

126
City of Las Cruces[®]
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Council Action and Executive Summary

Item # 6 Ordinance/Resolution# 11-028 Council District: N/A

For Meeting of August 2, 2010
 (Adoption Date)

TITLE: A RESOLUTION AMENDING THE AGREEMENTS BETWEEN THE CITY OF LAS CRUCES AND LA CASA, INC. AND TIERRA DEL SOL HOUSING CORPORATION, RESPECTIVELY, RELATED TO THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP), SPECIFIC TO AGREEMENT AMOUNTS, FUTURE PROGRAM PROCEEDS, AND OTHER PROGRAM REQUIREMENTS.

PURPOSE(S) OF ACTION: Authorization to amend the NSP agreements between the City and La Casa, Inc. and Tierra del Sol Housing Corporation to adjust funds and other program requirements.

Drafter and Staff Contact: David Dollahon <i>[Signature]</i>		Department: Community Development		Phone: 528-3060	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>[Signature]</i>	528-3067	Budget	<i>[Signature]</i>	541-2107
Other			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The City of Las Cruces has implemented the Neighborhood Stabilization Program (or NSP) since November 2008 in partnership with La Casa, Inc. and Tierra del Sol Housing Corporation. NSP was established in July 2008 under the Housing and Economic Recovery Act of 2008 (or HERA) and the State of New Mexico, Department of Finance and Administration – Local Government Division was the only recipient of NSP funds totaling \$19.6 million. The City of Las Cruces applied for and was awarded \$1,500,000. NSP was established to acquire, improve, and reuse either foreclosed or abandoned/vacant properties throughout the country. Las Cruces' NSP is focused to re-use the eligible properties for both affordable homeownership and rental housing opportunities. Tierra del Sol Housing Corporation is our homeownership partner, while La Casa, Inc. is our rental housing partner.

In order to meet a federally-imposed deadline of September 2010 in which all NSP funds must be obligated, the City needs to make adjustments to the funding agreements between the respective parties. Therefore, the proposed Resolution would approve agreement amendments whereby \$7,855 is reduced from Tierra del Sol's allotment of funds and provided to La Casa. Also, minor clarifications are needed for eligible uses of funds for the La Casa Agreement due to new information/clarification being provided by HUD and the State. The clarifications concern the process of allocating funds by the City to both Tierra del Sol and La Casa and clarifying new NSP compliance requirements. The minor clarifications have been incorporated in the attached amendments.

Further, when Tierra del Sol sells the NSP homes to future qualified homeowners, the City's NSP will receive program income. The amount of this program income is not known at this time; however, staff needs authorization to dedicate that program income to either party at a future date, until April 2013. After April 2013, the grant between the City and the State expires, and any NSP program income will be returned to the State.

SUPPORT INFORMATION:

1. Resolution
2. Exhibit "A" – La Casa Amendment
3. Exhibit "B" – Tierra del Sol Amendment
4. Attachment "A" – Resolution 09-139 (approved on 12/1/2008) for the overall NSP Plan for the City,
5. Attachment "B" – Resolution 10-097 (approved on 9/21/2009) authorizing the Agreements between La Casa and Tierra del Sol.
6. Attachment "C" - Memo to the Mayor and City Council dated Friday, July 16, 2010 with an updated report on NSP Activities and properties to date.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund:
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

FUND SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
HUD Special Projects	20184230-722190-12005	\$7,855	\$1,500,000	\$1,492,145	Program Implementation

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and approve the amendments to the Agreements between the City and both La Casa and Tierra del Sol Housing Corporation as it relates to the use of Neighborhood Stabilization Program (NSP) funds between the parties and the City, provides for sub-agreements for each party for future NSP Program Income, and clarifies other administrative requirements, as applicable.
2. Vote "No"; this will disapprove the Resolution and thus prevent any changes to funds between the two entities and not clarify requirements and sub-agreements for future NSP Program Income.
3. Vote to "Amend"; this could modify the agreements based on direction provided by the City Council.
4. Vote to "Table"; this could result in the City not complying with the State's requirements for the use of the NSP funds and potentially delay the obligation deadline for all NSP funds. Tabling and changes would require direction from City Council.

REFERENCE INFORMATION:

The Resolution(s) and/or Ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. None - see Support Information above.

RESOLUTION NO. 11-028

A RESOLUTION AMENDING THE AGREEMENTS BETWEEN THE CITY OF LAS CRUCES AND LA CASA, INC. AND TIERRA DEL SOL HOUSING CORPORATION, RESPECTIVELY, RELATED TO THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP), SPECIFIC TO AGREEMENT AMOUNTS, FUTURE PROGRAM PROCEEDS, AND OTHER PROGRAM REQUIREMENTS.

The City Council is informed that:

WHEREAS, the City of Las Cruces approved Resolution 10-097 approved the Agreements between the City of Las Cruces and both La Casa, Inc. and Tierra del Sol Housing Corporation on September 21, 2009; and

WHEREAS, these Agreements were related to both entity's willingness and responsibilities to assisting the City in implementing the City's Neighborhood Stabilization Program (or NSP); and

WHEREAS, the City receives its NSP funding under a grant agreement from the State of New Mexico, Department of Finance and Administration, Local Government Division; and

WHEREAS, the City is expected to obligate all \$1,500,000 by September 16, 2010 in order to be in compliance with U.S. Department of Housing and Urban Development (HUD) rules related to the NSP regulations; and

WHEREAS, City staff along with representatives from La Casa and Tierra del Sol have made substantial efforts in meeting the State's deadline and it has been determined amongst the parties that amendments to the respective agreements are necessary in order to comply with the September 16, 2010 deadline and other regulation requirements; and

WHEREAS, the specifics to the amendments relate to: a) transferring approximately \$7,855 in NSP funds from Tierra del Sol to La Casa; b) clarifying procedures for the handling of program income being returned to the City and how those funds will be dedicated to the two (2) agencies; and c) administrative items related to complying with new NSP rules and regulations.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Agreement Amendment between the City of Las Cruces and La Casa, Inc., as shown in Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the Agreement Amendment between the City of Las Cruces and Tierra del Sol Housing Corporation, as shown in Exhibit "B," attached hereto and made part of this Resolution, is hereby approved.

(III)

THAT the City Manager is hereby authorized to sign the agreement amendments on the City's behalf for those items outlined in Sections (I) and (II) immediately above.

(IV)

THAT City staff is hereby authorized to develop and the City Manager is authorized to sign, individual Sub-agreements between both La Casa and Tierra del Sol Housing Corporation for future NSP Program Income proceeds received by the City, provided such Sub-agreements are in keeping with the amended Agreements and recognizing that such Program Income are in addition to but not part of the original funding allocations to each.

(V)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____ 2010.

APPROVED:

(SEAL)

Mayor

ATTEST:

VOTE:

City Clerk

Mayor Miyagishima: _____

Moved by: _____

Councillor Silva: _____

Seconded by: _____

Councillor Connor: _____

APPROVED AS TO FORM:

Councillor Pedroza: _____



City Attorney

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

**AMENDMENT TO THE
NEIGHBORHOOD STABILIZATION PROGRAM AGREEMENT
BETWEEN
THE CITY OF LAS CRUCES
AND
LA CASA, INC.**

This amended **AGREEMENT** and **Attachments**, as applicable, is an amendment to, but not in lieu of the **original AGREEMENT** and **original Attachments**, executed on October 21, 2009, under the Authority of City of Las Cruces Resolution 10-097, in its entirety.

The amended **AGREEMENT** (hereinafter referred to as the "Agreement") is entered into by and between the **CITY OF LAS CRUCES**, a New Mexico municipal corporation with a principal address of P.O. Box 20000, Las Cruces, New Mexico 88004 (hereinafter referred to as "City") and **La Casa, Inc.**, a New Mexico non-profit corporation whose address is PO Box 2463, Las Cruces, New Mexico 88004 (hereinafter referred to as "Development Partner").

WITNESSETH:

WHEREAS, the City is a sub-recipient of the Neighborhood Stabilization Program (hereinafter referred to as "NSP") from the State of New Mexico, Department of Finance Administration's Local Government Division;

WHEREAS, the City and the Development Partner executed a Master Agreement on October 21, 2009 related to the implementation of the City's NSP under an agreement between the City and the State;

WHEREAS, there is need to amend the Master Agreement to reflect changes in funding and further clarifications of the rules related to the Partner's implementation of their portion of the City's NSP; and

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the City and the Partner agree as follows:

1. The following additions, corrections, clarifications, deletions, or other amendments as identified by Section are hereby made:

Amended Sections:

- III. **GRANT AMOUNT AND USE OF FUNDS**
 - C. **BUDGET**
 - D. **PAYMENTS**

Each of these sections listed above is changed to reflect the amended budget total amount of \$707,145 (an increase of \$7,855).

New Sections:

IX. AGREEMENTS FOR THE USE OF FUTURE NSP PROGRAM INCOME:

The City and the Development Partner acknowledge that as a result of the NSP, Program Income from the sale of previously developed properties will be returned to the City until the end of the term of the Original Master Agreement. The use of the NSP Program Income is restricted to NSP and the City will develop individual agreements with the Development Partner on the purchase of additional properties using this future Program Income. This future NSP Program Income is in addition to the amended grant amounts listed above and the additional funding will be provided on a property-by-property or specific instance under a separate agreement. The City's decision as to whether or not to dedicate future Program Income to a specific property for the Development Partner is final. The future agreement will be in keeping with the Master Agreement, as amended, and is recognized as an amount above the amended grant amount contained herein.

IN WITNESS WHEREOF the parties have executed this Amended Agreement, each upon the date set forth next to his/her name.

DEVELOPMENT PARTNER:

La Casa, Incorporated

Gina Ruiz, Executive Director

Date

CITY OF LAS CRUCES:

Terrence Moore, City Manager
City of Las Cruces

Date

APPROVED AS TO FORM:

City Attorney

**AMENDMENT TO THE
NEIGHBORHOOD STABILIZATION PROGRAM AGREEMENT
BETWEEN
THE CITY OF LAS CRUCES
AND
TIERRA DEL SOL HOUSING CORPORATION**

This amended **AGREEMENT** and **Attachments**, as applicable, is an amendment to, but not in lieu of the **original AGREEMENT** and **original Attachments**, executed on October 22, 2009, under the Authority of City of Las Cruces Resolution 10-097, in its entirety.

The **amended AGREEMENT** (hereinafter referred to as the "Agreement") is entered into by and between the **CITY OF LAS CRUCES**, a New Mexico municipal corporation with a principal address of P.O. Box 20000, Las Cruces, New Mexico 88004 (hereinafter referred to as "City") and **TIERRA DEL SOL HOUSING CORPORATION**, a New Mexico non-profit corporation whose address is PO Box 2626, Anthony, New Mexico 88021 (hereinafter referred to as "Development Partner").

WITNESSETH:

WHEREAS, the City is a sub-recipient of the Neighborhood Stabilization Program (hereinafter referred to as "NSP") from the State of New Mexico, Department of Finance Administration's Local Government Division;

WHEREAS, the City and the Development Partner executed a Master Agreement on October 22, 2009 related to the implementation of the City's NSP under an agreement between the City and the State;

WHEREAS, there is need to amend the Master Agreement to reflect changes in funding and further clarifications of the rules related to the Partner's implementation of their portion of the City's NSP; and

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the City and the Partner agree as follows:

1. The following additions, corrections, clarifications, deletions, or other amendments as identified by Section are hereby made:

Amended Sections:

- III. **GRANT AMOUNT AND USE OF FUNDS**
 - C. **BUDGET**
 - D. **PAYMENTS**

Each of these sections listed above is changed to reflect the amended budget total amount of \$687,145 (a reduction of \$7,855).

New Sections:

IX. AGREEMENTS FOR THE USE OF FUTURE NSP PROGRAM INCOME:

The City and the Development Partner acknowledge that as a result of the NSP, Program Income from the sale of previously developed properties will be returned to the City until the end of the term of the Original Master Agreement. The use of the NSP Program Income is restricted to NSP and the City will develop individual agreements with the Development Partner on the purchase of additional properties using this future Program Income. This future NSP Program Income is in addition to the amended grant amounts listed above and the additional funding will be provided on a property-by-property or specific instance under a separate agreement. The City's decision as to whether or not to dedicate future Program Income to a specific property for the Development Partner is final. The future agreement will be in keeping with the Master Agreement, as amended, and is recognized as an amount above the amended grant amount contained herein.

IN WITNESS WHEREOF the parties have executed this Amended Agreement, each upon the date set forth next to his/her name.

DEVELOPMENT PARTNER:

TIERRA DEL SOL HOUSING CORPORATION

Rose Garcia, Executive Director

Date

CITY OF LAS CRUCES:

Terrence Moore, City Manager
City of Las Cruces

Date

APPROVED AS TO FORM:

City Attorney

RESOLUTION NO. 09-139

A RESOLUTION APPROVING THE CITY OF LAS CRUCES NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PLAN FOR SUBMISSION TO THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, LOCAL GOVERNMENT DIVISION, IN ACCORDANCE WITH THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008. THE RESOLUTION FURTHER AUTHORIZES ACCEPTANCE OF GRANT FUNDS FOR THE CITY'S NSP PLAN, EXECUTION OF GRANT AGREEMENTS AND AMENDMENT TO THE CITY'S FY2009 ADOPTED BUDGET.

The City Council is hereby informed that:

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is charged with implementing the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, HERA funds are a special allocation of Community Development Block Grant (CDBG) funds, of which the City of Las Cruces is an entitlement community and HERA creates a national program henceforth called the Neighborhood Stabilization Program; and

WHEREAS, due to the urgency expressed under HERA, the entire allocation of HERA funding were awarded to the State of New Mexico Department of Finance and Administration, Local Government Division, and the City of Las Cruces was requested to submit a plan for use of the Neighborhood Stabilization Program within the corporate limits of the City and

WHEREAS, the City of Las Cruces has prepared and tentatively submitted a Neighborhood Stabilization Program Plan by the State mandated deadline of November 14, 2008; and

WHEREAS, the City staff seeks formal approval and authorization of the City's NSP Plan and corresponding approvals, acceptance of future funds, and necessary budget adjustment to the City's adopted FY2009 budget.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City of Las Cruces Neighborhood Stabilization Program Plan, as shown in

Exhibit "A," attached hereto and made part of this Resolution, is hereby approved.

(II)

THAT the City Manager is hereby authorized to accept the grant funds, including execution of all necessary documents, and is the City's designated signatory for all future NSP funds from the State of New Mexico Department of Finance and Administration, Local Government Division, as part of this Resolution.

(III)

THAT the City's FY 2009 adopted Budget, as shown in Exhibit "B," attached hereto and made part of this Resolution, is amended and approved.

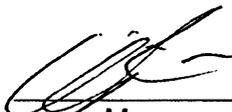
(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 1st day of December, 2008.

(SEAL)

APPROVED:



Mayor

ATTEST:



City Clerk

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Archuleta

Seconded by: Jones

APPROVED AS TO FORM:



City Attorney

RESOLUTION NO. 10-097

A RESOLUTION APPROVING TWO GRANTS UNDER THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP), ONE FOR TIERRA DEL SOL AND ONE FOR LA CASA, INC . THE GRANTS PROVIDE OPERATING AUTHORITY TO EACH NON-PROFIT AGENCY TO BECOME NSP PROPERTY OWNERS, REHABILITATE, AND SELL THE PROPERTIES TO ELIGIBLE HOMEBUYERS, OR MAKE THEM AVAILABLE TO ELIGIBLE RENTERS.

The City Council is hereby informed that:

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is charged with implementing the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, HERA funds are a special allocation of Community Development Block Grant (CDBG) funds, of which the City of Las Cruces is an entitlement community, and HERA created a national program henceforth called the Neighborhood Stabilization Program; and

WHEREAS, due to the urgency expressed under HERA, the entire allocation of HERA funding were awarded to the State of New Mexico Department of Finance and Administration, Local Government Division, and the City of Las Cruces received a grant from the New Mexico Department of Finance and Administration for \$1,500,000 to operate its NSP; and

WHEREAS, the City staff have prepared the grant agreements to Tierra del Sol (\$695,000) and to La Casa, Inc. (\$700,000) to carry out their responsibilities in these grants to implement the NSP; and

WHEREAS, the responsibilities of the non-profits include owning NSP properties transferred from the City and rehabilitating them to code and after rehabilitation, Tierra del Sol will resell the properties to eligible homebuyers and La Casa will hold the properties in perpetuity for low income renters.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City of Las Cruces Neighborhood Stabilization Program Agreements with Tierra del Sol and La Casa, Inc. to implement the NSP, as shown in Exhibit "A" and "B," attached hereto and made part of this Resolution, are hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this 21st day of September, 2009.

(SEAL)

APPROVED:



Mayor

ATTEST:



City Clerk

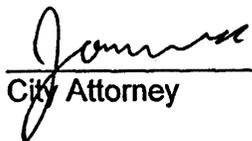
VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Silva:	<u>Aye</u>
Councillor Connor:	<u>Aye</u>
Councillor Archuleta:	<u>Aye</u>
Councillor Small:	<u>Aye</u>
Councillor Jones:	<u>Aye</u>
Councillor Thomas:	<u>Aye</u>

Moved by: Archuleta

Seconded by: Thomas

APPROVED AS TO FORM:



City Attorney



City of Las Cruces

Inter-Departmental Memorandum

To: Mayor and City Council

Through: David Dollahon, Neighborhood Services Administrator *DD*
 David Weir, Community Development Director *DW*

From: *MF* Maria Fahrenkrog, Housing Development Coordinator

Subject: Updated Report on Neighborhood Stabilization Program (NSP) Activities and Properties to date

Date: July 16, 2010 File No.: M-10-167

In January, 2009, the City of Las Cruces received \$1.5 million dollars in Neighborhood Stabilization Program (NSP) funds from the State of New Mexico, Department of Finance and Administration. The City's NSP Program has purchased vacant/abandoned or foreclosed properties in defined priority areas, to resale or rent to low/moderate income families through qualified non-profit partners, which are Tierra del Sol and La Casa.

The City needs to obligate all its NSP funds by September 16, 2010. To this date the City has obligated \$1,395,000 as follows:

Tierra del Sol

<u>Properties</u>	<u>Priority Area*</u>	<u>Obligated Funds</u>	<u>Status</u>
1. 4752 Diamante	foreclosure	\$162,856	Purchase Completed/Rehab Pending
2. 4757 Diamante	foreclosure	\$137,928	Purchase Completed/Rehab Pending
3. 2913 Onate Rd.	foreclosure	\$151,915	Purchase Completed/Rehab Pending
4. 342 Tornillo St.	2	\$ 80,000	Council Approval Pending
5. 1734 Seldon	1	<u>\$154,446</u>	Council Approval Pending
Total:		\$687,145	

La Casa

<u>Properties</u>	<u>Priority Area*</u>	<u>Obligated Funds</u>	<u>Status</u>
1. 1307 Magoffin	1	\$167,729	Purchase and Rehab Completed
2. 2872 Ancho	1	\$173,856	Purchase and Rehab Completed
3. 914 Alamo	2	\$195,870	Purchase Completed/Rehab Pending
4. 2559 Benz	1	\$170,400	Purchase Completed/Rehab Pending
Total:		\$707,855	

*Foreclosed properties were a priority for acquisition, regardless of location. The 3 foreclosures are 2 on the east mesa (Diamante) and the last one is within Legends West (Onate). First priority on properties to be acquired by the City for transfer to the developer are within those areas of greatest identified need and are the following Census Tracts, in order of priority (see map):

<u>First Priority Level</u>		<u>Second Priority Level</u>	
1)	3.00	1)	4.01
2)	5.00	2)	6.00
3)	1.02	3)	7.00
4)	4.02	4)	8.00
5)	2.00	5)	9.00

This need is for all block groups within these Census Tracts. These are within the heart of the city and near jobs, shopping, transit, and government access.

EXHIBIT A

