

H. RESALE OF PROPERTIES ACQUIRED FOR OWNER OCCUPANTS:

For properties acquired by the Municipality for resale, the Municipality shall market the availability of such properties to persons likely to meet the definition of Very-Low Income Households and Middle Income Households.

The Municipality shall sell the below listed dwelling unit(s) only to homeowners who meet the definition of **Very-Low Income Households**:

2541 Canterbury Drive S.
Riviera Beach, FL 33407

The Municipality shall sell the below listed dwelling unit(s) only to homeowners who meet the definition of **Middle Income Households**:

1067 Center Stone Lane
Riviera Beach, FL 33404

2334 Center Stone Lane
Riviera Beach, FL 33404

2529 Canterbury Drive S.
Riviera Beach, FL 33407

The Municipality shall provide guidance and information to prospective Very-Low Income Households and Middle Income Households regarding the financial arrangements between the Municipality and such prospective homeowners and regarding the ownership structure proposed for these properties, and shall assist such prospective homeowners in seeking financing for the purchase of these properties.

The Municipality shall, at the closing, cause each DES approved prospective purchaser to execute a Mortgage and Restrictive Covenants, included herein as Exhibit "D". In exchange for the receipt of said Mortgage and Restrictive Covenants the County shall release the Declaration of Restrictions encumbering the dwelling unit. The release of the restrictions created by the Declaration of Restrictions shall be accomplished by means of the execution and delivery at closing of a Release of Restrictions, included herein as Exhibit "E". Furthermore, the execution and delivery of said Release of Restrictions is hereby delegated to the County Administrator, or his designee, and shall not require any further action by the Palm Beach County Board of County Commissioners.

The County recognizes that the approved prospective purchasers may seek funding for the purchase of the dwelling unit, and that such funding is anticipated to be secured by mortgage instrument(s) to be held by an independent institutional mortgage lender(s). During the term of this Agreement, should such proposed independent institutional mortgage holder request that its mortgage be held in a superior position to the County's interest in the dwelling unit as established through the aforesaid Mortgage and Restrictive Covenants, the Municipality shall request the County in writing on behalf of the approved prospective purchaser to, concurrent with the release of its interest in such Declaration of Restrictions, accept the aforesaid Mortgage and Restrictive Covenants in a subordinate position to that of the independent institutional mortgage holder.

The Municipality shall cause the recording of the Release of Restrictions and the Mortgage and Restrictive Covenants in the public records of Palm Beach County, and thereafter cause the original Mortgage and Restrictive Covenants to be provided to the County.

1. The Resale Price and DES Approval:

The Municipality shall, after obtaining DES written approval, sell each property it acquires for resale at a price acceptable to DES. The Resale Price shall be the lesser of the appraised value of the property as determined in connection with the resale transaction, or the sum of NSP funds expended by DES on such property. **The Municipality shall obtain DES approval of the Resale Price of each property acquired by the Municipality for resale.**

2. Homebuyer Subsidy for Middle Income and Very-Low Income Households:

The Municipality shall provide a Homebuyer Subsidy to each prospective homebuyer who is purchasing a property acquired by the Municipality for resale and whose income eligibility has been approved by DES as described below. The Homebuyer Subsidy shall, at minimum, be equivalent to thirty percent (30%) of the Resale Price of the property and shall be provided at the closing for the sale of the property. The Municipality may, with DES approval, provide a Homebuyer Subsidy above thirty percent (30%), but no more than forty percent (40%) of the Resale Price of the property in order to make the purchase of the property affordable to a prospective homebuyer. The criteria for subsidies above thirty percent (30%) is based upon those homebuyers, whose monthly housing expenses would normally exceed thirty-five percent (35%) of their gross monthly income. The Homebuyer Subsidy may be used to reduce a homebuyer's principal loan amount, pay closing costs, or another use as determined by DES. The Homebuyer Subsidy amount shall be secured by the herein described Mortgage and Restrictive Covenants in favor of the County.

3. Additional Homebuyer Subsidy for Very-Low Income Households:

If after the payment of costs associated with the dwelling unit(s) to be occupied by Very-Low Income Households funds remain available from the aforesaid allocation of \$56,566.98, the Municipality may request DES (on behalf of a prospective homebuyer who has been income certified as a Very-Low Income Household as provided for herein) to provide an additional subsidy to such prospective homebuyer out of any such remaining funds. At the sole discretion of DES, such additional subsidy may be provided by DES to reduce a homebuyer's principal loan amount, pay closing costs, or another use as determined by DES. The amount of the additional subsidy approved by DES shall be reflected in the closing statement to be submitted by the Municipality as provided for herein. DES shall provide the additional subsidy in the form of a check or a wire transfer payable to the settlement/escrow agent for the transaction. The amount of the additional subsidy shall be secured by the herein described Mortgage and Restrictive Covenants in favor of the County.

4. Income Verification and Affordability Review of Prospective Homeowner:

The Municipality shall income-certify each prospective purchaser of each property intended for resale in order to determine that the household is a Very-Low Income Household or a Middle Income Household, subject to DES approval. The Municipality shall certify the income qualification by submitting to DES all income information collected from the prospective purchaser, and shall use the Part 5 method to determine income qualification. Upon request, DES shall provide a template for income calculation worksheet based on Part 5 definitions of determining income. At such time, the Municipality shall also determine whether the financial obligations that will result from the proposed purchase will be affordable to such prospective purchaser.

Affordability shall be regarded as being achieved if no more than thirty-five percent (35%) of the prospective purchaser's gross household income will be expended at the time of occupancy on the sum of the mortgage principal and interest, real estate taxes, property insurance, and homeowner association fees.

After the Municipality has income certified each prospective purchaser, the Municipality shall submit said documentation to DES for approval. Such income certification shall be valid for a six (6) month period after which the Municipality shall be required to obtain an updated income certification if the prospective purchaser has not closed on the acquisition of the desired property. Updated income certifications shall be submitted to DES for approval.

5. Mandatory Counseling:

Prior to closing, each prospective purchaser shall attend the required eight (8) hour housing counseling classes given by a HUD-certified counseling agency identified by DES. As a pre-condition for authorization to closing, the prospective purchaser must obtain a certificate evidencing that the prospective purchaser has successfully completed such classes. A copy of such certificate shall be provided to DES, and shall clearly state that it has been issued by a HUD-certified counseling agency.

6. Closing Statement:

In order to assure that the above specified requirements for the conveyance of properties acquired by the Municipality hereunder for resale have been met, the Municipality shall, prior to the closing for each such property, provide the closing statement to DES for approval. The Municipality shall not proceed with closing unless DES has approved the closing statement for each sale.

III. THE COUNTY AGREES TO:

- A. Provide funding for the above described rehabilitation activities and allowable costs during the term of this Agreement in the amount of \$166,324.93.
- B. Provide project administration and inspection to the Municipality to ensure compliance with HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by DES, be conducted by DES staff or its contractor, and will serve to ensure compliance with HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to DES on program activities.
- D. The County shall perform an environmental review of the project, and review and approve project design and bids submitted for the work. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement. Environmental review costs incurred by the County may be charged to the project budget identified above.

EXHIBIT "B"

SECTION 3 REQUIREMENTS

PURPOSE

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended, is to ensure that employment and other economic opportunities generated through the use of federal funds (NSP/CDBG) shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low-and very-low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very-low-income persons.

APPLICABILITY/COVERED PROJECTS

Section 3 applies to training, employment, contracting, and other economic opportunities arising in connection with expenditure of NSP/CDBG funds. Covered projects that are funded in part or in whole with NSP/CDBG funds include contracts, subcontracts, and professional service agreements, awarded for:

- 1) Construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards).
- 2) Public construction which includes buildings or improvements regardless of ownership.

The above includes management and administrative jobs including architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups, and jobs directly related to administrative support of these activities, e.g. construction manager, relocation specialist, payroll clerk, etc.

Exclusions from the above are:

- 1) Contracts awarded under HUD's procurement program which are governed by the Federal Acquisition Regulation System (48 CFR, Chapter 1).
- 2) Contracts for the purchase of supplies and materials. However, whenever a contract for materials (or equipment) includes the installation, the contract constitutes a Section 3 covered project, and is consequently not excluded.

DEFINITIONS

A. SUBRECIPIENT:

For the purposes of Section 3, a subrecipient is any entity which receives NSP/CDBG funds from Palm Beach County Department of Economic Sustainability (DES) for Section 3 covered projects including, but not limited to, any State, unit of local government, public housing authority, or other public body, public or private nonprofit organization, private agency or institution, Agency, builder, property manager, and community housing development organization.

B. SECTION 3:

Means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C.1701u) (24CFR Part 135).

C. SECTION 3 RESIDENT:

Means:

- 1) A resident of public housing (24 CFR Part 963), or
- 2) A resident of Palm Beach County whose household income, by household size, is at or below 80% of the median income for Palm Beach County.

(Note: Information on income limits at 80% of median income for Palm Beach County, by household size, is available through DES. As this information is periodically revised by HUD, subrecipients shall assure that they have current information for use on their projects).

D. SECTION 3 BUSINESS CONCERN:

Means any entity which contracts to perform work generated by the expenditure of NSP/CDBG funds, which is a business entity formed in accordance with state law, and which is licensed under state, county, or municipal law to engage in the type of business activity for which it was formed. A Section 3 Business Concern is further defined as a business concern:

NSP1 - CITY OF RIVIERA BEACH

- 1) That is 51% or more owned by Section 3 Residents, or
- 2) Whose permanent full-time employees include persons, at least 30% of whom are currently Section 3 Residents, or who, within three years of the date of first employment with the business concern, were Section 3 Residents, or
- 3) That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the above two definitions.

E. NEW HIRES:

Means full-time employees for permanent, temporary, or seasonal employment opportunities.

SUBRECIPIENT OBLIGATIONS

A. DISCLOSURE OF APPLICABILITY:

Subrecipients shall in every bid solicitation for every Section 3 covered project disclose to bidders the applicability of Section 3 to any such project and include the Section 3 clause shown below in its entirety in any such bid solicitation. Subrecipients may include further information on Section 3 in the bid solicitation documents, or indicate in such documents that Section 3 information is available at the Subrecipient offices for review by any bidder.

B. SECTION 3 CLAUSE IN EVERY CONTRACT:

Every contract awarded by Subrecipients for a Section 3 covered project shall include the following Section 3 clause in its entirety:

Section 3 Clause:

- 1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low-and very-low income persons, particularly persons who are recipients of HUD assistance for housing.
- 2) The parties to this contract agree to comply with HUD's requirements in 24 CFR 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 commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in the Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR 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 CFR 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 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- 6) Noncompliance with HUD'S regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

C. SUBRECIPIENT GOALS:

Subrecipients may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth for providing training, employment, and

NSP1 - CITY OF RIVIERA BEACH

contracting opportunities to Section 3 Residents and Section Business Concerns. The numerical goals established below represent minimum numerical targets.

- 1) Training and Employment. Subrecipients and their contractors and subcontractors may demonstrate compliance with this requirement by committing to employ Section 3 Residents amounting to 30% of the aggregate number of new hires generated by Section 3 covered Projects.
- 2) Contracts. The numerical goals set forth below apply to contracts awarded in connection with all Section 3 covered activities. Subrecipients and their contractors and subcontractors may demonstrate compliance with the below requirements by committing to award to Section 3 Business Concerns:
 - At least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
 - At least 3% of the total dollar amount of all other Section 3 covered contracts.

In the absence of evidence to the contrary, a subrecipient that meets the minimum numerical goals set forth above will be considered to have complied with the Section 3 preference requirements. **In evaluating compliance, a subrecipient that has not met the numerical goals set forth above has the burden of demonstrating why it was not feasible to meet these numerical goals.** Such justification may include impediments encountered despite actions taken. A subrecipient may also indicate other economic opportunities, such as those listed below, which were provided in its efforts to comply with Section 3 and the requirements listed below.

D. SUBRECIPIENT RESPONSIBILITIES:

Each subrecipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors. This responsibility includes but may not be necessarily limited to:

- 1) Implementing procedures designed to notify Section 3 Residents about training and employment opportunities generated by Section 3 Business Concerns about contracting opportunities generated by Section 3 covered assistance;
- 2) Notifying potential contractors for Section 3 covered projects of the requirements of this part, and incorporating the Section 3 clause set forth above in all solicitations and contracts.
- 3) Facilitating the training and employment of Section 3 Residents and the award of contracts to Section 3 Business Concerns by undertaking activities such as described in the Appendix to this document, as appropriate, to reach the goals set forth above. Subrecipients, at their own discretion, may establish reasonable numerical goals for the training and employment of Section 3 Residents and contract award to Section 3 Business Concerns that exceed those specified above.
- 4) Assisting and actively cooperating with the Assistant Secretary of HUD in obtaining the compliance of contractors and subcontractors with the requirements of Section 3, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR Part 135.
- 5) Documenting actions taken to comply with the requirements set forth in this document, the results of actions taken, and impediments, if any.

E. PREFERENCE FOR SECTION 3 RESIDENTS:

Subrecipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 Residents in the order of priority provided below.

Priority consideration shall be given, where feasible to:

- 1) Section 3 Residents residing in the service area or neighborhood in which the Section covered project is located (collectively, referred to as category 1 residents); and
- 2) Participants in HUD Youthbuild programs (category 2 residents).
- 3) Where the Section 3 project is assisted under The Stewart B. McKenney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the Section 3 covered project is located shall be given the highest priority;
- 4) Other Section 3 Residents.

NSP1 - CITY OF RIVIERA BEACH

Subrecipients may at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the Section 3 covered project is located.

A Section 3 Resident seeking the preference in training and employment described above shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 Resident, as defined above.

Nothing in the above shall be construed to require the employment of a Section 3 Resident who does not meet the qualifications of the position to be filled.

E. PREFERENCE FOR SECTION 3 BUSINESS CONCERNS:

Subrecipients, contractors and subcontractors shall direct their efforts to award Section 3 covered contracts, to the greatest extent feasible, to Section 3 Business Concerns in the order of priority provided below.

Priority consideration shall be given, when feasible, to:

- 1) Section 3 Business Concerns that provide economic opportunities for Section 3 Residents in the service area or neighborhood in which the Section 3 covered project is located (category 1 business); and
- 2) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);
- 3) Other Section 3 Business Concerns.

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence, if requested that the business concern is a Section 3 Business Concern as defined above. A Section 3 Business Concern seeking a contract or subcontract shall submit evidence to the Subrecipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to reform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

PROVIDING OTHER ECONOMIC OPPORTUNITIES

In accordance with the findings of the Congress, as stated in Section 3, that other economic opportunities offer an effective means of empowering low-income persons, a subrecipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards in connection with Section 3 covered assistance.

- 1) Other economic opportunities to train and employ Section 3 Residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; Section 3 Residents in management and maintenance positions within other housing developments; and hiring Section 3 Residents in part-time positions.
- 2) A subrecipient or contractor may provide economic opportunities to establish, stabilize or expand Section 3 Business Concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of Section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned business and use of procedures in 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A subrecipient contractor may employ these methods directly or may provide incentives to Non-Section 3 Businesses to utilize such methods to provide other economic opportunities to low-income persons.

A Section 3 joint venture means an association of business concerns, one of which qualifies as a Section 3 Business Concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 Business Concern:

- 1) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
- 2) Performs at least 25 percent of the work and is contractually entitled to

compensation proportionate to its work.

REPORTING REQUIREMENTS

Subrecipients shall submit the enclosed Section 3 Subrecipient Report for each contract or agreement funded in part or in whole through DES. Said report shall accompany the final reimbursement request submitted by the subrecipient for each such contract or agreement. Furthermore, for each covered project, the subrecipient shall also submit a letter with the report that is submitted for the final reimbursement request of the last contract or agreement being funded for the project through DES. The letter shall indicate what goals have been met by the subrecipient as required herein, and if not entirely met, the letter should demonstrate why it was not feasible to meet these goals, document actions taken to comply, the results of actions taken, and impediments, if any.

For example, a subrecipient is being funded for a certain project by DES. The project includes an agreement with a consultant for services and a construction contract with a contractor. The consultant's work is completed first. The subrecipient would submit the above mentioned report for the consultant's agreement with the consultant's final reimbursement request. Then, when the construction contract is completed, the subrecipient would submit the report for the construction contract with the stated letter.

COMPLAINTS

Complaints alleging noncompliance with Section 3 (24 CFR Part 135) may be filed with the Assistant Secretary of HUD, for Fair Housing and Equal Opportunity by any Section 3 Resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from Section 3 covered projects, or by a representative who is not a Section 3 Resident but who represents one or more Section 3 residents. Similarly complaints may be filed by any Section 3 Business Concern on behalf of itself, or as a representative of other Section 3 Business Concerns similarly situated, seeking contract opportunities generated from Section 3 covered projects, or by an individual representative of Section 3 Business Concerns. Where to file, time of filing, content of complaints, and other related matters are contained in the regulations at 24 CFR Part 135.

No subrecipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under the Section 3 regulations. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of the Section 3 regulations, including the conduct of any investigation, hearing or judicial proceeding arising thereunder. Nothing herein precludes a Section 3 Resident or Section 3 Business Concern from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures.

APPENDIX

A. EXAMPLES OF EFFORTS TO OFFER TRAINING AND EMPLOYMENT OPPORTUNITIES TO SECTION 3 RESIDENTS:

- 1) Entering into "first sources" hiring agreements with organizations representing Section 3 Residents.
- 2) Sponsoring a HUD certified "Step-Up" employment and training program for Section 3 Residents.
- 3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 Residents in the building trades.
- 4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 persons (as these terms are defined in 135.34) reside.
- 5) Advertising the training and employment positions by posting flyers (which identify the position to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other subrecipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.

NSP1 - CITY OF RIVIERA BEACH

- 6) Contacting resident councils, resident management corporations. Or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- 7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
- 8) Arranging assistance in conducting job interviews and the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.
- 9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a subrecipient or contractor representative or representatives.
- 10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.
- 11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.
- 12) Consulting with State and local agencies administering training programs funded through TPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 Residents for the HA's or contractor's training and employment positions.
- 13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- 14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 Business Concerns identified in part 135), that will undertake, on behalf of the HA, other subrecipients or contractor, the efforts to match eligible and qualified Section 3 Residents with the training and employment positions that the HA or contractor intends to fill.
- 15) For an HA, employing section residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and 905.201(a)(6).)
- 16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 Residents for future employment positions.
- 17) Undertaking job counseling, education and related programs in association with local educational institutions.
- 18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 Residents previously hired for employment opportunities.
- 19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 Residents to be trained or employed on the Section 3 covered assistance.
- 20) Coordinating plans and implementation of economic development (e.g. job training and preparation, business development assistance for residents) with the planning for housing and community development.

B. EXAMPLES OF EFFORTS TO AWARD CONTRACTS TO SECTION 3 BUSINESS CONCERNS:

- 1) Utilizing procurement procedures for Section 3 Business Concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans.
- 2) In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.
- 3) Contracting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 business which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
- 4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

NSP1 - CITY OF RIVIERA BEACH

- 5) Providing written notice to all known Section 3 Business Concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 Business Concerns to respond to the bid invitations or request for proposals.
- 6) Following up with Section 3 Business Concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- 7) Coordinating pre-bid meetings at which Section 3 Business Concerns could be informed of upcoming contracting and subcontracting opportunities.
- 8) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 Business Concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- 9) Advising section 3 business concerns as to where they may seek assistance in overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- 10) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 Business Concerns.
- 11) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 Business Concerns.
- 12) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- 13) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- 14) Developing a list of eligible Section 3 Business Concerns.
- 15) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- 16) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 Businesses Concerns.
- 17) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.
- 18) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- 19) Actively supporting joint ventures with Section 3 Business Concerns.
- 20) Actively supporting the development or maintenance of business incubators which assist Section 3 Business Concerns.

EXHIBIT "C"

ASBESTOS REQUIREMENTS
SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit "A" of this Agreement.

I. DEFINITIONS

ACM:	Asbestos Containing Materials
AHERA:	Asbestos Hazard Emergency Response Act
EPA:	Environmental Protection Agency
FLAC:	Florida Licensed Asbestos Consultant
DES:	Palm Beach County Department of Economic Sustainability
NESHAP:	National Emission Standards for Hazardous Air Pollutants
NRCA:	National Roofing Contractors Association
NVLAP:	National Voluntary Laboratory Accreditation Program
OSHA:	Occupational Safety & Health Administration
PBCAC:	Palm Beach County Asbestos Coordinator (in Risk Management)
PLM:	Polarized Light Microscopy
RACM:	Regulated Asbestos Containing Materials
TEM:	Transmission Electron Microscopy

II. ASBESTOS SURVEYS

All properties scheduled for renovation or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant (FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting should be conducted on all RACM indicating 1% - 10% asbestos by PLM analysis. If the asbestos content by PLM is less than 10%, the building owner/operator can elect to:
 1. Assume the material is greater than 1% and treat it as RACM, or
 2. Require verification by point counting.
- Samples of resilient vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM).
- Joint compound shall be analyzed as a separate layer.
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed. In lieu of sampling the roof, it will be presumed to contain asbestos.

For Demolition Projects:

- Point counting should be conducted on all RACM indicating 1% - 10% asbestos by PLM analysis. If the asbestos content by PLM is less than 10%, the building owner/operator can elect to:
 1. Assume the material is greater than 1% and treat it as RACM, or
 2. Require verification by point counting.
- Composite sample analysis is permitted for drywall systems (combining the drywall and joint compound constituents).
- All Category I and II non-friable materials, as defined in EPA/NESHAP, shall be sampled to determine asbestos content.

If the Municipality has a recent asbestos survey report prepared by a Florida Licensed Asbestos Consultant, a copy may be provided to DES for review by the PBCAC to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by the Municipality or requested by DES. If the survey is through DES, a copy of the completed survey will be forwarded to the Municipality.

III. ASBESTOS ABATEMENT

A. RENOVATION

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by DES prior to the removal. The Municipality must obtain approval for all exceptions from DES. DES will request the PBCAC to review and approve all exceptions.

NSP1 - CITY OF RIVIERA BEACH

- (b) Asbestos abatement work may be contracted by the Municipality or by DES upon request.
- (c) If the Municipality contracts the asbestos abatement, the following documents are required to be provided to the DES.
 - 1. An Asbestos Abatement Specification (Work Plan),
 - 2. Post Job submittals, reviewed and signed by the FLAC.
- (d) If the Municipality requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to the Municipality.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements include training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, OSHA Standard Interpretation, "Compliance requirements for renovation work involving material containing <1% asbestos", dated 11/24/2003. The renovation contractor must submit a work plan to DES prior to removal of the materials.

B. DEMOLITION

All RACM must be removed by a Florida Licensed Asbestos Contractor under the direction of an FLAC prior to demolition. Examples of RACM include: popcorn ceiling finish, drywall systems, felt or paper-backed linoleum, resilient floor tile which is not intact, asbestos cement panels/pipes/shingles ("transite").

NESHAP Category I non-friable materials, such as intact resilient floor tile & mastic and intact roofing materials, may be demolished with the structure, using adequate controls. The demolition contractor shall be made aware of the asbestos-containing materials and shall exercise adequate control techniques (wet methods, etc.). Any exceptions to these guidelines shall be requested through and approved by DES prior to the removal. Demolition work should be monitored by a FLAC to ensure proper control measures and waste disposal. This is the responsibility of the Municipality.

- (a) Asbestos Abatement work may be contracted by the Municipality or by DES upon request.
- (b) If the Municipality contracts the asbestos abatement, the following documents must be provided to the DES and reviewed by the PBCAC.
 - 1. An Asbestos Abatement Specification (Work Plan),
 - 2. Post Job submittals, reviewed and signed by the FLAC.
- (c) If the Municipality requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to the Municipality.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos" is mandatory.
- (f) If suspect materials are discovered that were not previously sampled and identified in the survey, stop all work that will disturb these materials and immediately notify DES.

IV. NESHAP NOTIFICATION

A. RENOVATION

A NESHAP form must be prepared by the Municipality or its Contractor and submitted to the Palm Beach County Health Department at least ten (10) working days prior to an

NSP1 - CITY OF RIVIERA BEACH

asbestos activity that involves removal of regulated asbestos containing material, including linoleum, greater than 160 square feet or 260 linear feet or 35 cubic feet. For floor tile removal greater than 160 square feet, the Municipality or its Contractor shall provide a courtesy NESHAP notification to the Palm Beach County Health Department at least three (3) working days prior to removal.

The Municipality shall provide a copy of the asbestos survey to the renovation contractor to keep onsite during the work activity.

B. DEMOLITION

A NESHAP form must be prepared by the Municipality or its Contractor and submitted to the Palm Beach County Health Department at least ten (10) working days prior to the demolition for projects demolished by the Municipality.

C. NESHAP FORM

The NESHAP form is available online through the Florida Department of Environmental Regulations. The notification shall be sent to the address shown below. A copy of it shall be included in the Municipality's post job documentation submitted to DES. All fees shall be paid by the Municipality.

Palm Beach County Department of Health
Asbestos Coordinator
800 Clematis Street
Post Office Box 29
West Palm Beach, Florida 33402

V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES

The Municipality, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M National Emission Standard for Asbestos, revised July 1991
- (b) Occupational Safety & Health Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices Under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance
- (f) Florida State Licensing and Asbestos Laws
 1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
 2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors
- (g) Resilient Floor Covering Institute (RFCI), Updated Recommended Work Practices and Asbestos Regulatory Requirements, current version.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995, or current version.
- (i) US Dept of Labor, OSHA Standard Interpretation
 1. Application of the asbestos standard to demolition of buildings with ACM in Place, dated 8/26/2002.
 2. Requirements for demolition operations involving material containing <1% asbestos, dated 8/13/1999.
 3. Compliance requirements for renovation work involving material containing <1% asbestos, dated 11/24/2003.

EXHIBIT "D"

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

MORTGAGE AND RESTRICTIVE COVENANTS

THIS MORTGAGE and Restrictive Covenants (hereinafter referred to as "Mortgage") is made this ____ day of _____, 20____, by _____, his/her/their successors and heirs, hereinafter "Participant".

WHEREAS, the Participant has been approved by Palm Beach County to acquire title to the below-described real property, located, situate, and being in Palm Beach County, Florida:

LEGAL DESCRIPTION HERE

(hereinafter referred to as "Property")

WHEREAS, Palm Beach County provided funding to _____ Municipality _____ to acquire and rehabilitate the Property, and

WHEREAS, _____ Municipality _____, in compliance with its obligations to Palm Beach County, and in exchange for the receipt of said funding to acquire and rehabilitate the Property, has sold the Property to the Participant at a price approved by Palm Beach County, and

WHEREAS, the Participant has applied to Palm Beach County for approval to purchase the Property from _____ Municipality _____, and has been approved by Palm Beach County to purchase the Property, and

WHEREAS, to enable the Participant to purchase the Property, Palm Beach County has caused the provision of a subsidy valued at \$ _____ to the Participant, and

WHEREAS, in exchange for said approval by Palm Beach County, and the receipt of said subsidy, the Participant hereby agrees to purchase the Property subject to certain restrictive covenants hereinafter set forth in favor of:

**PALM BEACH COUNTY, a political subdivision of the State of Florida,
acting by and through its Board of County Commissioners (the "County").**

NOW THEREFORE, in accord and with the foregoing exchange of covenants and consideration, the Participant declares that the Property shall be held, transferred, sold, conveyed, and occupied subject to the restrictions, covenants, servitudes, impositions, charges and liens hereinafter set forth.

1. The Participant shall occupy the Property without undue delay, and reside in the Property as the Participant's principal place of residence for a continuous period of fifteen (15) years from the date first above written, except as otherwise approved in writing by the County on a case by case basis when conditions make compliance with these covenants infeasible as determined by the County in its sole discretion.
2. The Participant shall permit reasonable inspections of the Property at reasonable times by the County or its agents, when deemed necessary by the County, for the purpose of determining compliance with the terms of this Mortgage.
3. The Property, or any part thereof, or interest therein, may not be rented leased, or occupied by persons other than the Participant and family as described in the application submitted by the applicant to the County, except as an extension of such original household unit and not as a separate household unit.
4. Title to the Property may be voluntarily transferred by the Participant to another Participant only if such other Participant has been approved by the County in its sole discretion in writing as being a low/moderate income household or the then equivalent as defined by the U. S. Department of

NSP1 - CITY OF RIVIERA BEACH

Housing and Urban Development. Such other approved Participant shall then abide by these covenants for the remainder of the fifteen (15) year term.

5. In the event the Property is leased, rented, or otherwise not occupied by the Participant, or in the event title to the Property is otherwise voluntarily or involuntarily transferred or conveyed to a person or persons not approved in writing by the County as another Participant, at any time during the aforesaid fifteen (15) year term, then the Participant hereby agrees to pay the County \$ _____, at the time of occurrence of any such event.

6. The term of these restrictive covenants shall expire upon the completion of the fifteen (15) year occupancy requirement as set forth above. Upon compliance by the Participant of all the terms and conditions as set forth in this Mortgage, the County shall, upon request by the Participant, and at the County's expense, prepare and record a Certificate of Compliance releasing the Participant and Property from the obligations set forth in this Mortgage.

7. The Participant acknowledges and covenants that the provisions specified below constitute a default under this Mortgage for which there may be a forfeiture of the Participant's title to the Property:

- A. Non-performance by the Participant of any covenant contained herein;
- B. Failure of the Participant to perform any covenant, agreement, term or condition in any instrument including a lien upon the Property or part thereof; and
- C. The County's discovery of Participant's failure, in the application submitted to the County by the Participant, to disclose any fact deemed by the County to be a material fact on the basis of which the Participant was qualified under said program, or the County's discovery of any misrepresentation by, or on behalf of, or for the benefit of the Participant.

Notwithstanding the foregoing, and at the sole discretion of the County, upon providing notice to the Participant of its determination that the Participant is in default of the terms of this Mortgage, the County may, from time to time, at its sole discretion, cure each default under any covenant so curable in this Mortgage, or in any instrument creating a lien upon the Property, or any part thereof, to such extent that the County, at its sole discretion, determines, and each amount paid, if any, by the County to cure any such default shall be paid by the Participant to the County in addition to the legal rate of interest from the time of expenditure and shall constitute a lien against the property which may be foreclosed if not discharged and satisfied within six (6) months of expenditure of such funds by the County. The County shall also become subrogated to whatever rights the holders of a prior lien might have under such instrument.

8. If the Participant fails, neglects or refuses to perform any of the material provisions, terms and conditions set forth herein, for any material breach of this Mortgage, the County shall have the right to file in court of competent jurisdiction an action for:

- A. Forfeiture of all Participant's right, title, and interest in the Property for a breach of the restrictive covenants contained in this Mortgage.
- B. Due and unpaid real estate taxes, assessments, charges and penalties for which the Participant is obligated to pay.

In addition to a remedy set forth herein, the County shall have such other remedies as are available at law or equity. The exercise or attempted exercise by the County of any right of remedy available under this Mortgage shall not preclude the County from exercising any other right or remedy so available, nor shall any such exercise or attempted exercise constitute or be construed as an election of remedies. Participant shall pay any reasonable expenses, including reasonable attorney's fees and cost incurred by the County, in connection with the exercise of any right or remedy by the County, under this Mortgage and the preparation and delivery of notices required hereunder.

The failure or omission by the County to enforce any of its rights or remedies upon breach of any of the covenants, terms or conditions of this Mortgage shall not bar or breach any of the County's rights or remedies on any subsequent default. Before the County shall pursue any of its rights or remedies under this Mortgage, the County shall first give Participant written notice of the default complained of which such notice shall be given to the Participant at the address of the Property. Participant shall then have ten (10) working days from the date such notice is given to cure or correct any default.

9. The Participant shall cause this Mortgage to be recorded in the Public Records of Palm Beach County, Florida.

NSP1 - CITY OF RIVIERA BEACH

10. All notices and elections (collectively, "Notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by the messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5 PM on a business day and on the next business day if transmitted after 5 PM on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

A. County:
Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406

B. Participant:

SIGNED, SEALED, AND DELIVERED IN
THE PRESENCE OF:

Witness Name: _____ Witness Signature: _____ _____
Witness Name: _____ Witness Signature: _____ _____

Participant Name: _____ Participant Signature: _____ _____
Participant Name: _____ Participant Signature: _____ _____

STATE OF FLORIDA)
PALM BEACH COUNTY) ss

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

EXHIBIT "E"

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

RELEASE OF RESTRICTIONS

Palm Beach County, a political subdivision of the State of Florida, the owner and holder of a certain _____ executed by _____, having its principal office at _____, ("Grantor"), to Palm Beach County, bearing the date of _____, recorded in Official Records Book _____, at Page _____, of the Office of the Clerk and Comptroller of Palm Beach County, Florida, and containing certain conditions restrictions, promises, and obligations made by the Grantor of said _____ in connection with the property situate in said county and state, and described as follows, to wit:

LEGAL DESCRIPTION HERE

hereby releases its interest in the above stated _____

Signed, sealed and delivered
in the presence of:

WITNESS my hand and seal this
_____ day of _____, 20____.

Witness Name: _____ Witness Signature: _____ X _____
Witness Name: _____ Witness Signature: _____ X _____

By: Edward W. Lowery, Director Department of Economic Sustainability X _____

STATE OF FLORIDA)
COUNTY OF PALM BEACH) ss

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Edward W. Lowery, who is personally known to me or who has produced N/A as identification and who did not take an oath.

Signature: _____

Notary Name: _____
Notary Public - State of Florida

(NOTARY SEAL ABOVE)

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

**AMENDMENT 001 TO THE DECLARATION OF RESTRICTIONS
FOR VERY-LOW INCOME HOUSEHOLDS**

This Amendment is entered into this ___ day of _____, 20__ by and between Palm Beach County and the City of Riviera Beach.

WITNESSETH:

WHEREAS, the City of Riviera Beach (hereinafter referred to as "Municipality") executed a Declaration of Restrictions (hereinafter referred to as "Declaration") on July 12, 2011, and recorded said Declaration on July 13, 2011, in Official Records Book 24630 at Page 0725 of the Public Records of Palm Beach County, Florida, for the subject property, hereinafter referred to as the "Property", and described as:

Lot 27, Plat 2 Lone Pine Estates, according to the Plat thereof, recorded in Plat Book 33, at Pages 172 and 173, of the Public Records of Palm Beach County, Florida.

Property Control Number: 56-42-42-36-06-000-0270

and,

WHEREAS, Palm Beach County is the beneficiary of the restrictions against the Property as created by the granting of the Declaration, and

WHEREAS, the parties desire to modify said Declaration as follows:

Paragraph 2(b):

Replace "August 15, 2011" with "March 4, 2014, or such other date as may be established by the U.S. Department of Housing and Urban Development (hereinafter "HUD"). If such other date is established by HUD, the County shall provide the Municipality written notice of such other date, and the Municipality shall promptly record such notice in the Public Records of Palm Beach County, Florida. The Municipality shall then sell the Property no later than the date established in said written notice."

Paragraph 3:

Delete the contents of the Paragraph and replace them with the following: Should the Municipality not sell the Property to a Very-Low Income Household by the above stated date, then the Municipality shall, within 30 days of written demand by the County, pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures by the Municipality of non-Neighborhood Stabilization Program funds, as made available under the Agreement, for the acquisition of, or improvement to, the Property.

THE REMAINDER OF THIS SPACE HAS BEEN INTENTIONALLY LEFT BLANK

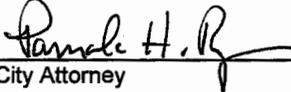
NOW THEREFORE, 1) all items in the Declaration in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) all provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Declaration.

(MUNICIPALITY SEAL BELOW)

CITY OF RIVIERA BEACH

By: _____
Thomas Masters
Mayor

By: _____
Carrie E. Ward
City Clerk

By:  _____
City Attorney

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Shannon R. LaRocque-Baas, P.E.
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: _____
Journey Beard, Director
Contract Development and Quality Control

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

**AMENDMENT 001 TO THE DECLARATION OF RESTRICTIONS
FOR MIDDLE INCOME HOUSEHOLDS**

This Amendment is entered into this ____ day of _____, 20__, by and between Palm Beach County and the City of Riviera Beach.

WITNESSETH:

WHEREAS, the City of Riviera Beach (hereinafter referred to as "Municipality") executed a Declaration of Restrictions (hereinafter referred to as "Declaration") on August 16, 2011, and recorded said Declaration on August 16, 2011, in Official Records Book 24693 at Page 1154 of the Public Records of Palm Beach County, Florida, for the subject property, hereinafter referred to as the "Property", and described as:

Lot 15, Plat 2 Lone Pine Estates, according to the Plat thereof, recorded in Plat Book 33, at Pages 172 and 173, of the Public Records of Palm Beach County, Florida.

Property Control Number: 56-42-42-36-06-000-0150

and,

WHEREAS, Palm Beach County is the beneficiary of the restrictions against the Property as created by the granting of the Declaration, and

WHEREAS, the parties desire to modify said Declaration as follows:

Title of Declaration:

In the title of the Declaration replace "VERY-LOW" with "MIDDLE".

Paragraph 2(b):

Replace "October 15, 2011" with "March 4, 2014, or such other date as may be established by the U.S. Department of Housing and Urban Development (hereinafter "HUD"). If such other date is established by HUD, the County shall provide the Municipality written notice of such other date, and the Municipality shall promptly record such notice in the Public Records of Palm Beach County, Florida. The Municipality shall then sell the Property no later than the date established in said written notice."

Paragraph 2:

In the paragraph following Paragraph 2(e) replace "Very-Low" with "Middle" and replace "fifty percent (50%)" with "one hundred and twenty percent (120%)".

Paragraph 3:

Delete the contents of the Paragraph and replace them with the following: Should the Municipality not sell the Property to a Middle Income Household by the above stated date, then the Municipality shall, within 30 days of written demand by the County, pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures by the Municipality of non-Neighborhood Stabilization Program funds, as made available under the Agreement, for the acquisition of, or improvement to, the Property.

THE REMAINDER OF THIS SPACE HAS BEEN INTENTIONALLY LEFT BLANK

NOW THEREFORE, 1) all items in the Declaration in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) all provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Declaration.

(MUNICIPALITY SEAL BELOW)

CITY OF RIVIERA BEACH

By: _____
Thomas Masters
Mayor

By: _____
Carrie E. Ward
City Clerk

By: *Pamela H. [Signature]*
City Attorney

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Shannon R. LaRocque-Baas, P.E.
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: _____
Journey Beard, Director
Contract Development and Quality Control

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

**AMENDMENT 001 TO THE DECLARATION OF RESTRICTIONS
FOR MIDDLE INCOME HOUSEHOLDS**

This Amendment is entered into this ___ day of _____, 20___, by and between Palm Beach County and the City of Riviera Beach.

WITNESSETH:

WHEREAS, the City of Riviera Beach (hereinafter referred to as "Municipality") executed a Declaration of Restrictions (hereinafter referred to as "Declaration") on August 16, 2011, and recorded said Declaration on August 16, 2011, in Official Records Book 24693 at Page 1157 of the Public Records of Palm Beach County, Florida, for the subject property, hereinafter referred to as the "Property", and described as:

Lot 64, Block 2, of Thousand Oaks, according to the Plat thereof, recorded in Plat Book 100, at Pages 135 through 143, of the Public Records of Palm Beach County, Florida.

Property Control Number: 56-43-42-30-29-002-0640

and,

WHEREAS, Palm Beach County is the beneficiary of the restrictions against the Property as created by the granting of the Declaration, and

WHEREAS, the parties desire to modify said Declaration as follows:

Title of Declaration:

In the title of the Declaration replace "VERY-LOW" with "MIDDLE".

Paragraph 2(b):

Replace "September 15, 2011" with "March 4, 2014, or such other date as may be established by the U.S. Department of Housing and Urban Development (hereinafter "HUD"). If such other date is established by HUD, the County shall provide the Municipality written notice of such other date, and the Municipality shall promptly record such notice in the Public Records of Palm Beach County, Florida. The Municipality shall then sell the Property no later than the date established in said written notice."

Paragraph 2:

In the paragraph following Paragraph 2(e) replace "Very-Low" with "Middle" and replace "fifty percent (50%)" with "one hundred and twenty percent (120%)".

Paragraph 3:

Delete the contents of the Paragraph and replace them with the following: Should the Municipality not sell the Property to a Middle Income Household by the above stated date, then the Municipality shall, within 30 days of written demand by the County, pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures by the Municipality of non-Neighborhood Stabilization Program funds, as made available under the Agreement, for the acquisition of, or improvement to, the Property.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

NOW THEREFORE, 1) all items in the Declaration in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) all provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Declaration.

(MUNICIPALITY SEAL BELOW)

CITY OF RIVIERA BEACH

By: _____
Thomas Masters
Mayor

By: _____
Carrie E. Ward
City Clerk

By: *Pamela H. By*
City Attorney

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Shannon R. LaRocque-Baas, P.E.
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: _____
Journey Beard, Director
Contract Development and Quality Control

Return to: Palm Beach County
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney

**AMENDMENT 001 TO THE DECLARATION OF RESTRICTIONS
FOR MIDDLE INCOME HOUSEHOLDS**

This Amendment is entered into this _____ day of _____, 20__, by and between Palm Beach County and the City of Riviera Beach.

WITNESSETH:

WHEREAS, the City of Riviera Beach (hereinafter referred to as "Municipality") executed a Declaration of Restrictions (hereinafter referred to as "Declaration") on May 24, 2011, and recorded said Declaration on May 31, 2011, in Official Records Book 24550 at Page 0616 of the Public Records of Palm Beach County, Florida, for the subject property, hereinafter referred to as the "Property", and described as:

Lot 89, Block 1, of Thousand Oaks, according to the Plat thereof, recorded in Plat Book 100, at Pages 135 through 143, of the Public Records of Palm Beach County, Florida.

Property Control Number: 56-43-42-30-29-001-0890

and,

WHEREAS, Palm Beach County is the beneficiary of the restrictions against the Property as created by the granting of the Declaration, and

WHEREAS, the parties desire to modify said Declaration as follows:

Title of Declaration:

In the title of the Declaration replace "VERY-LOW" with "MIDDLE".

Paragraph 2(b):

Replace "March 5, 2011" with "March 4, 2014, or such other date as may be established by the U.S. Department of Housing and Urban Development (hereinafter "HUD"). If such other date is established by HUD, the County shall provide the Municipality written notice of such other date, and the Municipality shall promptly record such notice in the Public Records of Palm Beach County, Florida. The Municipality shall then sell the Property no later than the date established in said written notice."

Paragraph 2:

In the paragraph following Paragraph 2(e) replace "Very-Low" with "Middle" and replace "fifty percent (50%)" with "one hundred and twenty percent (120%)".

Paragraph 3:

Delete the contents of the Paragraph and replace them with the following: Should the Municipality not sell the Property to a Middle Income Household by the above stated date, then the Municipality shall, within 30 days of written demand by the County, pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures by the Municipality of non-Neighborhood Stabilization Program funds, as made available under the Agreement, for the acquisition of, or improvement to, the Property.

THE REMAINDER OF THIS SPACE HAS BEEN INTENTIONALLY LEFT BLANK

NOW THEREFORE, 1) all items in the Declaration in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) all provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Declaration.

(MUNICIPALITY SEAL BELOW)

CITY OF RIVIERA BEACH

By: _____
Thomas Masters
Mayor

By: _____
Carrie E. Ward
City Clerk

By: *Pamela H. By*
City Attorney

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Shannon R. LaRocque-Baas, P.E.
Assistant County Administrator

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
Tammy K. Fields
Senior Assistant County Attorney

By: _____
Journey Beard, Director
Contract Development and Quality Control