

RESOLUTION NO. 2011- 196

A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA, IN CONNECTION WITH A ST. JOHNS COUNTY SURPLUS PROPERTIES WORKFORCE HOUSING PROGRAM; APPROVING SAID COUNTY HOUSING PROGRAM; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CONTRACTS, DEEDS AND OTHER DOCUMENTS RELATING TO SAID PROGRAM; AUTHORIZING AND APPROVING PROCUREMENT PROCEDURES RELATING TO SAID PROGRAM; AUTHORIZING OFFICERS OF THE COUNTY TO DO ALL THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION THEREWITH; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Chapter 125, Part I, Florida Statutes, as amended, St. Johns County Ordinance No. 2007-34 enacted on May 17, 2007 (the "Ordinance"), and other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

A. St. Johns County, Florida (the "County"), acquired title by foreclosure to two (2) unfinished residential properties in St. Augustine, Florida, on 9<sup>th</sup> Street and Whitney Street, in connection with its prior Fannie Mae housing construction loan program (each a "Property" and collectively, the "Properties").

B. The County declared the Properties as County surplus properties, offered the Properties for sale and received no acceptable bids for the Properties.

C. The County hereby determines that the Properties will be more marketable if construction is completed and the Properties should continue to be utilized to provide workforce housing within the County as a part of a County workforce housing program which is primarily intended to utilize appropriate County surplus housing properties for workforce housing which, once acquired (and refurbished as needed), will be sold by the County to low or moderate income households or sold for low or moderate income rental housing (the "Surplus Housing Program").

D. The County recognizes the importance of the Surplus Housing Program to serve the housing needs of St. Johns County. The financing, acquisition, construction, reconstruction, and rehabilitation of workforce housing and of the real and personal property and other facilities necessary, incidental and appurtenant thereof are essential and serve paramount County public

purposes for which public money may be spent, advanced, loaned or granted and are governmental functions of public concern.

E. The County currently utilizes the Housing Finance Authority of St. Johns County, Florida (the "HFA"), in connection with certain aspects of the County's Neighborhood Stabilization Program ("NSP Program"). The Properties are on the same streets, and were constructed by the same original builder, as certain NSP properties. Certain consultants, suppliers, vendors, contractors and other service providers (the "NSP Providers") have heretofore been approved to provide services relating to the NSP Program and are familiar with the similar NSP properties.

F. The County hereby determines that it is necessary, desirable and in the best interest of the County to complete the construction and sell the Properties as quickly and efficiently as possible in order to, among other things, recoup all or a part of its costs in the Properties.

G. The County hereby determines that it is necessary, desirable and in the best interest of the County to utilize the HFA to assist the County with certain aspects of the Surplus Housing Program related solely to the rehabilitation and disposal of the Properties and the HFA has agreed to assist the County with such aspects of the Surplus Housing Program.

H. The County hereby determines that it is necessary, desirable and in the best interest of the County to use, and direct the HFA to use, essentially the same procurement procedures used for the NSP Program in connection with the Surplus Housing Program, in the manner hereinafter provided.

I. The County and the HFA desire to set forth their agreement regarding the Surplus Housing Program in an interlocal agreement pursuant to Section 163.01, Florida Statutes, as amended.

J. The Board of County Commissioners of the County (the "Board") deems it necessary, desirable and in the best interests of the County to approve the form of and authorize the execution of an Interlocal Agreement in substantially in the form attached hereto as Exhibit A (the "Interlocal Agreement"), all in the manner and to the extent hereinafter provided.

K. It is necessary and desirable to authorize the Surplus Housing Program and direct and authorize the Director of the County Housing and Community Services Division (the "Housing Director") and other County staff, officers and attorneys to further develop and implement the Surplus Housing Program, all in the manner hereinafter provided.

L. In connection with the County's activities and obligations under the Interlocal Agreement and the Surplus Housing Program, the County shall be required to negotiate, approve, accept, execute and deliver sales and purchase contracts with buyers, deeds with buyers and other documents relating to the Surplus Housing Program; and the County deems it necessary, desirable and in the best interests of the County to approve and authorize the execution and delivery by the County of sales and purchase contracts with buyers, deeds with buyers and other documents relating to the Surplus Housing Program, in the manner and to the extent hereinafter provided.

SECTION 3. APPROVAL OF SURPLUS HOUSING PROGRAM. The County hereby approves and establishes the Surplus Housing Program as a County housing program and designates the Properties to be included in the Surplus Housing Program.

SECTION 4. APPROVAL AND AUTHORIZATION OF EXECUTION OF INTERLOCAL AGREEMENT. The Interlocal Agreement between the County and the HFA, in substantially in the form attached hereto as Exhibit A, is hereby approved; and the Chair or the Vice Chair of the Board (the "Chair") and the Clerk of the Board or any deputy clerk (the "Clerk") are each hereby authorized and directed to execute and deliver the Interlocal Agreement on behalf of the County, with such changes or modifications as may be approved by the County's counsel, the Chair or the Clerk, such approvals to be conclusively evidenced by such officer's execution thereof; and the Chair, the Clerk and the County Administrator are hereby authorized to take such other actions as shall be necessary to implement and administer the Surplus Housing Program in the manner provided herein, with no further Board action required.

SECTION 5. AUTHORIZATION OF EXECUTION OF ADDITIONAL DOCUMENTS, CERTIFICATES AND INSTRUMENTS. The Chair, the Clerk and the County Administrator are hereby authorized and directed, either alone or jointly, under the official seal of the County, to negotiate, approve, accept, execute and deliver all additional documents, certificates and instruments, including sales and purchase contracts with buyers and deeds with buyers relating to the Properties, as shall be necessary or desirable to perform the County's obligations under this Resolution, the Ordinance, the Interlocal Agreement and to consummate the transactions contemplated hereby and thereby, with no further Board action required.

SECTION 6. AUTHORIZATION AND APPROVAL OF PROGRAM PROCUREMENT PROCEDURES. Notwithstanding HFA or County existing procurement policies, in order to reduce costs and time delays, the County hereby determines it shall, and hereby directs the HFA to, utilize the NSP Providers in connection with the Surplus Housing Program at substantially the same fees for services provided under the NSP Program when possible and/or obtain as needed from all applicable qualified NSP Providers acceptable fee proposals and select the lowest most responsive, responsible proposal for services needed in connection with the Surplus Housing Program and/or, if any additional or different services are needed in connection with the Surplus Housing Program, utilize essentially the same procurement procedures utilized for the NSP Program.

SECTION 7. DEVELOPMENT AND IMPLEMENTATION OF SURPLUS HOUSING PROGRAM. The Housing Director, the County's Land Management Systems Director and other County officers, employees and attorneys are hereby directed and authorized to further develop and implement the Surplus Housing Program, with no further Board action required, all in accordance with and as contemplated by this Resolution, the Ordinance and the Interlocal Agreement.

SECTION 8. GENERAL AUTHORITY. Pursuant to Chapter 125, Florida Statutes, the members of the Board and the County's officers, attorneys and other agents and employees are hereby authorized to do all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Interlocal Agreement and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be reasonably

required by the County's attorneys to effectuate, implement and administer the Surplus Housing Program.

SECTION 9. ACTION APPROVED AND CONFIRMED. All actions of the officers, employees or agents of the County which are in conformity with the purposes and intent of this Resolution are approved and confirmed in all respects hereby.

SECTION 10. NO PERSONAL LIABILITY. No representation, statement, covenant, warranty, stipulation, obligation or agreement herein contained, or contained in any certificate or other instrument to be executed on behalf of the County in connection with the Surplus Housing Program, shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation or agreement of any member of the Board, officer, employee or agent of the County in his or her individual capacity, and none of the foregoing persons nor any officer of the County executing any certificate or other instrument to be executed in connection with the Surplus Housing Program shall be subject to any personal liability or accountability by reason of the execution or delivery thereof.

SECTION 11. REPEAL OF INCONSISTENT PROVISIONS. All resolutions or parts thereof in conflict with this Resolution are hereby repealed to the extent of such conflict.

SECTION 12. SEVERABILITY. In the event that any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Resolution which shall remain in full force and effect.

SECTION 13 ADMINISTRATIVE MATTERS. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor or context of this Resolution, then this Resolution may be revised without subsequent approval of the Board.

SECTION 14. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

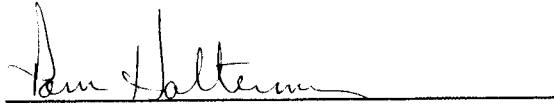
PASSED, APPROVED AND ADOPTED this 19<sup>th</sup> day of July, 2011.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

  
Its Chair

(OFFICIAL SEAL)

ATTEST:

  
Deputy Its Clerk

RENDITION DATE 7/21/11

Exhibit A

Form of Interlocal Agreement

**INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA,  
AND HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, FLORIDA,  
RELATING TO ST. JOHNS COUNTY'S  
SURPLUS PROPERTIES WORKFORCE HOUSING PROGRAM**

**THIS INTERLOCAL AGREEMENT** (hereinafter referred to as the "Agreement"), entered into on this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between ST. JOHNS COUNTY, a political subdivision of the State of Florida, located at 500 San Sebastian View, St. Augustine, Florida 32082 (hereinafter referred to as the "County"), and the HOUSING FINANCE AUTHORITY OF ST. JOHNS COUNTY, a public body corporate and politic of the State of Florida, located at 102 M. L. King Avenue, Suite B, St. Augustine, Florida 32084 (hereinafter referred to as the "HFA"):

**WITNESSETH:**

**WHEREAS**, the County acquired title by foreclosure to two (2) unfinished residential properties in St. Augustine, Florida, on 9<sup>th</sup> Street and Whitney Street, in connection with its prior Fannie Mae housing construction loan program (each a "Property" and collectively, the "Properties"); and

**WHEREAS**, the County declared the Properties as County surplus properties, offered the Properties for sale and received no acceptable bids for the Properties; and

**WHEREAS**, the County has determined that the Properties will be more marketable if construction is completed and the Properties should continue to be utilized to provide workforce housing within the County as a part of a County workforce housing program which is primarily intended to utilize appropriate County surplus housing properties for workforce housing which, once acquired (and refurbished as needed), will be sold by the County to low or moderate income households or sold for low or moderate income rental housing (the "Surplus Housing Program"); and

**WHEREAS**, the County recognizes the importance of the Surplus Housing Program to serve the housing needs of St. Johns County; and

**WHEREAS**, the County currently utilizes the HFA in connection with certain aspects of the County's Neighborhood Stabilization Program ("NSP Program"); the Properties are on the same streets, and were constructed by the same original builder, as certain NSP properties; and certain consultants, suppliers, vendors, contractors and other service providers (the "NSP Providers") have heretofore been approved to provide services relating to the NSP Program and are familiar with the similar NSP properties; and

**WHEREAS**, the County has determined that it is necessary, desirable and in the best interest of the County to complete the construction and sell the Properties as quickly and

efficiently as possible in order to, among other things, recoup all or a part of its costs in the Properties; and

**WHEREAS**, the County has determined that it is necessary, desirable and in the best interest of the County to utilize the HFA to assist the County with certain aspects of the Surplus Housing Program related solely to the rehabilitation and disposal of the Properties and the HFA has agreed to assist the County with such aspects of the Surplus Housing Program, all in the manner hereinafter provided; and

**WHEREAS**, the County and the HFA now desire to set forth their agreement regarding the Surplus Housing Program in this Agreement;

**NOW THEREFORE**, in consideration of the mutual promise and covenants contained herein, the County and the HFA agree as follows:

### **SECTION 1 – AUTHORITY**

The above recitals are incorporated into the body of this Agreement, and said recitals are adopted as findings of fact. The parties are authorized to enter into this Agreement by Section 163.01, Florida Statutes, as amended. The County is authorized to enter into contracts under Section 125, Florida Statutes, as amended. The HFA is authorized to enter into contracts pursuant to Section 159.608(1), Florida Statutes, as amended.

### **SECTION 2 – DEFINITIONS**

“Task List” means Primary Tasks and Primary Responsible Entity List attached hereto as Exhibit A.

### **SECTION 3 – DIVISION OF WORK**

3.0 The County shall continue to own the Properties until sold to a housing buyer and shall be responsible for those aspects of the Surplus Housing Program designated as the responsibility of the County in the Task List and the other related aspects of the Surplus Housing Program.

3.1 The HFA shall be responsible only for those aspects of the Surplus Housing Program designated as the responsibility of the HFA in the Task List and any related aspects of the Surplus Housing Program and agrees to undertake the rehabilitation and disposal of the Properties in accordance with this Agreement.

(a) Notwithstanding HFA or County existing procurement policies, in order to reduce costs and time delays, the County shall, and hereby directs the HFA and the HFA hereby agrees to, utilize the NSP Providers in connection with the Surplus Housing Program at substantially the same fees for services provided under the NSP Program when possible and/or obtain as needed from all applicable qualified NSP Providers acceptable fee proposals and select the lowest most responsive, responsible proposal for services needed in connection with the Surplus Housing

Program and/or, if any additional or different services are needed in connection with the Surplus Housing Program, utilize essentially the same procurement procedures utilized for the NSP Program.

(b) With respect to any insurance obtained by or on behalf of the County or the HFA relating to the Surplus Housing Program, each party shall ensure that such insurance remains in full force and effect until the applicable Property is sold by the County.

(c) The County and any of its duly authorized representatives shall have access to any books, documents, papers and records of the HFA which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcriptions.

(d) As a condition of entering into this Agreement, and to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the HFA authorizes the County to examine, review, inspect and/or audit the HFA's books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the HFA is under no duty to provide access to documentation not related to this Agreement or otherwise protected by County, state, or federal law.

3.2 The County and the HFA both agree to implement the Surplus Housing Program (a) cooperatively, (b) with due diligence under a mutually agreed schedule, (c) ensuring that the necessary resources are made available in a timely manner and (d) in a manner that will contribute to all portions of the overall effort being completed under the terms of the Surplus Housing Program and this Agreement.

#### **SECTION 4 – PAYMENT OF COSTS**

4.0 The County shall pay to the HFA all funds required for the rehabilitation and disposal of the Properties.

4.1 The HFA shall not be required to expend any of its own funds in connection with the Surplus Housing Program but shall be paid for all HFA expenditures relating to the Surplus Housing Program from available funds of the County.

4.2 The County and the HFA agree that the County may use to pay such HFA expenditures funds set aside by the County for the HFA in connection with the County's CWHIP housing program, provided that all amounts so used will be returned by the County to such funding set aside upon the sale of the applicable Property prior to any other application of sale proceeds.

4.3 Upon the sale of each Property, after application of funds as provided in Section 4.2 above, the County shall pay to the HFA a fee equal to the greater of (a) 5% of the sales price of such Property or (b) \$5,000 for the HFA's assistance to the County in connection with the Surplus Housing Program. The remainder of the sales proceeds shall be retained by the County.



## SECTION 5 – TERM AND TERMINATION

5.0 The term of this Agreement shall commence on the day and year first above written and shall continue in full force and effect until the termination of the Surplus Housing Program; provided however that this Agreement may be terminated for cause and/or convenience as follows:

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (i) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (ii) an opportunity for consultation with the terminating party prior to termination.

(b) This Agreement may be terminated in whole or in part in writing by the County for its convenience, provided that the HFA is afforded the same notice and consultation opportunity specified in (a) above.

(c) If termination for default is effected by the County, an equitable adjustment in the amounts to be paid to the HFA under this Agreement shall be made, but any payment due to the HFA at the time of termination may be adjusted to cover any additional costs to the County because of the HFA's default.

(d) If termination for convenience is effected by the County, an equitable adjustment in the amounts to be paid to the HFA under this Agreement shall be made, which equitable adjustment shall include a reasonable profit for services or other work performed by the HFA in connection with the Surplus Housing Program.

(e) For any termination, such equitable adjustment shall provide for payment to the HFA for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the HFA relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.

(f) Upon receipt of a termination action under (a) or (b) above, the HFA shall (i) promptly discontinue all affected work (unless the notice directs otherwise) and (ii) deliver or otherwise make available to the County all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the HFA in performing this Agreement, whether completed or in process.

(g) Upon termination, the County may take over the work and may award another party a contract to complete the work described in this Agreement.

(h) If, after termination for failure of the HFA to fulfill its obligations hereunder, it is determined that the HFA had not failed to fulfill such obligations, the termination shall be

deemed to have been for the convenience of the County. In such event, adjustment of the amounts paid to the HFA shall be made as provided in paragraph (d) above.

## SECTION 6 – GENERAL PROVISIONS

6.0. The County and the HFA each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants and provisions of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer, emmployee or agent of the County or the HFA, nor shall it be construed as giving any right or benefit hereunder to anyone other than the County, the HFA, their successors and assigns.

6.1 Both parties agree to comply with all applicable laws, rules and regulations, federal, state and local, in its performance under this Agreement and its implementation.

6.2 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable state or federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

6.3 No waiver by either party at any time of any of the terms, conditions, covenants, and agreements herein, or of any default, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or agreement herein contained, nor of the strict and prompt performance thereof.

6.4 This Agreement constitutes the entire Agreement between the County and the HFA. No statement, representation, writing, understanding, agreement, course of action or course of conduct, made by either party, or any representative of either party, which is not expressed herein shall be binding. No change in, modification of, or supplement to this Agreement shall be valid or enforceable unless it is enacted in writing and signed by the duly authorized representatives of the County and the HFA by formal amendment.

6.5 This Agreement and the provisions contained herein shall be governed by and construed in accordance with the laws of the Sate of Florida. Unless otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between the County and the HFA, arising out of or relating to this Agreement, or the breach of it, will be decided by arbitration if the parties mutually agree or in a Florida court of competent jurisdiction. In any action, in equity or law, with respect to the enforcement or interpretation of this Agreement, venue shall be in St. Johns County, Florida.

6.6 If any part of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable part shall be deemed severable and the remaining parts of this Agreement shall continue in full force and effect, provided that the rights and obligations of the parties are not materially prejudiced and the intention of the parties continue to be effected.

6.7 All notices specifically required hereunder (“Official Notices”) to be delivered to the County shall be delivered either by hand (receipt of delivery required), or by certified mail to:

County Administrator  
St. Johns County  
500 San Sebastian View  
St. Augustine, FL 32084

With a copy to the County Attorney at the same address.

All Official Notices to be delivered the HFA shall be delivered either by hand (receipt of delivery required), or by certified mail to:

Chair  
Housing Finance Authority of St. Johns County  
102 M. L. King Ave., Suite B  
St. Augustine, FL 32084

All other correspondence, not classified as Official Notices, may be delivered, disseminated, and/or submitted by any means acceptable to both parties, specifically including, faxing or e-mailing.

6.8 This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all counterparts together shall constitute one and the same instrument.

6.9 The Clerk of Circuit Court of the St. Johns County, Florida, is hereby authorized and directed, after approval and execution of this Agreement by the parties hereto, to file this Agreement in accordance with the requirements of Section 163.01(11), Florida Statutes, as amended.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the date first set forth above.

ST. JOHNS COUNTY, FLORIDA

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Chair of its Board of County Commissioners

By: \_\_\_\_\_  
Clerk of its Board of County  
Commissioners

**LEGALLY SUFFICIENT**  
*Erica D. Moore*  
Name  
Date 7-1-2011

HOUSING FINANCE AUTHORITY OF ST.  
JOHNS COUNTY, FLORIDA

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
Secretary

Exhibit A

Surplus Properties Workforce Housing Program  
Primary Tasks and Primary Responsible Entity

Activity	County	HFA
Preparation of HFA Interlocal Agreement		X
Preparation of Other Program Contract Documents		X
Coordinate Selection of:		
Property Insurers	X	
Rehab Specifications Contractor		X
Contractors		X
Title Company, if needed		X
Surveyor, if needed		X
Environmental Firms, if needed		X
Mold Testing and Abatement		
Radon Gas Inspection		
Chinese Drywall Inspection		
Termite Inspection		
Appraiser, if needed		X
Ground Maintenance Companies		X
Preparation of all Draw Requests		X
Coordination of Environment Inspections, if needed		X
Mold Testing and Abatement		
Radon Gas Inspection		
Chinese Drywall Inspection		
Termite Inspection		
Phase 1		
Preparation of Rehabilitation Estimates		X
Coordination of Surveys, if needed		X
Coordination of Title Search		X
Coordination of Rehabilitation Bids		X
Final Approval of Rehabilitation Bids	X	

Activity	County	HFA
Preparation of Rehabilitation Contracts		X
Coordination of Construction Inspections		X
Coordination of Property Insurance until Sale	X	
Coordination of Security until Sale		X
Coordination of Grounds Maintenance and Home Maintenance until Sale		X
Marketing of Homes for Sale		X
Preparation of Information Packets and Pre-approval Applications for Potential Homebuyers		X
Identification of Potential Homebuyer Applicants		X
Qualification of Applicants for Purchase		X
Coordination of Selection of Qualified Homebuyers		X
Coordination of Homebuyer Counseling, if needed		X
Coordination of Sale of Property to Buyer		X
Deed Restrictions/Terms for Ownership Properties		X
Deed Restrictions/Terms for Rental Properties, if needed		X
Coordination of Closeout Documentation after Sale		X
Long Term Rental Compliance Monitoring, if needed	X	

Dated 6-23-11