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Cook County Recorder of Deeds  
Date: 10/18/2010 12:26 PM Pg: 1 of 15

Deutsch, Levy & Engel, Chartered  
225 W. Washington St., Suite 1700  
Chicago, Illinois 60606  
Attention: Jeffrey B. Horwitz. Esq.

8564834 2 all @ CND

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## REGULATORY AND LAND USE RESTRICTION AGREEMENT

**THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT** ("Agreement"), is made and entered into as of this 7<sup>th</sup> day of October, 2010, by and between **MELROSE PARK NSP I, LLC**, an Illinois Limited Liability company having an address of 1818 S. Paulina Street, Chicago, Illinois 60608 (the "Owner"), and the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY** ("Authority"), a body politic and corporate of the State of Illinois, created and existing pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 *et seq.* (1994) ("Act"), having its principal offices at 401 N. Michigan Avenue, Suite 700, Chicago, Illinois 60611.

### RECITALS

A. The Authority has applied for and received an allocation of funds ("NSP Funds") from the United States Government under the Neighborhood Stabilization Program (the "Neighborhood Stabilization Program") as authorized by Title III of Division B of the Housing and Economic Recovery Act of 2008, Public Law 110-289 ("HERA"), applicable NSP Laws, as the same may be amended and supplemented from time to time, and which are hereby incorporated herein by reference.

B. Proviso Township Mental Health Commission, a unit of local government created pursuant to and authorized by the Community Mental Health Act, as amended (405 ILCS 20/0.01 *et seq.* ("Subgrantee") has applied for an award of Neighborhood Stabilization Program funds, in connection with the Neighborhood Stabilization Program objective to benefit Low,

Box 334

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Moderate and Middle Income Persons as set forth in 24 CFR 570, as supplemented by the October 2008 Notice and the June 2009 Notice, and as further amended, supplemented or revised from time to time (the "National Objective").

C. Subject to the terms and conditions set forth in that certain Neighborhood Stabilization Program Agreement, dated as of April 8, 2010, the Authority agreed to award Subgrantee a portion of the NSP Funds to be used by Subgrantee in connection with certain activities in furtherance of the National Objective and other uses of NSP Funds permitted under the NSP Laws (the "NSP Allocation Agreement"). The NSP Allocation Agreement and all other documents executed by Subgrantee and/or Owner which evidence, secure or govern the foregoing are hereinafter sometimes collectively referred to as the "Allocation Documents". Terms not otherwise defined herein shall have the meanings given thereto in the NSP Allocation Agreement.

D. The Subgrantee and The Resurrection Project, an Illinois not-for-profit corporation ("Developer") entered into that certain Neighborhood Stabilization Program Loan Agreement dated as of June 3, 2010 (the "Development Agreement"), and which was thereafter acknowledged, agreed to and joined by Owner as of September 1, 2010, whereby the Subgrantee Developer and Owner agreed that the Subgrantee would allocate a portion of the NSP Funds granted to Subgrantee pursuant to the NSP Allocation Agreement for an Eligible Use by Owner for the real property commonly known as 1307 N. 22<sup>nd</sup> Ave., Melrose Park, Illinois 60160, more particularly described in Exhibit A attached hereto and made a part hereof (individually and collectively known as the "Property") conditioned upon the Owner entering into this Agreement (the "Developer Allocation") and therefore, in consideration of the foregoing, the Owner agrees to comply with the terms, conditions and covenants set forth below, and consents to be regulated and restricted by the Authority as herein provided and as provided for in the NSP Laws, and any additional rules, regulations, policies and procedures of HUD or the Authority promulgated from time to time, all as the same may be amended and supplemented from time to time, and as applicable.

## AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. **RECITALS.** The foregoing recitals are made a part of this Agreement with the intention that the Authority may rely on said recitals as representations and warranties of the Owner.
2. **GENERAL CONDITIONS.** This Agreement and the Developer Allocation shall be subject to, and Subgrantee agrees to comply with the requirements of Title 24 of the CFR, Part 570 ("24 CFR 570") (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants ("CDBG")), as supplemented or modified pursuant to the October 2008 Notice, the June 2009 Notice and the April 9, 2010 Notice and all other rules or guidance promulgated by HUD or the Authority from time to time, together with the Authority's Neighborhood Stabilization Program requirements set forth in NSP Manual, and the

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requirements of Title 24 of the CFR, Part 92 (the "HOME Regulations"), all as they may be amended and supplemented from time to time.

3. **COVENANTS, REPRESENTATIONS AND WARRANTIES.** The Owner covenants, represents and warrants to the Authority as follows:

a. **Title.** The Owner holds fee simple title to the Property.

b. **Use of Developer Allocation.** Owner shall use the Developer Allocation solely, (i) in connection with the Neighborhood Stabilization Program; (ii) to further the National Objective; and (iii) in connection with the activities to be taken or performed by Subgrantee and Owner in connection with the use of the Developer Allocation for the Eligible Use activities on the Property as specifically described in Exhibit A to the NSP Allocation Agreement (collectively, the "Project"). Owner shall use the Developer Allocation in accordance with all NSP Laws and all directives of HUD, the Authority, State or other governmental agency which may be prescribed from time to time, and for no other purpose other than for an Eligible Use without the prior written consent of the Authority, which consent may be withheld by the Authority in its sole and absolute discretion.

4. **NEIGHBORHOOD STABILIZATION PROGRAM REQUIREMENTS.** Owner further covenants, represents and warrants to Authority as follows:

a. **Governmental Approvals.** The Owner shall obtain or cause to be obtained all Federal, State and local governmental approvals required by law for the Project.

b. **Compliance With Laws.** The Owner shall cause the Property to comply with all state, federal and local codes, ordinances, zoning ordinances, including but not limited to, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*), the Lead-Based Paint Exposure Reduction Act, 15 U.S.C. 2601 *et seq.*, and 24 C.F.R. 35, each as respectively amended from time to time, the Authority's Property Standards For Rehabilitated Housing and the United States Department of Housing and Urban Development's ("HUD") Section 8 Housing Quality Standards, as set forth in Section 371.601 of the Rules. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with the Developer Allocation provided under this Agreement, Owner shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Authority and the United States are beneficiaries of and entitled to enforce such covenants. Owner, in undertaking its obligation to carry out the Neighborhood Stabilization Program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

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c. Priority for Areas of Greatest Need. Owner shall use the Developer Allocation solely for the benefit of the Areas of Greatest Need. Areas of Greatest Need include those target areas published by HUD and/or the Authority from time to time.

d. Acquisition of Real Estate. To the extent Owner uses the Developer Allocation granted to Subgrantee to acquire Foreclosed homes or residential property as contemplated by the Neighborhood Stabilization Program, Owner shall purchase, develop, improve, sell and rent such real property in accordance with all NSP Laws, including the following:

i. Owner's acquisition price for any real property purchased with the assistance of the Developer Allocation shall be at a discount from the Current Market Appraised Value; and

ii. The minimum discount on any single piece of property shall be not less than 1% from the Current Market Appraised Value or such other discount percentage as published by HUD or as the Authority otherwise determines from time to time.

e. Compliance with NSP Manual. Owner shall comply, and shall cause the Project to comply, with all NSP Laws and all terms, conditions, covenants and restrictions identified in the NSP Manual, as the same may be amended and supplemented from time to time, in connection with the Eligible Use to be undertaken by Subgrantee and Owner in connection with its application of the Developer Allocation. Owner shall further comply, and cause the Project to comply, with all other rules, regulations and guidance otherwise promulgated by HUD or the Authority from time to time.

f. Continued Affordability. Owner shall ensure that the sale, rental, improvement or redevelopment of Abandoned and Foreclosed homes and residential properties purchased or rehabilitated with the Developer Allocation remain affordable to individuals or families whose income does not exceed 120% of area median income. Owner shall ensure that for properties purchased or rehabilitated with assistance from the Developer Allocation, under the requirements of Section 2301(f)(3)(A)(ii) of HERA, such properties remain affordable to individuals and families whose income does not exceed 50% of area median income. Exhibit B sets forth the units created by the Developer Allocation which shall be designated to benefit individuals or families whose income does not exceed 50% of the area median income, and for the foregoing units Owner shall comply with the HOME program affordability standards at 24 CFR 92.252(a), (c), (e) and (f), and 92.254, as applicable, as supplemented by the following: the rent levels for Neighborhood Stabilization Program assisted properties shall follow the maximum "HIGH" and "LOW" HOME rents established by HUD for the HOME Investment Partnership Program for households at very-low and low income levels and other rent levels under the Neighborhood Stabilization Program are calculated based on the extrapolation from the LOW HOME rents (50%) area median income. Changes in the Neighborhood Stabilization Program's rent schedules may occur based on changes in the

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annual HUD published HOME rent schedule. If the Developer Allocation is used to assist a real property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, Owner shall revive the HOME affordability restrictions for the longer of the remaining period of HOME affordability or the continuing affordability requirements of this Agreement. Upon the sale, conveyance or transfer of the fee simple ownership of the Property, Owner shall ensure that said transferee complies with the affordability requirements set forth herein and Owner understands and acknowledges that any default or breach of said affordability requirements following such sale, conveyance or transfer shall constitute a violation of this Agreement.

g. Cooperation. The Owner understands and agrees that the Owner shall cooperate at all times with the Authority, Subgrantee and the Owner's contractor(s), if any, and will do all acts necessary to facilitate the Project.

h. Insurance. Owner and any subsequent owners of the Property shall keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Property continuously insured against loss or damage by fire or other hazards, and such other appropriate insurance as may be required by the Authority, all in form and substance reasonably satisfactory to the Authority.

5. OCCUPANCY AND RENTAL RESTRICTIONS. The Owner further covenants that:

a. Occupancy Restrictions. The units in the Project rehabilitated with proceeds from the Developer Allocation, as detailed on Exhibit B attached hereto and incorporated herein, shall provide affordable housing in compliance with the Neighborhood Stabilization Program objective to benefit Low, Moderate and Middle Income Persons as set forth in 24 CFR 570, as supplemented by the October 2008 Notice and the June 2009 Notice, and as further amended, supplemented or revised from time to time (the "National Objective").

b. Rental Restrictions. During the Affordability Period, the rents for units in the Project, as applicable, shall comply with the NSP Laws, including, without limitation, 24 CFR Part 92.252. The initial rents for units in the Project are to be occupied by Low, Moderate and Middle Income Persons in the number of units detailed on Exhibit B attached hereto and incorporated herein in compliance with the rental provisions provided in paragraph 4(f) above. The Owner shall recalculate the maximum monthly rent annually, and may change such maximum rent as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increases in rents for Low, Moderate and Middle Income units are subject to the provisions of outstanding leases, and in any event, the Owner must provide tenants of those units not less than thirty (30) days' prior written notice before implementing any increase in rents.

c. Certification of Income. Owner shall obtain from each Low, Moderate and Middle Income Persons applying for a Developer Allocation assisted unit in the Project, prior to their admission to the Project, a certification of income ("Certification"), and at

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such intervals thereafter as required by the Authority, but not less than annually during the Affordability Period, a recertification of such income ("Recertification") from each such family. The Owner shall submit such Certifications and Recertifications, and such other certifications as the Authority may require, to the Authority in the manner prescribed by the Authority.

6. **AFFORDABILITY PERIOD.** Subject to termination in the event of foreclosure or transfer in lieu of foreclosure as provided in 24 CFR 92.252(e), the occupancy and rental restriction provisions of this Section 6 shall remain in effect for a period of fifteen (15) years ("Affordability Period"). In the event of foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Project, the Agency shall have the right, but not the obligation, to acquire the Project prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions as provided in 24 CFR 92.252.

7. **RECORDS.** At the request of the Authority, the Owner shall furnish such records and information as required by the Authority in connection with the maintenance, occupancy and physical condition of the Property.

8. **DEFAULT.** The occurrence of any violation of the provisions of this Agreement or upon a default under any of the other Allocation Documents by the Owner shall be an "Event of Default" hereunder. The Authority shall give written notice of an Event of Default of any of the terms and conditions under this Agreement to the Owner and/or the Subgrantee, as provided in Section 12 hereof. If such Event of Default is not cured to the satisfaction of the Authority within fifteen (15) days after the date such notice is mailed, or within such further time as the Authority in its sole discretion permits, the Authority may declare a default ("Default") under this Agreement, effective on the date of such declaration of Default and notice thereof to the Owner, and upon such Default the Authority may:

a. Withhold further disbursements of the Developer Allocation from the Subgrantee;

b. Recapture any grants or awards and cancel any prior loan forgiveness, if applicable, previously made pursuant to the Allocation Documents;

c. Take possession of the Project, bring any action necessary to enforce any rights of Subgrantee and/or Owner in connection with the operation of the Project and operate the Project in accordance with the terms of this Agreement until such time as Authority, in its sole discretion, determines that Owner is again in a position to operate the Project in accordance with the terms of this Agreement and in compliance with the requirements of the Allocation Documents;

d. Apply to any State or Federal court, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Project in accordance with the terms of this Agreement, or for such other relief as may be appropriate. Because the injury to the Authority arising from a default under any of the terms of this Agreement would be irreparable and the amount of damages would be difficult to ascertain, Owner acknowledges and agrees that in the event of a violation of

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this Agreement, the Authority's remedies at law would be inadequate to assure the Authority's public purpose under the Neighborhood Stabilization Program;

e. Use and apply any monies deposited by Subgrantee and/or the Owner with the Authority regardless of the purpose for which the same were deposited, to cure any such default or to repay any indebtedness under the Allocation Documents which is due and owing to the Authority; and/or

f. Exercise such other rights or remedies as may be available to the Authority hereunder, under any other Allocation Documents, at law or in equity.

Authority's remedies are cumulative, and the exercise of one remedy shall not be deemed an election of remedies, nor foreclose the exercise of any other remedy by the Authority. No waiver of any breach of this Agreement by the Authority shall be deemed to be a waiver of any other breach or a subsequent breach. If the Authority fails to exercise, or delays in exercising, any right under this Agreement, such failure or delay shall not be deemed a waiver of such right or any other right.

**9. TERM OF AGREEMENT; COVENANTS RUN WITH PROPERTY.** The covenants, conditions, restrictions and agreements set forth in this Agreement (collectively, "Obligations") shall be deemed to run with, bind and burden the Property and shall be deemed to bind any future owners of the Property and the holder of any legal, equitable or beneficial interest therein during the Affordability Period. The Owner shall, if so requested by the Authority, execute a written memorandum, prepared by the Authority, which memorandum shall memorialize said date of project completion and the commencement of the foregoing Affordability Period. Any waiver by the Authority of its right to prepare or record any such memorandum and any failure by the Owner to execute and deliver the same shall not affect the validity or enforceability of the Obligations. In the event of a foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Property, the Authority shall have the right, but not the obligation, to acquire the Property prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions as provided in Section 92.252 of the HOME Regulations.

It is hereby expressly acknowledged by Owner that the undertaking of the Obligations by Owner is given to induce the Authority to make the Developer Allocation and that, the Owner's undertaking to perform the Obligations for the full Affordability Period set forth in the previous paragraph is a condition precedent to the willingness of the Authority to make the Developer Allocation.

**10. INDEMNIFICATION.**

a. The Owner hereby agrees to indemnify the Authority and its officers, agents, employees or servants against, and hold them harmless from, liabilities, claims, damages, losses and expenses, including, but not limited to, legal defense costs, attorneys' fees, settlements or judgments, whether by direct suit or from third parties, arising out of the Owner's performance under this Agreement or the work performed by a contractor in connection with the Project, in any claim or suit brought by a person or third party against the Authority or its officers, agents, employees or servants.

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b. If a claim or suit is brought against the Authority or its officers, agents, employees or servants, for which the Owner is responsible pursuant to subsection 10(a) above, the Owner shall defend, at the Owner's cost and expense, any suit or claim, and shall pay any resulting claims, judgments, damages, losses, costs, expenses or settlements against the Authority or its officers, agents, employees or servants.

11. **AMENDMENT.** This Agreement shall not be altered or amended except in a writing signed by the parties hereto.

12. **NOTICES.** Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing, at the addresses set forth above, by any of the following means: (a) personal service; (b) electronic communication, whether by telegram or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

Such addresses may be changed by notice to the other party given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective upon deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

13. **SUCCESSORS.** This Agreement shall bind, and the benefits shall inure to, the parties hereto, their legal representatives, successors in office or interest and assigns, provided that the Owner may not assign this Agreement, its right to the Developer Allocation or any of its obligations hereunder without the prior written approval of the Authority.

14. **SURVIVAL OF OBLIGATIONS.** The Owner's obligations, as set forth in this Agreement, shall survive the disbursement of the Developer Allocation and the Owner shall continue to cooperate with the Authority and furnish any documents, exhibits or showings required.

15. **CONSTRUCTION OF AGREEMENT:**

a. **Partial Invalidity.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any circumstance, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application thereof to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, condition and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

b. **Gender.** The use of the plural in this Agreement shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.



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c. Captions. The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the intent of any provision of the Agreement.

d. Construction. This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

e. Third Party Beneficiary. The Authority is an intended third party beneficiary of this Agreement.

16. COUNTERPARTS. This Agreement may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Agreement must be produced or exhibited, be the Agreement, but all such counterparts shall constitute one and the same agreement.

17. WAIVER OF JURY TRIAL. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE NEIGHBORHOOD STABILIZATION PROGRAM OR THIS AGREEMENT.

[Signatures on Next Page]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

**OWNER:**

**MELROSE PARK NSP I, LLC.**  
an Illinois limited liability company

By: **THE RESURRECTION PROJECT,**  
an Illinois not-for-profit corporation,  
its sole member and manager

By: *Patricia DeAnde*  
Name: *Patricia DeAnde*  
Its: \_\_\_\_\_

**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

**OWNER:**

**MELROSE PARK NSP I, LLC,**  
an Illinois limited liability company

By: **THE RESURRECTION PROJECT,**  
an Illinois not-for-profit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**AUTHORITY:**

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Name: **Gloria L. Mesterre**  
Title: **Executive Director**

*NLS*

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STATE OF ILLINOIS)

SS

COUNTY OF Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Gloria L. Materna, personally known to me to be the Executive Director of the ILLINOIS HOUSING DEVELOPMENT AUTHORITY, and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that SHE signed and delivered the said instrument in HER capacity Executive Director of the ILLINOIS HOUSING DEVELOPMENT AUTHORITY, as HER free and voluntary act and deed and as the free and voluntary act and deed of said body politic and corporate of the State of Illinois, for the uses and purposes therein set forth.

Given under my hand and official seal this 5<sup>th</sup> day of October, 2010.



Margaret A. Vizzini  
Notary Public

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## EXHIBIT A

### Legal Description

LOT 1 IN CALIENDO'S SUBDIVISION OF LOTS 6, 7 AND 8 IN BLOCK 129 IN MELROSE, A SUBDIVISION OF LOTS 3, 4 AND 5 IN THE SUPERIOR COURT PARTITION OF THE SOUTH ½ OF SECTION 3 AND ALL OF SECTION 10, LYING NORTH OF THE CHICAGO AND NORTHWESTERN RAILROAD IN TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERICIAN, IN COOK COUNTY, ILLINOIS.

Tax Parcel Number: 15-03-311-018-0000

Property Address: 1307 N. 22<sup>nd</sup> Avenue, Melrose Park, Illinois 60160

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## EXHIBIT B

### Number and Type of Neighborhood Stabilization Program Units

No. of Units	Type of Household
2	Moderate-Middle-Income (51%-120%AMI)

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