

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> September 24, 2013		<b>DATE SUBMITTED:</b> August 26, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Community Development Services		<b>SUBMITTED BY:</b> Art Roach	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consider approval of an amendment to the Special Warranty Deed and the Affordable Housing Development Agreement for the property development at Sims and 18 <sup>th</sup> with No Limits International Economic Development Corporation, which was approved by City Council at June 25, 2013 meeting.			
<b>SUMMARY STATEMENT:</b> On June 25, 2013, City Council conveyed four (4) undeveloped lots (402, 406, 410 and 414 W. 18 <sup>th</sup> Street) for development through an Affordable Housing Development Agreement and Real Estate Contract to No Limits International Economic Development Corporation (No Limits), a nonprofit housing developer and Community Housing Development Organization (CHDO) for the City of Bryan. These lots were recently replatted from five (5) lots into four (4). Three and a half (3 ½) of the original lots were acquired by the City using \$50,684 in Community Development Block Grant Funds (CDBG) for affordable housing development in 2009. The remaining land was acquired by donation from Bryan Commerce and Development (BCD) in 2012; BCD purchased this property through real estate negotiations by M.D. Marshall in consideration of relocating a Downtown business. The purpose of this conveyance was to facilitate the construction of four (4) single-family, 3-bedroom, 2-bath, 1,200-1,246 square foot, affordable, energy-efficient homes utilizing 100% masonry exteriors, 2-car garages, privacy fences, and slab-on-grade construction, as well as the addition of sidewalks along the 18 <sup>th</sup> Street frontage and Sterling Street to the property line. This activity meets the required Community Development Block Grant (CDBG) National Objective of Low-Moderate Income Housing (LMH).			
<p>These homes will be made available for purchase by qualified low to moderate-income households with sales prices estimated to range from \$120,000 - \$125,000 each, with marketing beginning after construction begins. The City will maintain a lien on each home for a minimum of five (5) years to ensure owner occupancy by providing HOME Investment Partnerships Program (HOME) and/or CDBG funds of up to \$14,000 per household (depending on gap financing needed) secured by a note and deed of trust. It is estimated that the City's federal funds for acquisition (\$50,684, excluding program delivery staff and soft costs) and down payment assistance (\$56,000) will leverage private funding estimated to be \$377,000 for construction, and permanent financing of \$434,000. Also, it is estimated that approximately 80 in-kind volunteer work hours will be leveraged.</p>			
<p>No Limits has successfully exhibited the capacity to undertake this project by building five (5) homes in Bryan, of which four (4) have sold, with one (1) remaining home (705 E. Pruitt) now being marketed for sale. No Limits has received a commitment for construction financing from Spirit of Texas Bank, and has provided proof of sufficient additional funds on deposit available for the project.</p>			
<p>The original agreements (Affordable Housing Development Agreement, Real Estate Contract and Special Warranty Deed) stated the development will be complete within nine (9) months (on or before March 31, 2014) or ownership of the property would revert to the City, free of all encumbrances. The construction lender for the development has requested consideration of an amendment that extends the completion date to July 31, 2014, and, if the houses are</p>			

not completed by the deadline, that the property shall revert to the City free and clear of any and all liens and encumbrances except a first lien Deed of Trust securing the payment of the loan in the amount of \$342,440 by Spirit of Texas Bank, ssb to Grantee for the construction of the four (4) homes on the property.

In exchange for the consideration of making the City's reversionary interest subject to the bank's Deed of Trust to facilitate the construction financing, No Limits has agreed to reimburse the City at the conclusion of the project for an amount up to the City's land acquisition cost of \$50,684, to the extent proceeds are available from the sale of the homes.

The intent of this amendment and related documents is to accomplish subjecting the City's reversionary interest to the Spirit of Texas Bank, ssb Deed of Trust. It may be necessary to modify or edit these documents to successfully accomplish the intent of the amendment so that it is acceptable to all parties, and it is requested that such modifications may be made at the discretion of the City Attorney and City Manager without future City Council consideration.

**STAFF ANALYSIS AND RECOMMENDATION:** Staff recommends approval of the amendment to allow for the developer's financing and to complete the project as quickly as possible, contingent upon a separate agreement with Spirit of Texas Bank with the City to provide for options to complete the project if the Developer does not meet the required deadline. Approval of the amendments allows the developer to obtain financing and facilitate the development of four (4) affordable homeownership opportunities for qualified low to moderate income households. This development will significantly leverage the City's federal grant funds investment, will repay the City for an amount up to the original CDBG acquisition cost of the property from the proceeds of sale (for 3½ lots), will increase property tax revenues to the City by the addition of improvements and conversion to private ownership from the current tax-exempt status, and will provide a catalyst to additional private redevelopment in the neighborhood.

Approval of the amendments could potentially require short-term utilization of available HOME grant and/or general funds, if needed, to complete construction of the homes should the Developer fail to meet the construction deadline and the property reverts back to the City. If reversion were to occur, the City could recapture its expended funds and repay the construction loan through proceeds of the sale of the homes.

**OPTIONS (In Suggested Order of Staff Preference):**

1. Approve the amendments to the Affordable Housing Development Agreement, Real Estate Contract and Special Warranty Deed contingent upon a separate agreement with Spirit of Texas Bank, and grant authority to the City Attorney and City Manager to modify these documents as may become necessary in order to accomplish the intent of subjecting the City's reversionary interest to the Spirit of Texas Bank, ssb Deed of Trust.
2. Modify the Affordable Housing Development Agreement, Real Estate Contract, and/or Special Warranty Deed, which may require City Council consideration at a future meeting.
3. Take no action, which would require the Developer to meet the original March 31, 2014, construction deadline under the existing terms.

**ATTACHMENTS:**

1. First Amended Affordable Housing Development Agreement
2. Correction Special Warranty Deed
3. Assumption Agreement
4. Property Map

**FUNDING SOURCE:** Grantee, No Limits, is responsible for construction of the 4 homes. Down Payment Assistance in the amount of \$14,000.00 per home (\$56,000.00 in total) will be provided from the Community Development Services HOME Investment Partnerships Program and/or Community Development Block Grant funding as approved in the 2012 annual Consolidated Action Plan and the FY 2013 Community Development Services Department Down Payment Assistance budget. The Down Payment Assistance is a forgivable loan.

**APPROVALS:** Alsie Bond, 8/26/2013; Hugh R. Walker, 09/16/2013; Joey Dunn, 9-16-13

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 09/16/2013

**APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 09/17/2013**

Revised 04/2013

## First Amended Affordable Housing Development Agreement

This agreement is entered into by **City of Bryan (City)** and **No Limits International Economic Development Corporation (Developer)** concerning the financial assistance and qualification of potential homebuyers under the City of Bryan's **Down Payment Assistance Program**.

**Whereas**, the City desires to promote the development of affordable housing locally; and,

**Whereas**, Developer, also desires to develop affordable housing and will receive commitments for financial assistance to do so through the City Community Development Services Office and the Community Development Services Homebuyer Assistance Program;

**Whereas**, the City and Developer previously entered into a contract on \_\_\_\_\_, 2013 and this Amendment is necessary in order to facilitate a construction loan; and

Both the "City" and "Developer" enter this agreement and hereby agree to the following terms:

- I. Uses of funds shall be to accomplish the development and sale of property to income-eligible households, substantially as submitted by the Developer in the Proposal submitted in response to the City of Bryan Request for Competitive Sealed Proposal RFP #13-030R. The City will provide Down Payment Assistance to four (4) eligible households to facilitate the purchase of Developer - constructed homes on the property further identified as: Lots 1R, 2R, 3R and 4R, Block 167 of the Bryan Original Town site being a replat of lots 1, 2, 3, 4 and 5, Block 167 of the Bryan Original Town site as recorded in Volume H, Page 721 of the real property records of Brazos County, Texas, and also known as 402, 406, 410 and 414 W. 18<sup>th</sup> Street. The Developer shall provide private funding for the site improvements and construction. The Developer agrees the new homes will be substantially complete within nine (9) months of the date of this agreement, and will include the following features at a minimum: 3 bedrooms, 2 baths, slab-on-grade, 2 car garage, minimum 1,200 square feet heated area, and 100% masonry exterior in addition to complying with the minimum City of Bryan Community Development Services Residential Construction Standards attached as **Exhibit A**. Developer will ensure that homes meet or exceed all applicable local building codes.
- II. The City will provide the eligible homebuyer households Down Payment Assistance in the amount of up to **FOURTEEN THOUSAND DOLLARS (\$14,000.00)** each from the City's HOME Investment Partnerships Program (HOME) and/or Community Development Block Grant (CDBG) funds for down payment and closing costs assistance necessary to facilitate the purchase of the homes for use as principal residences. This funding is contingent upon the actual receipt of adequate federal funds as provided through the U.S. Department of Housing and Urban Development. If adequate funds are not available to make payments under this contract, the City shall notify the Developer in writing within a reasonable time after such fact is determined. The City may then, at the City's sole option, either terminate this contract and shall not be liable for failure to make payments under this contract, or may provide assistance as funding becomes available.
- III. Homebuyer receipt of Down Payment Assistance is subject to the household meeting the eligibility requirements set forth by the U. S. Department of Housing and Urban Development and as administered by the City's Community Development Services Department. Qualification and approval of buyer households for use of down payment assistance funds expires six (6) months from the date of buyer's approval by the City's Community Development Services Office.

- IV. The City will disburse down payment funds in the amount of \$14,000, for benefit of the homebuyer, to the Title Company on or before closing date of the home, upon prior notification of not less than seven calendar days.
- V. Commencement of this agreement is effective upon complete execution by both parties to this agreement. This agreement shall end upon completion of homebuyer assistance to all four (4) eligible households or upon notice of termination by either party.
- VI. Property Ownership: Parties have agreed to the conveyance of the property in a separate agreement.
- VII. Developer will determine the selling price of the homes, however the maximum price shall not exceed the FHA Single Family Mortgage Limits under 203(b) of the National Housing Act (12 U.S.C. 1709(b)) as required in 24 CFR 92.254(a)(2)(iii). Said maximum price is established as \$200,160 as of the date of this agreement. However, the Developer agrees that in the event that there are net proceeds from the sale of the homes, the Developer will use those net proceeds to repay the City for the cost of acquiring the property, up to \$50,684. The term "net proceeds" means revenue from the sale of the homes after closing costs, payments to subcontractors who worked on the homes, payments to suppliers who provided material for the homes, and repayment of the construction loan taken out for the homes. Such payment shall be made to the City no later than thirty (30) days after the closing of the final home sale.
- VIII. Developer will assist the City in the coordination of all documents needed to close the sales of the homes.
- IX. Developer will maintain each home constructed until title transfer to each qualified homebuyer
- X. The Developer agrees to indemnify and hold harmless the City and its officers, agents and employees from any and all loss, cost or damage of every kind, nature or description which may arise under this contract or from any whatsoever. Developer expressly agrees to hold harmless and indemnify the City whether or not the claim or cause of action results from any negligence of the Developer or any alleged negligence of the City or any of its officers, agents, or employees, whether the City's fault is a concurrent or sole cause of the liability.
- XI. Changes or amendments to any portion of this agreement must be in writing and signed by both parties.
- XII. This agreement shall be interpreted in accordance with Texas law and enforced in Brazos County, Texas.
- XIII. No assignment of this agreement or any part thereof is permitted without the express written consent of the City of Bryan.
- XIV. Should any paragraph, sentence or part of this agreement be held to be invalid by a court of competent jurisdiction, then such paragraph, sentence or part shall in no way affect the validity of any other provision or part of this agreement.
- XV. This agreement represents the entire agreement of the parties and supersedes any other representation, either written or oral to the contrary.

XVI. Any notices as required or necessary shall be effective if mailed certified, return-receipt requested, to the current address on file of either party for the other party. Changes of address shall be effective upon three (3) days prior written notice to the parties.

XVII. Applicable Laws and Regulations:

- a. Environmental Review: City shall assume the responsibilities for environmental review, decision making, and other action which would otherwise apply to City in accordance with and to the extent specified in 24 CFR, Part 58.
- b. Conflict of Interest: No person who (a) is an employee, agent, consultant, officer or elected or appointed official of the City or of any applicant that receives funds and who exercises or has exercised any functions or responsibilities with respect to activities assisted with funds provided under this Agreement or (b) who is in a position to participate in a decision-making process or gain inside information with regard to such activities may obtain a personal or financial interest or benefit from a HOME assisted activity, or have an interest in any contract, subcontract or agreement (or the proceeds thereof) with respect to a HOME Investment Partnerships Program assisted activity either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. The City's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors.
- c. Fair Housing: No person shall on the ground of age, color, handicap, national origin, race, religion, familial status, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the activities covered by this Agreement.
- d. Anti-Lobbying: The "Certification for Contracts, Grants, Loans and Cooperative Agreements" is appended to this Agreement as **Exhibit B** and shall be completed by the Developer.
- e. Anti-Kickback: This agreement is subject to the Copeland "Anti-Kick Back" Act which provides that each contractor or sub-grantee be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The recipient shall report all suspected or reported violations to the federal sponsoring agency.
- f. Program Income: Program income, recaptured funds, or repayment of any funds under this agreement received by the Developer must be immediately returned to the City of Bryan Community Development Services Department -Home Investment Partnerships Program. The Developer has the right to retain all project proceeds.
- g. Reversion of Assets: Upon termination of this Agreement, all HOME Investment Partnerships Program funds remaining on hand on the date of termination and all accounts receivable attributable to the use of funds received under this Agreement shall revert to City. Recipient shall return these assets to City within seven (7) business days after the date of termination.
- h. Parties shall comply with all other applicable laws and regulations including, but not limited to, the laws and regulations enumerated in **Exhibit C** of this agreement.

Both parties, City and Developer, affirm that they are duly authorized and empowered by their respective organizations, directors and partners to sign this agreement. Furthermore, this agreement represents the entire agreement of the parties and supersedes any other representations either written or oral to the contrary.

Signed, accepted, and agreed to, on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the undersigned parties who hereby acknowledge that they have read and understand this agreement and that they hereby execute this legal document voluntarily and of their own free will.

**CITY OF BRYAN**

**DEVELOPER**

\_\_\_\_\_  
Jason P. Bienski, Mayor

\_\_\_\_\_  
Warren Roberts, President

**Attest:**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

**Approved as to form:**

\_\_\_\_\_  
Janis K. Hampton, City Attorney

**EXHIBIT A**  
**CITY OF BRYAN**  
**COMMUNITY DEVELOPMENT SERVICES**  
**RESIDENTIAL CONSTRUCTION STANDARDS**

I. GENERAL

- a. All standards listed herein that are in conflict with applicable City ordinances and/or building codes, shall be rejected and the applicable development standards shall prevail if more restrictive. All standards listed herein that are in conflict with applicable property deed restrictions, shall be rejected and the applicable property deed restrictions shall prevail if more restrictive.
- b. These Residential Building Development Standards are the City of Bryan's basic minimum standards by which a residential structure may be approved for development.
- c. Any conflict between these standards and the City's codes and ordinances shall be brought to the attention of the Community Development Services Department for correction and/or revision.

II. SITE

- a. Building foundation finished grade shall be formed to a minimum of 6" higher than the highest point of existing topographical gradient within the building footprint. In the cases where a building is constructed partially or completely in a flood plain, applicable national building standards for building in a flood plain shall prevail.
- b. Finished grade around the building perimeter shall be a minimum of 4" below brick ledge or bottom of siding, and all site grading shall be manipulated and sloped to move water away from building foundation, and towards a natural flow drainage area. Site drainage grading shall meet the approval of the City's Drainage Engineer.
- c. All yard area shall be sodded or hydro-seeded with Bermuda grass (native to Brazos Valley area climate) and kept alive and maintained until the house is conveyed to a qualified buyer.
- d. A minimum of one - 2" diameter tree (native to Brazos Valley area climate) shall be placed in the front yard and kept alive and maintained until the house is conveyed to a qualified buyer.
- e. Sanitary sewer, water, gas and rainwater drainage utility service lines shall be buried at minimum bury depths in accordance with applicable City codes and ordinances. Aerial phone, cable and electrical utility service lines shall be installed at heights that comply with City codes and ordinances and shall not interfere with typical equipment common to residential neighborhoods.
- f. Site plantings of trees, bushes and shrubs shall be installed in accordance with applicable City codes and ordinances, and shall not obstruct traffic vision of neighborhood driveways and pedestrians. Existing trees should remain if possible.
- g. Fence: Supply and install 1"X6" privacy fence six (6') feet in height constructed only of standard grade 1" by 6" cedar fence materials. All fences shall be built with the finished

(smooth) side facing all streets or common areas. All fences facing the street shall be capped at the posts or installed as adjoining fencing. Fence shall be set back 10 ft. of the front wall line of the main structure and shall continue around the property line with a gate at garage side of the house. Fence shall be stained on the side facing streets or common areas with wood defender, (Sable Brown) semitransparent stain with a 3 year warranty.

- h. If property landscape development is regulated by deed restrictions, deed restrictions shall prevail.

### III. FOUNDATION

- a. Foundations shall be constructed in compliance with the most currently adopted City residential building codes and ordinances. Additionally, foundation plans and details must be designed and/or approved by a licensed civil engineer based upon the soil beneath the foundation, and the loads that will be imposed upon the foundation.
- b. Foundation footprints shall be established within the property building set-back lines, unless a variance has been requested and granted by the appropriate City board or commission prior to construction. City staff may not always support a contractor/developer variance request, but reasons regarding staff opposition to the variance shall be explained to the contractor/developer prior to the variance hearing.
- c. Recessed brick ledges shall be installed at all exterior masonry veneer locations. No recessed brick ledge shall be installed in areas where siding is used at the base of the exterior wall.
- d. No pier and beam foundations shall be allowed on new construction homes.

### IV. EXTERIOR BUILDING ENVELOPE

- a. Builders are encouraged to incorporate the City of Bryan and Bryan Texas Utilities Green Plus energy rebate program into their home design.
- b. Exterior wall area shall be composed of a minimum of 25% masonry veneer. Remaining exterior wall area shall be composed of Hardie® brand lap siding or an equivalent product in material composition to the Hardie® brand.
- c. Exterior walls shall be rated at R-13 minimum and the attic space shall be rated at R-30 as per City codes.
- d. Windows shall be double insulated, low-E designed windows that comply and are installed in accordance with the currently adopted International Energy Conservation Code, and shall be sized in accordance with the International Residential Code for emergency egress.
- e. Exterior doors shall be six-panel, metal insulated, foam core doors. Front and rear doors may have a half-moon window or other door top window which is out of reach of the door locks for security purposes. A peep-hole shall be installed in front door if a solid front door is selected. All exterior doors shall be weather-stripped, pre-hung units with one of the doors (preferably front) required to be a 3068 door.

- f. Exterior wall sheathing shall be 7/16" OSB or 1/2" plywood, covered with IECC recommended house wrap, spliced, taped and appropriately folded and sealed into exterior wall openings, and all wall penetrations properly sealed.
- g. All pipe penetrations through the exterior walls shall be sleeved with steel pipe or galvanized sleeves the thickness of the penetrated areas, and penetrate as close to the equipment as possible, or as low as possible for proper discharge. No pipes or HVAC line-sets shall run down the brick face to equipment, or covered with a shroud. All gaps between sleeves and pipes shall be filled with latex caulk to match as close as possible the color of the brick grout. Expanding foam may also be used, but foam or caulk shall have smooth finish with sleeve opening NO BEADS OR PROTRUSIONS.
- h. All exterior wall bottom plates shall be womanized treated 2" x 4" nominal sized #2 southern yellow pine lumber materials. All exterior wall studs shall be #2 kiln-dried southern yellow pine lumber materials. Top plates shall be 2" x 4" nominal sized southern yellow pine lumber material. Multi-story homes shall use nominally sized southern pine lumber material and/or engineered laminated products sized to the support load.
- i. Soffits shall be constructed of HardieSoffit® brand perforated soffit, and all exterior brick frieze and trim materials shall be HardieTrim® brand materials (or approved equals).
- j. Roof sheathing shall be 15/32" Georgia Pacific Plytanium® Thermostat® plywood radiant barrier sheathing or an approved equal. Foil face side of the sheathing shall face attic.
- k. Roof sheathing shall be covered with 15# roofing felt. Galvanized D-drip edge shall be installed around roof edge perimeter. A continuous ridge vent or a minimum of two wind turbines shall be installed as per manufacturer's recommendations on the roof sheathing prior to felt coverage. All roof pipe and metal vent penetrations shall be appropriately flashed, collared, capped and sealed prior to roof felt coverage. Roof shingles shall be 30-year architectural dimensional shingles with a light, neutral color to reflect heat.
- l. Exterior siding and trim cracks, seams and joints shall be caulked with an exterior 30 year latex caulk, and all exterior paint surfaces shall be primed and painted with a minimum of two coats durable exterior acrylic latex paint carrying a 30 year or more warranty.
- m. Front porches, rear porches and stoops shall be designed to provide ample cover and protection from inclement weather for the occupants opening the exterior doors.
- n. A 15-1/4" x 9-1/4" limestone address block with black numbers shall be installed in a conspicuous location on the front of the house, easily observed from the frontage street if a solid front brick, stone or stucco veneer is used. If siding is used on the front of the structure, a decorative brass address house plate (or approved equal) with minimum of 4" numbers shall be installed, and located as stated above.
- o. A lighted, hard-wired doorbell shall be installed at the front door location.

- p. Exterior decorative lights shall be installed at all exterior door locations and a front and rear 2-way flood light shall be installed under soffit corners to illumine the front, rear and side yards for security. Flood lights shall also be switched at nearest exterior door locations for easy access.

V. INTERIOR

- a. Structure shall be a minimum of 1,200 square feet of conditioned air space.
- b. Structures shall be a minimum of 3 bedrooms, 2 baths.
- c. Structures shall have a minimum of a one car garage (unobstructed open space of 10' W x 20' L). Garages may be attached or detached.
- d. Structures shall be equipped with a name brand HVAC split-system or heat pump, sized in accordance with applicable codes and carrying a minimum of 13 SEER rating.
- e. All interior walls shall be framed with 2" x 4" nominal size Temple® brand #2 southern yellow pine studs (or equal), with womanized sole plates and double top plates. Ceiling joists and rafters shall be sized in accordance with City codes and ordinances. Wet walls shall be sized to accommodate piping holes and notches in accordance with City codes and ordinances. Blocking shall be installed securely at all cabinetry and hardware locations.
- f. A folding attic stair or scuttle hole shall be installed in garage or hallway, sized to accommodate the replacement of largest equipment to be serviced in the attic space.
- g. All plumbing faucets and valves shall be builder grade or better, and finish of faucets and valves shall match finish of electrical fixtures and hardware in bathrooms and kitchen areas.
- h. All bedrooms and living room shall be equipped with cable TV and telephone jacks.
- i. Appliance spaces shall be Energy Star-rated, and mechanically fitted to receive either gas or electrical appliances at the stove, oven, water heater, dryer and air handler locations.
- j. An icemaker stop or recessed box shall be supplied to all refrigerator or ice maker locations.
- k. All vent-a-hoods requiring ducts shall be vented through the roof. Charcoal filter, non-vented vent-a-hoods are permissible.
- l. Kitchen sinks shall be a minimum of satin finish, stainless steel double basin, seven inches (7") deep with a one-half (1/2") horsepower food disposer.
- m. Flooring materials shall be strong and durable products carrying a minimum of 15 year warranty. Flooring products containing recycled materials are preferred. No long shag carpet shall be allowed. Ceramic tile or vinyl flooring is required in all wet areas.
- n. Exterior mounted instantaneous gas water heaters are preferred, but if not used, a well-insulated Energy Star rated 40 gallon tank heater is the required minimum.

- o. Dryers shall be vented out a side wall only...no venting upwards is allowed.
- p. Ceilings shall be a minimum of 8' (designed 9' vaulted, boxed or chamfered ceilings are encouraged).
- q. All bedroom and bathroom doors shall have minimum of KwikSet Valiant (equal or better) privacy knobs, closets shall have passage knobs, and exterior doors shall be keyed alike and equipped with a keyed entry knob and a keyed entry-single cylinder deadbolt lock.
- r. Kitchen counter tops shall be minimum quality of Wilson Art laminated plywood countertops with 4" or rolled backslash. No pre-formed countertops shall be allowed.
- s. All bath lavatories, vanities, tub/shower and shower units shall be at minimum Lasco Fiberglass units or better. No steel or plastic tubs or lavatories are allowed.
- t. All kitchen and bath cabinetry units shall be, at minimum, Leedo Oakview units.
- u. Energy Star rated ceiling fans shall be installed in all bedrooms and living area.
- v. Hard-wired smoke and carbon monoxide detectors, wired in series, shall be installed in accordance to City codes. All detectors shall sound off when one is activated.

## EXHIBIT B

### CERTIFICATION REGARDING LOBBYING FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certified, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement or modification of any federal contract, grant, loan, or cooperative agreement.
  
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

By:

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

Warren Roberts, President  
No Limits International Economic Development Corporation

## EXHIBIT C

### THE APPLICABLE LAWS AND REGULATIONS

The Parties shall comply with all federal, state, and local laws and regulations applicable to the activities and performances rendered under this contract including but not limited to the laws, and the regulations specified in Section I through VI of this Exhibit C.

#### I. CIVIL RIGHTS

THE FAIR HOUSING ACT (42 U.S.C. 3601-20) AND IMPLEMENTING REGULATIONS AT 24 CFR PART 100; EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259 (3 CFR, 1958-1963 COMP., P. 652 AND 3 CFR, 1980 COMP., P. 307) (EQUAL OPPORTUNITY IN HOUSING) AND IMPLEMENTING REGULATIONS AT 24 CFR, PART 107; AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000D) (NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS) AND IMPLEMENTING REGULATIONS ISSUED AT 24 CFR, PART 1;

EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259, AND 24 CFR PART 107, "NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063". THE FAILURE OR REFUSAL OF RECIPIENT TO COMPLY WITH THE REQUIREMENTS OF EXECUTIVE ORDER 11063 OR 24 CFR, PART 107 SHALL BE A PROPER BASIS FOR THE IMPOSITION OF SANCTIONS SPECIFIED IN 24 CFR 107.60;

THE PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF AGE UNDER THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C. 6101-07) AND IMPLEMENTING REGULATIONS AT 24 CFR, PART 146, AND THE PROHIBITIONS AGAINST DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C. 794) AND IMPLEMENTING REGULATIONS AT 24 CFR, PART 8;

THE REQUIREMENTS OF EXECUTIVE ORDER 11246 (3 CFR 1964-65, COMP., P. 339) (EQUAL EMPLOYMENT OPPORTUNITY) AND THE IMPLEMENTING REGULATIONS ISSUED AT 41 CFR, CHAPTER 60.

THE REQUIREMENTS OF 24 CFR 92.351 (MINORITY OUTREACH), EXECUTIVE ORDERS 11625 AND 12432 (CONCERNING MINORITY BUSINESS ENTERPRISE), AND 12138 (CONCERNING WOMEN'S BUSINESS ENTERPRISE). CONSISTENT WITH HUD'S RESPONSIBILITIES UNDER THESE ORDERS, RECIPIENT MUST MAKE EFFORTS TO ENCOURAGE THE USE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN CONNECTION WITH HOME FUNDED ACTIVITIES. RECIPIENT MUST PRESCRIBE PROCEDURES ACCEPTABLE TO THE CITY TO ESTABLISH ACTIVITIES TO ENSURE THE INCLUSION, TO THE MAXIMUM EXTENT POSSIBLE, OF MINORITIES AND WOMEN, AND ENTITIES OWNED BY MINORITIES AND WOMEN. THE CONTRACTOR / SUBCONTRACTOR WILL BE REQUIRED TO IDENTIFY CONTRACTS WHICH HAVE BEEN BID BY MINORITY OWNED, WOMEN OWNED, AND/OR SMALL DISADVANTAGED BUSINESSES.

THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C., SECTION 6101 ET SEQ.);

SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C., SECTION 794) AND "NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT", 24 CFR, PART 8.

BY SIGNING THIS CONTRACT, RECIPIENT UNDERSTANDS AND AGREES THAT THE ACTIVITIES FUNDED HEREIN SHALL BE OPERATED IN ACCORDANCE WITH 24 CFR, PART 8; AND THE ARCHITECTURAL BARRIERS ACT OF 1968 (42 U.S.C., SECTION 4151 ET. SEQ.) INCLUDING THE USE OF A TELECOMMUNICATIONS DEVICE FOR DEAF PERSONS (TDDs) OR EQUALLY EFFECTIVE COMMUNICATION SYSTEM.

II. LEAD-BASED PAINT

TITLE IV OF THE LEAD-BASED PAINT POISONING PREVENTION ACT (42 U.S.C. SEC. 4831).

III. ENVIRONMENTAL STANDARDS

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. SEC. 4321 ET. SEQ.) AND 40 CFR PARTS 1500-1508;

THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 (16 U.S.C. SEC. 470 ET. SEQ.) AS AMENDED; PARTICULARLY SECTION 106 (16 U.S.C. SEC. 470F);

EXECUTIVE ORDER 11593, PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT, MAY 13, 1971 (36 FED. REG. 8921), PARTICULARLY SECTION 2(C);

THE RESERVOIR SALVAGE ACT OF 1960 (16 U.S.C. SEC. 469 ET SEQ.). PARTICULARLY SECTION 3 (16 U.S.C. SEC. 469A-1), AS AMENDED BY THE ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974; FLOOD DISASTER PROTECTION ACT OF 1973, (42 U.S.C. SEC. 4001 ET. SEQ.) AS AMENDED, PARTICULARLY SECTIONS 102(A) AND 202(A) (42 U.S.C. SEC. 4012A (A) AND SEC. 4106 (A));

EXECUTIVE ORDER 11988, FLOODPLAIN MANAGEMENT, MAY 24, 1977 (42 FED. REG. 26951), PARTICULARLY SECTION 2(A).

EXECUTIVE ORDER 11990 PROTECTION OF WETLANDS, MAY 24, 1977 (42 FED. REG. 26961), PARTICULARLY SECTIONS 2 AND 5.

THE SAFE DRINKING WATER ACT OF 1974, (42 U.S.C. SEC. 201, 300(F) ET SEQ.) AND (21 U.S.C. SEC. 349) AS AMENDED, PARTICULARLY SECTION 1424(E) (42 U.S.C. SEC. 300H-303(E));

THE ENDANGERED SPECIES ACT OF 1973, (16 U.S.C. SEC. 1531 ET. SQ.) AS AMENDED, PARTICULARLY SECTION 7 (16 U.S.C. SEC. 1536);

THE WILD AND SCENIC RIVERS ACT OF 1968, (16 U.S.C. SEC. 1271 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 7(B) AND (C) (16 U.S.C. SEC. 1278 (B) AND (C));

THE CLEAN AIR ACT (41 U.S.C. SEC. 7401 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 176(C) AND (D) (42 U.S.C. SEC. 7506 (C) AND (D));

FARMLANDS PROTECTION AND POLICY ACT OF 1981, (7 U.S.C. SEC. 4201 ET SEQ.)

24 CFR PART 51, ENVIRONMENTAL CRITERIA AND STANDARDS.

IV. ACQUISITION/RELOCATION

THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (42 U.S.C., SEC. 4601 ET. SEQ.), 49 CFR PART 24, AND 24 CFR SECTION 570.496A (55 FED. REG. 29309 (JULY 18, 1990))

V. LABOR REQUIREMENTS

Davis-Bacon and Related Acts (40 USC 276(A)-7)

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, AS AMENDED (40 USC 327-333)

COPELAND (ANTI-KICKBACK) ACT (40 USC 276C)

FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (29 USC 201, ET. SEQ.)

VI. OTHER REQUIREMENTS

Patent and Copyright Infringement Notice: Compliance with regulations pertaining to copyrights and rights in data

Energy Policy and Conservation Act.: Compliance with mandatory standards and policies relating to energy efficiency which are contained in the Energy Policy and Conservation Act (Public Law 94-163, 89 Stat. 871).

Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.): Regarding drug related offenses in assisted housing.

**SECOND CORRECTION SPECIAL WARRANTY DEED**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER

**STATE OF TEXAS**           §  
  §  
**COUNTY OF BRAZOS**       §

**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT THE CITY OF BRYAN, TEXAS, a Texas Home Rule Municipal Corporation, organized under the laws of the State of Texas, by and through its duly authorized officers, hereinafter referred to as Grantor, for good and valuable consideration the sufficiency of which is hereby acknowledged, has this day and by these presents does GRANT, SELL, AND CONVEY to No Limits International Economic Development Corporation, a Texas Corporation, hereinafter referred to as Grantee, the following property:

Lot One R (1R), Two R (2R), Three R (3R) and Four R (4R), Block One Hundred Sixty Seven (167) Bryan Original Town site, City of Bryan, according to the replat thereof recorded in Volume 11055, Page 99, Official Records, Brazos County, Texas, and also known as also known as 402, 406, 410 and 414 W. 18<sup>th</sup> Street.

Grantor conveys the Property subject to the reservations and exceptions to conveyance and warranty, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee’s successors and assigns forever. Grantor binds Grantor and Grantor’s successors and assigns to warrant and forever defend all and singular the property to Grantee and Grantee’s successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, though, or under Grantor but not otherwise.

**RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:**

1. There is reserved unto Grantor, Grantor’s successors and assigns, all of the oil and gas, and other minerals, now owned by Grantor, in, on and under, and that may be produced from the described property; provided, however, Grantor hereby waives any rights which Grantor, Grantor’s successors or assigns have for ingress, egress or regress on, over or across the surface of the described property for purposes of drilling, mining for or conducting any operations for oil, gas or other like minerals or using the same for storage or for the transportation of oil, gas or other like minerals, or to use such property as a means of access or travel or in any manner disturb the surface of such property, and any future lease executed by Grantor, Grantor’s successors and assigns covering all or any portion of the described property shall contain these restrictions.

2. This conveyance is conditioned on the construction by the grantee of four (4) single family dwellings meeting the requirements of the Grantor as specified in the Real Estate Contract for Affordable Housing Development on said property not later than July 31, 2014. Construction of these dwellings primarily promotes the public purpose of the City of Bryan as Grantor. **If construction is not completed by the above deadline, or if the first lien Deed of Trust is declared to be in default by the lienholder, Spirit of Texas Bank ssb, and/or the Property is not sold to qualified low/moderate income households, the Property shall automatically revert to Grantor free and clear of any and all liens and encumbrances,** except a first lien Deed of Trust securing the payment of a loan in the amount of \$342,440.00 by Spirit of Texas Bank, ssb to Grantee for the construction of four (4) homes on the property described herein.
  
3. **AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTOR AND GRANTEE AGREE THAT GRANTEE IS TAKING THE PROPERTY AS IS WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR A PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES.**

This is a second correction deed, given and accepted as such in substitution for such earlier correction deed recorded in Volume 11484, Page 74, Deed Records of Brazos County, Texas, dated July 12, 2013, which was given and accepted as such in substitution for such the original deed recorded in Volume 11447, Page 221, Deed Records of Brazos County, Texas, dated July 1, 2013, and this second correction deed shall be effectual as of and retroactive to such date. However, except as herein corrected, such prior deed shall remain in full force and effect. This second correction deed extends the reverter date from March 31, 2014 until July 31, 2014, and clarifies that the reverter is subject to a first lien Deed of Trust by Spirit of Texas Bank, ssb.

(Signatures to follow)

IN WITNESS WHEREOF, this instrument is executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013 A.D.

**ATTEST:**

**CITY OF BRYAN, TEXAS**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Janis K. Hampton, City Attorney

**GRANTEE**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Warren Roberts, President  
No Limits International Economic Development Corporation

**STATE OF TEXAS**        §  
                                  §  
**COUNTY OF BRAZOS**   §

**ACKNOWLEDGMENT**

This instrument was acknowledged before me, the undersigned notary, on the \_\_\_\_ day of \_\_\_\_\_ 2013 by Warren Roberts, President of No Limits International Economic Development Corporation, on behalf of said corporation and for the purposes stated herein.

\_\_\_\_\_  
Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF BRAZOS §

**ASSUMPTION AGREEMENT**

**This Assumption Agreement (“Agreement”) is entered into by and between Spirit of Texas Bank, ssb (“Bank”) and the City of Bryan, Texas (“City”) on the \_\_\_\_ day of \_\_\_\_\_, 2013.**

WHEREAS, the Bank is the holder of a promissory note made by No Limits International Economic Development Corporation (“No Limits”) on September \_\_\_\_, 2013; and

WHEREAS, the Bank is the beneficiary of a deed of trust securing the above note, which is attached as a lien on the that certain property known as lots 1R-4R, Block 167, Bryan Original Townsite, according to the replat recorded in Volume 11055, Page 99 of the Official Records of Brazos County, Texas; and

WHEREAS, the City was the original owner of the above property, and conveyed the property to No Limits subject to a right of reverter; and

WHEREAS, in the event that the property is not used to construct four residential dwellings within approximately nine months or is not sold to a qualified low/moderate income household within approximately fourteen months, the ownership will revert back to the City, subject to the Bank’s deed of trust; and

WHEREAS, the Bank and the City agree that in the event the property reverts back to the City, the City will be given an opportunity to prevent foreclosure on its interest and may pay off the Note in exchange for a release of the deed of trust; and

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS

1. The City acknowledges that in the event the property reverts back to the City, the property will be subject to the Bank’s deed of trust.
2. The Bank agrees that in the event the property reverts back to the City, the City will be given until February 28, 2015 to make the final balloon payment of all outstanding principal and any unpaid/accrued interest on the note. The Bank agrees that the City may, at its option, pay any outstanding principal and unpaid/accrued interest at any time after reverter.
3. The Bank agrees that, following reverter, as long as the City makes the required monthly interest payments on any outstanding principal, the Bank will not take action to foreclose on the deed of trust.

4. This Agreement is subject to annual appropriation for same by the City Council and in no way represents a binding obligation or a promise to pay the note.

**City of Bryan**

**Spirit of Texas Bank, ssb**

\_\_\_\_\_  
Jason P. Bienski, Mayor

ATTEST

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

Approved as to form

\_\_\_\_\_  
Janis K. Hampton, City Attorney

# 402-414 W. 18th

