

# CITY OF HUNTINGTON PARK

## City Council Agenda Monday, March 18, 2013

6:00 p.m.  
City Hall Council Chambers  
6550 Miles Avenue  
Huntington Park, CA 90255

**Andy Molina**  
Mayor

**Elba Guerrero**  
Vice Mayor

**Mario Gomez**  
Council Member

**Ofelia Hernandez**  
Council Member



**Rosa E. Perez**  
Council Member

All agenda items and reports are available for review in the City Clerk's Office and [www.huntingtonpark.org](http://www.huntingtonpark.org). Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection in the Office of the City Clerk located at 6550 Miles Avenue, Huntington Park, California 90255 during regular business hours, 7:00 a.m. to 5:30 p.m., Monday – Thursday, and at the City Hall Council Chambers during the meeting.

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the City Clerk's Office either in person at 6550 Miles Avenue, Huntington Park, California or by telephone at (323) 584-6230. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

### **Public Comment**

The Council encourages all residents of the City and interested people to attend and participate in the meetings of the City Council.

Prior to the business portion of the agenda, the City Council and all other agencies meeting on such date will convene to receive public comments regarding any agenda items or matters within the jurisdiction of such governing bodies. This is the only opportunity for public input except for scheduled public hearing items. The Mayor or Chairperson will separately call for testimony at the time of each public hearing. If you wish to address the Council, please complete the speaker card that is provided at the entrance to the Council Chambers and place it in the box at the podium. When called upon by the Mayor or Mayor's designee, each person addressing the Council shall step up to the microphone and state his/her name or organization he/she represents for the record. Each speaker will be limited to three minutes per Huntington Park Municipal Code 2-1.207. Time limits may not be shared with other speakers and may not accumulate from one period of public comment to another or from one meeting to another. All comments or queries shall be addressed to the Council as a body and not to any specific member thereof. Pursuant to Government Code Section 54954.2(a)(2), the Ralph M. Brown Act, no action or discussion by the City Council shall be undertaken on any item not appearing on the posted agenda, except to briefly provide information, ask for clarification, provide direction to staff, or schedule a matter for a future meeting.

### **Additions/Deletions**

Items of business may be added to the agenda upon a motion adopted by a minimum two-thirds vote finding that there is a need to take immediate action and that the need for action came to the attention of the City or Agency subsequent to the agenda being posted. Items may be deleted from the agenda upon the request of staff or Council.

### **Consent Calendar**

All matters listed under the Consent Calendar are considered to be routine and will all be enacted by one motion. The City Council Members have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the Council votes on the motion unless members of the Council, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for separate action.

### **Important Notice**

The City of Huntington Park shows replays of City Council Meetings on Local Access Channel 3 and over the Internet at [www.huntingtonpark.org](http://www.huntingtonpark.org). Your attendance at this public meeting may result in the recording and broadcast of your image and/or voice as previously described.

PLEASE SILENCE ALL PAGERS, CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE COUNCIL IS IN SESSION.

Thank you.

**1. INVOCATION**

**2. FLAG SALUTE:**

Carla Gonzalez, student at Lucille Roybal-Allard Elementary School.

- 3. ROLL CALL:** Mayor Andy Molina  
Vice Mayor Elba Guerrero  
Council Member Mario Gomez  
Council Member Ofelia Hernandez  
Council Member Rosa E. Perez

**4. PRESENTATIONS**

- 4.1** Presentation to student who led the flag salute: Carla Gonzalez.
- 4.2** Proclamation declaring April 2013 as Fair Housing Month.
- 4.3** Present Certificate of Recognition to Daniel Muñoz "El Ausente" for winning the national contest of "La Musica Del Futbol Mexicano" and for his rendition of "Corre No Te Detengas" chosen as the official sports anthem of Univision Network covering the 2013 Liga MX Soccer League.
- 4.4** Presentation of Plaques to Andy Molina in recognition of outstanding leadership, guidance and service to the community during his successful term as Mayor in 2012-2013; and Council Member in 2009-2013.
- 4.5** Presentation of Plaques to Elba Guerrero in recognition of outstanding leadership, guidance and service to the community during her successful term as Vice Mayor in 2012-2013; and Council Member in 2005-2013.

**5. PUBLIC COMMENTS**

Each speaker will be limited to three minutes per Huntington Park Municipal Code Section 2-1.207.

## **6. CONSENT CALENDAR**

### **OFFICE OF THE CITY CLERK**

**6.1** Approve minutes of the following City Council meetings:

- 6.1-1** Regular meeting held Tuesday, January 22, 2013
- 6.1-2** Regular meeting held Monday, February 4, 2013
- 6.1-3** Special meeting held Tuesday, February 12, 2013
- 6.1-4** Regular meeting held Tuesday, February 19, 2013

**6.2** Approve the reading by title of all ordinances and resolutions. Said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

### **FINANCE DEPARTMENT**

**6.3** Approve Accounts Payable and Payroll Warrants dated March 18, 2013.

**6.4** Dance and Entertainment Permit for El Campesino Restaurant as approved by the Police, Community Development, and Fire Departments.

#### **RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Approve a Dance and Entertainment Permit for El Campesino Restaurant as approved by the Police, Community Development, and Fire Departments.

### **END OF CONSENT CALENDAR**

## **7. HEARING**

**7.1** **Public hearing to consider the City of Huntington Park's Housing and Community Development needs.**

#### **RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Conduct a public hearing to elicit comment regarding the City's housing and community development needs in preparation of the Fiscal Year 2013-2014 Annual Action Plan.
2. Receive and file the Draft Fiscal Year 2013-2014 Annual Action Plan and authorize City staff to publish a notice initiating the 30-day public review period.

## **8. REGULAR AGENDA**

### **OFFICE OF THE CITY CLERK**

- 8.1 Resolution reciting the fact of the General Municipal Election held on March 5, 2013 declaring the result and such other matters as provided by law.**

#### **RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Adopt Resolution No. 2013-8 reciting the fact of the General Municipal Election held on March 5, 2013 declaring the result and such other matters as provided by law.

### **COMMUNITY DEVELOPMENT DEPARTMENT**

- 8.2 Resolution terminating two delegation and conveyance agreements between the City of Huntington Park Community Development Commission and the City of Huntington Park.**

#### **RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Adopt Resolution No. 2013-9 acting as Successor Agency to the City of Huntington Park Community Development Commission, terminating a delegation and conveyance agreement between the City of Huntington Park Community Development Commission and the City of Huntington Park for property located at 6100-6114 Carmelita Avenue, 6126 Bear Avenue and 3806-3629 East 61st Street, and terminating a delegation and conveyance agreement between the City of Huntington Park Community Development Commission and the City of Huntington Park for property located at 5959-6169 South Alameda, and directing the reconveyance of the property conveyed to the City pursuant to those agreements.

- 8.3 Agreement with Neighborhood Housing Services of Los Angeles County to provide housing services to the City of Huntington Park.**

#### **RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Authorize the City Manager to enter into a no-cost service agreement for housing services with Neighborhood Housing Services of Los Angeles County.
2. Authorize the City Attorney to prepare a professional services contract.
3. Authorize the City Manager to execute the contract and all related documents.

**8. REGULAR AGENDA – (Continued)**

**COMMUNITY DEVELOPMENT DEPARTMENT**

**8.4 Affordable Housing Agreement between the City of Huntington Park and Huntington Park 607, LP for \$1.9 Million Loan to fund rehabilitation costs to the Rugby Senior Plaza Senior Housing Project.**

**RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Approve the Affordable Housing Agreement with Huntington Park 607, LP for rehabilitation costs at the Rugby Plaza Senior Housing Project.
2. Authorize the City Manager to execute all related documents for the transaction of the Rugby Plaza Senior Housing Project following City Attorney review and approval.

**8.5 Amendment to the Professional Services Contract with Primestor Development Inc. to prepare a Revitalization Strategy for Downtown Huntington Park.**

**RECOMMENDATION OF ITEM UNDER CONSIDERATION:**

1. Amend the professional services contract with Primestor Development Inc. to include additional services to the proposed agreement for the preparation of the Revitalization Strategy for the Downtown Huntington Park.
2. Authorize the City Attorney to amend the services in professional services contract.
3. Authorize the City Manager to execute the contract and all related documents.

**9. CITY MANAGER'S AGENDA**

**10. CITY ATTORNEY'S AGENDA**

## **11. WRITTEN COMMUNICATIONS**

## **12. COUNCIL COMMUNICATIONS**

- 12.1 Mayor Andy Molina
- 12.2 Vice Mayor Elba Guerrero
- 12.3 Council Member Mario Gomez
- 12.4 Council Member Ofelia Hernandez
- 12.5 Council Member Rosa E. Perez

## **13. CLOSED SESSION**

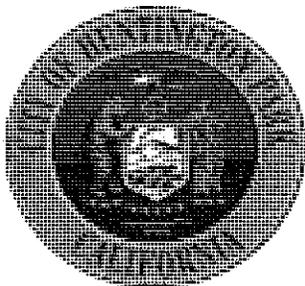
1. Pursuant to Government Code Section 54956.9(a),  
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
  
Name of Case: Central and West Basin Water Replenishment District v. Adams, LASC Case No. 786656.
  
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION,  
Significant exposure to litigation pursuant to California Government Code Section 54956.9(b): (1)

## **14. ADJOURNMENT**

NEXT REGULAR MEETING OF THE  
CITY OF HUNTINGTON PARK CITY COUNCIL  
MONDAY, APRIL 1, 2013 at 6:00 p.m.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on March 14, 2013 on the bulletin board outside City Hall and available at [www.huntingtonpark.org](http://www.huntingtonpark.org)

*Rosanna M. Ramirez*  
\_\_\_\_\_  
Rosanna M. Ramirez, City Clerk



# CITY OF HUNTINGTON PARK

Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

## **PROCLAMATION DESIGNATING APRIL 2013 AS FAIR HOUSING MONTH**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Proclaim April as Fair Housing Month.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Since the adoptions of the fair housing legislation in April 1968, the month of April has been designated annually as Fair Housing Month. Each year the U.S. Department of Housing and Community Development, and the Fair Housing Foundation organize events and activities during this month to focus attention on issues of equal opportunity in housing.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

This is the 45<sup>th</sup> anniversary of the Federal Fair Housing Act, the original legislation targeting the elimination of housing discrimination in the America. This act requires that all people be treated equally in connection with the sale or rental of housing, regardless of race, color, national origin, sex gender identity, disability, sexual orientation, martial status, age, familial status or religion.

### **CONCLUSION**

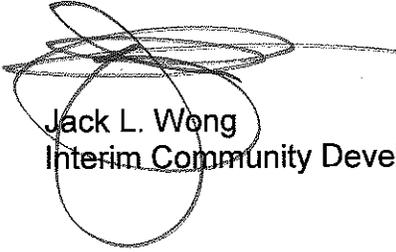
The proclamation will be presented to a Fair Housing Foundation representative at the City Council meeting.

Proclamation Designating April 2013 as Fair Housing Month  
March 18, 2013  
Page 2 of 2

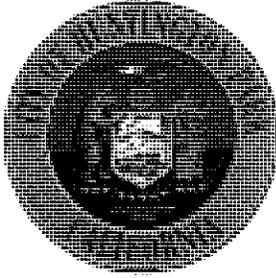
Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



Jack L. Wong  
Interim Community Development Director



**CITY OF HUNTINGTON PARK**  
FINANCE DEPARTMENT  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

**APPLICATION FOR DANCE AND ENTERTAINMENT PERMIT**

**IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Approval of the Dance and Entertainment for El Campesino Restaurant as approved by the Police Department, Community Development and Fire Department.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On January 30, 2013, the Finance Department received an application for a new Dance and Entertainment Permit, from the business owner of El Campesino Restaurant. El Campesino Restaurant is located at 6103 Pacific Blvd, Huntington Park, CA. The business owner is requesting to have a Dance and Entertainment Permit which would allow Live Mexican Music such as Mariachi, Banda and Norteno. The hours of Dance and Entertainment will be Wednesday to Sunday from 8:00pm to midnight. The entertainment and/or dancing will be conducted by the business owner. No admission fees will be charged at the entrance. The maximum number of people expected at any event is 50.

**FISCAL IMPACT/FINANCING**

N/A

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The City has investigated the applicant as outlined by Article 12 Dance, Section 3-1.1204 Permit: Applications: Investigations and Article 13: Entertainment Permits, Section 3-1.1307 Permits: Applications: Investigations.

March 18, 2013  
Page 2 of 2

The application was forwarded to the Police Department, Community Development and the Fire Department; for their investigation and inspection of the business. The Police Department approved the application with the following condition if occupancy exceeds 50 customers during entertainment hours, a security guard will be required. Community Development approved the application with the following condition, that the applicant shall comply will all conditions set forth within Planning Commission Resolution No. 1951. The Fire Department approved the permit with no conditions.

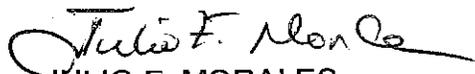
**CONCLUSION**

Upon approval of the Dance and Entertainment Permit the business owner will be issued a Revocable Dance and Entertainment Permit outlining the above conditions. The permit is signed by the Police Department and by the Business Owner as acceptance of the stated conditions.

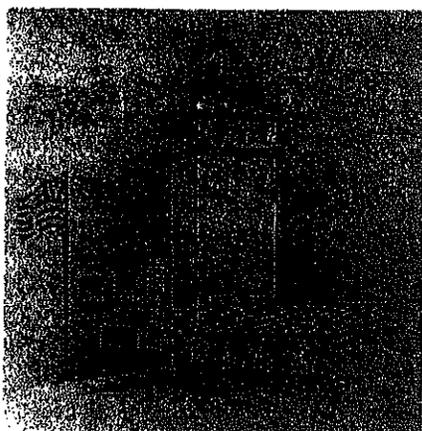
Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



JULIO F. MORALES  
Finance Director



Order: HNTGVXM Type: OC Drawer: 1  
 Date: 1/30/13 01 Receipt no: 53599  
 2013 21566  
 EL BUSINESS LICE 1 \$689.70  
 EL CAMPESINO RESTAURANT  
 CA CASH \$690.00

City of  
**HUNTINGTON PARK** Trans Date: 1/30/13 **california**  
 TEL (323) 584-6233 • FAX (323) 584-6238

NEW APPLICATION ( ) RENEWAL APPLICATION  
**APPLICATION FOR DANCE &/OR ENTERTAINMENT PERMIT**

**Instructions to the Applicant(s):**  
 1. Application must be filled out completely and accurately.  
 2. Use additional sheets, if necessary, to furnish the information requested in this application.  
 3. Additional information must be furnished to the Police Chief, Building Official and the Fire Department, upon request, for purpose of the investigation.

16929  
 13-21566

City of Huntington Park  
 6550 Miles Avenue  
 Huntington Park, Ca. 90255

App 21.70  
 SB 1184 1.00  
 TMTNOL 250.00  
 BOK 67.00  
 DATE 350.00  
 68970

Dear Sir/Madam:

The undersigned hereby applies to the City of Huntington Park for a permit to maintain, conduct and operate entertainment which would include but not be limited to: a (live show), (play), (performance), (revue), (pantomime), (musical show), (comedy), (video feed), (sporting event- live or video), (dance act), (piano bar), (trio), (combo), or (song and dance act), participated in by one or more persons and to maintain, conduct and operate (public dance hall), (dance club), (public dance), in conjunction with the entertainment designated in this paragraph.

The following information is furnished in accordance with the requirements of the Huntington Park Municipal Code:

**1. THE INFORMATION OF THE PLACE FOR WHICH PERMIT IS DESIRED OF WHICH ENTERTAINMENT AND DANCING IS PROPOSED TO BE HELD;**

- A. Business/Firm Name: El Campesino Restaurant
- B. Business Address: 6103 Pacific Blvd. Huntington Park CA  
90255
- C. Business Phone Number: (323) 581 0014
- D. Business Description: Restaurant

2. APPLICANT(S)/OWNER(S) IDENTIFICATION INFORMATION:

Sole Proprietorship ( ) Partnership ( ) Corporation - must name all officers on corporate list.

- A. Owner (Applicant) Name: Jose Orlando Duran
- B. Owner (Applicant) Home Address: \_\_\_\_\_
- C. Owner (Applicant) Home Phone Number: \_\_\_\_\_
- D. Driver's License/ID Number: \_\_\_\_\_ State: \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Marital Status: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_ Sex:  Male ( ) Female Birth date: \_\_\_\_\_ Age: \_\_\_\_\_  
Weight \_\_\_\_\_ Height \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Birthplace: \_\_\_\_\_  
Federal ID Number: \_\_\_\_\_ State ID Number: \_\_\_\_\_
- E. Are You a United States Citizen?  YES ( ) NO Alien Registration Number: \_\_\_\_\_

3. INFORMATION OF THE MANAGER(S)/SUPERVISOR(S)/PERSON(S) IN CHARGE OF THE PREMISES WHERE ENTERTAINMENT AND DANCING IS PROPOSED TO BE CONDUCTED;

- A. Name: Jose Orlando Duran
- B. Home Address: \_\_\_\_\_
- C. Home Phone Number: \_\_\_\_\_

4. THE NAME & EXACT NATURE OR TYPE(S) OF BUSINESS(ES), AT THE PLACE WHERE THE PROPOSED ENTERTAINMENT & DANCING IS TO BE CONDUCTED:

El Campesino Restaurant

5. THE NAME USED BY AND THE EXACT NATURE OR TYPE OF PROPOSED ENTERTAINMENT FOR WHICH A PERMIT IS REQUESTED. THE DAYS OF THE WEEK IT IS TO BE CONDUCTED, THE TIME IT IS PROPOSED TO START AND END EACH DAY, AND THE TYPE OF DRESS OR COSTUME TO BE WORN BY THE ENTERTAINERS:

- A. Professional Business Name: El Campesino Restaurant
- B. Exact nature or type of entertainment (describe in detail): Mexican life music.  
(Mariachi, Banda Sinaloense, Norteño) From Wednesday to  
Sunday 8:00 pm to 12:00 Am
- C. Exact nature of dance (describe in detail): Mexican MUSIC

D. The days of the week entertainment and/or dancing is proposed to be conducted:  
Jose Orlando Duran

E. Give hours entertainment and/or dancing is proposed to start and end each day: \_\_\_\_\_

Wentday to Sunday 8:00 pm. 12:00 Am

F. Give type of dress or costume entertainers are proposed to wear (describe in detail): \_\_\_\_\_

Traditional Mexican

G. Is Alcohol proposed to be served/sold at location? ( ) NO (X) YES, Explain in detail

Beer

H. Will an admission fee be charged for entrance? (X) No ( ) YES, Explain in detail

I. If Entertainers will be provided, will they ever receive money from patrons? (X) No ( ) Yes, Describe in detail

I. What is the maximum number of people expected at any event? 50

6. HAS THE APPLICANT OR ANY PERSON NAMED IN THIS APPLICATION HAD A PERMIT FOR THE SAME OR ANY SIMILAR TYPE OF BUSINESS(ES) SUSPENDED OR REVOKED ANYWHERE . IF YES, INDICATE THE CIRCUMSTANCES:

No

7. HAVE YOU, ANY OFFICER, DIRECTOR, OR MEMBER OF THE FIRM, ASSOCIATION OR CORPORATION APPLYING FOR THIS PERMIT, AS THE CASE MAY BE, BEEN ARRESTED OR CONVICTED IN ANY COURT FOR CRIME SET FORTH IN SUBSECTION (b) OF SECTION 3-1.1307 OF THE HUNTINGTON PARK MUNICIPAL CODE? (A copy of which is attached hereto.) PLEASE INDICATE BELOW THE DATE(S), LOCATION(S), WHERE ARRESTED, CHARGE(S), SENTENCE(S) OR FINE(S) AND WHERE CONFINED:

No

The undersigned hereby certifies under penalty of perjury that the statements made in this application are true and correct.

Executed this 23 day of 01 at 2013

Signature: [Signature]

Title: Owner

**FOR OFFICE USE ONLY**

Application Received by: Y. Lopez

Application Received Date: 1/30/2013

Merchant Number:	Billing Code: 19103	S.I.C. Code:	Permit Code: 903
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This Application has been referred to all checked departments:

Community Development Department

By: 02/14/2013

Date Routed: 2/5/2013

Response Required

Comments: \_\_\_\_\_

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

Authorized Signature: \_\_\_\_\_

Approved ( )

Denied ( )

Police Department

By: 02/14/2013

Date Routed: 2/5/2013

Response Required

Comments: \_\_\_\_\_

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

Authorized Signature: \_\_\_\_\_

Approved ( )

Denied ( )

Fire Department

By: 02/14/2013

Date Routed: 2/5/2013

Response Required

Comments: \_\_\_\_\_

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

Authorized Signature: \_\_\_\_\_

Approved ( )

Denied ( )

Date Submitted to Revenue Collections Supervisor for Council Approval: 2/21/2013

Date Submitted to Council for Approval: \_\_\_\_\_

Date Approved: \_\_\_\_\_

Date: 1/26/2013

Chief of Police  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, California 90255

The undersigned certifies that he is the owner, person, firm or corporation in lawful ownership of the property located at:

6103 PACIFIC BLVD., HUNTINGTON PARK, CALIF. and hereby gives consent to the application of the tenant for a dance and/or entertainment permit in accordance with the provisions of Section 3-1.1305.e, of the Municipal Code of the City of Huntington Park.

Name of Property Owner: 6341 Florence Development LLC  
(Signature)

Home Address of Property Owner: \_\_\_\_\_

Business Address of Property Owner: \_\_\_\_\_

Phone Number of Property Owner: \_\_\_\_\_

  
1/26/13  
X ERSEL SHAKIBKOO  
MANAGING MEMBER

The undersigned hereby certifies under penalty of perjury that the statements made in this application are true and correct.

Executed this 23 day of 01 at 2013

Signature: [Handwritten Signature]

Title: Owner

**FOR OFFICE USE ONLY**

Application Received by: Y. Lopez  
Application Received Date: 1/30/2013

Merchant Number:	Billing Code: 19103	S.I.C. Code:	Permit Code: 903
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This Application has been referred to all checked departments:

[Redacted Department] Routed: 2/5/2013 Response Required  
By: 02/14/2013

Comments: SHALL COMPLY W/ ALL CONDITIONS SET FORTH WITHIN PLANNING COMMISSION RESOLUTION NO. 1951.

Date Signed: 2/21/2013 Authorized Signature: [Handwritten Signature] Approved   
Denied ( )

Police Department  
By: 02/14/2013 Date Routed: 2/5/2013 Response Required  
Comments: \_\_\_\_\_

Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved ( )  
Denied ( )

Fire Department  
By: 02/14/2013 Date Routed: 2/5/2013 Response Required  
Comments: \_\_\_\_\_

Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved ( )  
Denied ( )

Date Submitted to Revenue Collections Supervisor for Council Approval: 2/21/2013

The undersigned hereby certifies under penalty of perjury that the statements made in this application are true and correct.

Executed this 23 day of 01 at 2013

Signature: [Signature]

Title: OWNER

**FOR OFFICE USE ONLY**

Application Received by: J. Lopez

Application Received Date: 1/30/2013

Merchant Number:	Billing Code: 19103	S.I.C. Code:	Permit Code: 903
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This Application has been referred to all checked departments:

Community Development Department Date Routed: 2/5/2013 Response Required  
By: 02/14/2013

Comments: \_\_\_\_\_

Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved   
Denied

Police Department Date Routed: 2/5/2013 Response Required  
By: 02/14/2013

Comments: OVER 50 CUSTOMERS DURING ENTERTAINMENT HOURS WILL REQUIRE  
AT LEAST (1) SECURITY GUARD.

Date Signed: 2-20-13 Authorized Signature: LT. A. MARTINEZ Approved   
Denied

Fire Department Date Routed: 2/5/2013 Response Required  
By: 02/14/2013

Comments: \_\_\_\_\_

Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved   
Denied

Date Submitted to Revenue Collections Supervisor for Council Approval: 2/21/2013

The undersigned hereby certifies under penalty of perjury that the statements made in this application are true and correct.

Executed on 23 APRIL 01 2013

Signature: [Handwritten Signature]

TITLE: Owner

**FOR OFFICE USE ONLY**

Application Received by: [Handwritten Name]

Application Received Date: 1/30/2013

Merchant Number	Billing Code: <u>19182</u>	SIN Code	Form Code: <u>900</u>
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This Application has been referred to all checked departments:

Community Development Department  
By: 02/14/2013 Date Referred: 2/15/2013 Response Required

Comments: \_\_\_\_\_

Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved:  Denied:

Police Department  
By: 02/14/2013 Date Referred: 2/15/2013 Response Required

Comments: \_\_\_\_\_

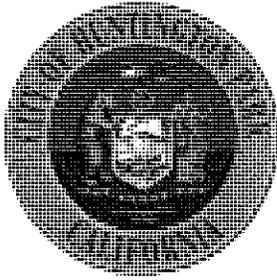
Date Signed: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_ Approved:  Denied:

[Redacted]  
By: 02/14/2013 Date Referred: 2/15/2013 Response Required

Comments: \_\_\_\_\_

Date Signed: 2/18/13 Authorized Signature: Insepctor Marin Approved:  Denied:

Date Submitted to Revenue Collections Supervisor for Council Approval: 2/21/2013



**CITY OF HUNTINGTON PARK**  
Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

**PUBLIC HEARING TO CONSIDER THE CITY OF HUNTINGTON PARK'S HOUSING  
AND COMMUNITY DEVELOPMENT NEEDS**

**IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Conduct a public hearing to elicit comment regarding the City's housing and community development needs in preparation of the Fiscal Year 2013-2014 Annual Action Plan.
2. Receive and file the Draft Fiscal Year 2013-14 Annual Action Plan and authorize City staff to publish a public notice initiating the 30-day public review period.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Each year, the City prepares an Annual Action Plan which describes the Community Development Block Grant (CDBG) and HOME Partnership Act (HOME) programs and budget for the upcoming fiscal year. The attached Annual Action Plan is a draft and is prepared for public comment during a 30 day public review period. Following the conclusion of the public review period, the final Annual Action Plan will be presented to the City Council for approval and submittal to the local Housing and Urban Development (HUD) offices no later than May 15, 2013.

**FISCAL IMPACT/FINANCING**

This action will have no fiscal impact to the City's General Fund.

## **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Tonight's public hearing is the first of two public hearings<sup>1</sup> pursuant to the City's Citizen Participation Plan and HUD's Five Year Consolidated Plan.

The public hearing serves to further the City's preparation of the fourth Annual Action Plan of the City's current Five Year Consolidated Plan period. The Annual Action Plan includes the CDBG and HOME activities the City intends to fund during Fiscal Year 2013-14 to address its priority housing and community development needs, as identified in the 2010/11-2014/15 Consolidated Plan.

The current housing and community development needs are contained in the Five Year Consolidated Plan (see attached) and are attached for your review and consideration.

## **CONTRACTING PROCESS**

On March 4, 2013, the public hearing notice was published in the Long Beach Press-Telegram.

## **NEGATIVE DECLARATION/ENVIRONMENTAL IMPACT REPORTS**

Neither this public hearing nor a subsequent action by the City Council to adopt the Fiscal Year 2013-14 Annual Action Plan constitute a project and, thus, will not invoke an environmental review under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) regulations.

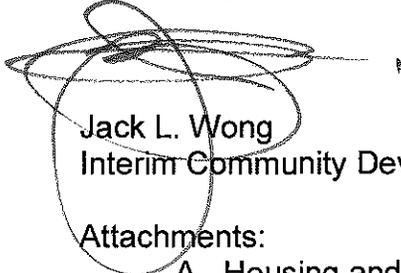
## **CONCLUSION**

Following tonight's public hearing, staff will include any public testimony in the Fiscal Year 2013-2014 Annual Action Plan.

Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



Jack L. Wong  
Interim Community Development Director

Attachments:

- A. Housing and Community Development Needs

---

<sup>1</sup> Guidelines for Preparing Consolidated Plan and Performance and Evaluation Report Submissions for Local Jurisdictions, U.S. Department of Housing and Urban Development Office of Community Planning and Development

## ATTACHMENT "A"

### Housing and Community Development Needs

To further engender public discussion, the following is a summary of Huntington Park's salient housing and community development needs as outlined in the currently adopted Consolidated Plan, the 2008-2014 Housing Element, and the 2010 Affordable Housing Strategy.

#### Special Needs Population

- **Large Households.** Thirty-eight percent of Huntington Park's households are large households (five or more persons) representing the most significant special needs group in the City. Of these large households, almost two-thirds are renters and the majority of these large renter households (70%) earn low to moderate-incomes. Ninety-five percent of the City's large renter households suffer from one or more housing problems, including housing overpayment, overcrowding and/or substandard housing conditions. Huntington Park faces a significant shortage of rental units of appropriate size to accommodate its large renter households, resulting in two-thirds of the City's renter households residing in overcrowded conditions.
- **Elderly Population.** The elderly, which represent approximately 5 percent of Huntington Park's residents, have a number of special needs including housing, transportation, health care, and other services. Housing is a particular concern because many of the elderly are on fixed incomes. As housing expenses rise, the elderly may have less money available for medical costs and other vital services. Rising rental housing costs are a major concern since 85 percent of Huntington Park's elderly renter households have low or moderate-incomes (<80% MFI), with 70 percent earning low incomes (<50% MFI). Moreover, over 60 percent of the City's elderly renters experience a housing cost burden (> 30% income on rent). For those seniors who live on their own, many have limited incomes and because of their age may not be able to maintain their homes or perform minor repairs.
- **Female-Headed Households.** According to the 2000 Census, there were 3,675 female-headed households in Huntington Park, representing one-quarter percent of all households. Female-headed households with children, which comprised 1,757 households in 2000, typically have lower incomes. As a result, female-headed households often have greater needs for affordable housing and childcare evidenced by approximately 35 percent living in poverty. Without access to affordable housing, many of these households may be at risk of becoming homeless. Affordable housing with childcare centers or in close proximity to schools, public transportation, and recreation facilities can address critical needs of lower-income single-parent families. This group is also vulnerable to discrimination from landlords unwilling to rent to single parents with multiple children.
- **Persons with Disabilities.** A disability is defined as a long lasting condition that impairs an individual's mobility, ability to work, or ability to care for them and includes those with physical, mental, or emotional disabilities. According to the

2000 Census, approximately 19 percent (11,957 persons) of Huntington Park residents have some type of disability. In general, many persons with disabilities have lower-incomes since the disability may affect their ability to work. Thus, persons with disabilities have a greater need for affordable housing as well as supportive services.

- **Persons with HIV/AIDS.** Persons with HIV/AIDS are considered a special needs group due their need for affordable housing, health care, counseling and other supportive services. According to the Los Angeles County Health Services Department 2009 HIV/AIDS Semi-Annual Surveillance Summary, within the Huntington Park zip code, between 125-249 persons are currently living with HIV/AIDS. Short-term housing needs for persons with AIDS may include hospice facilities, shelters or transitional housing. Long-term needs include affordable housing in close proximity to public transportation and health care facilities.
- **Persons with Alcohol or Substance Abuse Problems.** Persons who suffer from alcohol/other drug abuse (AODA) require counseling and rehabilitation services. In some cases, recovery homes or transitional sober living facilities may be needed. The regional homeless shelter in the adjacent City of Bell provides a drug and alcohol recovery program with capacity for up to 128 adults. Southern California Alcohol and Drug Programs, Inc. operates several emergency shelters and transitional housing facilities within Service Planning Area 7, in which Huntington Park is a part.
- **Victims of Domestic Violence.** Women and their children who are victims of domestic violence often need shelter and services such as counseling and childcare. While precise estimates for Huntington Park are not available, nationwide approximately 31 percent of all women have been victims of violence committed by a spouse or intimate partner. Immigrant women are particularly vulnerable to abuse and are often reluctant to report incidences or seek assistance from local authorities. The immediate housing needs of victims of domestic violence relate to shelter and transitional housing. Long-term housing needs include affordable housing for families.
- **Homeless.** The Los Angeles Homeless Services Authority (LAHSA) has estimated there to be 100 homeless persons in Huntington Park. City Code Enforcement staff indicate there are approximately 30 chronic homeless in the City, consisting predominately of single men, with five to six single women. A large majority of the City's homeless is chronic substance abusers, has been homeless for several years and is more service resistant than those who have only been homeless for a short period. While staff reports no "visible" homeless families, the City is the only jurisdiction in the immediate area that allows overnight street parking, and as a result, temporarily homeless individuals and families from the greater area come to Huntington Park to sleep in their cars overnight.

## Household Characteristics

- **Income Levels.** Income is the single most important factor affecting a household or family's ability to afford adequate housing as well as a range of other critical services such as health care and transportation. Areas with higher concentrations of low and moderate-income households often require additional services and have greater housing needs, particularly affordable housing.

**Income by Owner/Renter Tenure**

Income Level	Renters	Owners
Extremely Low (0-30% MFI)	24%	6%
Other Low (30-50% MFI)	21%	11%
Moderate (50-80% MFI)	27%	20%
Middle/Upper-Income (>80% MFI)	28%	63%

Source: HUD, CHAS Databook, 2000

While renters were more likely to have low and moderate-incomes than owners were, there is also significant variation in income levels by household type. Based on data from HUD, nearly 80 percent of elderly households in Huntington Park had low or moderate-incomes and nearly 40 percent of elderly households had extremely low-incomes.

**Income Level by Household Type**

Income Level	Elderly	Small Family	Large Family	Other	Total
Extremely Low (0-30% MFI)	39%	17%	15%	24%	19%
Other Low (30-50% MFI)	20%	18%	18%	20%	18%
Moderate (50-80% MFI)	20%	28%	24%	24%	25%
Middle/Upper-Income (>80% MFI)	21%	37%	44%	32%	37%

Source: HUD, CHAS Data Book, 2000

- **Household Overcrowding.** The Census defines overcrowding as an average of more than one person per room in a housing unit (excluding kitchens, porches, and hallways). The incidence of overcrowded housing is a general measure of whether there is an available supply of adequately sized housing units. Increases in families with children and larger household sizes, combined with an existing housing stock dominated by smaller one and two bedroom units, has resulted in increased levels of household overcrowding in Huntington Park. Nearly half of renter households and 30% of owner households in the city meet the criteria for severe overcrowding (>1.51 persons per room).

### Housing Stock Characteristics

- **Housing Growth.** Huntington Park contains approximately 15,500 housing units, split almost evenly between single-family and multi-family units. Housing growth in recent years has primarily been attributable to the introduction of housing in the downtown and on target opportunity sites, and is largely a result of City involvement in the provision of assisted housing. Nearly three-quarters of the City's housing is renter-occupied.
- **Housing Conditions.** Over three-quarter's of Huntington Park's housing stock is greater than 30 years in age, the age at which housing begins to require major rehabilitation improvements. Code enforcement staff identify the primary issues with substandard housing in the City pertain to inadequate space heating, leaking windows, and aging plumbing and electrical systems. The biggest contributors to substandard housing in Huntington Park are the aging housing stock, household overcrowding, and absentee landlords, and indicate the need for strong code enforcement, property maintenance and housing rehabilitation programs to stem widespread housing deterioration.
- **Lead Based Paint.** The Los Angeles County Childhood Lead Poisoning Prevention Program has identified Huntington Park as one of ten cities in the County where children are at highest risk of **lead poisoning**. In 2008, there were eight children under the age of six with elevated blood lead levels, including one child who met "case" criteria.

### Housing Costs and Affordability

- **Rental Housing.** Apartment rents in Huntington Park are at a level that many lower income households (<80% AMI) face significant overpayment. The 2000 Census documented 47% of renters spending more than 30% of their income on housing, with 22% spending over half of their income for shelter. However, local property management companies report that the current economic recession has resulted in a softening in the rental market, placing downward pressure on rents and resulting in a modest increase in rental vacancies in Huntington Park. An October 2009 rent survey confirms this shift in the market, with enticements for free first month's rent, reduced move-in costs, etc. The absence of available three bedroom apartments in the rent survey highlights the mismatch between the City's housing supply and the need for larger rental units for families.

**Huntington Park Apartment Rent Levels (Oct 2009)**

No. of Bedrooms	Rental Range	Average Rent
Studio	\$550 - \$700	\$675
One Bedroom	\$700 - \$900	\$825
Two Bedroom	\$900 - \$1,400	\$1,065
Three Bedroom	None listed	

Sources: *Craigslist.com; WestsideRentals.com; Brabant Realty and Management; PMS Management.*

The following table compares average rents in Huntington Park with the maximum affordable rent for very low, low and moderate income households based the standard of spending no greater than 30% of income on housing. While very low income households continue to be priced out of the rental market, the decline in rents has resulted in many low income households in Huntington Park being able to afford market rents.

### 2009 Maximum Affordable Rents

Income Level	Maximum Affordable Rent after Utility Allowance			
	Studio (1 person)	1 Bedroom (2 person)	2 Bedroom (3 person)	3 Bedroom (4 person)
Very Low Income (50% AMI)	\$506	\$574	\$641	\$705
Low Income (80% AMI)	\$957	\$947	\$1,060	\$1,171
Moderate Income (120% AMI)	\$1,454	\$1,444	\$1,619	\$1,792
<b>Huntington Park Average Apartment Rents</b>	<b>\$675</b>	<b>\$825</b>	<b>\$1,065</b>	<b>N/A</b>

**Notes:**

1. Income levels reflect the 2009 Official State Income Limits published by State HCD.
2. Maximum affordable rent reflects deduction of LACDC utility allowance for Central subregion (Assumes water and trash included in rent): \$37 - studios, \$47 - 1 bdrm, \$58 - 2 bdrms, \$71 - 3 bdrms.

- **For-Sale Housing.** The economic recession, combined with the high incidence of home foreclosures, has resulted in a significant decline in for-sale housing prices. The following table presents data on all sales of single-family homes and condominiums in Huntington Park from January - October 2009. A total of 164 single-family homes sold during this period for a median price of \$246,000 - a \$200,000 drop in the \$450,000 median sales price recorded in 2007. Bank-owned homes comprised 28% of the homes sold, highlighting the significant impact of the foreclosure crisis on the community. Home sales data illustrates the characteristics of the housing stock as one dominated by older, smaller sized units, with the average single-family home built in 1934 and 1,280 square feet in size.

### Huntington Park Home and Condominium Sales Prices (Jan - Oct 2009)

No. of Bdrms	Units Sold	Price Range	Median Price	Avg. Unit Size	Avg. Lot Size	Avg. Year Built
<b>Single-family Homes</b>						
1	2	\$150,000 - \$186,000	\$168,000	770 sq. ft.	3,800 sq. ft.	1932
2	74	\$110,000 - \$510,000	\$219,000	1,010 sq. ft.	5,300 sq. ft.	1929
3	58	\$124,000 - \$375,000	\$260,000	1,440 sq. ft.	5,600 sq. ft.	1936
4	27	\$107,000 - \$485,000	\$293,000	1,650 sq. ft.	5,600 sq. ft.	1942
5+	3	\$251,000 - \$347,000	\$275,000	1,790 sq. ft.	4,000 sq. ft.	1941
<b>Total</b>	<b>164</b>	<b>\$107,000 - \$510,000</b>	<b>\$246,000</b>	<b>1,280 sq. ft.</b>	<b>5,400 sq. ft.</b>	<b>1934</b>
<b>Condominiums</b>						
2	16	\$100,000 - \$267,000	\$127,000	1,020 sq. ft.	n/a	1988
3	37	\$105,000 - \$336,000	\$160,000	1,190 sq. ft.	n/a	1987
4	2	\$214,000 - \$231,000	\$222,000	1,590 sq. ft.	n/a	2001
<b>Total</b>	<b>55</b>	<b>\$100,000 - \$336,000</b>	<b>\$155,000</b>	<b>1,150 sq. ft.</b>	<b>n/a</b>	<b>1988</b>

Source: Dataquick, January 1, 2009 - October 31, 2009

Condominium sales have also suffered a \$200,000 drop in value to \$155,000 from the \$357,000 median sales price in 2007. Foreclosures are even more prevalent in condos than single-family homes, with 35% of the 55 units sold in 2009 bank-owned.

The following table presents the maximum affordable purchase price for moderate income households (110% AMI), and compares this with 2009 market sales prices for single-family homes and condominiums in Huntington Park. As illustrated by this table, the dramatic decline in existing housing prices has greatly enhanced the affordability of home purchase to moderate income households. For example, the maximum affordable purchase price for a three-person moderate income household is \$222,000, placing the median priced two-bedroom home (\$219,000) sold in 2009 within economic reach. As household size increases, the affordability gap between market rate single-family homes and the affordable purchase price does begin to widen, although condominiums remain within the affordable price range regardless of unit size.

**Maximum Affordable Housing Cost (Moderate Income)**

<b>Moderate Income Affordable Housing Cost</b>	<b>2 Bedroom (3 persons)</b>	<b>3 Bedroom (4 persons)</b>	<b>4 Bedroom (5 persons)</b>
Household Income @ 110% Median	\$61,490	\$68,310	\$73,755
Income Towards Housing @ 35%	\$21,522	\$23,908	\$25,814
Maximum Monthly Housing Cost	\$1,794	\$1,992	\$2,151
Less Expenses:			
Utilities	(\$95)	(\$115)	(\$135)
Taxes (1.1% affordable hsg price)	(\$205)	(\$225)	(\$245)
Insurance	(\$100)	(\$115)	(\$130)
HOA Fees & Other	(\$180)	(\$180)	(\$180)
Monthly Income Available for Mortgage	\$1,214	\$1,357	\$1,461
Supportable Mortgage @ 6.0% interest	\$202,000	\$226,000	\$244,000
Homebuyer Down payment (10%)	\$20,000	\$23,000	\$24,000
<b>Maximum Affordable Purchase Price</b>	<b>\$222,000</b>	<b>\$249,000</b>	<b>\$268,000</b>
<b>Huntington Park Median Single-Family Sales Price</b>	<b>\$219,000</b>	<b>\$260,000</b>	<b>\$293,000</b>
<b>Huntington Park Median Condo Sales Price</b>	<b>\$127,000</b>	<b>\$160,000</b>	<b>\$222,000</b>

Source: Karen Warner Associates

**Community Development Needs**

- In order to foster growth and expand employment opportunities for residents, the City of Huntington Park has focused efforts on supporting economic growth, encouraging economic diversification, and expanding employment opportunities, as well as the revitalization of the downtown. Another key aspect of the City's economic development activities includes workforce development and employment assistance.

- Employment opportunities and job training are important needs of low and moderate-income residents. Providing a range of job opportunities within a diverse local economy provides greater opportunities for lower-income persons to gain access to employment.
- Despite the City's numerous parks and recreational facilities, there is still demand for additional facilities, with the increase in the number of families with children placing added stress on recreational facilities. Many existing community facilities need upgrades, rehabilitation, and in some cases replacement to keep up with demand.
- Another need generated by the increase in families with children is childcare and preschool facilities. Affordable childcare is typically a major barrier to employment for low and moderate-income families.

### **Community Development and Housing Priorities**

The City's 2010/11-2014/15 Consolidated Plan identifies the following priorities:

#### **Priority Housing Needs**

- Address Neighborhood Conditions and Overcrowded Housing
- Expand the Supply of Affordable Housing
- Preserve Existing Affordable Housing

#### **Priority Homeless Needs**

- Provide Support Services and Housing for the Homeless

#### **Priority Special Needs Populations**

- Provide Housing and Supportive Services for Special Needs Populations

#### **Priority Community Facilities**

- Provide for New Community Facilities and Improve the Quality of Existing Facilities

#### **Priority Infrastructure Improvements**

- Provide Needed Infrastructure Improvements in Lower and Moderate Income Areas

#### **Priority Community Services**

- Identify and Target Resources and Programs for Youth
- Provide Quality, Affordable Childcare Opportunities
- Address the Crime Rate, Emphasizing Activities Aimed at Reducing Juvenile Crime
- Support Affordable Health Care Services
- Provide Job Training, Placement and Career Planning Services
- Improve the City's Aesthetic Image through Community Beautification
- Provide Fair Housing and Tenant/Landlord Mediation Services

#### **Priority Economic Development Needs**

- Improve the Business Climate for Existing Businesses and Attract New Businesses

#### **Other Priority Community Development Needs**

- Provide for Necessary Planning Activities to Anticipate Future Housing and Community Development Needs

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**RESOLUTION NO. 2013-8**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON PARK  
CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION  
HELD ON MARCH 5, 2013 DECLARING THE RESULT AND SUCH OTHER  
MATTERS AS PROVIDED BY LAW**

**WHEREAS**, a General Municipal Election was held and conducted in the City of Huntington Park, California, on Tuesday, March 5, 2013, as required by law; and

**WHEREAS**, notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

**WHEREAS**, the City Clerk canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part hereof as "Exhibit A".

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF  
HUNTINGTON PARK, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE  
AND ORDER AS FOLLOWS:**

**SECTION 1.** That the whole number of ballots cast in the precincts except vote by mail voter ballots and provisional ballots were 1,343.

That the whole number of vote by mail voter ballots cast in the City was 913, the whole number of provisional ballots cast in the City was 194, making a total of 2,450 ballots cast in the City.

**SECTION 2.** That the names of persons voted for at the election for Member of the City Council are as follows:

VALENTIN PALOS AMEZQUITA  
KARINA MACIAS  
ANDY MOLINA  
ELBA GUERRERO

**SECTION 3.** That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates were as listed in Exhibit "A" attached.

**8.1**



**EXHIBIT "A"***CITY CLERK'S CERTIFICATION OF CANVASS AND COMPLETION OF MANUAL TALLY*

I, Rosanna Ramirez, City Clerk of the City of Huntington Park, do certify that I have canvassed the returns March 5, 2013, and find that the number of votes given at each precinct and the number of votes given in the offices for which the persons were candidates were as follows:

PRECINCTS	CITY COUNCIL				TOTAL VOTES (BALLOTS) CAST
	Valentin <b>AMEZQUITA</b>	Karina <b>MACIAS</b>	Andy <b>MOLINA</b>	Elba <b>GUERRERO</b>	
1	<b>77</b>	<b>86</b>	<b>48</b>	<b>55</b>	<b>151</b>
3	<b>50</b>	<b>52</b>	<b>30</b>	<b>38</b>	<b>102</b>
4	<b>92</b>	<b>106</b>	<b>59</b>	<b>54</b>	<b>173</b>
5	<b>67</b>	<b>75</b>	<b>85</b>	<b>79</b>	<b>182</b>
6	<b>102</b>	<b>108</b>	<b>76</b>	<b>73</b>	<b>201</b>
15	<b>86</b>	<b>103</b>	<b>61</b>	<b>58</b>	<b>181</b>
22	<b>83</b>	<b>94</b>	<b>94</b>	<b>96</b>	<b>197</b>
25	<b>71</b>	<b>76</b>	<b>73</b>	<b>57</b>	<b>156</b>
VBM 1st run	<b>344</b>	<b>352</b>	<b>288</b>	<b>282</b>	<b>720</b>
VBM/Prov. 2nd run *	<b>151</b>	<b>176</b>	<b>177</b>	<b>177</b>	<b>387</b>
<b>TOTAL VOTES PER CANDIDATE</b>	<b>1123</b>	<b>1228</b>	<b>991</b>	<b>969</b>	<b>2450</b>

**EXHIBIT "A"**

*Page 2 of 2*

I have also conducted a manual tally of 1% of the precincts, or 1 precinct in accordance with §15360 of the Election Code. The results of the manual tally are as follows:

<u>Office / Candidate City Council</u>	<u>Machine Tally</u>	<u>Manual Tally</u>	<u>Difference If discrepancy, how resolved</u>
Valentin P. Amezquita	77	77	0
Karina Macias	86	86	0
Andy Molina	48	48	0
Elba Guerrero	55	55	0

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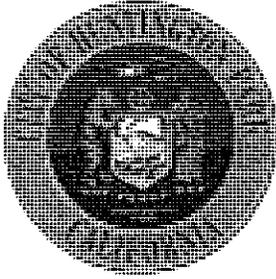
Rosanna Ramirez, City Clerk

Dated: March 14, 2013

**Number of Registered Voters: 16,660**

**Number of Ballots Cast: 2,450**

**Voter Turnout: 14.70%**



# CITY OF HUNTINGTON PARK

Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

## **RESOLUTION TO TERMINATE TWO DELEGATION AND COVEYANCE AGREEMENTS BETWEEN THE CITY OF HUNTINGTON PARK AND THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF HUNTINGTON PARK**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Adopt a Resolution terminating two Delegation and Conveyance Agreements dated March 17, 2011 between the City of Huntington Park and the Community Development Commission of the City of Huntington Park (Successor Agency) to reconvey the title back to the Successor Agency for the following properties:
  - a. Carmelita Property - 6100-6114 Carmelita Avenue, 6126 Bear Avenue and 3806-3629 East 61<sup>st</sup> Street;
  - b. Southland Steel Property - 5959-6169 South Alameda
2. Authorize the City Manager to execute legal documents for this transaction.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The attached resolution will terminate the Delegation and Conveyance Agreement between the City of Huntington Park (City) and the Community Development Commission of the City of Huntington Park (CDC). The Delegation and Conveyance Agreements were approved on March 17, 2011, which transferred ownership from the CDC to the City.

However, asset transfers that occur after January 1, 2011, which are not contractually committed to a third party must be returned to the Successor Agency pursuant to Health and Safety Code Section 34167.5.

**8.2**

**FISCAL IMPACT/FINANCING**

There is no fiscal impact to the City General Fund.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The CDC was dissolved on February 1, 2012, pursuant to AB X1 26 (the "Dissolution Act"). The Dissolution Act specifies that asset transfers occurring after January 1, 2011, between a City and Redevelopment Agency are unauthorized and are to be reversed.

Prior to the dissolution, on September 19, 2011, the City Council elected to become a Successor Agency to the CDC.

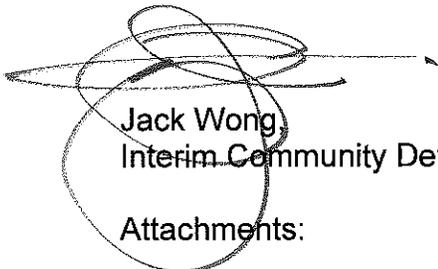
The attached Resolution serves to terminate the Delegation and Conveyance Agreements previously approved by the City (through Resolution No's 2011-4 and 2011-5) and the former CDC (through Resolution No's 11-03 and 11-04) and authorizes the execution of documents necessary to reconvey the Properties to the Successor Agency.

**CONCLUSION**

Upon approval of the Resolution, staff will forward necessary documents (i.e. Quitclaim Deeds) for execution and recording to reconvey the Subject Properties to the Successor Agency



RENÉ BOBADILLA,  
City Manager, P.E.



Jack Wong,  
Interim Community Development Director

Attachments:

- A. Resolution
- B. Quitclaim Deeds

**ATTACHMENT A**

**RESOLUTION NO. 13-\_\_**

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**A RESOLUTION OF THE CITY OF HUNTINGTON PARK  
TERMINATING A DELEGATION AND CONVEYANCE AGREEMENT  
BETWEEN THE CITY OF HUNTINGTON PARK COMMUNITY  
DEVELOPMENT COMMISSION AND THE CITY OF HUNTINGTON  
PARK FOR PROPERTIES LOCATED AT 6100-6114 CARMELITA  
AVENUE, 6126 BEAR AVENUE AND 3806-3629 EAST 61<sup>ST</sup> STREET,  
AND 5959-6169 SOUTH ALAMEDA STREET, AND DIRECTING THE  
RECONVEYANCE OF SAID PROPERTY TO THE SUCCESSOR  
AGENCY.**

**THE CITY OF HUNTINGTON PARK HEREBY FINDS, DETERMINES, RESOLVES  
AND ORDERS AS FOLLOWS:**

Section 1. The City of Huntington Park Community Development Commission (the CDC) and the City of Huntington Park (City) entered into that certain Delegation and Conveyance Agreement dated March 17, 2011, pursuant to Commission Resolution No. 11-04 and City Council Resolution No. 2011-5, relating to real property located at 6100-6114 Carmelita Avenue, 6126 Bear Avenue and 3806-3629 East 61st Street (the "Miscellaneous Property").

Section 2. The Commission and the City entered into that certain Delegation and Conveyance Agreement dated March 17, 2011, pursuant to Commission Resolution No. 11-03 and City Council Resolution No. 2011-4, relating to real property located at 5959-6169 south Alameda (the "Alameda Property"; collectively with the Miscellaneous Property, the "Property").

Section 3. Pursuant to the two Delegation and Conveyance Agreements, the CDC conveyed title to the Property to the City on or about March 25, 2011.

1           Section 4. On or about February 1, 2012, the CDC ceased to exist by operation of  
2 law. Pursuant to Resolution No. 11-49, the City elected to become the successor to the City  
3 of Huntington Park Community Development Commission (the "Successor Agency").

4           Section 5. Subsequently, the City and Successor Agency determined that the  
5 conveyance of the Property by the CDC to the City was potentially in violation of applicable  
6 provisions of the California Health and Safety Code. Accordingly, the City desires to  
7 reconvey the Property to the City as successor agency of the City of Huntington Park  
8 Community Development Commission.

9           Section 6. The Delegation and Conveyance Agreements described in Sections 1 and  
10 2 of this Resolution are hereby terminated, and are of no further force or effect. The City  
11 Manager is hereby directed to convey the Property to the City of Huntington Park as  
12 Successor Agency to the City of Huntington Park Community Development Commission.

13           Section 7. The officers of the City and the City Manager are hereby authorized and  
14 directed, jointly and severally, to do any and all things and to execute and deliver any and all  
15 documents, and, if appropriate, record documents, which they may deem necessary or  
16 advisable in order to effectuate the purposes of this Resolution, and any such actions  
17 previously taken by such officers are hereby ratified and confirmed.

18           APPROVED AND ADOPTED this \_\_\_ day of March, 2013.

19  
20 \_\_\_\_\_  
21 Mayor

22  
23 ATTEST:

24 \_\_\_\_\_  
25 City Clerk  
26  
27  
28

**ATTACHMENT B**

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City of Huntington Park  
6550 Miles Avenue  
Huntington Park, California 90255  
Attn.: City Clerk

APN: 6318-028-001, 6318-029-010

[SPACE ABOVE FOR RECORDER'S USE ONLY]

**QUITCLAIM DEED**

This transfer is exempt from Documentary Transfer Tax pursuant to Revenue & Taxation Code Section 11922, and exempt from Recording Fees pursuant to California Government Code Section 6103.

FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, the **CITY OF HUNTINGTON PARK**, a municipal corporation, does hereby REMISE, RELEASE AND FOREVER QUITCLAIM to the **CITY OF HUNTINGTON PARK**, as successor agency to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), all of its right, title and interest in, under and to that certain real property located in the County of Los Angeles, State of California, more particularly described on Exhibit A attached hereto, and all improvements and fixtures located thereon.

IN WITNESS WHEREOF, the undersigned has executed this Quitclaim Deed as of the date set forth below.

Dated: \_\_\_\_\_, 2013

**CITY OF HUNTINGTON PARK**

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

Name: \_\_\_\_\_

Mayor

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF LOS ANGELES        )

On \_\_\_\_\_, before me, \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

SEAL:

**Exhibit A  
to Quitclaim Deed**

**LEGAL DESCRIPTION OF THE PROPERTY**

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

Lot 676 and 677, Tract No. 3126, as shown on map recorded in Book 33, Page 51 of  
Miscellaneous Maps, and a portion of Lot 427, Tract No. 2487, as shown on map recorded in  
Book 31, Page 71 or Miscellaneous Maps, in the office of the County Recorder, County of Los  
Angeles, California.

CERTIFICATE OF ACCEPTANCE  
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Huntington Park by that certain Quitclaim Deed dated \_\_\_\_\_, 2013, executed by the City of Huntington Park is hereby accepted by the undersigned officer on behalf of the City of Huntington Park as successor to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), pursuant to the authority conferred by the City of Huntington Park as successor to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), at the City Council meeting held on March 18, 2013, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 2013

CITY OF HUNTINGTON PARK AS  
SUCCESSOR TO THE CITY OF HUNTINGTON  
PARK COMMUNITY DEVELOPMENT  
COMMISSION

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

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City of Huntington Park  
6550 Miles Avenue  
Huntington Park, California 90255  
Attn.: City Clerk

APN: 6009-033-900, 6009-033-901, 6009-033-902

[SPACE ABOVE FOR RECORDER'S USE ONLY]

**QUITCLAIM DEED**

This transfer is exempt from Documentary Transfer Tax pursuant to Revenue & Taxation Code Section 11922, and exempt from Recording Fees pursuant to California Government Code Section 6103.

FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, the **CITY OF HUNTINGTON PARK**, a municipal corporation, does hereby REMISE, RELEASE AND FOREVER QUITCLAIM to the **CITY OF HUNTINGTON PARK**, as successor agency to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), all of its right, title and interest in, under and to that certain real property located in the County of Los Angeles, State of California, more particularly described on Exhibit A attached hereto, and all improvements and fixtures located thereon.

IN WITNESS WHEREOF, the undersigned has executed this Quitclaim Deed as of the date set forth below.

Dated: \_\_\_\_\_, 2013

**CITY OF HUNTINGTON PARK**

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

Name: \_\_\_\_\_

Mayor

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF LOS ANGELES        )

On \_\_\_\_\_, before me, \_\_\_\_\_, a  
notary public, personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

SEAL:

**Exhibit A  
to Quitclaim Deed**

**LEGAL DESCRIPTION OF THE PROPERTY**

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

Lots 12 through 15, exclusive of street, and portion of Lot A, Tract No. 8073, per map recorded in Book 117, Pages 24 and 25 of maps, in the office of the County Recorder, County of Los Angeles, California.

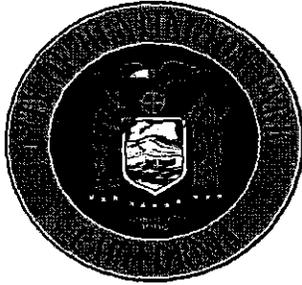
CERTIFICATE OF ACCEPTANCE  
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Huntington Park by that certain Quitclaim Deed dated \_\_\_\_\_, 2013, executed by the City of Huntington Park is hereby accepted by the undersigned officer on behalf of the City of Huntington Park as successor to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), pursuant to the authority conferred by the City of Huntington Park as successor to the City of Huntington Park Community Development Commission and as a separate public entity under California Health and Safety Code Section 34173(g), at the City Council meeting held on March 18, 2013, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: \_\_\_\_\_, 2013

CITY OF HUNTINGTON PARK AS  
SUCCESSOR TO THE CITY OF HUNTINGTON  
PARK COMMUNITY DEVELOPMENT  
COMMISSION

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



# **CITY OF HUNTINGTON PARK**

Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

## **AGREEMENT WITH NEIGHBORHOOD HOUSING SERVICES OF LOS ANGELES COUNTY TO PROVIDE HOUSING SERVICES TO THE CITY OF HUNTINGTON PARK**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Authorize the City Manager to enter into a no-cost service agreement for housing services with Neighborhood Housing Services of Los Angeles County.
2. Authorize the City Attorney to prepare a professional services contract.
3. Authorize the City Manager to execute the contract and all related documents

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The agreement with Neighborhood Housing Services of Los Angeles County (NHS) will authorize NHS to provide housing services such as: home rehabilitation and construction services; loan origination and underwriting, program outreach and advocacy, financial literacy, and homebuyer education to Huntington Park property owners and residents.

The services will be at no cost to the City. NHS generates its funding from several sources which include: local and national foundations, individuals, corporations and public sector grants including HUD, and the U.S. Treasury. NHS may impose loan fees and developer fees to help sustain its programs and services. NHS utilizes their funding to assist communities within the County of Los Angeles.

**8.3**

### **FISCAL IMPACT/FINANCING**

This contractual agreement will not have financial impact to the City's General Fund.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Since 1984, NHS has reinvested more than \$2.68 billion into neighborhoods throughout Los Angeles County. As part of this work, it has developed and rehabilitated more than 14,708 housing and commercial units, assisted over 2.9 million families on the road to homeownership, created 180 block clubs, and employed 202 neighborhood youth. NHS is the largest, non-profit affordable homeownership provider in Southern California. Some of the cities that NHS have worked with include the cities of: Bell, Downey, Norwalk, Pasadena, Inglewood, Long Beach, Carson, Compton, Lynwood, Paramount, San Gabriel, Rosemead, Pico Rivera, Los Angeles, Pomona, El Monte, Monrovia and others.

NHS provides 0% up to 4% interest rehabilitation loans to low and moderate income homeowners for general repair of their homes through their "Don't Move...Improve!" program. Eligible improvements include the repair of bathrooms, electrical, flooring, heating, painting plumbing, and roofing. In addition, NHS provide first time home buyer down payment and loan assistance for income qualified residents that are within the 80% to 120% of the area median income.

NHS services have generally been focused on providing home rehabilitation and construction services, loan origination and underwriting, program outreach and advocacy, along with financial literacy, counseling and homebuyer education. NHS have been a subrecipient, contract agency, independent contractor, and in other cases utilized MOUs to facilitate the work.

The City has offered residential rehabilitation and minor home repair programs for over 20 years to the residents of Huntington Park through its Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funds. With recent Federal budget cuts, the City will be able to continue offering residential rehabilitation assistance through NHS.

### **CONTRACTING PROCESS**

The service from NHS is at no cost to the City but an agreement to provide housing services to the City is required.

### **IMPACT ON CURRENT SERVICES**

The City currently has a waiting list of over 40 families applying for a housing rehabilitation loan. NHS will utilize the list to provide our residents with housing services using their funding sources and staffing. To assure that the program is a success and

to facilitate the process, the City will provide temporary office space for a NHS representative to interview applicants and to operate the program.

**CONCLUSION**

This agreement will allow the City to continue providing housing services to our community.

Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



Jack L. Wong  
Interim Community Development Director



# Don't Move... **I**

# **M** **P** **R** **O** **V** **E**



Bathrooms

Electrical

Flooring

Heating

Kitchen

Painting

Plumbing

Roofing

- 0% - 4% Programs Available for Qualified Homeowners\*

- Other Affordable Loan Products

Family Size	2012 HUD Income Limits	
	80%	120%
1	\$47,250	\$70,800
2	\$54,000	\$80,950
3	\$60,750	\$91,050
4	\$67,450	\$101,150
5	\$72,850	\$109,250
6	\$78,250	\$117,350
7	\$83,650	\$125,450
8	\$89,050	\$133,550

*Se habla español*

*\*Program and income restrictions apply*

## We can help you!

- Home Improvement Loans
- Construction Management Services
- Home Safety Inspections

For more information:

888-895-2NHS(647) • [www.lanhs.org](http://www.lanhs.org)  
[education@lanhs.org](mailto:education@lanhs.org)



3926 Wilshire Boulevard, Suite 200  
 Los Angeles, CA 90010

*Establishing, Protecting and Preserving  
 Lifelong Homeowners*



CA Dept. of Real Estate License # 01215950

3575 Wilshire Boulevard  
Suite 500  
Los Angeles, CA 90010



## ¿Necesita mejorar su hogar?

**Mejore su hogar**

**Baños**

**Calefacción**

**Cocina**

**Electricidad**

**Pintura**

**Plomería**

**Piso**

**Techos**

- 0% - 4% Programas disponibles para dueños de casa que califiquen\*

- Otros Productos de Prestamos Accesibles

**Nosotros le podemos ayudar:**

- Prestamos para mejoras del hogar
- Servicios de manejo de construcción
- Inspecciones de seguridad para el hogar

Para mas información:  
888-895-2NHS(647) • [www.lanhs.org](http://www.lanhs.org)  
[education@lanhs.org](mailto:education@lanhs.org)



# CITY OF HUNTINGTON PARK

Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

## **AFFORDABLE HOUSING AGREEMENT BETWEEN THE CITY OF HUNTINGTON PARK AND HUNTINGTON PARK 607, LP FOR \$1.9 MILLION LOAN TO FUND REHABILITATION COSTS TO THE RUGBY PLAZA SENIOR HOUSING PROJECT**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Approve the Affordable Housing Agreement with Huntington Park 607, LP for rehabilitation costs at the Rugby Plaza Senior Housing Project (Project)
2. Authorize the City Manager to execute all related documents for the transaction of the Rugby Plaza Senior Housing Project ("Project") following City Attorney review and approval.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On February 19, 2013, the City Council approved the sale of the Parking Garage (easement) for \$4,881,852 to City Housing – Rugby Associates, LP ("Current Project Owner") and to lend \$1,900,000 to Huntington Park 607, LP ("New Project Owner"), from the sale proceeds of the Parking Garage, for rehabilitation costs at the Rugby Plaza Senior Housing Project ("Project"). The affordable housing agreement will outline the City's terms and condition for the \$1.9 million loan. The City's loan will be secured through Deed of Trust and promissory note for the deferred loan. This transaction will require several documents to be executed to close the sale and execute the loan. Documents include but not limited to the Affordable Housing Agreement, Deed of Trust, Promissory Note, purchase and sale agreement and escrow instruction, parking easement agreement, quickclaim deed and other related documents to close escrow.

The City will provide a Quitclaim Deed and transfer all interests in the parking structure and underlying land to the New Project Owner and the new Project Owner will provide the City a perpetual easement through a parking easement agreement for the use and

maintenance of the first floor parking. The City will indemnify the New Project Owner related to the City's use of the first floor parking.

### **FISCAL IMPACT/FINANCING**

From the sale of the parking structure for \$4,881,852, the proceeds will be used as follows:

1. \$668,000 to repay the existing HUD 108 Loan for the Project.
2. \$1,900,000 loan to finance the rehabilitation costs for the Project
3. \$2,313,852 distributed to the City General Fund

The proposed terms of the \$1.9 million loan are outlined below:

- 3.0% annual (simple) interest
- 55 year final maturity
- Deferred principle and interest payments, due the earlier of maturity (55 years), or the sale / refinance of the Project subject to available funds.
- Subordinate to construction and permanent financing.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Project is located at 6330 Rugby Avenue and is an age-restricted low-income rental facility comprised of 147 one-bedroom units and 37 two-bedroom units. All of the units are income-restricted to 50% or 60% of the annual Area Median Income (AMI). The Project includes a two-level parking structure owned by the City, as well as 11,900 square feet of commercial space (located on the second level of the parking structure) that is currently sublet to AltaMed for its Adult Day Care facility.

The Project was built in 1995, through the combination of low-income housing tax credits, multifamily housing tax-exempt bonds, and HUD Section 108 Loan Guarantee and HOME funds, provided by the City.

The total cost for acquisition, rehabilitation, and construction by the New Project Owner of the Project is equal to \$19.8 million. Project funding will be obtained from multiple sources, including: tax-exempt bonds, low-income tax credits, a City loan, and project income. New affordable housing covenants and restrictions will be imposed on the project for a period of 55 years. The City remaining HOME affordability restrictions will remain in place until it expires in 2016.

The current Parking Garage Lease has a predetermined purchase price of \$5.8 million, equal to the principal lease balance plus the accumulated rent to date, which the City will receive for the sale of the parking structure at the end of the Lease Agreement in 20 years (i.e. 2017). The lease also provides a schedule that calculates the amount due, if purchased prior to the end of the lease. Therefore, this option is being exercised prior to the lease term, at year 16. According to the lease schedule, \$4,881,852 will be payable to the City.

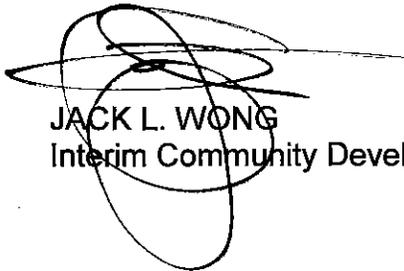
### **CONCLUSION**

Escrow is scheduled to close between April 23 and May 1, once all the documents have been reviewed by all parties including equity lenders, developer and the City. The documents are currently under review by the lenders and developers and are subject to City Attorney review and approval of non-substantive changes.

Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



JACK L. WONG  
Interim Community Development Director

Attachments:

- A. Affordable Housing Agreement
- B. Deed of Trust
- C. Promissory Note





# **Attachment A**



**AFFORDABLE HOUSING AGREEMENT**

**by and between**

**CITY OF HUNTINGTON PARK**

**and**

**HUNTINGTON PARK 607, LP**

**(HUNTINGTON PLAZA APARTMENTS)**



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**LIST OF ATTACHMENTS**

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**AFFORDABLE HOUSING AGREEMENT  
(Huntington Plaza Apartments)**

This AFFORDABLE HOUSING AGREEMENT (and any amendments, modifications, replacements, supplements and restatements thereto made after the date hereof, "Agreement") is entered into as of \_\_\_\_\_ 2013 by and between the CITY OF HUNTINGTON PARK, a California municipal corporation ("City"), and Huntington Park 607, LP, a California limited partnership ("Developer") comprised of USA Properties Fund Inc., Oldtimers Housing Development Corporation and Riverside Charitable Corporation.

**RECITALS**

A. City is a California municipal corporation and a participating jurisdiction with the United States Department of Housing and Urban Development that has received funds from HUD pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, et seq., and the implementing regulations thereto set forth in 24 CFR §92.1, et seq. ("HOME Program") for the purposes of strengthening public-private partnerships to provide more affordable housing, and particularly to provide decent, safe, sanitary, and affordable housing, with primary attention to housing for very low income and lower income households in accordance with the HOME Program. The HOME Program funds are used by the City, as a participating jurisdiction, to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing for target income persons and families.

B. Developer has entered into an agreement to purchase, rehabilitate and operate a parcel of real property and improvements located at **6330 Rugby Avenue** in the City ("Property"), as more particularly described in the Legal Description attached hereto as Attachment No. 1, and incorporated herein by reference. The Property is improved with a 184-unit affordable, age-restricted apartment building and two-level parking structure and is covenanted with HOME occupancy and affordability restrictions required under the HOME Program.

D. By this Agreement, and subject to the terms and conditions herein, City desires to provide financial assistance to Developer in the form of a loan of its General Funds up to the amount of One Million Nine Hundred Thousand Dollars (\$1,900,000) in order to assist Developer to rehabilitate the Property as a long-term affordable housing project for persons and families of very low and low income at an Affordable Rent throughout the entire Affordability Period, as set forth in more detail in this Agreement ("Project"). The permitted income levels of the tenants of each Housing Unit and the permissible rents to be charged for occupancy of each Housing Unit are set forth in detail in this Agreement in order to ensure compliance with the requirements of the HOME Program with respect to the use of HOME Program funds to assist the Project.

E. Developer has submitted an Application to the California Tax Credit Allocation Committee ("TCAC") for an allocation of federal 4% tax credits ("Tax Credits") which if allocated shall be sold to a limited partner tax credit investor of the Developer to further assist with the acquisition, Rehabilitation, and operation of the Project, as well as an application to the

California Debt Limit Allocation Committee (CDLAC) or private placement, tax-exempt bonds issued by the California Statewide Communities Development Authority, a City subordinate loan, project net operating income and a deferred developer fee . In the event Developer does not receive an a preliminary reservation of Tax Credits pursuant to the Application submitted 2013 for TCAC's 2013 first round this Agreement shall automatically terminate and be of no further force and effect, but nothing in the foregoing terminates or modifies the provision of the Predevelopment Loan Agreement.

F. City has determined that the Project is categorically exempt from the provisions of the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA"), pursuant to the Guidelines for Implementation of the California Environmental Quality Act set forth at Title 14 California Code of Regulations Section 15000, et seq. ("CEQA Guidelines"); specifically, the Project consists of City's acquisition of affordable housing covenants, an interest in the Housing Units, in implementation of the City's adopted Housing Assistance Plan, pursuant to Section 15326 of the CEQA Guidelines.

G. Initially capitalized terms used in these Recitals are defined in these Recitals and in Section 101, below.

H. The Project is in the vital and best interest of the City and the health, safety and welfare of the residents of the City, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

## **100. DEFINITIONS AND GENERAL TERMS.**

**101. Defined Terms.** As used in this Agreement (and in all other Project Documents, unless otherwise defined), the following capitalized terms shall have the following meanings:

**"Acquisition Portion"** shall mean that portion of the City Loan described in Section 202.1(b).

**"Affiliate"** shall mean any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Developer which, shall include each of the constituent partners or members, respectively thereof. The term "control" as used in this immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of at least 50% of the voting rights attributable to the shares of the controlled corporation and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

**"Affordability Period"** shall mean the duration of the affordable housing requirements that are required by this Agreement and set forth in the Regulatory Agreement. The Affordability Period shall be fifty-five (55) years from the date the Release of Construction Covenants is issued by City and recorded against the Property indicating construction work is completed, and the Project is ready for occupancy. The Affordability Period for HOME

covenants shall be ---2016. Pursuant to a HOME regulations at 24 CFR 92.252(e) the minimum HOME affordability period for new construction is twenty (20) years after project completion, which is defined at 24 CFR 92.2 to mean "all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under 24 CFR 92.251); the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD.

**"Affordable Rent"** or **"Affordable Housing Cost"** shall mean the maximum amount of monthly Rent (not including any Section 8 subsidy received for the Project) to be charged by Developer and paid by the 50% AMI Very Low Income Households and 60% AMI Low Income Households occupying the Housing Units at the Project, which shall be determined and calculated in accordance with Section 1004.1.

**"Agreement"** shall mean this Home Investment Partnership Affordable Housing Agreement.

**"AMI"** and **"Area Median Income"** shall mean the area median income for Los Angeles County, California, as published annually by TCAC.

**"Annual Financial Statement"** shall mean the certified financial statement of Developer for the Project using generally accepted accounting principles, as separately accounted for this Project, including Operating Expenses and Annual Project Revenue, prepared annually and provided to City at Developer's expense, by an independent certified public accountant reasonably acceptable to City, commencing in the year after the year in which the Release of Construction Covenants is issued.

**"Annual Project Revenue"** shall mean all gross income and all revenues of any kind from the Project in a calendar year (to the extent such income or revenue is applicable to periods of time after issuance of a certificate of occupancy for one or more of the Housing Units), of whatever form or nature, whether direct or indirect, with the exception of the items excluded below, received by or paid to or for the account or benefit of Developer or any Affiliate of Developer or any of their agents or employees, from any and all sources, resulting from or attributable to the ownership, operation, leasing and occupancy of the Project, determined on the basis of generally accepted accounting principles applied on a consistent basis, and shall include, but not be limited to: (i) gross rentals paid by tenants of the Project under leases, and payments and subsidies of whatever nature, including without limitation any payments, vouchers or subsidies from HUD or any other person or organization, received on behalf of tenants under their leases, (ii) amounts paid to Developer or any Affiliate of Developer on account of Operating Expenses for further disbursement by Developer or such Affiliate to a third party or parties, (iii) late charges and interest paid on rentals, (iv) rents and receipts from licenses, concessions, vending machines, coin laundry and similar sources; (v) other fees, charges or payments not denominated as rental but payable to Developer in connection with the rental of office, retail, storage, or other space in the Project; (vi) consideration received in whole or in part for the cancellation, modification, extension or renewal of leases, and (vii) interest and other investment earnings on security deposits, reserve accounts and other Project accounts to the extent disbursed. Notwithstanding the foregoing, Annual Project Revenue (gross rents) shall not

include the following items: (a) security deposits from tenants (except when applied by Developer to rent or other amounts owing by tenants); (b) capital contributions to Developer by its members, partners or shareholders; (c) condemnation or insurance proceeds; (d) funds received from any source actually and directly used for acquisition of the Property and/or initial development of the Project; or (e) receipt by an Affiliate of management fees or other bona fide arms-length payments for reasonable and necessary Operating Expenses associated with the Project.

**“Applicable Federal Rate”** shall mean the interest rate set by the United States Treasury from time to time pursuant to Section 1288(b) of the Internal Revenue Code. The Applicable Federal Rate is published by the Internal Revenue Service in monthly revenue rulings.

**“Application”** shall mean, individually and collectively, any and all of Developer’s Tax Credit Applications submitted or to be submitted to TCAC to obtain an allocation of Tax Credits.

**“Building Permit”** or **“Building Permits”** shall mean each and all of the building permits) issued by the City and required to commence construction of the Rehabilitation and includes any permit or other approval required by any other public agency with jurisdiction over the Property.

**“Business Day”** shall mean any day that Huntington Park City Hall is open for business. As of the date of this Agreement, City Hall is closed Friday through Sunday, and on all State and Federal holidays.

**“Capital Replacement Reserve”** shall mean a separate reserve fund account to be established and maintained by Developer equal to not less than Three Hundred Dollars (\$300) per year for each Housing Unit in the Project (i.e., one hundred eighty-four (184) units in the Project times \$300 equals Fifty-five Thousand Two Hundred Dollars (\$55,200) per year for the Project), to be used as the primary resource to fund capital improvements, and replacement improvements. The amount of \$300 for each Housing Unit that is set aside by Developer (or its Property Manager) shall be allocated from the gross rents received from the Property and deposited into a separate interest-bearing trust account for capital repairs and replacements to the improvements, fixtures and equipment at the Property that are normally capitalized under generally accepted accounting principles, including, without limitation, the following: carpet and drape replacement; appliance replacement; exterior painting, including exterior trim; hot water heater replacement; plumbing fixtures replacement, including tubs, showers, toilets, lavatories, sinks, and faucets; air conditioning and heating replacement; asphalt repair, replacement, and seal coating; roofing repair and replacement; landscape tree replacement; irrigation pipe and controls replacement; gas line pipe replacement; lighting fixture replacement; elevator replacement and upgrade work; miscellaneous motors and blowers; common area furniture replacement; and common area repainting. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Property and all common areas and common improvements in the manner prescribed herein. Pursuant to the procedure for submittal of each annual Operating Budget to City Manager by Developer, City Manager will evaluate the cumulative amount on deposit in the Capital Replacement Reserve account and exercise his sole, reasonable discretion to determine if existing balance(s) in,

proposed deposits to, shortfalls, if any, and/or a cumulative unexpended/unencumbered account balance in such Capital Replacement Reserve account are adequate to provide for necessary capital repairs and improvement to the Property (provided that required annual deposits thereto are not required to exceed \$300/per Housing Unit.)

**“Capitalized Operating Reserve”** shall mean the capitalized operating reserve for the Project, which shall be funded by Tax Credit equity in the Target Amount, or by other available sources, as provided in Section 1013. The Capitalized Operating Reserve shall thereafter be replenished from Annual Project Revenue if and to the extent required by the Lender or Developer’s Tax Credit Investor.

**“Certification of Continuing Program Compliance”** shall mean the form of annual certification of the affordable housing requirements for operation of the Project, substantially in the form of Attachment No. 12 attached hereto and fully incorporated by this reference.

**“City”** shall mean the City of Huntington Park, a California municipal corporation.

**“City Council”** shall mean the City Council of the City of Huntington Park.

**“City Loan”** shall mean the financial assistance provided by City with respect to the Project and Property, as more particularly provided in Section 201.

**“City Loan Deed of Trust”** shall mean a deed of trust securing the City Loan Note and other obligations of Developer hereunder substantially in the form of Attachment No. 4, attached hereto and fully incorporated herein by this reference and any amendments, modifications, replacements, supplements and restatements thereto made after the date hereof.

**“City Loan Note”** shall mean the promissory note, substantially in the form of Attachment No. 3 attached hereto and fully incorporated herein by this reference, which evidences the City Loan and any amendments, modifications, replacements, supplements and restatements thereto made after the date hereof.

**“City Manager”** shall mean the City Manager of the City of Huntington Park and his authorized designee(s). Whenever the consent, approval or other action of the “City Manager” is required herein such consent may be provided by the City Manager or his authorized designee(s), or the City Manager may submit to the City Council for action to approve or disapprove such request.

**“City Monitoring Fee”** shall have the meaning ascribed in Section 1014.1.

**“City Title Policy”** shall have the meaning set forth in Section 401.7 and shall be a lender’s policy of title insurance insuring the full amount of the City Loan.

**“Closing”** means the close of Escrow and recordation of the Deed of Trust and Regulatory Agreement in the Official Records of Los Angeles County, California.

**“Conditions Precedent”** shall mean the conditions precedent to the disbursement of any portion of the City Loan and commencement of the Rehabilitation, as set forth in Sections 401, et seq., through 403, et seq.

**“Construction Contract”** shall mean the contract entered into by and between Contractor and Developer for the Rehabilitation and itemized with all Costs of Rehabilitation, as approved by City Manager pursuant to this Agreement.

**“Construction Loan”** shall mean the construction loan from a financial institution to Developer, in the approximate amount of \$4,151,000, secured by the Project and to be repaid prior to the issuance of a Release of Construction Covenants for the Project as same may be amended, supplemented, restated or modified after the date hereof as approved by City.

**“Construction Portion”** shall mean that portion of the City Loan described in Section 202.1(c).

**“Contractor”** shall mean the general contractor for the Project, duly licensed in the State of California and bonded (or with performance secured by a letter of credit as permitted by this Agreement) and insured as required herein, performing the construction work for the Rehabilitation or any other Improvements that comprise the Project.

**“Costs of Rehabilitation”** shall mean all reasonable costs and expenses to complete the approved Scope of Development described in this Agreement and set forth in a fully itemized budget in an approved Construction Contract (or pursuant to change orders approved in accordance with the approved Construction Contract) and in accordance with property standards for Rehabilitation inclusive of the City’s rehabilitation standards, which include requirements of applicable state and local codes for such work that are actually incurred by Developer for the Rehabilitation of Property pursuant to this Agreement. The Costs of Rehabilitation shall include, without limitation, the following: environmental assessment, testing, and remediation, if any, of the land/soils and existing improvements (such as asbestos, mold, etc.); construction cost; construction and design fees; architectural and engineering costs and fees (if any); construction financing interest, fees, and “points”; property taxes and assessments; security services; off-site Improvements (if any); Building Permits; utilities fees; insurance; legal and accounting fees; title and title insurance; Escrow fees and closing costs; performance, labor and materials bonds; fees for letter(s) of credit; appraisals; and such other costs, fees and expenses, as agreed to in writing by City Manager; provided, however, that payment to parties related to Developer for Costs of Rehabilitation shall not exceed reasonable and customary market rates, as reasonably determined by City Manager.

**“County”** shall mean the County of Los Angeles, California.

**“CPI”** means United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Urban Wage Earners and Clerical Workers, Subgroup “All Items,” for the Los Angeles-Riverside-Los Angeles County area, 1982-84 = 100, or successor or equivalent index in case such index is no longer published.

**“Date of Agreement”** shall mean the date set forth in the introductory paragraph of this Agreement.

**“Debt Service”** means mandatory payments to be made in a calendar year pursuant to approved financing obtained for the acquisition, rehabilitation, ownership, and operation of the Project in accordance with this Agreement, but excluding payments to be made to the City Loan.

**“Default”** or **“Event of Default”** means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 1300, et seq. hereof.

**“Developer”** shall mean Huntington Park 607, LP, a California limited partnership, and its permitted successors and assignees.

**“Developer Fee”** shall mean a fee in a cumulative amount not to exceed the limitations imposed thereon by TCAC, to be paid to Developer under the Partnership Agreement, which fee is compensation to perform, or to engage and supervise others to perform, services in connection with the negotiating, coordinating, and supervising the planning, architectural, engineering and construction activities necessary to complete the Project, including all other on-site and off-site improvements required to be constructed in connection therewith, in accordance with the Scope of Development and the Rehabilitation Plans, as set forth in the Final Budget and approved as a part of the evidence of financing pursuant to Section 206 herein. Any portion of the Developer Fee for the Project in excess of: (i) Two Million Sixty-Two Thousand Four Hundred and Twenty-Two Dollars (\$2,062,422) or (ii) the amount eligible to be included in basis pursuant to the Tax Credit Rules, whichever is lower, constitutes an “Excess Developer Fee” (as defined below) and must be deferred until rehabilitation of the Project has been completed and is only eligible to be paid from Developer’s share of Refinancing Net Proceeds and Transfer Net Proceeds.

**“Disbursement Procedures”** shall mean the method, procedure, conditions and requirements for disbursement of any, all and each disbursement of the City Loan proceeds that are set forth in the Disbursement Procedures attached hereto as Attachment No. 14 and incorporated herein by this reference.

**“Escrow”** shall mean the escrow established for the sale of the Property by the current private owner to Developer.

**“Escrow Holder”** shall mean the holder of the Escrow.

**“Federal Program Limitations”** shall mean compliance with the HOME Program and HOME Regulations, defined hereunder, as applicable to the Project, and also includes any and all other applicable federal regulations including fair housing and non-discrimination applicable to the Project. Developer covenants, acknowledges, and agrees it is subject to all Federal Program Limitations, including (with respect to the HOME Units) the HOME Program and HOME Regulations (whichever are most restrictive and to the extent applicable to the Project), in connection with its performance under this Agreement, and agrees it shall endeavor to cause the use and operation of the Property to conform to the Federal Program Limitations.

**“Final Budget”** means the final budget for the Rehabilitation of the Project, including all hard and soft costs therefor, as approved by City pursuant to Sections 206.2(a) and 401.3.

**“Final Disbursement”** is defined in Section 202.1(c).

**“Force Majeure”** means one or more of the events described in Section 1305.

**“Governmental Requirements”** means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the state, the County, the City, or any other political subdivision in which the Property are located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over Developer or the Project.

**“HOME Program”** shall mean the Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, specifically the HOME Investment Partnership Act, 42 U.S.C. §12701, et seq. and the implementing HOME Regulations at 24 CFR §92.1, et seq., as such law now exists and as it may hereafter be amended, to the extent applicable to the Project.

**“HOME Regulations”** shall mean the implementing regulations of the HOME Program set forth at 24 CFR §92.1, et seq. as such regulations now exist and as they may hereafter be amended, to the extent applicable to the Project. Developer covenants hereunder to comply with all applicable HOME Regulations in the performance of this Agreement, whichever are more restrictive. In implementation of these requirements, this Agreement, the Project, and all eligible contributions and expenditures hereunder shall conform to the following:

a. The housing developed hereunder does and shall qualify as affordable housing under 24 CFR §92.252 because each Housing Unit shall be rented at an Affordable Rent; and

b. This Agreement serves as the written agreement that imposes and enumerates (by meeting or exceeding) all of the requirements set forth at 24 CFR §92.504(C)(3), including the affordability requirements from 24 CFR §92.252; the property standards requirements of 24 CFR §92.251; and income determinations made in accordance with 24 CFR §92.203.

**“HOME Units”** shall mean ninety-one (91) of the Housing Units (as more particularly described in Section 1002.3(b)), which shall at any given time be designated as HOME Units and shall be subject to all applicable HOME Regulations. Forty-five (45) HOME Units shall be “Low HOME” units and forty-six (46) HOME Units shall be “High HOME” units pursuant to the HOME Regulations. The HOME Units may be “floating” HOME Units, such that the specific Housing Units designated as HOME Units may change as long as the requirements set forth in the immediately preceding sentence relating to the number of one and two-bedroom Housing Units required to be designated as HOME Units are at all times complied with (subject to allowable increases in tenant income pursuant to Section 1004.3 hereof and the Regulatory Agreement). Developer shall designate ninety-one (91) of the Housing Units as HOME Units, in accordance with this paragraph, the HOME Program, and the HOME Regulations.

**“Housing Unit”** or **“Housing Units”** means the one hundred and eighty-four (184) individual apartment units at the Property to be acquired, rehabilitated, leased, managed, and operated by Developer as long term affordable housing and in implementation of the Project (inclusive of the HOME Units).

**“HUD”** shall mean the United States Department of Housing and Urban Development.

**“Improvements”** means all improvements pertaining to the realty, fixtures, works of improvement now existing or hereafter comprising any portion of the Property and all work of Rehabilitation, new construction, or other revitalization to the existing improvements at the Property, including, without limitation, buildings; landscaping, trees and plant materials; and offsite improvements, including, without limitation, streets, curbs, storm drains, and adjacent street lighting, which will be caused to be undertaken by Developer in completion of the Project pursuant to this Agreement and all other Project Documents.

**“Indemnitees”** means City and its elected officials, officers, employees, attorneys, contractors, elective and appointive boards and commissions, representatives, agents, and volunteers.

**“Legal Description”** shall mean the legal description of the Property set forth as Attachment No. 1, which is attached hereto and fully incorporated herein by this reference.

**“Lender”** shall mean the financial institution providing the Construction Loan, as lender of the Construction Loan.

**“Huntington Park 607, LP ”** shall mean Huntington Park 607, LP, a California limited partnership (“Developer”) comprised of USA Properties Fund Inc., Oldtimers Housing Development Corporation and Riverside Charitable Corporation.

**“Memorandum of Agreement”** shall mean Attachment No. 7 attached hereto and fully incorporated by this reference and shall include notice of this Agreement and the obligations of Developer to acquire the Property, complete the Rehabilitation, and operate the Project pursuant to the terms of this Agreement.

**“Operating Budget”** shall mean the annual operating budget for the Project that sets forth the projected Operating Expenses for the upcoming year that is submitted to and reviewed and approved by City Manager in his sole and reasonable discretion; provided that the Operating Budget may also be subject to review by Lender, if required by the Construction Loan, documents). The City Manager’s discretion in review and approval of each proposed annual Operating Budget shall include, without limitation, authority to review individual categories, line items, and accounts, such as the following: extent, type, and amount for social/supportive services at or associated with the Project; existing balance(s) in and proposed deposits to the Capital Replacement Reserve and Capitalized Operating Reserve to evaluate shortfalls and/or cumulative unexpended/unencumbered deposits (provided that required annual deposits into the Capitalized Replacement Reserve are not required to exceed \$300/per unit and the amount maintained in the Capitalized Operating Reserve is not required to exceed the Target Amount); the City Monitoring Fee; conformity of any annual increases in the partnership management fee, asset management fee, and general partner guaranty fee; reasonableness and conformity to prevailing market rates in Huntington Park and rates and fees for goods and services to be provided by Developer or any Affiliate. The Operating Budget is further described in Section 1012.

**“Operating Expenses”** shall mean actual, reasonable and customary (for comparable high quality, fully rehabilitated, multi-family rental housing developments in Huntington Park) costs, fees and expenses directly incurred and attributable to the operation, maintenance, and management of the Project in a calendar year, which are in accordance with the Operating Budget (or any amendments thereto) approved by City through the City Manager pursuant to Section 1012 of this Agreement, and not a part or paid as a part of the Rehabilitation of the Property, including, without limitation, Debt Service; painting, cleaning, repairs, alterations, landscaping; utilities, refuse removal, certificates, permits and licenses, sewer charges, taxes, filing fees, assessments, insurance, security, advertising and promotion, janitorial services, cleaning and building supplies, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings which are not paid from the Capital Replacement Reserve, fees and expenses of property management (not exceeding the sum of \$60 per month per unit) and common area expenses, fees and expenses of accountants, attorneys and other professionals, the cost of social/supportive services in an annual amount equal to \$35,000 (subject to annual increases of 2.5 %), and other actual, reasonable and customary operating costs which are directly incurred and paid by Developer, but which are not paid from reserve accounts, and provided however that any fees incurred or services provided by Developer or any Affiliate shall not exceed fair market fees or rates for goods services that are customary and prevailing in Huntington Park for such fees, goods, or services. To the extent Developer’s only asset is the Project, Operating Expenses shall include actual, reasonable and customary costs, fees and expenses paid to unaffiliated third parties for the operation of Developer, including administrative, accounting and legal fees and expenses. Operating Expenses may include costs, fees or expenses paid to unaffiliated third parties that were not set forth in the approved Operating Budget to the extent such costs, fees or expenses were not foreseen at the time the applicable Operating Budget was created, but nonetheless were actual, reasonable and customary for comparable developments; provided, evidence of such expenses must be submitted to City Manager for verification purposes prior to payment thereof (except in emergency situations, in which case evidence of such expenses must be submitted to City Manager for verification purposes as soon as reasonably practicable).

The term “Operating Expenses” shall not include any of the following: (i) salaries of employees of Developer or Developer’s general overhead expenses, or expenses, costs and fees paid to an Affiliate of Developer, to the extent any of the foregoing exceed the expenses, costs or fees that would be payable in a bona fide arms’ length transaction between unrelated parties in Huntington Park for the same work or services; (ii) any amounts paid directly by a tenant of the Project to a third party in connection with expenses which, if incurred by Developer, would be Operating Expenses; (iii) optional or elective payments with respect to any financing senior to the City Loan unless approved by City; (iv) any payments with respect to any Project-related loan or financing other than Debt Service; (v) expenses, expenditures, and charges of any nature whatsoever arising or incurred by Developer prior to completion of the Rehabilitation of the Project with respect to the development, maintenance and upkeep of the Project, or any portion thereof, including, without limitation, all costs and expenses incurred by Developer in connection with the acquisition of the Property, all pre development and pre Rehabilitation activities conducted by Developer in connection with the Project, including without limitation, the preparation of all plans and the performance of any tests, studies, investigations or other work, and the Rehabilitation of the Project and any on-site or off-site work performed in connection therewith; (vi) depreciation, amortization, and accrued principal and interest expense

on deferred payment debt; (vii) any Partnership Related Fees/Expenses to the extent they are not paid as capitalized expenses; (viii) payment of the Excess Developer Fee; and (ix) other expenses not related to the operation, maintenance, or management of the Project.

**“Outside Closing Date”** shall mean July \_\_\_\_, 2013, or the outside closing date for the close of Escrow pursuant to the Purchase Agreement, but no later than December 31, 2013.

**“Outside Completion Date”** shall mean December 31, 2014.

**“Parties”** shall mean City and Developer.

**“Partnership Agreement”** means the agreement which sets forth the terms of Developer’s limited partnership, as such agreement may be amended from time to time. Any and all material amendments must be consistent with this Agreement and require the prior review and approval of the City Manager. The Partnership Agreement must conform to 24 CFR 92.300, and shall require that throughout the Affordability Period one of the general partners is to be wholly owned by Huntington Park 607, LP or another CHDO acceptable to City. The Partnership Agreement shall include provisions which incorporate or otherwise substantially conform to the cash flow priorities set forth in this Agreement, including the requirements relating to any Excess Developer Fee; specifically, that Developer’s payment of such Excess Developer Fee shall be deferred until all Rehabilitation at the Project has been completed and that such Excess Developer Fee shall only be eligible to be paid from Developer’s share of Refinancing Net Proceeds and Transfer Net Proceeds.

**“Partnership Related Fees/Expenses”** shall mean fees and expenses of the Developer entity (or partners or Affiliates thereof pursuant to the Partnership Agreement) actually incurred, which are reasonable and customary to developer/owner entities for similar projects in Southern California, and may include, but shall not exceed:

- (i) general partner asset management and property tax abatement fees payable to the general partner(s); and
- (ii) a limited partner administrative fee payable to the Investor Limited Partner.

In no event shall the fees for (i) and (ii) above cumulatively exceed Thirty Three Thousand Dollars (\$32,500 in any one year (increased annually by 3%). In the event insufficient Annual Project Revenues exist to provide for payment of all or part of the specific Partnership Related Fees/Expenses listed above, no interest shall accrue on the unpaid portions of such Partnership Related Fees/Expenses, but the unpaid balance will be added to the Partnership Related Fees/Expenses due in the following year.

**“Project”** shall mean the Huntington Plaza Apartments at Huntington Park project, at 6330 Rugby Avenue and is an age-restricted low-income rental facility comprised of 147 one-bedroom units and 37 two-bedroom units. All of the units are income-restricted to 50% or 60% of the annual Area Median Income (AMI), in accordance with this Agreement and the Regulatory Agreement. The Project includes a two-level parking structure owned by the City, as

well as 11,900 square feet of commercial space (located on the second level of the parking structure) that is currently sublet to AltaMed for its Adult Day Care facility.

**“Project Completion”** means that all necessary title transfer requirements and construction work have been performed; the project complies with the City’s property standards under. .

**“Project Documents”** shall mean the following documents evidencing the City Loan and required as consideration for City to make the City Loan, and any amendments, modifications, replacements, supplements and restatements thereto made after the date hereof: (i) this Agreement, (ii) the City Loan Note; (iii) the City Loan Deed of Trust; (iv) the Memorandum of Agreement; (v) the Regulatory Agreement; (vi) the Security Agreement (UCC-1 Financing Statement); (vii) the Request for Notice of Default; and (viii) any other agreement, document, or instrument that City may reasonably require Developer to execute in connection with the execution of this Agreement or the provision of the City Loan to Developer or otherwise, from time to time, to effectuate the purposes of and to implement this Agreement.

**“Property”** shall mean that certain parcel of real property located at 6330 Rugby Avenue in the City, improved with a 184-unit **age-restricted low-income rental facility**, as more fully and legally described in the Legal Description attached hereto as Attachment No. 1 and incorporated herein; all appurtenances, rights and privileges now or hereafter related thereto or arising therefrom; all improvements now or hereafter located thereon.

**“Purchase Agreement”** means the Purchase and Sale Agreement and Escrow Instructions between the Developer and City Housing – Rugby Associates, LP which provides for a Property purchase price of \$4,881,852, which agreement was dated as of [[March 1, 2013]]

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**“Refinancing Net Proceeds”** shall mean the proceeds of any approved refinancing of any of the approved financing secured by the Property, net of (i) the amount of the financing which is satisfied out of such proceeds; (ii) reasonable and customary costs and expenses incurred in connection with the refinancing; (iii) the balance of loans to the Project made by the partners of Developer for development or operating deficits, amounts expended to maintain compliance with the Tax Credit Regulatory Agreement, or contributions for capital expenditures in excess of available Project revenues, if any, including interest at the Applicable Federal Rate (as approved by City); (iv) payment of unpaid Tax Credit adjustment amounts or reimbursement of Tax Credit adjustment amounts paid by the general partners and/or the guarantors of the Project pursuant to the approved Partnership Agreement; (v) the payment to Huntington Park 607, LP or its partners or their respective Affiliates of a refinancing fee, as set forth in the Partnership Agreement, which fee is and shall be subject to the approval of the City Manager at the time of each refinancing and which may be at least three percent (3%) of the approved refinancing and shall not exceed six percent (6%) of the amount of the approved refinancing; (vi) any unpaid Operating Expenses; (vii) the amount of proceeds required to be reserved for the repair, rehabilitation, reconstruction or refurbishment of the Project; and (viii) the payment of any unpaid Partnership Related Fees/Expenses.

**“Regulatory Agreement”** shall mean the Regulatory Agreement that is to be recorded as an encumbrance to the Project, in accordance with this Agreement. The Regulatory Agreement includes conditions, covenants, and restrictions relating to the long term use, operation, management, and occupancy of the Property, touches and concerns the land that comprises the Property, and is intended to run with the land for the entire term of the Affordability Period provided therein. The Regulatory Agreement is attached hereto as Attachment No. 11 and fully incorporated by this Reference.

**“Rehabilitation”** shall mean the entire work of rehabilitation, repair, construction, and improvement to the Property which is required pursuant to this Agreement, including as set forth in the Scope of Development, Attachment No. 5 such that at completion all units at a minimum, pass an inspection that addresses all of the inspectable items. .

**“Rehabilitation Plans”** is defined in Section 801.

**“Release of Construction Covenants”** shall mean Attachment No. 6 attached hereto and fully incorporated herein by this reference.

**“Rent”** shall mean the total of monthly payments by the tenants of a Housing Unit for use and occupancy for the Housing Unit and facilities associated therewith, including a reasonable allowance for utilities for an adequate level of service as defined in Title 25 California Code of Regulations §6918 and 24 CFR §92.252(d) as a HUD Utility Schedule Model or utility allowance for the project based on the type of utilities used at the project.

**“Request for Notice of Default”** shall mean a request for notice of default to be recorded against the Property in connection with the Escrow, substantially in the form of Attachment No. 8, attached hereto and fully incorporated by this reference.

**“Reserve Deposits”** shall mean any payments to the Capital Replacement Reserve and/or the Capitalized Operating Reserve accounts as required hereunder.

**“Schedule of Performance”** means that certain Schedule of Performance attached hereto as Attachment No. 2 and incorporated herein by this reference, which generally sets forth the time for performing the various obligations of this Agreement.

It is understood the Schedule of Performance is subject to all of the terms and conditions set forth in the Agreement. The summary of the items of performance set forth in the Schedule of Performance is not intended to supersede or modify the more complete description in the text of the Agreement; in the event of any inconsistency between the Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in the Schedule of Performance for City approval of submittals, including without limitation any plans and drawings, submitted to City by Developer shall only apply and commence upon Developer’s complete submittal of all the required information. In no event shall an incomplete submittal by Developer trigger any of City Manager’s obligations of review and/or approval hereunder; provided, however, that the City Manager shall notify Developer of an incomplete submittal as soon as is practicable.

**“Scope of Development”** shall mean the scope of work for the Rehabilitation of the Property, as set forth in the Scope of Development and in compliance with the property standards for rehabilitation , Attachment No. 5, attached hereto and fully incorporated by this reference, and such Scope of Development shall be automatically amended and updated to include the final Rehabilitation Plans approved by City, as herein further described.

**“Security Agreement”** and **“Financing Statement”** shall mean the Security Agreement and attached financings statements (including necessary UCC-1 form or forms) attached hereto as Attachment No. 9 and fully incorporated by this reference to be executed by Developer in substantially the form thereof, the filing of which will give City a perfected security interest in Developer’s tangible personal property and fixtures located on or about the Property.

**“Seller”** shall mean City Housing – Rugby Associates , the current owner of the Property and seller to Developer.

**“Target Amount”** is defined in Section 1213.

**“Tax Credit Equity”** is defined in Section 206.1(a).

**“Tax Credit Rules”** means the provisions of Section 42 of the Internal Revenue Code of 1986, as the foregoing may be amended from time to time, and the rules and regulations implementing the foregoing.

**“Tax Credit Regulatory Agreement”** shall mean the regulatory agreement that may be required to be recorded against the Property with respect to the Project’s allocation of Tax Credits.

**“Tax Credits”** shall mean federal 9% low income housing tax credits granted pursuant to Section 42 of the Internal Revenue Code.

**“TCAC”** means the California Tax Credit Allocation Committee, the allocating agency for Tax Credits in California.

**“Title Company”** means Lawyers Title Company or another title insurer mutually acceptable to City and Developer. The named Title Company shall in no event be changed by either party without first obtaining the express written consent of the other party. If either party changes the Title Company and any third party expenses are incurred due to such change, for example additional review and clearance of title exceptions, then the party who changed the Title Company shall be fully indebted to the other party for any and all out of pocket expenses incurred due to such change in Title Company.

**“Transaction Documents”** shall mean all Project Documents and any and all financing documents in connection with the financing sources for the Project.

**“Transfer”** shall mean, if at any time in the event that the Property or any part thereof or interest therein or direct or indirect interest in Developer shall be sold, conveyed, disposed of, alienated, hypothecated, leased (except to occupants under space leases), assigned, pledged, mortgaged, further encumbered (except for the Construction Loan) or otherwise transferred or

Developer shall be divested of its title to the Property or any interest therein, in any manner or way, whether voluntarily or involuntarily, by operation of law or otherwise. Also Transfer shall include:

(i) in the event either Developer or any of its shareholders, general partners or members is a corporation or trust, the direct or indirect sale, conveyance, transfer or disposition, alienation, hypothecation, or encumbering of more than 10% of the issued and outstanding capital stock of Developer or any of its shareholders, general partners or members or of the beneficial interest of such trust (or the issuance of new shares of capital stock in Developer or any of its shareholders, general partners or members so that immediately after such issuance, in one or a series of transactions, the total capital stock then issued and outstanding is more than 110% of the total immediately prior to such issuance); and

(ii) in the event Developer or any shareholder, general partner or managing member of Developer is a limited or general partnership, a joint venture or a limited liability company, a change of any general partner, joint venturer, limited liability company manager or managing member or a change in the ownership interests in any general partner, joint venturer, limited liability company manager or managing member, either voluntarily, involuntarily or otherwise, or the sale, conveyance, transfer, disposition, alienation, hypothecation or encumbering of all or any portion of the interest of any shareholder, general partner, joint venturer, limited liability company manager or managing member in Developer or such shareholder, general partner, joint venturer, limited liability company manager or managing member (whether in the form of a beneficial or ownership interest or in the form of a power of direction, control or management, or otherwise); and

(iii) any change or transfer in respect of the Property or any interest therein, or any direct or indirect change or transfer in Developer or any interest therein, resulting in any change in the management or control of Developer or the Property.

**“Transfer Net Proceeds”** shall mean the proceeds of any transfer, in whole or in part, of Developer’s interest in the Property or any sale, assignment, sublease, or other transfer, in whole or in part of Developer’s interests in the Property, net only of (i) the reasonable and customary costs and expenses incurred in connection with such transfer; (ii) the amount of the financing which is satisfied out of such proceeds, (iii) the balance, if any, of loans to the Project made by the limited partners of Developer, including interest thereon as provided in the Partnership Agreement (as approved by City after review and verification by City Manager of documentation provided by Developer showing the propriety of such loans), (iv) the balance, if any, of operating loans or development loans made by the general partners of Developer, including interest thereon as provided in the Partnership Agreement (as approved by City after review and verification by City Manager of documentation provided by Developer showing the propriety of such loans), (v) the payment of any unpaid Partnership Related Fees/Expenses, and (vi) the payment of any unpaid Operating Expenses.

**“50% AMI Very Low Income Households”** shall mean those households earning not greater than fifty percent(50%) of Los Angeles County Area Median Income, adjusted for household size, which is set forth by regulation of TCAC.

**“60% AMI Low Income Households”** shall mean those households earning not greater than sixty percent (60%) of Los Angeles County Area Median Income, adjusted for household size, which is set forth by regulation of TCAC.

## **200. FINANCING.**

**201. City Loan.** The City hereby agrees to loan to Developer and Developer hereby agrees to borrow from City an amount not to exceed One Million Nine Hundred Thousand Dollars (\$1,900,000) (“City Loan”), subject to the terms and conditions set forth in this Agreement, and subject further to the terms and conditions set forth within the Project Documents, including the “City Loan Note,” the “City Loan Deed of Trust,” and the “Regulatory Agreement.” In no event shall City be obligated to use any source of funding other than City General Funds to make the City Loan to Developer. The City Loan shall be evidenced by the City Loan Note and secured by the City Loan Deed of Trust and the Security Agreement, which shall be recorded against the Property in the Official Records of the County.

**201.1 Terms of City Loan.** The City Loan Note shall be for a term commencing upon the date of initial disbursement of funds thereunder and continuing until the fifty-fifth (55th) anniversary of the date the Release of Construction Covenants is recorded for the Project (loan maturity date). The City Loan Note shall bear simple interest at the rate of three percent (3%) per annum from the date of disbursement of City Loan proceeds. The City Loan Note shall be in the form of a deferred payment loan in which the principal and interest payments are due in full upon the earlier occurrence of (i) the fifty-fifth (55th) anniversary of the date the Release of Construction Covenants for the Project or (ii) upon the, direct or indirect, by operation of law or otherwise, Transfer, sale, master lease, or refinancing of the Project or any material part thereof without the prior consent of the City, or (iii) the acceleration of the loan maturity date in accordance with the provisions of this Agreement or the Project Documents, including after a default by Developer under this Agreement or any of the other Project Documents..

**201.2 Early Payment of City Loan.** The City will use its reasonable best efforts to provide HOME Tenant Based Rental Assistance to tenants at Huntington Plaza Apartments. In return for improving the Project cash flow, the Developer is to submit an annual repayment of the City Loan over the initial two-years following completion of the Project. The City Loan balance is to be reduced in an amount equivalent to the annualized rental assistance payment provided by HOME Tenant Based Rental Assistance contracts secured for tenants of Huntington Plaza Apartments. City makes no warranty or assurance that the HOME Tenant Based Rental Assistance will be obtained or remain available for said 2 year period. Developer acknowledges that the existence and continuation of HOME Tenant Based Rental Assistance is not a condition to this Agreement. If the HOME Tenant Based Rental Assistance is obtained Developer agrees to comply with the terms and conditions of such assistance program and cooperate with cost or expense with City in applying for, obtaining and administering such assistance program. Further Developer also agrees that a default under this Agreement or any of the other Project Documents shall constitute a default under such assistance program.

**201.3 Security for City Loan.** The City Loan shall be secured by the City Loan Deed of Trust, in the form attached hereto as Attachment No. 4 and incorporated herein by this reference, which shall be recorded against the Property in the Official Records of the County. The City Loan Deed of Trust shall be recorded superior to all other liens and encumbrances, except (i) current taxes not yet delinquent, (ii) liens and encumbrances approved by City. In addition, Developer shall grant to City a security interest in all of Developer's right, title and interest in and to the Collateral pursuant to and as defined in and substantially in the form of the Security Agreement, Attachment No. 9, and Financing Statements attached thereto. Developer shall execute the Security Agreement, the Financing Statements attached thereto, and such other documents requested by City to the extent necessary to perfect and maintain the security interest in the Collateral granted to City thereby. If requested by the lender of the Construction Loan, concurrently with the recordation of the deed of trust securing the Construction Loan, City shall enter into a subordination agreement with the construction lender, in a form reasonably acceptable to City and subject to the provisions of Section 206.2(c).

**202. Disbursement of City Loan Proceeds.** Subject to satisfaction by Developer or waiver by City of each and every Condition Precedent to the City Loan set forth in Sections 401 through 403, as applicable, the proceeds of the City Loan shall be disbursed only to pay for certain eligible Costs of Rehabilitation set forth in the Scope of Development and approved Final Budget (or as otherwise modified pursuant to change orders approved in accordance with the approved Construction Contract) and as approved by City Manager pursuant hereto. City's obligation to commence disbursement, disburse, and continue disbursement of the City Loan proceeds is subject to the fulfillment by Developer or waiver by City of the Conditions Precedent set forth in Sections 401 through 403 hereof, as well as compliance with the Disbursement Procedures, as applicable.

**202.1 Use and Disbursement of City Loan Proceeds.** The proceeds of the City Loan shall only be disbursed by City and used by Developer as described in this Agreement and for the following purposes:

(a) The City Loan Rehabilitation proceeds shall be disbursed by City to Developer in accordance with Section 403 below, including the Disbursement Procedures, Attachment No. 14, and shall be used by Developer as reimbursement for eligible Costs of Rehabilitation as approved by City Manager for consistency with the Rehabilitation Plans, the Scope of Development, the Construction Contract, and the Final Budget. Notwithstanding anything to the contrary set forth in this Agreement, City shall retain an amount equal to One Hundred Thousand Dollars (\$100,000) of the City Loan Proceeds, which amount shall not be disbursed until City has issued the Release of Construction Covenants for the Project, in accordance with Section 403.4 ("Final Disbursement").

Any reallocation of the City Loan proceeds to fund acquisition, costs of Escrow, or eligible Costs of Rehabilitation shall be expressly subject to approval by City Manager (or his authorized designee) in his sole and absolute discretion. In no event shall the cumulative City Loan proceeds disbursed by City exceed the maximum amount of the City Loan of \$1,900,000.

**202.2 Prohibited Use of Proceeds.** The proceeds of the City Loan shall not be used for Project reserve accounts or servicing and origination fees, or for expenditures incurred after the issuance of the Release of Construction Covenants.

(a) Subject to the provisions of Article 1300 of this Agreement, the City Loan, principal and interest, shall be due upon the occurrence of an Event of Default.

**203. Consent Required for Assignment and Assumption.** Except for Transfers permitted pursuant to Section 1401.1 below, the City Loan Note shall not be assignable or assumable by any successor or assignee of Developer without the prior written consent of City, which consent may be withheld in the sole and absolute discretion of City Manager.

**204. Intentionally Omitted.**

**205. Additional Financing.**

**205.1 Sources of Financing.** Developer and City anticipate the following funding sources to be obtained by Developer and utilized in addition to the City Loan for the acquisition, Rehabilitation, and operation of the Project. The final sources and amounts of funding for the Project as well as the final cost estimates with respect to the acquisition, Rehabilitation and operation of the Project shall be set forth in the Final Budget which is required to be submitted to City as a Condition Precedent pursuant to Section 401.

(a) Tax Credit Equity. Developer shall use its reasonable and best efforts to apply for and secure a preliminary reservation of federal 4% Tax Credits in an amount not less than reasonably expected to yield approximately \$5,445,784 in equity from the tax credit investor ("Tax Credit Equity"). In the event Developer does not receive a preliminary reservation of Tax Credits pursuant to the application submitted September 26, 2012 for TCAC's 2013 first round or, if Tax Credits are not awarded thereunder, then pursuant an application to be submitted for TCAC's 2013 second round, this Agreement shall automatically terminate and be of no further force and effect; provided that, subject to Section 201.3.

(b) Tax Exempt Bond Allocation. Developer shall use its reasonable and best efforts to apply for and obtain a private placement, tax-exempt bonds allocated from the California Debt Limit Allocation Committee (CDLAC) and issued by the California Statewide Communities Development Authority, in an approximate amount of not less than \$10,250,000, or such other amount as is reasonably necessary in the reasonable discretion of the City Manager, as determined in accordance with the approved Final Budget submitted by Developer to City

(c) Net Operating Income. Developer shall use the net operating income collected from the Project during the rehabilitation (specifically, after the close of Escrow and prior to Conversion) as a source of funding for the rehabilitation and operation of the Project. Developer currently estimates the net operating income from the Project to be approximately \$1,286,449. An updated estimate of net operating income shall be included in the Final Budget submitted to City for approval as a Condition Precedent pursuant to the Affordable Housing Agreement.

(d) Deferred Developer Fees. Developer shall defer acceptance of a portion of the \$ 783,738 Developer Fee payable in connection with the Project (the Developer Fee has been calculated in accordance with the Tax Credit Rules in the currently-estimated of Two Million Sixty-Two Thousand , Four Hundred and Twenty-Two Dollars (\$ 2,062,422). The portion of the Deferred Developer shall be repaid from Annual Project Revenues, after payment of Operating Expenses, Debt Service, and Reserve Deposits. The Deferred Developer Fee may accrue interest at the Applicable Federal Rate.

(e) Construction Loan. Developer shall use its reasonable and best efforts to apply for and obtain the Construction Loan, and it the City shall have no obligation to close the City Loan unless the Construction Loan has also closed including all documents relating to the Construction Loan have been signed and delivered among the parties thereto, copies thereof have been provided to the City, the Construction Loan lender has disbursed any funds which are required to be disbursed at the closing of such loan..

**205.2 Required Financing Submittals.** Within the time established therefor in the Schedule of Performance, Attachment No. 2, and with respect to subsections (a), (d) and (g) below, as a Condition Precedent to the disbursement of any portion of the City Loan pursuant to Section 401, and with respect to subsections (b), (c), (e) and (f) below, as a Condition Precedent to the disbursement of any portion of the City Loan pursuant to Section 402, Developer shall submit to City evidence that Developer has obtained sufficient equity capital and firm and binding commitments (subject to customary conditions) for financing necessary to undertake the acquisition of the Property, Rehabilitation of the Property, and completion and operation of the Project in accordance with this Agreement. Such evidence of financing shall include true and complete copies of all of the following (which shall not contain any materially misleading information or fail to include any material information):

(a) Final Budget. An updated pro forma and Final Budget for the Project showing all sources, uses, costs for acquisition of the Property, all Rehabilitation and other Improvements, estimated Operating Expenses, and all anticipated construction and permanent financing and funding sources and amounts thereof. City Manager shall have the right to approve or disapprove the Final Budget (and any specific line items therein) for the Project in his reasonable discretion.

(b) Partnership Agreement and Subsidy Applications. Developer shall submit the following documents to City:

(i) The draft Partnership Agreement or funding commitment letter from the equity investors in the Project and Property that demonstrates Developer has sufficient funds for such acquisition, Rehabilitation and operation of the Project, and that includes provisions conforming to the cash flow priorities provided herein, and that such investor funds have been committed to the acquisition, Rehabilitation and operation of the Project, and a current financial statement of Developer and any entities providing Developer's other sources of equity capital.

(ii) If requested by the City, a copy of applications to and financing approvals received (if any) with respect to any other affordable housing subsidy programs from which Developer has applied to obtain financial subsidies.

(iii) Other documentation reasonably satisfactory to City as evidence of other sources of capital, all of which together are sufficient to demonstrate that Developer has adequate funds, together with the proceeds of any other financing, to acquire, Rehabilitate and operate the Project.

(c) Current Financial Statement. A current financial statement of the Developer entity (and all partners and members thereof, except tax credit investor limited partners) and/or other documentation satisfactory to City Manager as evidence of other sources of capital sufficient to demonstrate that Developer has adequate funds to cover the difference, if any, between acquisition, Rehabilitation, and completion costs, and the financing secured by Developer, including the Tax Credit Equity, Bond Allocation, Project Net Operating Income, Deferred Developer Fee , and City Loan; and

(i) Construction Contract. A draft of all forms of contracts to be executed between Developer and the Contractor for the Rehabilitation of the Improvements, in form and substance consistent with the Final Budget and reasonably acceptable to City, certified by Developer to be true and correct copies thereof, and which shall include reference to this Agreement and such Contractor's specific obligation to carry out the construction and completion of the Rehabilitation (or part thereof) in conformity with applicable federal, state, and local laws and regulations

(d) Tax-Exempt Bond Allocation. Developer shall use its reasonable and best efforts to apply for a private placement, tax-exempt bonds of approximately \$10,250,000 allocated from the California Debt Limit Allocation Committee (CDLAC) and issued by the California Statewide Communities Development Authority. A copy of a preliminary reservation letter from CDLAC notifying Developer of a tax-exempt bond allocation reserved for the acquisition, Rehabilitation, and operation of the Project.

(e)

(f) Tax Credit Reservation. A copy of a preliminary reservation letter from TCAC notifying Developer that Tax Credits have been reserved for the acquisition, Rehabilitation, and operation of the Project.

**205.3 Approval of Evidence of Financing.** If Developer has submitted all evidence of financing required by Section 206.2 within the time established in the Schedule of Performance, City shall reasonably approve or disapprove such evidence of financing within five (5) ~~business days~~ Business Days of submission by Developer to City of all complete items required by this Section 206, et seq. If City disapproves any such evidence of financing, City shall do so by written notice to Developer stating the reasons for such disapproval and Developer shall promptly obtain and submit to City new evidence of financing. If Developer's submission of new evidence of financing is timely and provides City with adequate time to review such evidence within the time established in this Section 206.3, City shall approve or disapprove such new evidence of financing in the same manner and within the same times established in this

Section 206.3 for the approval or disapproval of the evidence of financing as initially submitted to City. The evidence of financing shall be deemed to be an ongoing representation by Developer that, based on information then available to Developer, the sum total of all sources of financing are equal to and not greater than the amount of the approved Project costs as set forth in the Final Budget for the Project. Once the evidence of financing is approved by City, Developer shall promptly notify City in writing of any change in or additional sources of financing, including without limitation, the award of Tax Credits. The representations made by Developer with respect to the sources of financing for the Project are the basis used by City to negotiate the financial terms of the City Loan and any substantial change in such sources of Project financing shall, at the sole discretion of City, because to renegotiate the financial terms of, or withdraw the commitment for, the City Loan and, subject to such renegotiation and/or the provisions of Section 200, et seq., may require payments by Developer to reduce the outstanding principal balance of the City Loan.

**206. Tax Credit Equity.** The following requirements must be satisfied in order for the equity financing for Tax Credit funding to be approved by City pursuant to this Agreement (which requirements may be waived in the sole and absolute discretion of City Manager):

(a) The equity investment of the limited partners of Developer shall not be less than the approximate prevailing price for Tax Credits at such time, taking into consideration all relevant factors such as timing of required payments and amount of the Tax Credits.

(b) The identity of the syndicator and the initial limited partners of the limited partnership shall be reasonably acceptable to City.

(c) In connection with the formation of such limited partnership for the equity financing, Huntington Park 607, or an Affiliate controlled by Huntington Park 607, LP shall be a general partner of Developer at all times.

(d) Developer or its Affiliates shall be entitled to a developer fee from the equity financing of not greater than the Developer Fee set forth in the approved financing plan.

**207. Failure to Obtain Financing.** In the event Developer, despite exercising its best efforts to obtain the required Tax Credits, bond financing, and Construction Loan described in this Agreement for the Project fails to obtain such financing and funding as specified in the Agreement, or other financing acceptable to the City Manager, by the time required in the Schedule of Performance, either party may terminate this Agreement by notice thereof to the other party.

**207.1 Title Report.** Within five (5) ~~business days~~ Business Days after delivery of the Notice of Transfer to City, Developer shall provide City with a current preliminary title report covering the property that is subject to the proposed Transfer.

**207.2 Escrow and Completion of Sale.** Within five (5) days after City has exercised the Right of First Refusal, or as soon thereafter as reasonably practicable, Developer and City shall enter into a purchase agreement upon the terms and conditions set forth in the Notice of Transfer and an escrow shall be opened with an escrow company mutually acceptable to City and Developer for the conveyance of the Property to City. City shall deliver funds

sufficient for payment of the purchase price (including the City Loan Note, if cancellation of the City Loan Note is required) into such escrow not later than one (1) ~~business day~~Business Day prior to the anticipated close of escrow date. The obligation of City to close escrow shall be subject to City's approval during the applicable due diligence period of a then-current preliminary title report and, at the option of City, inspections, studies, tests, and investigations of the physical and environmental condition of the Property and other site testing. Any exceptions shown on such preliminary title report created on or after Developer's acquisition of the Property and timely objected to by City and approved by Developer to be removed shall be removed by Developer at its sole expense prior to the close of escrow unless such exception(s) is (are) accepted by City in its reasonable discretion; provided, however, that City shall accept the following exceptions to title: (i) current taxes not yet delinquent, (ii) matters affecting title existing on the date of Developer's acquisition of the Property, and (iii) liens and encumbrances in favor of City or previously approved by City. City shall pay all of the escrow fees, documentary transfer taxes, recording fees, the cost of any owner's policy of title insurance desired by City, and any other costs and expenses of the escrow. City shall have the amount of time set forth in the Notice of Transfer after exercise of the Right of First Refusal to enter upon the Property to conduct any tests, inspections, investigations, or studies of the condition of the Property. Developer shall permit City to access the Property for such purposes. City shall indemnify, defend, and hold harmless Developer and its officers, directors, shareholders, partners, employees, agents, and representatives from and against all claims, liabilities, or damages, including expert witness fees and reasonable attorney's fees and costs, caused by activities of the City with respect to or arising out of such testing, inspection, or investigatory activity on the Property. Escrow shall close promptly after the earlier of the expiration of such due diligence period or acceptance by City of the condition of title and the physical and environmental condition of the Property.

### **300. CONDITION OF PROPERTY.**

**301. Developer Representations to City re Existing Condition of Property.** Except as disclosed in the following environmental reports: Phase I Environmental Site Assessment dated ---- prepared by -----, Developer represents, to and for the benefit of City, to the best of its knowledge, that it is not aware of and it has not received any notice or communication from any governmental agency having jurisdiction over the Property, the owner of the Property, or any other person or entity, notifying it of the presence of Hazardous Materials or Hazardous Materials Contamination (both as hereinafter defined) in, on, or under the Property, or any portion thereof or the violation of any Environmental Laws (hereinafter defined). Developer represents that any inspection reports with respect to the Property, environmental audits, reports and studies which concern the Property, or inspection reports from applicable regulatory authorities with respect to the Property, which Developer has received, have been delivered to the City. Developer knows of no circumstances, conditions or events that may, now or with the passage of time, give rise to any Environmental Claim (hereinafter defined) against or affecting the Property. As and when obtained or received by Developer from the current owner or from any other person or entity, true and correct copies of internal inspection reports with respect to the Property, environmental audits, reports and studies which concern the Property, and inspection reports from applicable regulatory authorities with respect to the Property, if any, shall be promptly delivered to City.

Developer acknowledges that Developer located the Property without any assistance from (or involvement by) City; prior to the Date of Agreement, Developer has independently conducted all necessary and appropriate due diligence and determined that the condition of the Property and all improvements located thereon were suitable for the development and operation of the Project; and all such due diligence and Developer's investigations of the condition of the Property were conducted independently and not in consultation with City or City's officers, employees, agents, or consultants. City reasonable approval of the environmental condition of the Property is a Condition Precedent, as set forth in Section 401.

Developer is to the best of its knowledge not aware of any structural defects in the improvements located at the Property or any violation of any applicable laws with regard to the condition of the improvements located at the Property and the use, occupancy and activities conducted thereon.

**302. Environmental Condition Prior to City Loan Disbursement.** As set forth herein as a Condition Precedent, Developer shall evidence to City that it is prepared to take the steps necessary to undertake and complete, upon the conveyance of the Property to Developer, any necessary and recommended remediation of Hazardous Materials (which remediation has not been completed by the existing owner prior to the conveyance of the Property) in full conformity with all Environmental Laws.

**302.1 Lead-Based Paint.** City, as recipient(s) of federal funds, has modified and conformed all of its federally funded housing programs to the Lead-Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, et seq., specifically §§4821-4846, and the implementing regulations thereto, which are aimed to take advantage of Rehabilitation events as a cost-effective opportunity to reduce lead based paint and lead based paint hazards (LBP) in existing housing.

(a) The implementing regulations to Title X, set forth in 24 CFR Part 35 ("LBP Regs"), were adopted by HUD on September 15, 1999 and are now effective for compliance by all recipients and sub-recipients of federal funds. Subpart J of the LBP Regs focuses on the requirements for programs that provide assistance for housing Rehabilitation, such as this Project. In this regard, Developer shall comply with the requirements, as and to the extent applicable, of Title X and the implementing LBP Regs for the Project.

(b) Provided however pursuant to 24 CFR 35.115(a)(1), a residential property for which construction was completed on or after January 1, 1978 is exempt. If Developer confirms that the improvements at the Property were completed on or after January 1, 1978 then this provision shall not apply.

**303. Reserved..**

**304. Developer's Obligation to Investigate and Remediate the Property after City Loan Disbursement.** After the disbursement of all or any portion of the City Loan to or on behalf of Developer, and notwithstanding the obligation of Developer to indemnify City pursuant to Section 304 herein or any other obligations of Developer pursuant to this Agreement, Developer shall, at its sole cost and expense, promptly take all actions required by any federal, state or local governmental agency or political subdivision or any Environmental Laws with

respect to the Property, which actions, requirements or necessity arise from the presence upon, about or beneath the Property of any Hazardous Materials or Hazardous Materials Contamination in violation of Environmental Laws regardless of when such Hazardous Materials or Hazardous Materials Contamination were introduced to the Property and regardless of who is responsible for introducing such Hazardous Materials or Hazardous Materials Contamination to the Property, or portion thereof ("Remediation"). Remediation shall include, but not be limited to, an initial investigation of the environmental condition of the Property, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, abatement, removal, or restoration work required. Developer shall take all actions necessary to restore promptly the Property to an environmentally sound condition for uses, ownership, and occupancy contemplated by this Agreement, notwithstanding any lesser standard of remediation allowable under applicable Environmental Laws. Developer's obligations under this Section 303 shall survive the issuance of the Release of Construction Covenants.

**305. Environmental Indemnification.** Developer shall save, protect, pay for, defend (with counsel acceptable to City), indemnify and hold harmless the Indemnitees from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, attorneys' fees and remedial and response costs) (for purposes of this Section 300, et seq., the foregoing shall be collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by the Indemnitees by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (i) the ownership or operation of all or any part of the Property, (ii) any act or omission on the part of Developer, or its agents, employees, representatives, agents, contractors, occupants, or invitees, (iii) the presence on, under, or about, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials or Hazardous Materials Contamination in violation of Environmental Laws, (iv) the environmental condition of the Property, and (v) any Liabilities incurred under any Environmental Laws relating to Hazardous Materials. Developer's obligations hereunder shall survive this Agreement and the issuance of the Release of Construction Covenants, and shall be a covenant running with the land in perpetuity, binding on all successors and assigns of Developer's interest in either this Agreement or any part of the Property. Developer may assign its obligations hereunder to an approved or permitted successor or assignee of Developer's interest in this Agreement or the Property for those events or conditions related to the requirements in this Section that may occur subsequent to Developer's conveyance to such successor or assign, provided that Developer shall remain liable for all of its obligations hereunder to the extent related to events occurring prior to such assignment. Notwithstanding the foregoing, Developer shall not have any obligation to indemnify, defend or hold harmless the Indemnitees where the Liabilities have arisen as a result of the negligence or willful misconduct of any of the Indemnitees. At the request of Developer, City shall cooperate with and assist Developer in its defense of any such claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that City shall not be obligated to incur any expense in connection with such cooperation or assistance.

**306. Release of City by Developer.** Developer hereby waives, releases and discharges forever City and its employees, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages,

losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with any Hazardous Materials on the Property, or the existence of Hazardous Materials Contamination in any state on the Property, however they came to be located there.

**306.1 Civil Code 1542 Release.** Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code that provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

As such relates to this Section, Developer hereby waives and relinquishes all rights and benefits that it may have under Section 1542 of the California Civil Code.

**Developer Initials:** \_\_\_\_\_

Notwithstanding the foregoing, the releases provided under Sections 305 and 305.1 shall not be effective in the event the presence or release of Hazardous Materials on the Property occurs as a result of the gross negligence or willful misconduct of any of the Indemnitees.

**307. Duty to Prevent Hazardous Material Contamination.** Upon the execution of this Agreement and after the Closing, Developer shall take such actions as necessary or prudent to prevent the release of any Hazardous Materials into the environment in, on, under, or about the Property in violation of Environmental Laws. Such precautions shall include reasonable means to prevent or discourage dumping or other releases of Hazardous Materials on the Property in violation of Environmental Laws by third parties and trespassers, including without limitation the erection of a fence surrounding the Property, if warranted. In the event any Remediation is required on the Property prior to the disbursement of any portion of the City Loan, such Remediation shall be conducted in accordance with this Section.

During the Rehabilitation of the Property, Developer shall take all necessary precautions to prevent the release of any Hazardous Materials (with particular regard to any asbestos, or asbestos-containing materials, or lead-based paint or other lead containing products which are regulated by the HOME Program) into the environment or onto or under the Property in violation of Environmental Laws. Such precautions shall include compliance with all Environmental Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with applicable Environmental Laws and then-prevailing industry standards as respects the disclosure, storage, use, abatement, removal and disposal of Hazardous Materials.

**308. Environmental Inquiries.** Developer shall notify City, and provide to City a copy or copies, of the following environmental permits, disclosures, applications, entitlements or inquiries relating to the Property: notices of violation, notices to comply, citations, inquiries, clean up or abatement orders, cease and desist orders, reports filed pursuant to self reporting requirements and reports filed or applications made pursuant to any Governmental Requirement

relating to Hazardous Materials and underground tanks, and Developer shall report to City, as soon as possible after each incident, all material information relating to or arising from such incident, including but not limited to, the following:

- (a) All required reports of releases of Hazardous Materials, including notices of any release of Hazardous Materials as required by any Governmental Requirement;
- (b) All notices of suspension of any permits;
- (c) All notices of violation from Federal, State or local environmental authorities;
- (d) All orders under the State Hazardous Waste Control Act and the State Hazardous Substance Account Act and corresponding federal statutes, concerning investigation, compliance schedules, clean up, or other remedial actions;
- (e) All orders under the Porter Cologne Act, including corrective action orders, cease and desist orders, and clean up and abatement orders;
- (f) Any notices of violation from OSHA or Cal OSHA concerning employees' exposure to Hazardous Materials;
- (g) All complaints and other pleadings filed against Developer and/or City relating to Developer's storage, use, transportation, handling or disposal of Hazardous Materials on the Property; and
- (h) Any and all other notices, citations, inquiries, orders, filings or any other reports containing information which would have a material adverse effect on the City Loan, the Property or City's liability or obligations.

In the event of a release of any Hazardous Materials into the environment, Developer shall, as soon as possible after the release, furnish to City a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request of City, Developer shall furnish to City a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Property including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

**309. Definitions.** For the purposes of this Section 300, et seq., the following terms shall have the meanings herein specified:

- (a) As used in this Agreement, the term "**Hazardous Material**" or "**Hazardous Materials**" shall mean and include any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "acutely hazardous waste," "restricted hazardous waste," or "extremely hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control

Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos and/or asbestos containing materials; (vii) lead-based paint or any lead based or lead products; (viii) polychlorinated biphenyls, (ix) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), (xi) Methyl-tert Butyl Ether; (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); (xiii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any "Environmental Laws" (as defined in Paragraph (c) of this Section 308) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment; and/or (xiv) lead based paint pursuant to and defined in the Lead-Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, et seq., specifically §§4821-4846, and the implementing regulations thereto. Notwithstanding the foregoing, "Hazardous Materials" shall not include such products in quantities as are customarily used in the construction, maintenance, rehabilitation, management, operation and residence of residential developments or associated buildings and grounds, or typically used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Project, including without limitation alcohol, aspirin, tobacco and saccharine.

(b) The term "**Hazardous Materials Contamination**" shall mean the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Agreement) emanating from the Property.

(c) The term "**Environmental Laws**" as used in this Agreement shall mean all laws, ordinances and regulations relating to Hazardous Materials, including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901, et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. Section 9601, et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601, et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq., the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. Section 11001, et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801, et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f, et seq.; all comparable state and local laws, laws of other

jurisdictions or orders and regulations; and all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Property are located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over City, Developer, or the Property.

(d) The term “**Environmental Claim**” shall mean (1) any judicial or administrative enforcement actions, proceedings, claims, orders (including consent orders and decrees), directives, notices (including notices of inspection, notices of abatement, notices of non compliance or violation and notices to comply), requests for information or investigation instituted or threatened by any governmental authority pursuant to any Governmental Requirement; or, (ii) any suits, arbitrations, legal proceedings, actions or claims instituted, made or threatened that relate to any damage, contribution, cost recovery, compensation, loss or injury resulting from the release or threatened release (whether sudden or non sudden or accidental or non accidental) of or exposure to, any Hazardous Materials, or the violation or alleged violation of any Governmental Requirement, or the general, manufacture, use, storage, transportation, treatment, or disposal of Hazardous Materials.

#### **400. LOAN DISBURSEMENT; CONDITIONS PRECEDENT.**

**401.** City obligation to commence such initial disbursement of the City Loan proceeds is subject to the fulfillment by Developer or waiver by City of each and all of the Conditions Precedent described in this Section 401, which are solely for the benefit of City, and each of which, if it requires action by Developer, shall also be a covenant of Developer, and any of which may be waived by the City Manager in his sole and absolute discretion.

**401.1 Outside Closing Date.** The close of Escrow for the acquisition of the Property and the initial disbursement of the City Loan shall have occurred on a date that is no later than the Outside Closing Date and as set forth in the Schedule of Performance, unless modified in writing by City and Developer.

**401.2 Project Documents.** Not later than one (1) day prior to the date set for the close of Escrow for Developer’s acquisition of the Property and initial disbursement of the proceeds of the City Loan, Developer shall have executed and delivered to the Escrow Holder, in recordable form where required: (i) City Loan Note, (ii) City Loan Deed of Trust, (iii) Security Agreement and Financing Statement, (iv) Regulatory Agreement, (v) Memorandum of Agreement, and any other Project Documents required hereunder in connection with the City Loan and the acquisition and Rehabilitation of the Property by Developer.

**401.3 Final Budget.** Developer shall have submitted to City for its approval an updated and final pro forma and detailed Final Budget for the acquisition, Rehabilitation and operation of the Project (consistent with the Scope of Development) as required by Section 2.06.2(a), and City Manager shall have approved the Final Budget. The use of City Loan proceeds shall be consistent with the approved Final Budget.

**401.4 Evidence of Financing.** Developer shall have provided written proof reasonably acceptable to City that Developer has obtained a preliminary reservation of Tax Credits, and has obtained or will obtain prior to the date set forth in the Schedule of Performance

for the commencement of Rehabilitation, sufficient funds or commitments for financing to finance the completion of the Rehabilitation, such that the City Manager is reasonably satisfied that the financing is sufficient to pay for the acquisition, Rehabilitation, and permanent financing of the Project.

**401.5 Insurance.** City shall have received evidence, satisfactory to City Manager or a City risk management designee(s), that all of the insurance policies, certificates, and endorsements required by this Agreement (other than builder's risk) have been duly submitted, reviewed and approved and such insurance policies, certificates and endorsements are and remain in full force and effect.

**401.6 Title to Property.** Developer shall, as of the close of Escrow, have good and marketable fee simple title to the Property and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever and financing approved by City pursuant to Section 206.3 and liens for current real property taxes and assessments not yet due and payable, and any other matters approved in writing by the City. City shall have no obligation to make the City Loan to Developer unless and until title to the Property conforms to this Section 401.6 and is reasonably acceptable to City.

(a) Preliminary Report. Within five (5) days of the Date of Agreement, Developer shall submit to City a true copy of an up to date (not older than thirty (30) days) preliminary report issued by the Title Company and shall include and attach thereto legible copies of back-up documents for each of the title exceptions set forth in said preliminary report. Developer acknowledges that City must be reasonably satisfied concerning the exceptions to title. All monetary encumbrances and exceptions to title (except for pre-approved exceptions in section (b) below) are hereby objected to by City, and Developer is on notice to cause the title company to remove such monetary exceptions (other than liens for current real property taxes and assessments not yet due and payable.)

(b) Condition of Title; Preapproved Exceptions. City shall be reasonably satisfied that upon the close of Escrow Developer shall have good and marketable fee title to the Property and there will exist thereon or with respect thereto no mortgage, lien, pledge, encroachment, exception, or other encumbrance of any character whatsoever, EXCEPT that the following may be exceptions to title at the time of the initial disbursement of the City Loan or at any time thereafter:

(i) liens for current real property taxes and assessments not yet due and payable;

(ii) the deeds of trust for the Construction Loan, approved by City, subject to City's right to review and approve such documents;

(iii) the Tax Credit Regulatory Agreement, subject to City's right to review and approve such document;

(iv) subordination agreement(s), subject to City's right to review and approve such document(s);

(v) any other matters approved in writing by City.

**401.7 Title Insurance.** City shall have received (or Title Company shall be ready to issue) one or more 2006 ALTA lender's policies of title insurance excluding any survey, creditor's rights or arbitration exceptions, or one or more pro forma policies and evidence of a commitment therefor, reasonably satisfactory to City Manager ("City Title Policy") relating to the City Loan. Such City Title Policy shall have a liability limit of not less than the full amount of the City Loan and shall insure City's interest under the City Loan Deed of Trust as a valid lien or charge upon the Property with the priority required by this Agreement. The City Title Policy shall include mechanics' lien coverage and such other endorsements as City may reasonably require, and except as provided above in Section 401.7, the City Title Policy shall contain only such exceptions from coverage as shall have been approved in writing by City Manager.

**401.8 Recordation.** At the close of Escrow, the Escrow Holder shall be prepared to record the Memorandum of Agreement, the City Loan Deed of Trust, the Regulatory Agreement, the Request for Notice, and any other documents required to be recorded against the Property pursuant to the terms of this Agreement and the Project Documents.

**401.9 Environmental Compliance.** All Governmental Requirements including all Environmental Laws applicable to the Project, including without limitation, the National Environmental Policy Act of 1969, Public Law 91-190 as amended, 42 U.S.C. Sections 4321-4347, and §§92.352, 92.355 of the HOME Regulations, shall have been satisfied if and to the extent such satisfaction is required prior to disbursement of City Loan proceeds. City shall have conducted its environmental review in accordance with 24 CFR Part 58 before any HOME funds are released to Developer.

**401.10 Environmental Condition.** The environmental condition of the Property shall be reasonably acceptable to City, as determined by City Manager and City legal counsel in their reasonable discretion.

**401.11 Appraisal; Approval of Purchase Price.** Developer shall have submitted to City a true and correct copy of the appraisal(s) obtained regarding the fair market value of the Property demonstrating to the reasonable satisfaction of City and its economic consultant that the total purchase price to be paid by Developer to Seller for the Property is justified. The appraisal(s) required by this Section shall be dated not earlier than the date of the purchase and sale agreement between Seller and Developer.

**401.12 Certificate of Limited Partnership.** Developer's general partners shall have executed a Certificate of Limited Partnership which shall have been filed with the California Secretary of State.

**401.13 Escrow Expenses.** Developer shall have paid, or caused the payment of, all costs, fees, and expenses of the Escrow (other than City's deposit of that portion of the City Loan Proceeds allocable to the acquisition of the Property), including all costs or fees in connection with the acquisition of the Property, Escrow fees, title insurance costs, documentary transfer taxes, or recording fees.

**401.14 Corporate Resolution.** Developer shall deliver to City certified copies of Resolutions of Huntington Park 607, LP's and LINC Housing Corporation's board of directors specifically authorizing (or ratifying) the execution by the Developer of this Agreement, the City Loan Note, the City Loan Deed of Trust, the Security Agreement, the Regulatory Agreement, and all implementing Project Documents and identifying the individual(s) with authority to enter into non-material implementation agreements and/or amendments to this Agreement and make ongoing decisions relating to the acquisition, Rehabilitation, and operation of the Project.

**401.15 Representations and Warranties.** The representations and warranties of Developer contained in this Agreement shall be correct in all material respects as of the initial disbursement of the City Loan as though made on and as of those dates, and City Manager shall have received a certificate to that effect signed by an officer of Developer.

**401.16 No Default.** No Event of Default by Developer shall have occurred, and no event shall have occurred which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer, and City Manager shall have received a certificate to that effect signed by an officer of Developer.

All Conditions Precedent set forth in this Section 401, et seq., to the initial disbursement of the City Loan and close of the Escrow for Developer's acquisition of the Property, or to City's obligations hereunder, are for City's benefit only and the City Manager may waive all or any part of such rights by written notice to Developer. If City Manager shall, within the applicable periods set forth herein, disapprove of any of the items which are subject to City's approval (and such items are not cured by Developer within applicable time frames), or if any of the conditions set forth in this Agreement are not met within the times called for, City may thereafter terminate this Agreement without any further liability on the part of City by giving written notice of termination to Developer. Escrow Holder shall thereupon, without further consent from Developer, return to each party the documents and funds deposited by them as to the Property.

**402. Conditions Precedent to Developer's Commencement of the Rehabilitation.** Developer shall only commence Rehabilitation and post-closing disbursements of the City Loan (i.e., after disbursement of City Loan proceeds at close of Escrow for acquisition of the Property pursuant to Section 401 above) shall only be paid upon the prior satisfaction by Developer or waiver by the City Manager of the following Conditions Precedent, each of which, if it requires action by Developer, shall also be a covenant of Developer:

**402.1 Conditions Precedent to Close of Escrow.** All Conditions Precedent to the Close of Escrow set forth in Section 401 shall remain satisfied and Developer shall be in continued compliance with all covenants contained in Section 401.

**402.2 Building Permits.** Developer shall have obtained all Building Permits and other permits required to commence the Rehabilitation, and shall have provided true, correct and complete copies of all such permits to City.

**402.3 Pre-Construction Meeting of Contractor, City Representative(s) and Developer.** Developer shall have attended pre-construction meeting(s) or conference(s) as arranged by City among Contractor, Developer, and City staff (and City's construction

management consultant, if applicable) relating to the commencement of the Rehabilitation, compliance with the Section 3 Clause (as required), and other issues related to undertaking and completing the Improvements in conformity with this Agreement and all applicable local, state, and federal laws.

**402.4 Insurance.** City shall have received evidence, satisfactory to City Manager or a City risk management designee(s), that all of the builder's insurance policies, certificates, and endorsements required by this Agreement have been duly submitted, reviewed and approved and such builder's risk insurance policies, certificates and endorsements are and remain in full force and effect. City shall have received confirmation, satisfactory to City Manager or his risk management designee(s), that all of the other insurance policies required herein remain in full force and effect.

**402.5 Representations and Warranties.** The representations and warranties of Developer contained in this Agreement shall be correct in all material respects as of the commencement of the Rehabilitation as though made on and as of that date, and City Manager shall have received a certificate to that effect signed by an authorized officer of Developer.

**402.6 No Default.** No Event of Default by Developer shall have occurred, and no event shall have occurred which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer, and City Manager shall have received a certificate to that effect signed by an officer of Developer.

**402.7 Lease/Rental Agreement.** Developer shall have submitted to City, and City shall have approved the standard form lease/rental agreement in conformance with the Regulatory Agreement (Attachment No. 11) for rental of the Housing Units to eligible tenants in accordance with the terms of this Agreement. Developer shall include certain terms in the standard form lease/rental agreement which clearly describe the requirements of qualification and rental to 30% AMI Very Low Income Households and 50% AMI Very Low Income Households, including without limitation: (i) the obligation to provide complete and timely income verifications, as and when reasonably requested by Developer, (ii) a description of the Affordable Rent for 30% AMI Very Low Income Households and 50% AMI Very Low Income Households, as applicable, (iii) the rules and regulations for use, occupancy, and quiet enjoyment of the Housing Units and the Property, (iv) with respect to the HOME Assisted Units, tenant protections relating to notices, eviction, and such other matters as required by the HOME Program, and (v) such other terms as Developer deems reasonably necessary.

**402.8 Management Plan; Property Manager.** Developer shall have submitted to City, and City shall have approved, the Management Plan for the Project. Developer shall identify the Property Manager and provide relevant background information and evidence of its experience as a professional property manager for high quality affordable residential projects in Los Angeles County comparable to the Project, as required by Section 1009.1. The City approves the John Stewart Company as initial property manager.

**402.9 Partnership Agreement.** Developer's Partnership Agreement shall be in form and content reasonably acceptable to City (and City's legal counsel and economic advisor) in accordance with this Agreement. Pursuant to the Partnership Agreement, Developer's limited

partners shall be committed (subject to conditions set forth in the Partnership Agreement) to make equity contributions in an amount which together with the proceeds of the, Tax Credit Equity, City Loan, Construction Loan and any additional affordable housing subsidies and loans, is sufficient to finance the Project.

**402.10 Sufficient Financing.** Developer shall have certified in writing to City that the City Loan, together with the, Tax Credit Equity, Construction Loan and any additional affordable housing subsidies and loans, is sufficient to pay for the acquisition and Rehabilitation of the Property through completion of the Rehabilitation, and for permanent financing for the Project.

**402.11 Approval of Rehabilitation Plan.** City shall have approved the Rehabilitation Plans for the Project prepared and submitted by Developer as being in substantial conformity with the Scope of Development, Attachment No. 5, this Agreement, and the Huntington Park Municipal Code and property standards, all pursuant to the City's standard procedures and as set forth in more detail in Section 601. In addition, Developer shall have submitted to City detailed information regarding its methodology for the abatement of asbestos, lead based paint, and other required Hazardous Materials remediation at the Property, if any, and such methodology shall be reasonably satisfactory to City.

**402.12 Letter of Credit; Construction Security.** Developer shall have obtained and delivered to City (i) payment and performance bonds from responsible sureties admitted in the State of California in the amount of 100% of the Costs of Rehabilitation (as detailed on the Contractor's Construction Contract) and, with respect to the performance bond, naming City as a dual obligee or (ii) an unconditional irrevocable letter of credit for ten percent (10%) of the Costs of Rehabilitation (as detailed on the Contractor's Construction Contract) in favor of Lender or Developer, along with reasonably satisfactory evidence demonstrating Contractor's financial strength (such as the two most recent financial statements of the Contractor) and reputation for quality and timely work and performance necessary to complete the Rehabilitation in accordance with the approved Construction Contract. In the event payment and performance bonds are obtained and delivered, the payment bond shall remain in full force and effect until thirty-five (35) days after the date of recordation of the Notice of Completion and the performance bond will be released one year after that date. In the event a letter of credit is provided to secure the Costs of Rehabilitation, the letter of credit shall be available and in full force and effect with Lender's or Developer's right to draw on such instrument to pay the Costs of Rehabilitation until thirty-five (35) days after the date of recordation of the Notice of Completion. The Construction Contract may provide for reductions in the amount of the letter of credit such that the original value of the letter of credit may be reduced by twenty-five percent (25%) at substantial completion of twenty-five percent (25%), fifty percent (50%) and seventy-five percent (75%) of the Rehabilitation.

**403. Additional Conditions Precedent for Post-closing Disbursements for Rehabilitation.** After the close of Escrow and after meeting all Conditions Precedent to the commencement of the Rehabilitation, the remaining City Loan proceeds and City's obligation to make each and every additional disbursement of the remaining City Loan proceeds for the Rehabilitation are subject to Developer's compliance with the Disbursement Procedures,

Attachment No. 14, and Developer's fulfillment or waiver by City of each and all of the following Conditions Precedent described below:

**403.1 Application for Payment.** Developer shall have submitted a written request for payment to City in the form of the "Application for Disbursement" attached to the Disbursement Procedures at least seven (7) ~~business days~~ Business Days prior to the requested disbursement. The Application for Disbursement shall be completed and certified to be accurate by an authorized representative of Developer. The Application for Disbursement shall specifically identify the nature of each expense for which City Loan proceeds are being requested, by reference to items in the approved Final Budget and Construction Contract, and shall identify the percentage of the Rehabilitation that has been completed as of the date of the Application for Disbursement. Each Application for Disbursement shall be accompanied by invoices in the form of AIA G702/703 from the Contractor and any other requested information and documents, and lien releases from Contractor and/or mechanic's lien title endorsements reasonably acceptable to City.

**403.2 Inspection of Work.** City or its agent(s) shall have inspected the Rehabilitation work for which the Application for Disbursement is being requested and shall have determined, within seven (7) ~~business days~~ Business Days of receipt of a complete Application for Disbursement that (a) such Rehabilitation work has been completed substantially in accordance with this Agreement, the Scope of Development, Attachment No. 5, and the approved Rehabilitation Plans, (b) the amount requested for each line item corresponds to the percentage of work completed for such item, (c) there are adequate funds remaining from the City Loan proceeds and other approved funding sources to complete the Rehabilitation and pay all remaining unpaid Costs of Rehabilitation and other Project costs, (d) the Rehabilitation work for which payment is being requested has been completed in a good and workmanlike manner in accordance with the standards of the construction industry, and (e) the expenses are in accordance with the approved Final Budget (or any change order approved in accordance with the approved Construction Contract) and Construction Contract.

**403.3 Lien Waivers.** If requested by City, City shall have received appropriate conditional (conditioned solely on payment) waivers of mechanics' and materialmen's lien rights and stop notice rights executed by all contractors and other persons rendering services or delivering materials covered by requests made in the Application for Disbursement. City Loan proceeds used for hard Costs of Rehabilitation may, in the City Manager's sole and exclusive discretion, be subject to a retention of ten percent (10%), with retained proceeds to be released thirty-five (35) days after lien-free completion of the Rehabilitation and recordation of the Notice of Completion for the Project (except to the extent City has approved lesser retention or different timing for release of retention with respect to certain trades or line items).

**403.4 Final Disbursement of City Loan.** Notwithstanding Developer's compliance with all other Conditions Precedent set forth in this Section 403, et seq., City shall not make the Final Disbursement of City Loan proceeds in the amount of One Hundred Thousand Dollars (\$100,000), until City issues the Release of Construction Covenants for the Project. The Final Disbursement amount described in this Section may include all or a portion of the ten percent (10%) retention amount described in Section 403.3.

**500. DEVELOPER'S GENERAL REPRESENTATIONS AND WARRANTIES.**

**501. Developer Representations and Warranties.** As a material inducement to City to enter into this Agreement, Developer represents and warrants to City:

**501.1 Formation, Qualification and Compliance.**

(a) Huntington Park 607, LP, is a California limited partnership, with all required authority to conduct its business and acquire, own, purchase, improve and sell its property.

(b) To the best of Developer's knowledge, Developer is in compliance in all material respects with all laws applicable to its business and has obtained all approvals, licenses, exemptions and other authorizations from, and has accomplished all filings, registrations and qualifications with any governmental agency that are necessary for the transaction of its business;

(c) Developer has and will in the future duly authorize, execute and deliver this Agreement and any and all other agreements and documents required to be executed and delivered by Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement;

(d) To the best of Developer's knowledge, Developer does not have any material contingent obligations or any material contractual agreements which could materially adversely affect the ability of Developer to carry out its obligations hereunder;

(e) There are no material pending or, so far as is known to Developer, threatened, legal proceedings to which Developer is or may be made a party or to which any of its property is or may become subject, which have not been fully disclosed in the material submitted to City which could materially adversely affect the ability of Developer to carry out its obligations hereunder;

(f) There is no action or proceeding pending or, to Developer's best knowledge, threatened, looking toward the dissolution or liquidation of Developer and there is no action or proceeding pending or, to Developer's best knowledge, threatened by or against Developer which could affect the validity and enforceability of the terms of this Agreement, or materially and adversely affect the ability of Developer to carry out its obligations hereunder.

Each of the foregoing items (a) to (f), inclusive in this Section 501.1, shall be deemed to be an ongoing representation and warranty until the Closing. Developer shall advise City in writing if there is any change pertaining to any matters set forth or referenced in the foregoing items (a) to (f), inclusive. After the Closing and throughout the Affordability Period, Developer shall have an ongoing obligation to promptly (but in no event later than thirty (30) days) inform City in the event any of the foregoing representations and warranties (a) through (f) becomes materially untrue.

**501.2 Execution and Performance of Project Documents.** Developer has all required authority to execute and perform all obligations under the Project Documents. The

execution and delivery by Developer of, and the performance by Developer of its obligations under, each Project Document have been authorized by all necessary action and do not and will not violate any provision of, or require any consent or approval not heretofore obtained under, any articles of incorporation, by-laws or other governing document applicable to Developer.

**501.3 Purchase Agreement between Seller and Developer.** Developer has entered into a valid and binding Purchase and Sale Agreement and Escrow Instructions, dated as of \_\_\_\_\_, as amended, to purchase the Property; to its knowledge, such agreement is in full force and effect, and there are no defaults thereunder, and to its knowledge, no events have occurred which would become a default thereunder upon the giving of notice or the passage of time or both. Developer represents to City that under such purchase agreement, Developer has until April 30, 2013 to close Escrow and acquire the Property. .

## **600. REHABILITATION OF THE PROPERTY**

**601. Rehabilitation Plans.** Within the time set forth in the Schedule of Performance, Developer shall submit to City detailed specifications describing the Rehabilitation of the Property (collectively, "Rehabilitation Plans") pursuant to the Project, which are in conformity with the Scope of Development.

**601.1 Submittal of Rehabilitation Plans.** Developer shall submit to City the Rehabilitation Plans which may be required by City for any permits and entitlements which are required to be obtained and for evaluation of the quality, type, specifications, and materials for all of the Rehabilitation and any other Improvements to the Property. Within thirty (30) days after City's disapproval or conditional approval of such plans, which approval shall be in City's sole and absolute discretion, Developer shall revise the portions of such plans identified by City as requiring revisions and resubmit the revised Rehabilitation Plans to City. City shall have all rights to review and approve or disapprove all Rehabilitation Plans and other required submittals in accordance with the Huntington Park Municipal Code, and nothing set forth in this Agreement shall be construed as City's approval of any or all of the Rehabilitation Plans. Any and all change orders or revisions required by the City and its inspectors which are required under all applicable State and local codes, ordinances and zoning requirements and the City's written standards that constitute methods and materials for rehabilitation, health and safety, habitability and functionality, useful life of major systems, lead-based paint, accessibility, disaster mitigation, and other improvements, and under other applicable laws and regulations shall be included by Developer in its Rehabilitation Plans and other required submittals and shall be completed during the Rehabilitation of the Property such that at completion all units. at a minimum, pass an inspection that addresses all of the inspectable items under HUD's Uniform Physical Condition Standards (UPCS) notice.

**601.2 Approval of Rehabilitation Plans.** Developer acknowledges and agrees that City is entitled to approve or disapprove the Rehabilitation Plans in order to satisfy City's obligation to promote the sound redevelopment of land and to provide an environment for the social, economic and psychological growth and well-being of the citizens of the City and all residents of the Project. Developer shall perform all Rehabilitation at the Property in compliance with the approved Rehabilitation Plans.

**602. Consultation and Coordination.** During the preparation of the Rehabilitation Plans, City staff and authorized representatives of Developer shall hold joint progress meetings to coordinate the preparation and submission to City of the Rehabilitation Plans by Developer and City's review of the Rehabilitation Plans. City staff and authorized Developer representatives shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to City can receive prompt and thorough consideration. City shall designate a Community Development Department employee to serve as the project manager for this Project, and such project manager shall be responsible for the coordination of City's activities under this Agreement and for coordinating the land use approval and permitting process.

**603. Revisions.** If Developer desires to propose any substantial revisions to the approved Rehabilitation Plans, it shall submit such proposed changes to City, and shall also proceed in accordance with any and all state and local laws and regulations regarding such revisions, within the time frame set forth in the Schedule of Performance for the submittal of the Rehabilitation Plans. Any such change proposed in the approved Rehabilitation Plans may be disapproved by City through City Manager in his sole and reasonable discretion.

**604. Defects in Plans.** City shall not be responsible either to Developer or to any third parties in any way for any defects in the Rehabilitation Plans, or for any structural or other defects in any work done according to the approved Rehabilitation Plans, or for any delays reasonably caused by the review and approval processes established by this Section 600. Developer shall hold harmless, indemnify and defend the Indemnitees from and against any claims or suits for damages to property or injuries to persons (including death) arising out of or in any way relating to defects, latent or patent, in the Rehabilitation Plans, or the actual construction work or other Improvements comprising the Rehabilitation and the Project, including without limitation the violation of any laws, or arising out of or in any way relating to any defects in any work done and/or improvements completed according to the approved Rehabilitation Plans.

**605. City and Other Governmental Permits.** Before commencement of any portion of the Rehabilitation of the Property, Developer shall secure or shall cause its Contractor to secure any and all permits and land use entitlements which may be required by the City or any other governmental agency with jurisdiction over such construction of the applicable portion of the Rehabilitation, including without limitation applicable Building Permits. Developer shall pay all necessary fees for such portion of the Rehabilitation and timely submit to City such information as may be required by City to obtain the applicable Building Permits, and City staff will, without obligation to incur liability or expense therefor, use reasonable efforts to expedite City's issuance of the applicable Building Permits meeting the requirements of the Huntington Park Municipal Code, and all other applicable federal, state, and local laws, rules, and regulations.

**606. Completion of Project.** Developer shall commence and diligently proceed through completion the Rehabilitation of the Project. Developer shall complete the Rehabilitation of the Project not later than the Outside Completion Date and as set forth in the Schedule of Performance, unless extended by agreement of City and Developer, or by Force Majeure. Pursuant to 24 CFR §92.251, the Project at completion must meet the City's

rehabilitation standards, which addresses standards for methods and materials to be used for rehabilitation; health and safety, habitability and functionality, useful life of major systems, lead-based paint requirements at 24 CFR part 35, accessibility requirements in 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); measures to mitigate potential disasters (e.g., earthquake, flooding) in accordance with State and local codes, ordinances. In addition, upon project completion, each of the following major systems must have a remaining useful life for a minimum of 15 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.

Developer shall complete the Rehabilitation of the Project on or before the date established therefore in the Schedule of Performance attached hereto. Completion of the Rehabilitation shall be evidenced by a Certificate of Completion delivered by Developer to City. The Certificate of Completion shall contain the following: (i) a Certificate of Substantial Completion executed by the architect and general contractor for the Rehabilitation in form and substance reasonably acceptable to City; (ii) evidence that final mechanic's lien waivers have been obtained for all work related to the Rehabilitation; (iii) an updated title insurance policy in favor of City insuring that there are no liens or encumbrances on the Property except for the Construction Loan, the Project Documents and any other encumbrances approved by City; (iv) a reconciliation of the budget for the Rehabilitation showing actual costs and comparing same to the approved budgeted costs, certified by Developer's outside accountant as accurate and in such detail as reasonably acceptable to City; and (v) if requested by City, a set of as-built plans and specifications for the Rehabilitation. Within 15 days after Developer has

**607. Release of Construction Covenants.** Upon the completion of the Rehabilitation in conformity with this Agreement (as reasonably determined by the City Manager) and delivery of City of the Certificate of Completion described in section 606 and acceptance thereof by City, Developer may by written request that City and within ten (10) ~~business days~~Business Days after receipt of such written request of Developer, City shall furnish Developer with (i) a Release of Construction Covenants (substantially in the form attached hereto as Attachment No. 6) which evidences and determines the satisfactory completion of the Rehabilitation of the Property in accordance with this Agreement, or (ii) a written response indicating portions of the Rehabilitation that are not complete. If the City does not furnish Developer with a Release of Construction Covenants or a written response within such ten (10-5) ~~business day~~Business Day period, the Developer may provide to City a second written request therefore which indicates in bold 18 point text "Response required; request will be deemed approved if the City does not respond within five (5) ~~business days~~Business Days". If the City does not furnish Developer with a Release of Construction Covenants or a written response within five (5) ~~business day~~Business Day after the second written request, then City shall be deemed to have determined that the Rehabilitation is complete and City shall be deemed to have issued the Release of Construction Covenants in accordance with this Agreement. The issuance and recordation of the Release of Construction Covenants with respect to the Property shall not supersede, cancel, amend or limit the continued effectiveness of any obligations relating to the maintenance, uses, occupancy, payment of monies, or any other obligations with respect to the Property, the Project, or this Agreement or any covenants recorded in connection herewith, except for the obligation to complete the Rehabilitation of the Property. Neither the acceptance of Developer's Certificate of

Completion nor the issuance and recordation of the Release of Construction Covenants, imply that the Rehabilitation is in compliance with all applicable laws or waive any rights of City should it be determined that the Rehabilitation is not in compliance with applicable laws.

## **700. INSURANCE AND INDEMNIFICATION.**

**701. Developer Insurance Requirements.** In addition to the separate and severable indemnification covenants and provisions provided by Developer to City hereinafter in this Section 700, Developer shall provide insurance according to the requirements set forth below, except to the extent alternative coverages are approved in writing by City's Risk Manager, in his or her sole and absolute discretion. Developer shall maintain the following coverages on behalf of the Indemnitees for claims, damages to property and injuries to persons, including death (including attorneys' fees and litigation costs), which may be caused by any of Developer's negligent activities under this Agreement or related to the Project, regardless of whether such activities or performance thereof be by Developer or anyone directly or indirectly employed or contracted with by Developer and regardless of whether such damage shall accrue or be discovered before or after termination of this Agreement. Developer shall cause all requirements of this Section to be obtained and maintained until expiration of the Affordability Period.

**701.1 Commencement of Work.** Developer shall not commence work under this Agreement until all certificates and endorsements have been received and approved by City. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify City of any material change, cancellation, or termination at least thirty (30) days in advance.

**701.2 Workers Compensation Insurance.** For the duration of this Agreement, Developer and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law. The insurer shall waive its rights of subrogation against City and its officers, agents, employees, and volunteers, and shall issue an endorsement to the policy evidencing the same.

**701.3 Insurance Amounts.** Developer shall maintain the following insurance until expiration of the Affordability Period:

(a) Commercial General Liability in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. Claims made and modified occurrence policies are not acceptable. Insurance companies must be acceptable to City and have a Best's Guide Rating of A- Class VII or better, as approved by City.

(b) Automobile liability (for hired and non-owned automobiles only) in an amount not less than \$1,000,000 combined single limit, including mobile equipment if any. Claims made and modified occurrence policies are not acceptable. Insurance companies must be acceptable to City and have a Best's Guide Rating of A- Class VII or better, as approved by City.

(c) Builder's All Risk in an amount equal to the replacement value of the property. Claims made and modified occurrence policies are not acceptable. Insurance companies must be acceptable to City and have a Best's Guide Rating of A- Class VII or better, as approved by City.

(d) Excess Liability Policy in an amount not less than \$5,000,000 for any underlying policies that do not meet contractual policy limits. Insurance companies must be acceptable to City and have a Best's Guide Rating of A- Class VII or better, as approved by City.

(e) An Additional Insured Endorsement(s), commercial general liability policy, for on-going and completed operations, for the policy under Section 701.3(a), shall designate the City of Huntington Park and its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the Developer. (Form CG 20 26 11 85 or equivalent).

(f) An Additional Insured Endorsement(s), automobile liability policy, automobile liability and mobile equipment, for the policy under Section 701.3(b), shall designate the City of Huntington Park and its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed, by or on behalf of Developer and mobile equipment, if any. (Form CA 20 48 02 99 or equivalent for the automobile liability policy, and the mobile equipment coverage by separate endorsement).

(g) Additional Insured or Loss Payee Endorsement(s), builders all risk, for the policy under Section 701.3(c).

(h) A Schedule of Underlying Policies for the excess liability policy, for the policy under Section 701.3(d), including policy numbers for the excess liability policy and underlying policies.

(i) An Insurance Certificate, excess liability policy, for the policy under Section 701.3(d), stating that the excess liability policy "Umbrella policy is excess of the General Liability and Auto Liability policies."

(j) The insurer for each policy shall waive its rights of subrogation against the City of Huntington Park and its officers, officials, employees, agents, and volunteers, and shall issue an endorsement to the policy evidencing the same.

(k) All carriers shall provide an endorsement for each respective policy giving the City of Huntington Park thirty (30) days advance written notice prior to any material change, cancellation, or termination.

(l) All insurance companies providing insurance policies required by this Agreement must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by City. For all insurance policies and endorsements required by this Agreement Developer shall provide to City proof of insurance and endorsement forms that conform to the requirements set forth herein.

**701.4 Primary Insurance.** For any claims related to this Agreement, Developer's insurance coverage shall be primary insurance as respects City and its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by City and its officers, officials, employees, agents, or volunteers shall be in excess of the Developer's insurance and shall not contribute with it.

**701.5 General Conditions Pertaining to Provision of Insurance Coverage by Developer.** Developer agrees to the following provisions regarding all insurance provided by Developer for the Project:

(a) Developer agrees to provide insurance in accordance with the requirements set forth herein. If Developer uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Developer agrees to amend, supplement or endorse the existing coverage to do so. In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Developer.

(b) The coverage required here will be renewed annually by Developer as long as Developer continues to provide any services under this or any other contract or agreement with City relating to the Property or the Project during the Affordability Period.

(c) No liability insurance coverage provided to comply with this Agreement shall prohibit Developer, or Developer's employees, or agents, from waiving the right of subrogation prior to a loss. Developer waives its right of subrogation against City.

(d) The provisions of any workers' compensation or similar act will not limit the obligations of Developer under this Agreement. Developer is and shall at all times be considered an independent contractor, and expressly agrees not to use any statutory immunity defenses under such laws with respect to City and its employees, officials and agents.

(e) No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, but a liability policy may exclude claims to an employee of the insured.

(f) All insurance coverage and limits provided by Developer and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to City or its operations limits the application of such insurance coverage.

(g) Any "self-insured retention" must be declared and approved by City. Self funding, policy fronting or other mechanisms to avoid risk transfer are not acceptable. If Developer has such a program, Developer must fully disclose such program to City.

(h) Developer shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Developer to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within thirty (30) days of the expiration of the coverages.

(i) Developer agrees to provide evidence of the insurance required herein, satisfactory to City Manager and the City's Risk Manager, consisting of: certificate(s) of

insurance evidencing all of the coverages required and an additional insured endorsement to Developer's general liability policy using Insurance Services Office endorsement form No. CG 20 26 1185 or an equivalent additional insured endorsement form(s) presented to and reviewed and approved by the City's Risk Manager in his or her sole, reasonable discretion. Developer agrees, upon request by City Manager or City Risk Manager, to provide complete, certified copies of any policies required by this Section, within ten (10) days of such request. Any actual or alleged failure on the part of City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard. Future insurance requirements will remain the same as long as the loss experience remains insignificant.

(j) Certificate(s) must reflect that the insurer will provide thirty (30) days notice to City of any cancellation of coverage. An endorsement shall be provided for each policy wherein each carrier will give the City thirty (30) days written notice in the event of any cancellation or termination of the respective policy.

(k) Developer agrees to require the Contractor, subcontractors, or other parties hired for this Project to provide workers' compensation, general liability and automobile liability insurance, unless otherwise agreed to by City with minimum liability limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate. The Contractor's general liability insurance shall add as additional insureds City and its designee(s), and any and all of their boards, officials, employees and agents using Insurance Services Office additional insured endorsement form No. CG 20 26 1185 or equivalent additional insured endorsement form(s) presented to and reviewed and approved by the City's Risk Manager in his or her sole, reasonable discretion. Developer agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here.

(l) Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

(m) The insurance requirements set forth in this Section 701 are intended to be separate and distinct from any other provision in this Agreement and are intended to be interpreted as such.

(n) The requirements in this Section 701 supersede all other Sections and provisions of this Agreement to the extent that any other Section or provision conflicts with or impairs the provisions of this Section.

(o) For purposes of insurance coverage only, this Agreement will be deemed to have been executed as of the Date of Agreement.

**702. Knowledge of Claim.** If at any time Developer (or its Contractor) becomes aware of a claim or a potential claim related to the Project in which the demand or probable ultimate cost exceeds \$25,000, Manager and City's Risk Manager, Developer (or its Contractor) shall promptly provide written notice ("Claim Notice") to City which sets forth the nature of the claim or potential claim and the date on which Developer became aware of such claim or potential claim and shall provide City with copies of any documents relating to such claim or potential claim. City assumes no obligation or liability by such notice, but City shall have the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

**703. Notice of Change in Coverage.** If, at any time, Developer (or its Contractor) becomes aware that any of the coverages provided above are going to be canceled, limited in scope or coverage, terminated or non-renewed, then Developer (or its Contractor) shall promptly provide City with written notice ("Insurance Notice") of such cancellation, limitation, termination or non-renewal. Upon the receipt of the Insurance Notice or the Claim Notice, or at any time when City has knowledge of (i) the cancellation, limitation, termination or non-renewal of one or more of Developer's (or its Contractor's) insurance policies enumerated above or (ii) a claim or potential claim under one or more of such policies in accordance with Section 702 above, then, in addition to its other rights and remedies pursuant to this Agreement, City shall have the right to suspend City's obligations under this Agreement until such time as Developer (or its Contractor) furnishes, or causes to be furnished to City, duplicate originals or appropriate certificates of insurance for coverages in the amount of not less than those specified above or until the time such claim or potential claim has been resolved to the reasonable satisfaction of City, whichever occurs first.

**704. Waiver of Subrogation.** Developer (and its Contractor) hereby waive all rights to recover against City (and any officer, employee, agent or representative thereof) for any loss incurred by Developer (or its Contractor) from any cause insured against or required by any Project Document to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Developer (and its Contractor) shall use their best efforts to obtain only policies that permit the foregoing waiver of subrogation.

**705. Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance.** Subject to the provisions below, if the Project shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Developer, Developer shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Project improvements to substantially the same condition as the Project improvements existed immediately prior to the casualty, if and to the extent the insurance proceeds are available and sufficient to cover the actual cost of repair, replacement, or restoration, and Developer shall complete the same as soon as possible thereafter so that the Project improvements can be occupied in accordance with this Agreement. Subject to Force Majeure delays as set forth in Section 1305 herein, in no event shall the repair, replacement, or restoration period exceed one (1) years from the date Developer obtains insurance proceeds unless City Manager, in his reasonable discretion, approves a longer period of time. City shall cooperate with Developer, at no expense to City, in obtaining any

governmental permits required for the repair, replacement, or restoration. If, however, the then-existing laws of any other governmental agencies with jurisdiction over the Property do not permit the repair, replacement, or restoration, Developer may elect not to repair, replace, or restore the Project Improvements by giving notice to City (in which event Developer will be entitled to all insurance proceeds but Developer shall be required to remove all debris from the applicable portion of the Property) or Developer may reconstruct such other improvements on the Property as are consistent with applicable land use regulations and approved by the City and the other governmental agency or agencies with jurisdiction.

**706. Damage or Destruction Due to Cause Not Required to be Covered by Insurance.** If the Project Improvements are completely destroyed or substantially damaged by a casualty for which Developer is not required to (and has not) insured against, or if insurance proceeds are insufficient to rebuild, then Developer shall not be required to repair, replace, or restore such improvements and may elect not to do so by providing City with written notice of election not to repair, replace, or restore within ninety (90) days after such substantial damage or destruction. As used in this Section 706, "substantial damage" caused by a casualty not required to be (and not) covered by insurance shall mean damage or destruction which is ten percent (10%) or more of the replacement cost of the Project Improvements. Further, if requested by the City Manager, Developer shall raze the remaining Project Improvements, and remove all rubble and debris from the Property.

In the event that Developer elects not to repair, replace, or restore the damaged or destroyed Improvements within ninety (90) days after such substantial damage or destruction, Developer shall concurrently repay the full outstanding balance of the City Loan to City and this Agreement shall be automatically terminated. Provided, however, if within such 90 day period Developer submits to City a proposal for acquiring sufficient financing to complete the Project, and such proposal demonstrates to the reasonable satisfaction of the City Manager that all Rehabilitation can be completed and the Project put into service prior to the date that is four years from the date of this Agreement, or if the Rehabilitation was previously completed, then four years from the date of the damage or destruction, then repayment of the City Loan pursuant to this Section 706 shall be stayed until after the first to occur of (a) a determination by the City Manager that completion of the Project prior to the last day of such four year period is infeasible, or (b) the last day of such four year period, if the Project is not completed and put into service by that date.

**706. Non Liability of City.** Developer acknowledges and agrees that:

(a) The relationship between Developer and City is and shall remain solely that of borrower and lender, and by this Agreement or any Project Documents, City neither undertakes nor assumes any responsibility to review, inspect, supervise, approve (other than for aesthetics) or inform Developer of any matter in connection with the Project, including matters relating to: (i) the Scope of Development, (ii) architects, contractors, subcontractors and materialmen, or the workmanship of or materials used by any of them, or (iii) the progress of the Rehabilitation of the Project and its conformity with the Scope of Development; and Developer shall rely entirely on its own judgment with respect to such matters and acknowledges that any review, inspection, supervision, approval or information supplied to Developer by City in

connection with such matters is solely for the protection of City and that neither Developer nor any third party is entitled to rely on it;

(b) Notwithstanding any other provision of any Project Document: (i) City is not a partner, joint venturer, alter-ego, manager, controlling person or other business associate or participant of any kind of Developer and City does not intend to ever assume any such status; (ii) City's activities in connection with the Property shall not be "outside the scope of the activities of a lender of money" within the meaning of California Civil Code Section 3434, as modified or recodified from time to time, and City does not intend to ever assume any responsibility to any person for the quality or safety of the Property; and (iii) City shall not be deemed responsible for or a participant in any acts, omissions or decisions of Developer;

(c) City shall not be directly or indirectly liable or responsible for any loss or injury of any kind to any person or property resulting from any construction on, or occupancy or use of, the Property, whether arising from: (i) any defect in any building, grading, landscaping or other on-site or off-site improvement; (ii) any act or omission of Developer or any of Developer's agents, employees, independent contractors, licensees, invitees or volunteers; or (iii) any accident on the Property or any fire or other casualty or hazard thereon; and

(d) By accepting or approving anything required to be performed or given to City under the Project Documents, including any certificate, financial statement, survey, appraisal or insurance policy, City shall not be deemed to have warranted or represented the sufficiency or legal effect of the same, and no such acceptance or approval shall constitute a warranty or representation by City to anyone.

**707. Indemnification.** Developer shall defend, indemnify, assume all responsibility for, and save and hold the Indemnitees harmless from any and all claims, causes of action, settlements, court damages, demands, defense costs, reasonable attorneys' fees, expert witness fees, and other legal expenses, costs of evidence of title, costs of evidence of value, and other expenses which they may suffer or incur and any liability of any kind or nature arising from or relating to the activities of Developer under this Agreement or related to the Project (including reasonable attorneys fees and costs), regardless of whether such activities or performance thereof be by Developer or anyone directly or indirectly employed or contracted with by Developer and regardless of whether such damage shall accrue or be discovered before or after termination of this Agreement. Developer shall not be obligated to indemnify the Indemnitees to the extent occasioned by the negligence or willful misconduct of any of the Indemnitees or the breach of any of the Project Documents by any of them. Developer shall have the obligation to defend any such action; provided, however, that this obligation to defend shall not be effective if and to the extent that Developer determines in its reasonable discretion that such action is meritorious or that the interests of the parties justify a compromise or a settlement of such action, in which case Developer shall compromise or settle such action in a way that fully protects the Indemnitees from any liability or obligation. In this regard, Developer's obligation and right to defend shall include the right to hire (subject to reasonable written approval by City) attorneys and experts necessary to defend, the right to process and settle reasonable claims, the right to enter into reasonable settlement agreements and pay amounts as required by the terms of such settlement, and the right to pay any judgments assessed against Developer or any of the Indemnitees. If Developer defends any such action, as set forth above, (i) to the extent of Developer's

indemnification obligations as set forth herein, Developer shall indemnify and hold harmless Indemnitees from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation and (ii) City shall be entitled to settle any such claim only with the written consent of Developer and any settlement without Developer's consent shall release Developer's obligations under this Section 708 with respect to such settled claim. The foregoing agreements by Developer shall remain in effect for the Affordability Period. At the request of Developer, City shall cooperate with and assist Developer in its defense of any such claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that City shall not be obligated to incur any expense in connection with such cooperation or assistance.

**708. Reimbursement of City.** Developer shall reimburse City within thirty (30) days upon written demand itemizing all costs reasonably incurred by City (including the reasonable fees and expenses of attorneys, accountants, appraisers and other consultants, whether the same are independent contractors or employees of City) in connection with (i) the enforcement of the Project Documents including the following: (a) City's commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights or obligations of the parties to any Project Document, and (b) all claims, demands, causes of action, liabilities, losses, commissions and other costs against which City is indemnified under the Project Documents and defense of any action if City has tendered the defense of such action to Developer and Developer fails to defend any such action; and (ii) all reasonable costs incurred by City in connection with or otherwise arising from the management, operation, and performance of the obligations and transactions reasonably contemplated under the this Agreement and the other Project Documents including the following; (a) review and response to requests for review or approval from Developer, (b) review of reports and information contemplated by the Project Documents, (c) inspection of the Project, (d) third party consultants and other out of pocket expenses incurred by City in connection with the Project Documents, the Project or arising therefrom; and (e) substantial staff time incurred in connection with the Project Documents and the Project including preparations for and attendance at meetings and hearings and preparation of reports and correspondence. All such reimbursement obligations shall bear interest from the date occurring 10 days after City gives written demand to Developer at the same rate as is provided in the City Loan Note (or if different interest rates are specified therein, the highest non-default interest rate), and shall be secured by the City Loan Deed of Trust. Such reimbursement obligations shall survive the cancellation of the City Loan Note, release and reconveyance of the City Loan Deed of Trust, issuance of the Release of Construction Covenants, and termination of this Agreement.

## **800. TAXES AND ASSESSMENTS.**

**801. Taxes and Impositions.** After Developer's acquisition of the Property from the Seller, Developer shall be responsible to and shall pay, prior to delinquency, all of the following (collectively, the "Impositions"): (a) all general and special real property taxes and assessments imposed on the Property (and not abated pursuant to property tax exemption) and (b) all other taxes and assessments and charges of every kind that are assessed upon the Property and that create or may create a lien upon the Property (or upon any personal property or fixtures used in connection with the Property), including nongovernmental levies and assessments pursuant to

applicable covenants, conditions or restrictions. If permitted by law, Developer may pay any Imposition in installments (together with any accrued interest).

**801.1 Right to Contest.** Developer shall not be required to pay any Imposition so long as (a) the validity of such Imposition is being actively contested in good faith and by appropriate proceedings, and (b) either (i) Developer has demonstrated to City's reasonable satisfaction that leaving such Imposition unpaid pending the outcome of such proceedings could not result in conveyance of any parcel in satisfaction of such Imposition or otherwise impair City's interests under the Project Documents, or (ii) Developer has furnished City with a bond or other security satisfactory to City in an amount not less than 120% of the applicable claim (including interest and penalties).

**801.2 Evidence of Payment.** Upon demand by the City Manager from time to time, Developer shall deliver to the City Manager within thirty (30) days following the due date of any Imposition, evidence of payment of the Imposition reasonably satisfactory to the City Manager, unless Developer is contesting the imposition in conformity with Section 901.1. In addition, upon demand by City from time to time, Developer shall furnish to City a tax reporting service for the Property of a type and duration, and with a company, reasonably satisfactory to City.

## **900. LENDER/HOLDER PROTECTIONS.**

**901. Right of City to Satisfy Other Liens on Property after Title Passes.** After the disbursement of any portion of the City Loan and prior to the recordation of the Release of Construction Covenants, and after Developer has had written notice and has failed after a reasonable time, but in any event not less than the applicable cure period as set forth in the applicable Project Document, to challenge, cure, adequately bond against, or satisfy any liens or encumbrances on the Property which are not otherwise permitted under this Agreement, City shall have the right, but not the obligation, to satisfy any such liens or encumbrances and to add the amount of any payment made by City under this Section to the outstanding balance of the City Loan, which additional amount shall be secured by the City Loan Deed of Trust. Notwithstanding the above, Developer shall have the right to assert any challenge to the validity or amounts of any tax, assessment, or encumbrance available to Developer with respect thereto.

**902. Liens and Stop Notices.** Developer shall not allow to be placed on the Property or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project, Developer shall within thirty (30) days of such recording or service or within twenty (20) days of City's demand whichever first occurs:

- (a) pay and discharge the same; or
- (b) affect the release thereof by recording and delivering to City a surety bond in sufficient form and amount, or otherwise; or
- (c) provide City with other assurance which City deems, in City's sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of City from the effect of such lien or bonded stop notice.

**903. Holder Not Obligated to Complete Rehabilitation.** The holder of any mortgage or deed of trust pre-approved by City and authorized by this Agreement shall not be obligated by the provisions of this Agreement to complete the Project or any portion thereof, or to guarantee such completion; nor shall any covenant or any other provision in this Agreement be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

**904. Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure.** With respect to any mortgage or deed of trust granted by Developer that is authorized by this Agreement, whenever City may deliver any notice or demand to Developer with respect to any breach or default by Developer in completion of the Project, City shall at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights granted by City are concerned) have the right, at its option, within forty-five (45) days after the receipt of the notice, to cure or remedy or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy of any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage. The holder, in that event, must agree to complete, in the manner provided in this Agreement, the Rehabilitation to which the lien or title of such holder relates. Any such holder (or approved assignee) properly completing such Rehabilitation shall be entitled, upon compliance with the requirements herein, to a Release of Construction Covenants with respect to the portion of the Rehabilitation completed by such holder.

It is understood that a holder shall be deemed to have satisfied the forty-five (45) day time limit set forth above for commencing to cure or remedy a Developer default which requires title and/or possession of the Property (or portion thereof) if and to the extent any such holder has within such forty-five (45) day period commenced proceedings to obtain title and/or possession and thereafter the holder (or approved assignee) diligently pursues such proceedings to completion and cures or remedies the default.

Notwithstanding anything to the contrary contained herein, City agrees that any cure of any default made or tendered by one or more of Developer's (or Developer's assignee's) limited partners shall be deemed to be a cure by Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer. Copies of all notices which are sent to Developer (or Developer's assignee) under the terms of this Agreement shall also be sent to all approved limited partners who have requested such notice.

**905. Failure of Holder to Complete Project.** In any case where, sixty (60) days after the holder of any mortgage or deed of trust creating a lien or encumbrance upon the Property or any part thereof receives a notice from City of a default by Developer in completion of the Rehabilitation or any other part of the Project required by this Agreement, and such holder has not exercised the option to construct as set forth above, or if it has exercised the option but has defaulted hereunder and failed to timely cure such default, City may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust or otherwise due and payable thereunder. If the ownership of the Property or any part thereof

has vested in the holder, City, if City so desires, shall be entitled to a conveyance from the holder to City upon payment to the holder of an amount equal to the sum of the following:

(a) The unpaid mortgage or deed of trust debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(b) All expenses with respect to foreclosure including reasonable attorneys' fees;

(c) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Property or part thereof;

(d) The costs of any improvements made by such holder;

(e) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by City; and

(f) Any customary prepayment charges imposed by the lender pursuant to its loan documents and agreed to by Developer.

**906. Right of City to Cure Mortgage or Deed of Trust Default.** In the event of a mortgage or deed of trust default or breach by Developer prior to the completion of the Project (and expiration of the Affordability Period), Developer shall immediately deliver to City a copy of any mortgage holder's notice of default. If the holder of any mortgage or deed of trust has not exercised its option to construct, City shall have the right but no obligation to cure the default. In such event, City shall be entitled to reimbursement from Developer of all proper costs and expenses incurred by City in curing such default. City shall also be entitled to a lien upon the Property to the extent of such costs and disbursements. Any such lien shall be junior and subordinate to the mortgages or deeds of trust approved and in place in conformity with this Agreement.

**907. Subordination of Affordability Covenants.** In connection with City's review of Developer's financing pursuant to the provisions of this Agreement and in the event City (through and by this delegation to the City Manager) finds that an economically feasible method of financing for the construction and operation of the Project, without the subordination of the affordable housing covenants as may be set forth in this Agreement and the Regulatory Agreement, is not reasonably available, City Manager may exercise his discretion to allow and make the affordable housing covenants set forth in this Agreement and the Regulatory Agreement junior and subordinate to the deeds of trust and other documents required in connection with the Construction Loan, , and other construction financing for the Project approved pursuant to this Agreement. City shall not be required to enter into any subordination agreement(s) unless such subordination agreement(s) contain written commitments which City Manager finds are reasonably designed to protect City's investment in the Project in the event of default, including: (a) an extended period for and right of City to cure a default on such senior loan prior to foreclosure; and such cure rights also may include: (b) a right of City to negotiate with the lender after notice of default from the lender and prior to foreclosure, (c) an agreement

that if prior to foreclosure of the senior loan, City re-takes possession of the Property and cures the default on the senior loan, the lender will not exercise any right it may have to accelerate the senior loan by reason of the transfer of title to City, and (d) a right of City to acquire the Property from Developer at any time after a material default on the senior loan. City will reasonably consider a reaffirmation of the original subordination to the Construction Loan, upon modification, refinancing, or new financing; provided, however, the reaffirmation shall be evidenced by an agreement in a form reasonably acceptable to City and City's legal counsel. If and to the extent any reaffirmation, new or amended subordination, any estoppel certificates, or similar documents are requested and/or necessary, Developer expressly acknowledges and agrees that any and all third party cost incurred or to be incurred by City in excess of \$500 per request (increased annually by CPI), including for example attorney fees or other consultant's casts, are and shall be the sole financial responsibility of Developer (or its Lender or other third party, but in no event City). Upon the delivery by City of a subordination or reaffirmation of subordination, Developer shall pay to City all third party costs incurred by City in connection therewith. Pursuant to the applicable subordination agreement, any party and its successors and assigns, receiving title to the Property through a trustee's sale, judicial foreclosure sale, or deed in lieu of foreclosure of such senior deed of trust or mortgage, including a deed of trust or mortgage which is given in connection with such refinancing, and any conveyance or transfer thereafter, shall receive title free and clear of the provisions of the Regulatory Agreement.

#### **1000. AFFORDABLE HOUSING COVENANTS; MAINTENANCE, PROPERTY MANAGEMENT, AND OPERATION OF PROJECT.**

**1001. Duration of Affordability Requirements; Affordability Period.** The Project and all the Housing Units thereon shall be subject to the requirements of this Section 1200 et seq. for the full term of fifteen (15) years from the date the Release of Construction Covenants is issued by City and recorded against the Property.

#### **1002. Tenant Selection Covenants.**

**1002.1 Selection of Tenants.** Developer shall be responsible for the selection of tenants for the Housing Units in compliance with the HOME Program, Federal Program Limitations (to the extent applicable) and all lawful and reasonable criteria, as set forth in the Management Plan that is required to be submitted to and approved by City pursuant to this Agreement. Preference shall be given for occupancy of the Housing Units that are not subject to project based Section 8 assistance to (i) tenants who currently reside within the City, or who currently work in the City, or who have been displaced by activities of the City of Huntington Park and (ii) eligible tenants on the City's tenant waiting list who are otherwise qualified to be tenants in accordance with the approved tenant selection criteria, to the extent authorized by applicable federal, state or local laws or regulations. Developer shall adopt a tenant selection system for the HOME Units in conformance with Section 92.253(e) of the HOME Regulations, which shall be approved or disapproved by the City Manager within 5 ~~business days~~Business Days of receipt thereof in his reasonable discretion, which establishes a chronological waiting list system for selection of tenants. The tenant selection system shall include, without limitation, a method for investigation of the credit history of proposed tenants through obtaining a credit report on the proposed tenant. To the extent Housing Units are available, Developer shall not refuse to lease to a holder of a certificate of family participation under 24 CFR part 882 (Rental

Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a HOME Program other tenant-based assistance program solely on the basis of such certificate, voucher, or comparable document, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria.

**1002.2 Income and Occupancy Restrictions.** As included in the annual income certification provided by Developer or as otherwise reasonably requested by City, Developer shall make available for City Manager's review such information as Developer has reviewed and considered in its selection process, together with the statement by Developer that Developer has determined that each selected tenant will comply with all applicable terms and conditions of this Agreement in each tenant's occupancy of a Housing Unit, including without limitation, that each corresponding household satisfies the income eligibility requirements, Affordable Rent requirements, and other requirements of this Agreement.

(a) In this regard, Developer covenants and agrees that (i) each tenant (other than the on-site Property Manager) shall and will be a 50% AMI Very Low Income Household, a 60% AMI Low Income Household, and (ii) the cost to each tenant household (other than the on-site Property Manager) for the corresponding Housing Unit on the Property shall be at and within the defined Affordable Rent for the applicable 50% AMI Very Low Income Household or 60% AMI Low Income Household, and (iii) each tenant household (other than the on-site Property Manager) shall meet HQS occupancy standards for the Housing Unit, and (iv) the occupancy and use of the Property shall comply with all other covenants and obligations of this Agreement (collectively, "Tenant Selection Covenants").

(b) Developer covenants that:

(i) 24 percent or 45 of the units will be restricted to very low income households at Low HOME rents and 25 percent or 46 units of the units will be restricted to low income households at High HOME rents)

(ii)

(iii) SeventyFive (75) of the one (1) bedroom Housing Units at the Project (Thirty-Six (36) of which shall be designated as HOME units) shall be occupied by 50% AMI Very Low Income Households at an Affordable Rent;

(iv) Eighteen (18) of the two (2) bedroom Housing Units at the Project (Nine (9) of which shall be designated as HOME units) shall be occupied by 50% AMI Very Low Income Households at an Affordable Rent;

(v) Seventy-Two (72) of the one (1) bedroom Housing Units at the Project (Thirty-Seven (37) of which shall be designated as HOME Units) shall be occupied by 60% AMI Very Low Income Households at an Affordable Rent;

(vi) Seventeen (17) of the two (2) bedroom Housing Units at the Project (Nine (9) of which shall be designated as HOME Units) shall be occupied by 60% AMI Very Low Income Households at an Affordable Rent;

(vii)

(viii)

(ix) Two (2) two (2) bedroom Housing Unit at the Project shall be occupied by an on-site property manager. The on-site manager is not required to income qualify as a 50% AMI Very Low Income Household or 60% AMI Very Low Income Household; nor shall the monthly housing payment charged for the on-site manager's Housing Unit be restricted to an Affordable Rent, nor shall Developer be required to comply with any other requirements set forth in this Agreement relating to the income or other Tenant Selection Covenants when selecting and retaining such on-site manager.

### **1003. Income Certification Requirements.**

**1003.1 Initial Certification.** Prior to each initial and subsequent rental of each Housing Unit to a new tenant household (but not lease renewals), Developer shall provide to the City Manager completed income tenant income certifications in the form to be provided to TCAC. In order to comply with this Section, Developer shall submit to City any and all tenant income and occupancy certifications and supporting documentation required to be submitted to TCAC pursuant to the Tax Credit Rules and the Tax Credit Regulatory Agreement for the Project. City may request (and Developer shall provide) additional documentation to assist City's evaluation of Developer's compliance with this Agreement, if determined to be necessary in the reasonable discretion of the City Manager, specifically including (without limitation) any documentation or additional certifications that may be necessary to verify compliance with the HOME Regulations and Federal Program Limitations, as applicable. Gross income calculations for prospective (and continuing) tenants shall be determined in accordance with 24 CFR 92.203. "Annual income" is defined at 24 CFR 5.609. City approval is a condition precedent to tenants entering into leases or occupying Housing Units. City shall have ~~five~~seven (5) business days Business Days to review the submittal and request additional information, if any. If the City does not furnish Developer with notice of approval or disapproval, or request additional information, within such ~~five~~seven (5) business day Business Day period, and Developer has delivered to City all additional documentation and certifications requested by City (if any), the Developer may provide to City a ~~second written request therefor which indicates in bold 18 point text "Response required; request will be deemed approved if the City does not respond within five (5) business days"~~. If the City does not furnish Developer with a written response within ~~five (5) business days after City's receipt of the second written request~~, then City shall be deemed to have approved such tenant income certification(s). The "deemed approved" provision in the preceding sentence shall be effective only if Developer includes in the transmittal of the documentation and certifications to City, in bold 18 point text, the following statement: "Response required; request will be deemed approved if the City does not respond within seven (7) Business Days".

**1003.2 Verification of Income of Continuing Tenants.** Gross income calculations for prospective (and continuing) tenants shall be determined in accordance with 24 CFR 92.203. "Annual income" is defined at 24 CFR 5.609. Following the completion of the Rehabilitation and occupancy of the Housing Units, and annually thereafter (on or before March 31 of each year), Developer shall submit to City, at Developer's expense, a written summary of

the income, household size and rent payable by each of the tenants of the Housing Units. Developer shall obtain, or shall cause to be obtained by the Property Manager, at the times and in the forms required by TCAC, an annual certification from each household leasing a Housing Unit demonstrating that such household is a 50% AMI Very Low Income Household or 60% AMI Very Low Income Household, as applicable, and meets the eligibility requirements established for the Housing Unit. Developer shall verify, or shall cause to be verified by the Property Manager, at the times and with such forms as are required by TCAC, the income certification of each tenant household. In order to comply with this Section, Developer shall submit to City any and all tenant income and occupancy certifications and supporting documentation that may be necessary to verify compliance with the HOME Regulations and Federal Program Limitations, as applicable. This requirement is in addition to and does not replace or supersede Developer's obligation to annually submit the Certificate of Continuing Program Compliance to City.

#### **1004. Affordable Rent.**

**1004.1 Maximum Monthly Rent Paid by Tenant.** The maximum monthly Rent chargeable for the Housing Units shall be annually determined by City in accordance with Section 92.252 of the HOME Regulations and the Tax Credit Rules, as applicable, pursuant to the following formulas:

(a) The Affordable Rent for the Housing Units to be rented to 50% AMI Very Low Income Households shall not exceed:

(i) for the HOME Units: the lesser of: (A) one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of AMI for Los Angeles County as determined and published by TCAC for a family of a size appropriate to the unit pursuant to the Tax Credit Rules or (B) the applicable Low HOME rent amount pursuant to the HOME Regulations, and

(ii) for the Housing Units that are not HOME Units: one-twelfth (1/12) of thirty percent (30%) of thirty percent (50%) of AMI for Los Angeles County as determined and published by TCAC for a family of a size appropriate to the unit pursuant to the Tax Credit Rules.

(b) The Affordable Rent for the Housing Units to be rented to 60% AMI Very Low Income Households shall not exceed:

(i) for the HOME Units: the lesser of: (A) one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of AMI for Los Angeles County as determined and published by TCAC for a family of a size appropriate for the unit pursuant to the Tax Credit Rules or (B) the applicable High HOME rent amount pursuant to the HOME Regulations, and

(ii) for the Housing that are not HOME Units, one-twelfth (1/12) of thirty percent (30%) of fifty percent (60%) of AMI for Los Angeles County as determined and published by TCAC for a family of a size appropriate to the unit pursuant to the Tax Credit Rules.

For purposes of this Agreement and the Regulatory Agreement, "Affordable Rent" means the total of monthly payments for (a) use and occupancy of each Housing Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, or cable TV or internet services, and (d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Developer.

**1004.2 Rent Schedule and Utility Allowance.** City will review and approve or disapprove the Affordable Rents proposed by Developer for all of the Housing Units together with the monthly allowances proposed by Developer for utilities and services to be paid by the tenant, within ~~5 business days~~Business Days of receipt thereof. Developer must annually reexamine the income of each tenant household living in the Housing Units annually in accordance with Sections 1003 and 1014 herein. The maximum monthly rent must be recalculated by Developer and reviewed and approved by City annually within ~~5 business days~~Business Days of receipt thereof, and may change as changes in the applicable gross Rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in Rents for the Housing Units is subject to the provisions of outstanding leases. Developer must provide all tenants not less than thirty (30) days prior written notice before implementing any increase in Rents. If the City does not furnish Developer with notice of approval or disapproval within such five (5) ~~business day~~Business Day period, the Developer may provide to City a second written request therefor which indicates in bold 18 point text "Response required; request will be deemed approved if the City does not respond within five (5) ~~business days~~Business Days". If the City does not furnish Developer with a written response within five (5) ~~business days~~Business Days after City's receipt of the second written request, then City shall be deemed to have approved such Affordable Rents.

**1004.3 Increases in Tenant Income.** A tenant who qualifies as a 50% AMI Very Low Income Household, a 60% AMI Very Low Income Household prior to occupancy of a Housing Unit in compliance with the Agreement shall be deemed to continue to be so qualified until such time as the annual re-verification of such tenant's income demonstrates that such tenant no longer qualifies as a 50% AMI Very Low Income Household or a 60% AMI Very Low Income Household, as applicable. A tenant occupying a Housing Unit whose income increases, causing that tenant household to cease to be income qualified in the same category shall, if that tenant household continues to qualify in a higher income category provided for under this Agreement, be deemed to so qualify and the Housing Unit occupied by such tenant household shall be counted towards Developer's obligation to provide a Housing Unit for households in such income category. The Housing Units shall be "floating units" as defined in the HOME Regulations, such that the location of the Housing Units designated for each income category as well as the Housing Units designated as HOME Units may change within the Project provided that the next available Housing Unit containing the appropriate number of bedrooms shall be used to replace any Housing Units re-designated due to an increase in tenant income, such that to the extent reasonably practicable, the Project shall continuously comply with the unit mix set forth in Section 1002.2(b). A tenant household whose income increases such that such tenant household ceases to be income qualified to occupy any Housing Unit at the Project, may

continue to occupy his Housing Unit and be charged rent including a reasonable utility allowance, not greater than the lesser of thirty percent (30%) of the household's adjusted monthly income, recertified annually, or the market rent applicable to the Housing Unit as published by HUD.

**1004.4 Most Restrictive Affordable Rent Covenants Govern.** To the extent of an inconsistency between or among the foregoing covenants relating to Affordable Rent and other covenants or agreements applicable to the Project, the most restrictive covenants or agreement regarding the Affordable Rent for the Housing Units in the Project shall prevail.

**1004.5 Affordable Rent Calculation Chart.** In illustration of the foregoing description of Affordable Rent, attached hereto as Attachment No. 10 and incorporated by this reference is an "AFFORDABLE RENT CALCULATION CHART (Rugby Plaza Apartments)." The chart is illustrative only and in the event of any inconsistency between such chart and the specific provisions of this Agreement, the provisions of this Agreement shall prevail.

**1005. Leases; Rental Agreements for Housing Units.** As set forth in the Conditions Precedent, Developer shall submit a standard lease form, which shall comply with HOME Regulations (including 24 CFR 92.253), and all requirements of this Agreement, to City for approval. City shall reasonably approve such lease form upon finding that such lease form is consistent with this Agreement and contains all of the provisions required pursuant to the HOME Program and the HOME Regulations, within 5 ~~business days~~ Business Days of receipt thereof. Developer shall enter into a written lease, in the form approved by City, with each tenant/tenant household of the Project. No lease shall contain any of the provisions that are prohibited and shall be for a period of not less than 6 months, unless by mutual agreement between the tenant and the Developer a shorter period is specified pursuant to Section 92.253 of the HOME Regulations.

**1006. [Reserved.]**

**1007. [Reserved.]**

**1008. Maintenance.** Developer shall, at its sole cost and expense, maintain or cause to be maintained the interior and exterior of the Project and all Housing Units thereof and the Property in a decent, safe and sanitary manner, in accordance with the maintenance standards required by Section 92.251 of the HOME Regulations, and in accordance with the standard of maintenance of high quality apartments within Los Angeles County, California. At the time of project completion and during the period of affordability, the City must conduct on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of 24 CFR §92.251. The property owner must annually certify to the participating jurisdiction that the building and all HOME assisted units in the project is suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the City's ongoing property standards in accordance with 24 CFR §92.251

None of the Housing Units in the Project shall at any time be utilized on a transient basis, nor shall the Property or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or

sorority house, rooming house, hospital, nursing home, sanitarium or rest home, or be converted to condominium ownership. If at any time Developer fails to maintain the Project or the Property in accordance with this Agreement and such condition is not corrected within five (5) days after written notice from City with respect to health and safety deficiencies, graffiti, debris, and waste material, or thirty days after written notice from City with respect to other of the City's property standards, then City, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the Project or the Property and perform all acts and work necessary to protect, maintain, and preserve the Project and the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by City and/or costs of such cure, including a reasonable administrative charge, which amount shall be promptly paid by Developer to City upon demand. The liens created under this Section shall be subject and subordinate to the lien of the mortgage or deed of trust encumbering the Property (or any part of the Property) for the Construction Loan, approved pursuant to the terms of this Agreement.

### **1009. Management of the Project.**

**1009.1 Property Manager.** Developer shall cause the Project, and all appurtenances thereto that are a part of the Project, to be managed in a prudent and business-like manner, consistent with property management standards for other comparable high quality, well-managed rental housing projects in Los Angeles County, California. At the time of project completion and during the period of HOME affordability, the City must conduct on-site inspections of HOME-assisted rental housing to determine compliance with the property standards of 24 CFR §92.251. The property owner must annually certify to the participating jurisdiction that the building and all HOME assisted units in the project is suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the City's ongoing property standards in accordance with 24 CFR §92.251. Developer shall contract with a property management company or property manager to operate and maintain the Project in accordance with the terms of this Section ("Property Manager"); provided, however, the selection and hiring of the Property Manager (and each successor or assignee Property Manager) is and shall be subject to prior written approval of City Manager in his sole and reasonable discretion. The City Manager hereby approves the John Stewart Company as Property Manager. The Property Manager shall not be an Affiliate of Developer without the express prior written approval of the City Manager, which consent shall not be unreasonably withheld, delayed, or conditioned. If a potential outside property manager or property management company has not previously acted as property manager for Developer or Developer's Affiliates, then Developer shall conduct due diligence and background evaluation of any potential outside property manager or property management company to evaluate experience, references, credit worthiness, and related qualifications as a property manager. Any proposed property manager shall have prior experience with rental housing projects and Property comparable to the Project and the references and credit record of such manager/company shall be investigated (or caused to be investigated) by Developer prior to submitting the name and qualifications of such proposed property manager to the City Manager for review and approval. A complete and true copy of the results of such background evaluation shall be provided to the City Manager. Approval of a Property Manager by City Manager shall not be unreasonably delayed but shall be in his sole and reasonable discretion, and City Manager shall use good faith

efforts to respond as promptly as practicable in order to facilitate effective and ongoing management of the Project. Furthermore, the identity and retention of any approved Property Manager shall not be changed without the prior written approval of the City Manager, which approval shall not be unreasonably withheld or delayed, but shall be in his sole and reasonable discretion. The selection by Developer of any new Property Manager also shall be subject to the foregoing requirements. The fee to be paid to the Property Manager shall not exceed six and five tenths percent (6.5%) of scheduled gross income.

(a) Gross Mismanagement. In the event of "Gross Mismanagement" (as that term is defined below) of the Project or any part of the Project, City Manager shall have and retain the authority to direct and require any condition(s), acts, or inactions of Gross Mismanagement to cease and/or be corrected immediately, and further to direct and require the immediate removal of the Property Manager and replacement with a new qualified and approved Property Manager, if such condition(s) is/are not ceased and/or corrected after expiration of thirty (30) days from the date of written notice from City Manager. If such condition(s) do persist beyond such period City Manager shall have the sole and absolute right to immediately and without further notice to Developer (or to Property Manager or any other person/entity) replace the Property Manager with a new property manager of the City Manager's selection at the sole cost and expense of Developer. If Developer takes steps to select a new Property Manager that selection is subject to the requirements set forth above for selection of a Property Manager, except the thirty (30) day period shall be extended for an additional period not to exceed sixty (60) days in the aggregate if Developer is diligently taking steps to replace the Property Manager).

(i) For purposes of this Agreement, the term "Gross Mismanagement" shall mean management of the Project (or any part of the Project) in a manner which violates the terms and/or intention of this Agreement to operate a high quality rental housing complex comparable to other similar complexes in Los Angeles County, California, and shall include, but is not limited to, any one or more of the following:

1. Knowingly leasing to tenants who exceed the prescribed income levels;
2. Knowingly allowing the tenants to exceed the prescribed occupancy levels without taking immediate action to stop such overcrowding;
3. Underfunding required reserve accounts, unless funds are reasonably not available to deposit in such accounts;
4. Failing to timely maintain the Project in accordance with the Management Plan and the manner prescribed herein;
5. Failing to submit timely and/or adequate annual reports to City as required herein;
6. Fraud or embezzlement of Project funds, including without limitation funds in the reserve accounts;

7. Failing to cooperate, reasonably and in good faith, with the Huntington Park Police Department or other local law enforcement agency(ies) with jurisdiction over the Project, in maintaining a crime-free environment within the Project;

8. Failing to cooperate, reasonably and in good faith, with the Huntington Park Fire Department or other local public safety agency(ies) with jurisdiction over the Project, in maintaining a safe environment within the Project;

9. Failing to cooperate, reasonably and in good faith, with the Huntington Park Planning & Building Department, including the Code Enforcement Division, or other local health and safety enforcement agency(ies) with jurisdiction over the Project, in maintaining a safe environment within the Project; and

10. Spending funds from the Capital Replacement Reserve account(s) for items that are not defined as capital costs under the standards imposed by generally accepted accounting principles (GAAP) and/or, as applicable, generally accepted auditing principles.

(ii) Notwithstanding the requirements of the Property Manager to correct any condition of Gross Mismanagement as described above, Developer is obligated and shall use commercially reasonable efforts to correct any defects in property management or operations at the earliest feasible time and, if necessary, to replace the Property Manager as provided above. Developer shall include advisement and provisions of the foregoing requirements and requirements of this Agreement within any contract between Developer and its Property Manager.

(b) **Marketing.** Developer shall comply with an affirmative marketing plan reasonably approved by City, including methods for informing the public and potential tenants about the federal fair housing laws, procedures to inform and solicit applications from persons in the housing market area not likely to apply for tenancy at the Housing Units without special outreach and recordkeeping methods that will permit City to evaluate the actions taken by Developer (or Property Manager) to affirmatively market the Housing Units at the Project. Specific procedures for marketing and releasing Housing Units shall be set forth in the Management Plan and shall include the following (i) at all times prior to the date that each Housing Unit has been initially occupied and (ii) at any time during which the number of households on the waiting list is less than twenty-five (25):

(i) Posting advertisements and notices of the availability of the Housing Unit(s) in local newspapers and other publications. Such advertisements and notices shall include a description of the age and income requirements applicable to the Housing Unit(s).

(ii) Posting advertisements and notices of the vacancy(ies) at local religious institutions, community centers, public buildings such as post-offices and City Hall, and the Huntington Park Senior Center.

(iii) Posting advertisements and notices of the vacancy(ies) anywhere Developer believes tenant households eligible for occupancy in the Housing Units at the Project are likely to become informed.

**1010. Code Enforcement.** Developer acknowledges and agrees that City and City's employees and authorized agents shall have the right to conduct code compliance and/or code enforcement inspections of the Project and the individual units, both exterior and interior, during normal business hours and upon reasonable notice (not less than 72 hours prior notice) to Developer and/or an individual tenant. If such notice is provided by City representative(s) to Developer, then Developer (or its Property Manager) shall immediately and directly advise tenant of such upcoming inspection and cause access to the area(s) and/or units on the Project to be made available and open for inspection. Developer shall include express advisement of such inspection rights within the approved lease/rental agreements for each Housing Unit in the Project in order for each and every tenant and tenant household to be aware of this inspection right.

**1011. Capital Reserve Requirements.** Developer shall annually set aside and fund the Capital Replacement Reserve amounts defined and required under this Agreement (Three Hundred Dollars (\$300) per year for each Housing Unit) or shall cause the Property Manager to do so. The Capital Replacement Reserve deposits shall be allocated from the gross rents received from the Property and shall be deposited into a separate interest-bearing trust account. Funds in the Capital Replacement Reserve shall be used for capital replacements to the fixtures and equipment on the Property (including common areas) that are normally capitalized under generally accepted accounting principles and shall include the following: carpet and drape replacement; appliance replacement; exterior painting, including exterior trim; hot water heater replacement; plumbing fixtures replacement, including tubs, showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement; irrigation pipe and controls replacement; gas line pipe replacement; lighting fixture replacement; elevator replacement and upgrade work; miscellaneous motors and blowers; common area furniture replacement; and common area repainting. The non-availability of funds in the Capital Replacement Reserve does not in any manner relieve Developer of the obligation to undertake necessary capital repairs and improvements and to continue to maintain the Property and all common areas and common improvements in the manner prescribed herein.

**1011.1 Annual Accounting of Reserve.** Annually, at the same time as the proposed Operating Budget is due pursuant to Section 1012, Developer, at its expense, shall submit to City an accounting for the Capital Replacement Reserve set forth in the Annual Financial Statement, demonstrating compliance with this Section 1011.

**1012. Operating Budget.** Commencing on or before issuance of the Release of Construction Covenants, and each December 1 thereafter, Developer shall submit to City the Operating Budget for the Project that sets forth the projected Operating Expenses for the upcoming year. City Manager shall not unreasonably withhold, condition, or delay approval of the annual Operating Budget, or any amendments thereto. Until a new budget is approved the budget for the prior year shall apply.

**1013. Capitalized Operating Reserve.** Commencing on or before issuance of the Release of Construction Covenants, Developer shall, or shall cause the Property Manager to, set aside an amount equal to three (3) months of Operating Expenses for the Project ("Target Amount") in an Capitalized Operating Reserve to be held in a separate interest bearing trust

account, which initial deposit shall be funded using proceeds of the Tax Credit equity or other approved source (other than the City Loan). The Capitalized Operating Reserve shall thereafter be replenished from Annual Project Revenue (if any) only to the extent necessary to maintain the Target Amount. The amount in the Capitalized Operating Reserve shall be retained to cover shortfalls between Annual Project Revenue and actual Operating Expenses, but shall in no event be used to pay for capital items or capital costs properly payable from the Capital Replacement Reserve.

**1013.1 Annual Accounting of Reserve.** Annually, at the same time as the proposed Operating Budget is due pursuant to Section 1012, Developer, at its expense, shall submit to City an accounting for the Capitalized Operating Reserve set forth in the Annual Financial Statement, demonstrating compliance with this Section 1013.

**1014. Monitoring and Recordkeeping.** Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in California Health and Safety Code Section 33418 and the HOME Program, including Section 92.508 (or successor regulation) of the HOME Regulations, and shall annually complete and submit to City a Certification of Continuing Program Compliance substantially in the form of Attachment No. 12, or other form provided by City Manager. Representatives of City shall be entitled to enter the Property, upon at least seventy-two (72) hours notice, to monitor compliance with this Agreement, to inspect the records of the Project, and to conduct an independent audit or inspection of such records. Developer agrees to cooperate with City in making the Property and all Housing Units thereon available for such inspection or audit. Developer agrees to maintain records in a businesslike manner, to make such records available to City upon seventy-two (72) hours notice, and to maintain such records for the entire Affordability Period.

**1014.1 City Monitoring Fee.** Annually, at the same time as the proposed Operating Budget is due pursuant to Section 1012, Developer shall pay to City the sum of \$800 for compliance monitoring. This fee shall be known as the City Monitoring Fee.

**1015. Regulatory Agreement.** The requirements of this Agreement that are applicable after the disbursement of the City Loan are set forth in the Regulatory Agreement. The execution of the Regulatory Agreement is a condition precedent to the initial or any subsequent disbursement of the City Loan.

## **1100. FEDERAL PROGRAM LIMITATIONS; COMPLIANCE WITH LAWS.**

**1101. HOME Program.** Because the City Loan to Developer will be provided with HOME Program funds, Developer shall carry out the Rehabilitation of the Housing Units and the operation of the Project in conformity with all requirements of the HOME Program to the extent applicable to the Project. In the event Developer desires to change the affordable housing or maintenance requirements for the Property from the specific requirements set forth in this Agreement in order to comply with a subsequently enacted amendment to the HOME Program, Developer shall notify City in writing of such proposed change and the amendment related thereto at least thirty (30) days prior to implementing such change. In the event City disapproves of such change and Developer's interpretation of the amendment related thereto, City shall notify Developer of its disapproval in writing and the parties shall seek clarification from the

appropriate HUD Field Office. Only if HUD concurs with Developer's interpretation of the HOME Program shall Developer be permitted to implement the proposed change.

**1102. Federal Funding of City Loan.** Due to the source of funding for the City Loan from HOME Program funds, which is a federal revenue source, Developer shall comply with all applicable Federal Program Limitations, including without limitation, the following federal provisions.

**1103. Property Standards.** Developer agrees to rehabilitate the Project in accordance with the City's property standards inclusive of written rehabilitation standards, which addresses standards for methods and materials to be used for rehabilitation; health and safety, habitability and functionality, useful life of major systems, lead-based paint requirements at 24 CFR part 35, accessibility requirements in 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); measures to mitigate potential disasters (e.g., earthquake, flooding) in accordance with State and local codes, ordinances. In addition, upon project completion, each of the following major systems must have a remaining useful life for a minimum of 15 years or for such longer period specified by the participating jurisdiction, or the major systems must be rehabilitated or replaced as part of the rehabilitation work: structural support; roofing; cladding and weatherproofing (e.g., windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.

**1103.1 [Reserved]**

**1103.2 Handicapped Accessibility.** Developer shall comply with (a) Section 504 of the Rehabilitation Act of 1973, and implementing regulations at 24 CFR 8C governing accessibility of projects assisted with federal funds; and (b) the Americans with Disabilities Act of 1990, and implementing regulations at 28 CFR 35-36 in order to provide handicapped accessibility to the extent readily achievable.

**1103.3 Use of Debarred, Suspended, or Ineligible Participants.** Developer shall comply with the provisions of 24 CFR 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractor or subcontractor during any period of debarment, suspension, or placement in ineligibility status.

**1103.4 Maintenance of Drug-Free Workplace.** Developer shall certify that Developer will provide a drug-free workplace in accordance with 24 CFR 24F.

**1103.5 Equal Opportunity and Fair Housing.** Developer shall carry out the Project and perform its obligations under this Agreement in compliance with all of the federal laws and regulations regarding equal opportunity and fair housing described in 24 CFR 92.350.

**1103.6 Energy Conservation Standards.** As applicable to the Project, Developer shall cause the Property to meet the cost-effective energy conservation and effectiveness standards in 24 CFR 39.

**1103.7 Requests for Disbursements of Funds.** Developer may not request disbursements of funds hereunder until the funds are needed for payment of eligible costs of the

Project. The amount of each request shall be limited to the amount needed for the Rehabilitation as set forth in the Final Budget.

**1103.8 Eligible Costs.** Developer shall only use HOME Program funds to pay costs defined as “eligible costs” under Federal Program Limitations.

**1103.9 Records and Reports.** Developer shall maintain and from time to time submit to City such records, reports and information as City Manager may reasonably require in order to permit City to meet the recordkeeping and reporting requirements required of them pursuant to 24 CFR 92.508.

**1103.10 Conflict of Interest.** Developer shall comply with and be bound by the conflict of interest provisions set forth at 24 CFR 570.611.

**1103.11 .**

**1104. Compliance with Laws.** Developer shall comply with all applicable federal, state and local statutes, ordinances, regulations and laws, (including the Governmental Requirements) with respect to Developer’s ownership and the Rehabilitation and the operation and management of the Property by Developer (all of which comprises the Project hereunder). Developer shall carry out the design, construction and completion of Improvements, and operation and management of the Project, in conformity with all applicable laws, including all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Huntington Park Municipal Code, Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Act, Civil Code Section 51, et seq.

**1104.1 Prevailing Wage Laws.** Developer shall carry out the Rehabilitation through completion of the Project and the overall development of the Property in conformity with all applicable federal, state and local labor laws and regulations, including without limitation, if applicable, the requirements to pay prevailing wages under federal law (the Davis Bacon Act, 40 U.S.C. Section 3141, et seq., and the regulations promulgated thereunder set forth at 29 CFR Part 1 (collectively, “Davis Bacon”)) and, if applicable, California prevailing wage law (generally located at California Labor Code Section 1720, et seq.). The parties acknowledge that a financing structure may trigger compliance with applicable state and federal prevailing wage laws and regulations.

Developer shall be solely responsible, expressly or impliedly, for determining and effectuating compliance with all applicable federal, state and local public works requirements, prevailing wage laws, labor laws and standards, and City makes no representations, either legally or financially, as to the applicability or non-applicability of any federal, state or local laws to the Project or any part thereof, either onsite or offsite. Developer expressly, knowingly and voluntarily acknowledges and agrees that City has not previously represented to Developer or to any representative, agent or Affiliate of Developer, or its Contractor or any subcontractor(s) for the construction or development of the Project, in writing or otherwise, in a call for bids or otherwise, that the work and construction undertaken pursuant to this Agreement is (or is not) a “public work,” as defined in Section 1720 of the Labor Code or under Davis Bacon.

Developer knowingly and voluntarily agrees that Developer shall have the obligation to provide any and all disclosures or identifications as required by Labor Code Section 1781 and/or by Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation. Developer shall indemnify, protect, pay for, defend (with legal counsel acceptable to City) and hold harmless the Indemnitees, with counsel reasonably acceptable to City, and their elected and appointed public officials, employees and agents, from and against any and all loss, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the Rehabilitation, development, construction (as defined by applicable law) and/or operation of the Project, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (i) the noncompliance by Developer of any applicable local, state and/or federal law or regulation, including, without limitation, any applicable federal and/or state labor laws or regulations (including, without limitation, if applicable, the requirement to pay state and/or federal prevailing wages); (ii) the implementation of Section 1781 of the Labor Code and/or Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation; and/or (iii) failure by Developer to provide any required disclosure or identification as required by Labor Code Section 1781 and/or by Davis Bacon, as the same may be amended from time to time, or any other similar law or regulation. It is agreed by the parties that, in connection with the development and construction (as defined by applicable law or regulation) of the Project, including, without limitation, any and all public works (as defined by applicable law or regulation), Developer shall bear all risks of payment or non-payment of prevailing wages under applicable federal, state and local law or regulation and/or the implementation of Labor Code Section 1781 and/or Davis Bacon, as the same may be amended from time to time, and/or any other similar law or regulation. "Increased costs," as used in this Section 1103.1, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the Rehabilitation and development of the Project by Developer. At the request of Developer, City shall cooperate with and assist Developer in its defense of any such claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that City shall not be obligated to incur any expense in connection with such cooperation or assistance.

## **1200. NONDISCRIMINATION COVENANTS.**

Except to the extent preferences are permitted or required by this Agreement, Developer covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land. Developer shall refrain from restricting the rental, sale or lease of the Property on the basis of any of the characteristics listed above.

Developer shall also comply with the equal opportunity and fair housing requirements set forth in Section 92.350 of the HOME Regulations. The foregoing Covenants shall run with the land. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In Deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(b) In Leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: "That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(c) In Contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy. of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

The covenants established in this Section 1200 shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and shall remain in effect in perpetuity.

## **1300. DEFAULTS AND REMEDIES.**

**1301. Defaults—General.** Subject to the permitted extensions of time and other cure periods set forth in this Agreement and in the Project Documents, failure or delay by any party to perform any term or provision of this Agreement constitutes a Default hereunder and under Project Documents. The party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay, and shall complete such cure, correction or remedy with diligence.

**1301.1 Events of Default by Developer.** The occurrence of any of the following, whatever the reason therefor, shall specifically constitute an Event of Default by Developer:

(a) Developer fails to make payment under the City Loan Note when due, and such failure is not cured within ten (10) days after Developer's receipt of written notice that such payment was not received when due; or

(b) Developer fails to perform any other obligation for the payment of money (other than payments of principal or interest) under any Project Document, and such failure is not cured within ten (10) days after Developer's receipt of written notice that such obligation was not performed when due, and Developer has not exercised its right to contest the obligation to make such payments in conformity with this Agreement; or

(c) Developer fails to perform any obligation (other than obligations described in subsections (a) and (b), above) under any Project Document, and such failure is not cured within thirty (30) days after Developer's receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such thirty (30)-day period, such failure shall not be an Event of Default so long as Developer (in any event, within thirty (30) days after receipt of such notice) commences cure, and thereafter diligently prosecutes such cure to completion; or

(d) Work on the Project ceases for thirty (30) consecutive days for any reason (other than and limited to: governmental orders, decrees or regulations, acts of God, strikes or other causes beyond Developer's reasonable control) and such causes, in the aggregate and in the City Manager's reasonable judgment, threaten to delay the completion of the Project beyond the required Outside Completion Date set forth in this Agreement; or

(e) Developer is enjoined or otherwise prohibited by any governmental agency from constructing and/or occupying the Improvements and such injunction or prohibition continues unstayed for thirty (30) days or more for any reason; or Developer is dissolved, liquidated or terminated, or all or substantially all of the assets of Developer are sold or otherwise transferred without the City Manager's prior written consent to the extent consent is required; or

(f) If the Project does not comply with all applicable HOME requirements during the Affordability Period; or

(g) Developer is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the

benefit of creditors; or Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for ninety (90) days; or Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, reorganization, or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for ninety (90) days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against any property of Developer is not released, vacated or fully bonded within ninety (90) days after its issue or levy; or

(h) Developer is in default under any of the provisions under the Construction Loan or any of the agreements, security instruments, or documents now or hereafter related thereto which default is not cured within any applicable cure period.

(i) City exercises City's right to cure a default by Developer under the Construction Loan, or other financing senior to the City Loan and Developer does not reimburse City for the cost to cure such default within ten (10) days following written demand for payment from City.

**1302. Notice of Default.** The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not institute proceedings against the party in default until thirty (30) days after giving such notice or, provided that the party is proceeding with diligence to cure, such greater time as may reasonably be necessary to cure given the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default. If City fails to approve or disapprove any request by Developer within the time period set forth in this Agreement or any other Project Document (or, if no time period is set forth herein or therein, within thirty (30) days after the initial request), such failure shall be a Default by City ten (10) days after Developer gives City notice of the Default.

**1303. Termination Prior to Developer's Acquisition of Property.**

**1303.1 Termination by Developer.** In the event that prior to the closing of the Escrow:

(a) Developer is unable to obtain the Construction Loan, Tax Credits or other financing necessary for the acquisition and Rehabilitation of the Property; or

(b) City is in default of the Agreement and has not cured or commenced to cure such default within the applicable cure periods;

then, subject to any applicable cure provisions contained in this Agreement, at the option of Developer, all provisions of this Agreement shall terminate and be of no further force and effect. Thereafter, with respect to clause (a) above, neither City nor Developer shall have any further rights against or liability to the other with respect to this Agreement, and with respect to clause

(b) above, City shall not have any further rights against Developer and Developer shall not have any further liability to City with respect to this Agreement.

#### **1304. Remedies Upon Default.**

**1304.1 Institution of Legal Actions.** The occurrence of any Event of Default shall give the non-defaulting party the right to proceed with any and all remedies set forth in this Agreement or any other implementing or ancillary agreements related to the Project, including an action for damages, an action or proceeding at law or in equity to require the defaulting party to perform its obligations and covenants hereunder or thereunder or to enjoin acts or things which may be unlawful or in violation of the provisions hereof or thereof, and the right to terminate this Agreement. In addition, the occurrence of any Event of Default by Developer will relieve City of any obligation to perform hereunder, including without limitation to fund the City Loan, and the right to cause any indebtedness of Developer to City hereunder to become immediately due and payable.

(a) Acceptance of Service of Process. In the event that any legal arbitration or action is commenced against City, service of process on City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law. In the event that any legal action is commenced against Developer, service of process on Developer shall be made by personal service upon a partner or an officer of Developer and shall be valid whether made within or outside the State of California or in such other manner as may be provided by law.

**1304.2 Other City Remedies upon Developer Default.** Upon the occurrence and during the continuance of any Event of Default by Developer, City may, at its option and in its sole and absolute discretion, do any or all of the following:

(a) By written notice to Developer, declare the principal of all amounts owing under the City Loan Note secured by the City Loan Deed of Trust and/or other Project Documents, together with all accrued interest and other amounts owing in connection therewith, to be immediately due and payable, regardless of any other specified due date;

(b) In its own right or by a court-appointed receiver, take possession of the Property, enter into contracts for and otherwise proceed with the completion of the work of improvement on the Property by expenditure of its own funds;

(c) Exercise any of its rights under the Project Documents and any rights provided by law, including the right to foreclose on any security and exercise any other rights with respect to any security, all in such order and manner as City elects in its sole and absolute discretion; and/or

(d) Seek and obtain an order for specific performance as allowed by law or in equity.

**1305. Force Majeure.** Subject to the party's compliance with the notice requirements as set forth below, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays

or defaults are due to causes beyond the control and without the fault of the party claiming an extension of time to perform, which may include, without limitation, the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other party, or acts or failures to act of any public or governmental entity(except that City's acts or failure to act shall not excuse performance of City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause.

**1306. Attorney's Fees.** In the event any legal action is instituted between City and Developer (including any member or partner of Developer or its successor(s) and assign(s)) in connection with this Agreement, then the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including court costs and reasonable attorneys' fees, and all fees, costs, and expenses incurred on any appeal or in collection of any judgment.

**1307. Inaction Not a Waiver of Default.** Any failures or delays by any party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

**1308. Cumulative Remedies; No Waiver.** The parties' rights and remedies under this Agreement are cumulative and in addition to all rights and remedies provided by law from time to time. The exercise by a party of any right or remedy shall not constitute a cure or waiver of any default, nor invalidate any notice of default or any act done pursuant to any such notice, nor prejudice such party in the exercise of any other right or remedy. No waiver of any default shall be implied from any omission by a party to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of this Agreement shall be construed as a waiver of any subsequent breach of the same provision. A party's consent to or approval of any act by another party requiring further consent or approval shall not be deemed to waive or render unnecessary such party's consent to or approval of any subsequent act. A party's acceptance of the late performance of any obligation shall not constitute a waiver by such party of the right to require prompt performance of all further obligations; a party's acceptance of any performance following the sending or filing of any notice of default shall not constitute a waiver of such party's right to proceed with the exercise of its remedies for any unfulfilled obligations; and such party's acceptance of any partial performance shall not constitute a waiver by such party of any rights relating to the unfulfilled portion of the applicable obligation.

#### **1400. TRANSFERS.**

**1401. Transfers; General Prohibition of Transfer without City Consent.** The qualifications and identity of Developer as the qualified Developer and as an experienced and

successful developer and operator/manager of affordable housing are of particular concern to City. It is because of these identities and the qualifications of each of the partners that comprise the Developer entity that City has entered into this Agreement with Developer. Accordingly, commencing upon Developer's acquisition of the Property and continuing through and including the completion of the Rehabilitation of the Property and the final payment on the City Loan Note or the end of the Affordability Period, whichever occurs later, no Transfer shall occur without the prior written approval of City, except as expressly set forth herein, which approval shall not be unreasonably withheld or delayed.

**1401.1 Permitted Transfers.** Notwithstanding the provisions of this Agreement or any other Project Document prohibiting transfer of any interest in Developer, the Property, the Project, this Agreement, or any of the Project Documents, City approval of a Transfer shall not be required in connection with any of the following:

(a) The conveyance or dedication of any portion of the Property to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate the Rehabilitation (as defined herein).

(b) An assignment for financing purposes to secure the funds necessary for the acquisition of the Property and undertaking through completion of the Rehabilitation or a refinancing thereof, so long as such construction and/or permanent loan documents have been duly reviewed and approved by City and City has approved such financing or refinancing pursuant to this Agreement.

(c) Leasing of individual Housing Units to qualified tenants in accordance with Section 1000, et seq. and the Regulatory Agreement.

(d) The Transfer of or all or any part of the Property or the Project, or assignment of any Project Document to Huntington Park 607, LP or to an entity controlled by Huntington Park 607, LP (collectively "Affiliate Entity"), or an entity or entities in which an Affiliate Entity is a general partner or managing member.

(e) The substitution of a general partner of Developer (each, a "General Partner") as directed by the limited partner of Developer that is the tax credit equity investor (the "Investor Limited Partner") in accordance with the terms of the Partnership Agreement, subject to the following terms and conditions. Such Investor Limited Partner may substitute an affiliate (the "Interim General Partner") on an interim basis for a period reasonably calculated to identify and admit into the partnership a new general partner as set forth below (the "Substitute General Partner"). The Interim General Partner is hereby approved by the City. The Substitute General Partner must be an entity reasonably acceptable to the City Manager, which approval shall not be unreasonably withheld or delayed.

(f) The pledge by a General Partner of Developer to the Investor Limited Partner of the General Partner's interest in Developer, as security for the performance of all of the General Partner's obligations under the Partnership Agreement.

(g) The sale, transfer or pledge of any limited partnership interest or non-managing member's interest in Developer or of any partnership or membership interest in the Investor Limited Partner.

(h) Any dilution of a General Partner's interest in Developer in accordance with the Partnership Agreement.

(i) The sale, transfer, or conveyance of a General Partner's interest in Developer, or of an option to purchase or right of first refusal to purchase a General Partner's interest in Developer, to an Investor Limited Partner or an Affiliate Entity, to the extent permitted by the Partnership Agreement.

In the event of a Transfer by Developer not requiring City's prior approval, Developer nevertheless agrees that at least fifteen (15) days prior to such Transfer it shall give written notice to City of such assignment and satisfactory evidence that the assignee will and shall assume all of the obligations of this Agreement in writing through an assignment and assumption agreement in a form reasonably acceptable to City. The form of each assignment and assumption agreement and all documents related to such Transfer shall be submitted to City for review and approval by City's legal counsel not later than fifteen (15) days prior to the proposed date of the Transfer and upon the closing of such Transfer true and complete copies of all documents relating to such Transfer shall be delivered to City.

**1401.2 City Consideration of Requested Transfer.** City agrees that it will not unreasonably withhold, condition, or delay approval of a request for approval of a Transfer made pursuant to this Section 1401, et seq., provided Developer delivers written notice to City requesting such approval and includes the proposed assignment and assumption contract, a; documents relating to such Transfer, and, if required by City, all necessary and relevant background and experience information related to the proposed transferee.

An assignment and assumption agreement in form satisfactory to City's legal counsel shall be required for each proposed Transfer. Within fifteen (15) days after the receipt of Developer's written notice requesting City approval of a Transfer pursuant to this Section 1401, et seq., City shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, Developer shall promptly furnish to City such further information as may be reasonably requested. Upon the closing of such Transfer true and complete copies of all documents relating to such Transfer shall be delivered to City.

(a) Payment of City Third Party Costs re Proposed Transfer. Any and all third party costs incurred by City in connection with consideration and approval (or disapproval) of a proposed transferee for any Transfer in excess of \$500 per request (increased annually by CPI) shall be paid by Developer, and payment thereof shall be and remain a condition precedent to City's obligation to approve and execute any Transfer document, including without limitation any assignment and assumption agreement.

**1500. MISCELLANEOUS.**

**1501. General Interpretation Terms.**

**1501.1 Singular and Plural Terms; Masculine and Feminine Terms.** Any defined term used in the plural in any Project Document shall refer to both the singular and the plural form thereof. Any provision herein or defined term used that refers to the masculine shall also refer to the feminine, and any provision herein or defined term used that refers to the feminine shall also refer to the masculine.

**1501.2 Accounting Principles.** Any accounting term used and not specifically defined in any Project Document shall be construed in conformity with, and all financial data required to be submitted under any Project Document shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to City.

**1501.3 References and Other Terms.** Any reference to any Project Document or other document shall include such document both as originally executed and as it may from time to time be modified. References herein to Articles, Sections, Exhibits, and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears except as otherwise noted. The term "document" is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms "including" and "include" mean "including (include) without limitation".

**1501.4 Attachments and Other Exhibits Incorporated.** All attachments and other exhibits to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

**1502. Notice of Certain Matters.** Developer shall give notice to City, within ten (10) days after Developer's learning thereof, of each of the following:

(a) any material pending or, so far as is known to Developer, threatened, legal proceedings to which Developer or an Affiliate is or may be made a party or to which any portion of the Property is or may become subject, which have not been fully disclosed in the material submitted to City which could materially adversely affect the ability of Developer to carry out its obligations hereunder, whether covered by insurance or not;

(b) any dispute between Developer and any governmental agency relating to the Property, the adverse determination of which might materially affect the Property;

(c) any change in Developer's principal place of business;

(d) any aspect of the Project that is not in substantial conformity with the Scope of Development;

(e) any Event of Default or event which, with the giving of notice or the passage of time or both, would constitute an Event of Default;

(f) the creation or imposition of any mechanics' lien or other lien against the Property;

(g) any material adverse change in the financial condition of Developer;

(h) any material change affecting the eligibility of a selected Tenant; and

(i) any material change to Developer's Application to TCAC, which shall not occur without City's prior consent, which consent shall not be unreasonably withheld.

**1503. Further Assurances.** Developer and City shall each execute and acknowledge (or cause to be executed and acknowledged) and deliver to the other party all documents, and take all actions, reasonably required by the other party from time to time to confirm the rights created or now or hereafter intended to be created under the Project Documents, to protect and further the validity, priority and enforceability of the Regulatory Agreement, City Loan Deed of Trust, Security Agreement and Financing Statement or otherwise to carry out the purposes of the Project Documents.

**1504. Obligations Unconditional and Independent.** Notwithstanding the existence at any time of any obligation or liability of City to Developer, or any other claim by Developer against City, in connection with the Property or otherwise, Developer hereby waives any right it might otherwise have (a) to offset any such obligation, liability or claim against Developer's obligations under the Project Documents, or (b) to claim that the existence of any such outstanding obligation, liability or claim excuses the nonperformance by Developer of any of its obligations under the Project Documents.

**1505. Notices.** All notices, demands, approvals and other communications provided for in the Project Documents shall be in writing and be delivered to the appropriate party at its address as follows:

If to Developer:

If to City:                   City of Huntington Park  
6550 Miles Ave  
Huntington Park, California 90255  
Attn: City Manager

With copies to:

Addresses for notice may be changed from time to time by written notice to all other parties. Written notice, demands and communications between City and Developer shall be deemed sufficient if dispatched by personal delivery, overnight delivery by a reputable courier service, or registered or certified mail, postage prepaid, return receipt requested to the principal offices of City and Developer, the addresses of which are hereinafter set forth. Such written notices, demands and communications may be sent in the manner prescribed to each other's

addresses as either party may, from time to time, designate by mail, or the same may be delivered in person to representatives of either party upon such premises. Notices herein shall be deemed received and effective upon: (i) if personally delivered, the date of delivery to the address of the person to receive such notice; (ii) if mailed, the date of delivery or refusal to accept delivery indicated in the certified or registered mail receipt; or (iii) if given by courier service, the date of delivery evidenced by the receipt for delivery provided by the courier service.

**1506. Survival of Representations and Warranties.** All representations and warranties in the Project Documents shall survive the conveyance of the Property and have been or will be relied on by City notwithstanding any investigation made by City.

**1507. No Third Parties Benefited.** This Agreement is made for the purpose of setting forth rights and obligations of Developer and City, and no other person shall have any rights hereunder or by reason hereof.

**1508. Binding Effect; Assignment of Obligations.** This Agreement shall bind, and shall inure to the benefit of, Developer and City and their respective and permitted successors and assigns. Except as otherwise permitted pursuant to Section 1401.1 above, Developer shall not assign any of its rights or obligations under any Project Document without the prior written consent of City Manager, which consent may be withheld in the City Manager's sole and absolute discretion. Any such assignment without such consent shall, at City's option, be void. In connection with the foregoing consent requirement, Developer acknowledges that City relied upon Developer's particular expertise in entering this Agreement and continues to rely on such expertise to ensure the satisfactory completion of the Project.

**1509. Successors and Assigns.** All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and its permitted successors and assigns. Whenever the term "Developer" is used in this Agreement, such term shall include any other permitted successors and assigns of Developer, as applicable, and as herein provided. .

**1510. Counterparts/Binding Contract.** Provided that the written approval of City Manager is first obtained, any Project Document, other than the City Loan Note, may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document. This Agreement shall only be effective as a binding legal agreement among the parties after signed counterparts have been exchanged among the parties. The submission of a draft of this Agreement to a party is not intended as an offer. The parties may terminate negotiation at any time prior to the exchange of signed counterparts among the parties and no duty of good faith or fair dealing shall apply to the negotiation among the parties prior to the exchange of signed counterparts among the parties.

**1511. Prior Agreements; Amendments; Consents; Integration.** This Agreement (together with the other Project Documents) contains the entire agreement between City and Developer with respect to the Property, and all prior negotiations, understandings and agreements are superseded by this Agreement and such other Project Documents. No modification of any Project Document (including waivers of rights and conditions) shall be effective unless in writing and signed by the party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given.

This Agreement is executed in three (3) duplicate originals, each of which is deemed to be an original. This Agreement includes pages 1 through \_\_ and Attachment Nos. 1 through \_\_, which constitutes the entire understanding and agreement of the parties.

**1512. Waivers.** All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of City and Developer, and all amendments hereto must be in writing by the appropriate authorities of City and Developer.

**1513. Governing Law.** All of the Project Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of California and applicable Federal Program Limitations. Developer irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of California for the County of Los Angeles or the United States District Court of the Central District of California, as City may deem appropriate, in connection with any legal action or proceeding arising out of or relating to this Agreement or the other Project Documents. Developer also waives any objection regarding personal or in rem jurisdiction or venue.

**1514. Severability of Provisions.** No provision of this Agreement or of any Project Document that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of this Agreement and the Project Documents are hereby declared to be severable.

**1515. Headings.** Article and Section headings included in this Agreement, the Attachments, and any Project Documents are for convenience of reference only and shall not be used in construing such documents.

**1516. Conflicts.** In the event of any conflict between the provisions of this Agreement and those of the City Loan Note or the Regulatory Agreement, the provisions of the City Loan Note and the Regulatory Agreement shall prevail; however, in the event of a conflict between the provisions of this Agreement and any other Project Document, this Agreement shall prevail. Notwithstanding the foregoing, with respect to any matter addressed in both this Agreement and any other Project Document, the fact that one document provides for greater, lesser or different rights or obligations than the other shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

**1517. Time of the Essence.** Time is of the essence in this Agreement and in all of the other Project Documents.

**1518. Conflict of Interest.** No member, official or employee of City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement that is prohibited by law.

**1519. Warranty Against Payment of Consideration.** Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

**1520. No liability of City and Developer Officials and Employees.** No member, official, director, officer, board official, or employee of any party to this Agreement shall be

personally liable to any other party, or any successor in interest of any other party, in the event of any default or breach by the party or for any amount which may become due to the other party(ies) or successor, or on any obligation under the terms of this Agreement.

**1521. Broker's Commissions.** No broker was contracted with in connection with the City Loan. Developer and Seller have engaged a broker in connection with Developer's acquisition of the Property; however, City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or the Escrow. Developer represents to City that other than as disclosed above in this Section 1420, it has engaged no broker, agent, or finder in connection with this transaction, and Developer agrees to hold City harmless from any claim by any broker, agent or finder retained by Developer. City acknowledges that City has not engaged any broker, agent, or finder in connection with this transaction, and City agrees to hold Developer harmless from any claim by any broker, agent or finder retained by City.

**1522. City Approvals and Actions through City Manager.** City shall maintain authority of this Agreement and the authority to implement this Agreement through City Manager. City Manager shall have the authority to issue interpretations, waive provisions, and/or enter into certain amendments of this Agreement on behalf of City so long as such actions do not materially or substantively change the uses or development planned and required on the Property, or add to the costs incurred or to be incurred by City as specified herein, and such interpretations, waivers and/or amendments may include extensions of time to perform as specified in the Schedule of Performance. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council.

**1523. Implementation of Agreement and the Project.** The parties acknowledge that, due to the long term nature of the Project, it may be necessary and/or appropriate at some time in the future, or from time to time, for the parties to enter into one or more implementation agreement(s) or to otherwise execute additional documentation to clarify and implement the provisions of this Agreement and provide for the incorporation of additional or different funding and/or financing sources for the development and operation of the Project, as may become necessary or appropriate for the successful development of the Project and implementation of this Agreement. Each party agrees to cooperate in good faith to negotiate and enter into such implementation agreement(s) for the Project as may be determined to be reasonably necessary and/or appropriate by Developer or City Manager, in either of their reasonable discretion.

**1524. Computation of Time.** The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

**1525. Legal Advice.** Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly

chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

**1526. Non-Recourse Obligation.** In the event of any Default under the terms of this Agreement or any of the other Project Documents, the sole recourse of City for any such Default shall be Developer's interest in the Property and the Project and Developer and its partners and Affiliates shall not be personally liable for the payment of any obligations under this Agreement; provided, however, that the foregoing shall not in any way affect any rights City may have hereunder, or any right of City to recover or collect funds, damages or costs (including without limitation reasonable attorneys' fees and costs) incurred by City as a result of fraud, intentional misrepresentation or bad faith waste, and/or any costs and expenses incurred by City in connection therewith (including without limitation reasonable attorneys' fees and costs).

**IN WITNESS WHEREOF**, the parties hereto have caused this Home Investment Partnership Affordable Housing Agreement to be executed on the dates hereinafter respectively set forth.

**DEVELOPER:**

Huntington Park 607, , LP, a California limited partnership

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

By:

**[Signatures continue on following page.]**

**[Signatures continue from previous page.]**

**CITY:**

**CITY OF HUNTINGTON PARK**

**By: \_\_\_\_\_**

**Its: \_\_\_\_\_**

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Special Counsel to City



# **Attachment B**



Recording Requested by  
and when recorded return to:

City of Huntington Park  
6550 Miles Avenue  
Huntington Park, California 90255  
Attention: \_\_\_\_\_

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This instrument is exempt from recording fees pursuant to Government Code Section 6103.

**DEED OF TRUST WITH ASSIGNMENT OF RENTS  
AND SECURITY AGREEMENT**

THIS INSTRUMENT IS ALSO TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AS A "FIXTURE FILING," AS DEFINED IN CALIFORNIA UNIFORM COMMERCIAL CODE SECTION 9-102(a) (40) AND COVERS GOODS THAT ARE OR ARE TO BECOME FIXTURES. THIS INSTRUMENT IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF TRUSTOR, AS "DEBTOR," AND BENEFICIARY AS "SECURED PARTY."

THIS DEED OF TRUST is made as of \_\_\_\_\_, 200\_\_, by and between HUNTINGTON PARK 607, LP, a California limited partnership ("**Trustor**"), whose address is c/o USA Properties Fund, 2440 Professional Drive, Roseville, CA 95661811, to FIRST AMERICAN TITLE INSURANCE COMPANY ("**Trustee**"), for the benefit of the CITY OF HUNTINGTON PARK, a municipal corporation ("**Beneficiary**"), whose address is 6550 Miles Avenue, Huntington Park, California 90255.

Trustor irrevocably grants, transfers, and assigns to Trustee in trust, upon the trusts, covenants, conditions and agreements and for the uses and purposes hereinafter contained, with power of sale, and right of entry and possession, all of Trustor's interest in that real property in the County of Los Angeles, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference (the "**Real Property**");

Together with all easements, development rights, mineral rights, land use entitlements, air rights, emission rights or credits, strips and gores, rights and privileges relating to the Real Property; and

Together with the rents, issues, and profits thereof, subject, however, to the right, power, and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits (collectively, the "**Rents**"); and

Together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon, and all fixtures, including but not limited to all gas and electric fixtures, engines and machinery, radiators, heaters, furnaces, heating equipment, laundry

equipment, steam and hot-water boilers, stoves, ranges, elevators and motors, bath tubs, sinks, water closets, basins, pipes, faucets and other plumbing and heating fixtures, mantels, cabinets, refrigerating plant and refrigerators, whether mechanical or otherwise, cooking apparatus and appurtenances, and all shades, awnings, screens, blinds and other furnishings, it being hereby agreed that all such fixtures and furnishings shall to the extent permitted by law be deemed to be permanently affixed to and a part of the realty (collectively, the **"Improvements and Fixtures"**); and

Together with all (i) building materials and equipment now or hereafter delivered to the Real Property and intended to be installed therein; (ii) all articles of personal property owned by Trustor now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Real Property; (iii) all intangible rights relating to the Real Property and any improvements thereon; (iv) all rights, claims, privileges, causes of action, incident to or relating to the Real Property or the improvements thereon; (v) all insurance claims and proceeds and all payments made in connection with the condemnation or threat of condemnation or similar right with regard to the Real Property or the improvements thereon as well as any rights to protest, negotiate and settle any such claims (collectively, the **"Personal Property"**); and

Together with all proceeds, accretions, additions, renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to the Real Property or the improvements thereon;

To have and to hold the above described Real Property, Rents, Improvements and Fixtures, Personal Property, and other rights and interests hereinbefore described now or hereafter existing (collectively, the **"Property"**) to the Trustee, its successors and assigns forever.

FOR THE PURPOSE of securing performance of each agreement and covenant of Trustor in, under and relating to the following documents (collectively the **"Secured Obligations"**): (i) this Deed of Trust; (ii) that certain Affordable Housing Agreement dated \_\_\_\_\_, 2013, between Trustor and Beneficiary (the **"AHA"**); (iii) that certain promissory note (the **"Note"**) dated \_\_\_\_\_, 2013, made by Trustor to the order of Beneficiary in the principal sum of One Million Nine Hundred Thousand Dollars (\$1,900,000); (iv) that certain Regulatory Agreement affecting the Property and dated \_\_\_\_\_, 2013, between Trustor and Beneficiary, recorded in the Official Records on or about the date hereof (the **"Regulatory Agreement"**); and (v) Trustor's obligations under any future amendments, substitutions, restatements or other modifications of the foregoing. The terms and provisions of the Secured Obligations are incorporated herein by reference.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That it will pay the Note at the time and in the manner provided therein and that it shall faithfully perform each and every covenant contained in the other Secured Obligations.

2. That it will not permit or suffer the use of any of the Property for any purpose other than the use permitted in the Secured Obligations.

3. That all rents, issues, profits, and income from the Property are hereby assigned to the Beneficiary for the purpose of securing the obligations of Trustor pursuant to the Secured Obligations. Permission is hereby given to Trustor so long as no default exists under any of the Secured Obligations, to collect such rents, profits and income for use in accordance with the provisions of the Secured Obligations. This Section is intended to be a written assignment of an interest in leases, rents, issues, or profits of real property made in connection with an obligation secured by real property pursuant to California Civil Code Section 2938 and Beneficiary and Trustee shall have all of the rights and powers thereunder.

4. That upon default hereunder or under the aforementioned Secured Obligations, remaining uncured after thirty (30) days from receipt of written notice thereof from Beneficiary, or, if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then Trustor has not commenced a cure within the 30-day period and thereafter diligently prosecuted such cure to completion within ninety (90) days after receipt of written notice thereof, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the Property and operate same and collect the rents, profits and income therefrom.

5. That Trustor will keep the improvements now existing or hereafter erected on the Property insured against loss by fire and such other hazards, casualties, and contingencies as required by the AHA. In no event shall the amounts of coverage be less than the unpaid balance of the insured Deed of Trust, and in default thereof the Beneficiary shall have the right to effect insurance. Subject to the rights of senior lienholders, if any, such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and shall be deposited with the Beneficiary. Trustor hereby authorizes Beneficiary to contest, negotiate and settle any claims with any insurers providing insurance to Trustor.

6. That Trustor shall pay, before delinquency, any taxes and assessments affecting the Property including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on the Property or any part thereof which appear to be prior or superior hereto; all costs, fees, and expenses of this Deed of Trust.

7. That Trustor will keep the Property in good condition and repair, free from all liens and encumbrances except as approved by Beneficiary, and shall not remove or demolish any Improvements and Fixtures unless authorized by the Secured Obligations; Trustor further covenants and agrees to complete or restore promptly and in good and workmanlike manner any Improvements and Fixtures which may be damaged or destroyed thereon, whether or not insurance proceeds are available to cover any part of the cost of such restoration and repair; to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law and/or covenants, conditions and/or restrictions affecting the Property; not to permit or suffer any substantial alteration of or addition to the Improvements and Fixtures without the consent of the Beneficiary.

8. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all reasonable costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

9. That should Trustor fail to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Beneficiary or Trustee being authorized to enter upon the Property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his or her reasonable fees.

10. That Beneficiary shall have the right to pay Trustor's insurance premiums should Trustor fail to make any required premium payments. All such payments made by Beneficiary shall at Beneficiary's election be added to the principal sum secured hereby.

11. That Trustor shall pay immediately and without demand all sums so expended by Beneficiary or Trustee, in connection with the closing of the loan evidenced by the Note and hereafter any sums incurred by Beneficiary or trustee arising from the Secured Obligations and their performance, enforcement, interpretation, or operation, with interest from date of such expenditures at the maximum rate permitted by law.

12. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the Property any lien or liens except as authorized by Beneficiary and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the rehabilitation or construction of any and all buildings now being rehabilitated or constructed or to be rehabilitated or constructed on the Property, or will cause the release of or will provide a bond against any such liens within ten (10) days of Trustor's receipt of notice of the lien or liens. Nothing herein contained shall be deemed to prohibit Trustor from contesting the validity or amounts of any tax assessment, encumbrance or lien, nor to limit the remedies available to Trustor.

13. Not to Transfer the Property without the prior written consent of Beneficiary.

Transfer shall mean if at any time in the event that the Real Property or any part thereof or interest therein or direct or indirect interest in Trustor shall be sold, conveyed, disposed of, alienated, hypothecated, leased (except to occupants under space leases), assigned, pledged, mortgaged, further encumbered (except for the Construction Loan, as defined in the AHA) or otherwise transferred or Trustor shall be divested of its title to the Property or any interest therein, in any manner or way, whether voluntarily or involuntarily, by operation of law or otherwise. Also Transfer shall include:

(i) in the event either Trustor or any of its shareholders, general partners or members is a corporation or trust, the direct or indirect sale, conveyance, transfer or disposition, alienation, hypothecation, or encumbering of more than 10% of the issued and outstanding capital stock of Trustor or any of its shareholders, general partners or members or of the beneficial interest of such trust (or the issuance of new shares of capital stock in Trustor or any of its shareholders, general partners or members so that immediately after such issuance, in one or a series of transactions, the total capital stock then issued and outstanding is more than 110% of the total immediately prior to such issuance); and

(ii) in the event Trustor or any shareholder, general partner or managing member of Trustor is a limited or general partnership, a joint venture or a limited liability company, a change of any general partner, joint venturer, limited liability company manager or managing member or a change in the ownership interests in any general partner, joint venturer, limited liability company manager or managing member, either voluntarily, involuntarily or otherwise, or the sale, conveyance, transfer, disposition, alienation, hypothecation or encumbering of all or any portion of the interest of any shareholder, general partner, joint venturer, limited liability company manager or managing member in Trustor or such shareholder, general partner, joint venturer, limited liability company manager or managing member (whether in the form of a beneficial or ownership interest or in the form of a power of direction, control or management, or otherwise); and

(iii) any change or transfer in respect of the Property or any interest therein, or any direct or indirect change or transfer in Trustor or any interest therein, resulting in any change in the management or control of Trustor or the Property.

However, the prior consent of Lender shall not be required for a transfer permitted under section 1401.1 of the AHA.

14. Upon a Transfer of the Property in violation of the provisions of section 13 above, the Trustor shall immediately pay in full all sums secured by the Deed of Trust.

15. Trustor waives any right to require the Beneficiary to (a) demand payment of amounts due (known as "presentment"); (b) give notice that amounts due have not been paid (known as "notice of dishonor") and (c) obtain an official certification of nonpayment (known as "protest").

16. That the improvements now or in the future upon the Property, and all plans and specifications, comply with all municipal ordinances and regulations and all other regulations made or promulgated, now or hereafter, by lawful authority, and that the same will comply with all such current and future municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled, subject to the rights of the holder of any senior deeds

of trust, to all compensation, awards, and other payments or relief therefor (the "**Damage/Taking Proceeds**"), and Beneficiary shall be entitled, and is hereby authorized by Trustor, at Beneficiary's option to commence, appear in and prosecute in Beneficiary's name and settle, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such Damage/Taking Proceeds and all rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting the Property, are hereby assigned to the Beneficiary. The net Damage/Taking Proceeds shall be the actual proceeds remaining after deducting therefrom all of Beneficiary's expenses, including reasonable attorneys' fees, and the claims of any senior deeds of trust.

If Trustor is not in default, Beneficiary shall make the net Damage/Taking Proceeds available for the repair and restoration of the Property provided Trustor within 30 days of such damage or taking, Trustor has proven to Beneficiary's reasonable satisfaction that Trustor has sufficient funds (including the net Damage/Taking Proceeds) to complete such repair or restoration in accordance with all applicable laws and such damage or taking occurs not less than one year prior to the Maturity Date of the Note. Further provided however, Trustor shall expend all other funds before Beneficiary shall make any net Damage/Taking Proceeds available to Trustor and Trustor shall comply with the provisions of the AHP regarding the performance of construction/rehabilitation work. In the event the net Damage/Taking Proceeds are not to be made available to Trustor, the Beneficiary shall retain the proceeds and apply them to amounts outstanding under the Secured Obligations. Any balance of such proceeds still remaining shall be disbursed by the Beneficiary to Trustor.

The provisions of this section are intended by Trustor and Beneficiary to fully describe the use and application of the Damage/Taking Proceeds. The provisions of California Civil Code § 2924.7 and any similar laws are hereby waived.

18. Trustor shall be in default of its obligations under this Deed of Trust:
  - a. If Trustor fails to pay any amounts due under this Deed of Trust on before the due date for such payment or if a due date has not been expressly provided then 10 days after request therefore has been given to Trustor by Beneficiary or Trustee.
  - b. If Trustor fails to perform any of its obligations under this Deed of Trust other than a default in the payment of amounts due to Beneficiary or Trustee under this Deed of Trust, after receiving thirty (30) days prior written notice of such failure from Beneficiary, and if such default is not cured within thirty (30) days after receipt of written notice thereof from Beneficiary, or, if the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then Trustor has not commenced a cure within the 30-day period and thereafter diligently prosecuted such cure to completion within ninety (90) days after receipt of written notice thereof.
  - c. If Trustor or any constituent member or partner, or majority shareholder, of Trustor shall (a) apply for or consent to the appointment of a receiver,

trustee, liquidator or custodian or the like of its property, (b) fail to pay or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated as bankrupt or insolvent or (e) commence a voluntary case under the Federal bankruptcy laws of the United States of America or file a voluntary petition that is not withdrawn within ten (10) days of the filing thereof or answer seeking an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or file an answer admitting the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding.

- d. If Trustor materially breaches any representation or warranty made to Beneficiary in any of the Secured Obligations.
- e. If Trustor fails to perform any of its obligations under any of the other Secured Obligations, after the expiration of any applicable cure periods.
- f. If Trustor shall be in default under any other liens or encumbrances covering the Property which default is not cured within any applicable cure period set forth in such line or encumbrance.

19. After the occurrence of a default under this Deed of Trust, Beneficiary may, in addition to any exercising any other rights or remedies available to Beneficiary under applicable laws, declare all sums secured hereby immediately due and payable.

20. After the lapse of such time as may then be required by law following the recordation of the notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction, to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on the Trustee's deed, if the latter is not paid by buyer; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

21. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and

without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

22. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

23. Trustor agrees to indemnify, defend, and hold harmless the Beneficiary and Trustee, and each of their respective elected and appointed officers, officials, representatives, employees, and agents, from and against any and all liability, demands, damages, claims, causes of action, costs, fees (including reasonable attorney's fees, expert witness' fees, and legal costs), and expenses, including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "Claims"), that arise out of, pertain to, or relate to the this Deed of Trust or the other Secured Obligations, or the acts, errors, or omissions of Trustor or its employees, representatives, consultants, subcontractors, agents and any other entity for which Trustor is responsible. Trustor shall not be required to indemnify any party from any Claims that arise from such party's sole negligence or willful misconduct.

24. All Property covered by this Deed of Trust be deemed to constitute real property or interests in real property to the maximum extent permitted under applicable law. To the extent that any tangible property, equipment or other property covered by this Deed of Trust constitutes personal property, such personal property shall constitute additional security. This Deed of Trust shall create in Beneficiary a security interest in such personal property and shall in respect thereof constitute a security agreement ("**Security Agreement**"). Beneficiary shall be entitled to all of the rights and remedies in respect of any personal property included in the Property covered by this Deed of Trust afforded a secured party under the California Uniform Commercial Code and other applicable law. At Beneficiary's request Trustor will at any time and from time to time furnish Beneficiary for filing financing statements signed by Trustor in form satisfactory to Beneficiary. Trustor acknowledges and agrees that thirty (30) days' notice as to the time, place and date of any proposed sale of any personal property shall be deemed reasonable for all purposes. Trustor agrees that the Security Agreement created hereby shall survive the termination or reconveyance of this Deed of Trust unless Beneficiary executes documentation expressly terminating the Security Agreement.

25. Trustor further acknowledges and agrees: that this Deed of Trust is intended to, and shall, secure not only the original indebtedness under the Note, but any and all future advances made by Beneficiary to Trustor; that this Deed of Trust shall secure any unpaid balances of advances made with respect to the Mortgaged Property; that Beneficiary shall have the benefit of all statutes now existing or henceforth enacted to assure repayment of any such future advances plus interest thereon; that to secure the payment of said original indebtedness and future advances Beneficiary shall also have a lien upon all other personal property and securities now or hereafter in its possession belonging to Trustor; that all rights, powers and remedies conferred upon Beneficiary herein are in addition to each and every other right which Beneficiary has hereunder; that all rights, powers and remedies conferred upon Beneficiary in

equity or by law may be enforced concurrently therewith; that Beneficiary shall be subrogated to the rights and seniority of any prior lien paid or released by reason of the application thereon of any of the proceeds hereof, and that each and all of the covenants, agreements, and provisions hereof shall bind the respective heirs, executors, administrators, successors, and assigns of Trustor and Beneficiary herein, and all others who subsequently acquire any right, title, or interest in the Mortgaged Property, or to this Deed of Trust and the indebtedness secured hereby.

26. Upon written request of Beneficiary stating that all obligations secured hereby have been performed, and upon surrender of this Deed of Trust to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

27. Beneficiary, Trustee and their agents and employees shall have the right, subject to the rights of tenants under existing and valid leases, to enter and inspect, and/or take any action permitted hereunder with respect to the Mortgaged Property at all reasonable times and, except in the event of an emergency, upon reasonable notice.

28. No waiver by Beneficiary of any default or breach by Trustor shall be implied from any omission by Beneficiary to take action on account of such default if such default persists or is repeated, and no express waiver of a default shall affect any future default. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

29. The trust created hereby is irrevocable by Trustor.

30. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledges, of the notes secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine, and the singular number includes the plural.

31. Trustee accepts this Deed of Trust when the same, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

32. Terrorism and Anti-Money Laundering. Trustor warrants and agrees as follows:

- a. As of the date hereof and throughout the term of this representation: (i) Trustor; (ii) any person or entity controlling or controlled by Trustor; (iii) if Trustor is a privately held entity, any person or entity having a beneficial interest in Trustor; or (iv) any person or entity for whom Trustor is acting as agent or nominee in connection with this representation, is not an OFAC Prohibited Person.

- b. To provide the Beneficiary at any time and from time to time until the full reconveyance of this Deed of Trust with such information as the Beneficiary determines to be necessary or appropriate to comply with the Anti-Money Laundering/Terrorism Laws and regulations of any applicable jurisdiction, or to respond to requests for information concerning the identity of Trustor, any person or entity controlling or controlled by Trustor or any person or entity having a beneficial interest in Trustor, from any governmental authority, self-regulatory organization or financial institution in connection with its anti-money laundering/terrorism compliance procedures, or to update such information.
- c. Trustor agrees promptly to notify the Beneficiary in writing should Trustor become aware of any change in the information set forth in these representations.
- d. "Anti-Money Laundering/Terrorism Laws" shall mean the USA Patriot Act of 2001, the Bank Secrecy Act, as amended, Executive Order 13324—Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended, and other federal laws and regulations and executive orders administered by the United States Department of the Treasury, Office of Foreign Assets Control ("OFAC") which prohibit, among other things, the engagement in transactions with, and the provision of services to, certain foreign countries, territories, entities and individuals (such individuals include specially designated nationals, specially designated narcotics traffickers and other parties subject to OFAC sanction and embargo programs), and such additional laws and programs administered by OFAC which prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on any of the OFAC lists.
- e. "OFAC Prohibited Person" shall mean, a country, territory, individual or person (i) listed on, included within or associated with any of the countries, territories, individuals or entities referred to on The Office of Foreign Assets Control's List of Specially Designated Nationals and Blocked Persons or any other prohibited person lists maintained by governmental authorities, or otherwise included within or associated with any of the countries, territories, individuals or entities referred to in or prohibited by OFAC or any other Anti-Money Laundering/Terrorism Laws, or (ii) which is obligated or has donated, transferred or otherwise assigned or received any property, money, goods, services, or other benefits directly or indirectly, from any countries, territories, individuals or entities on or associated with anyone on such list or in such laws.

33. Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to it at the address stated above, or to such other address as Trustor may provide in writing to Trustee from time to time.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

Signature of Trustor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE PROPERTY**

Real property in the City of **HUNTINGTON PARK**, County of **Los Angeles**, State of California, described as follows:

PARCEL 1 OF PARCEL MAP NO. 22951, IN THE CITY OF HUNTINGTON PARK, AS SHOWN ON MAP FILED IN BOOK 271 PAGE 28 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.





# **Attachment C**



DEFERRED PAYMENT REHABILITATION LOAN SECURED BY DEED OF TRUST

PROMISORY NOTE  
(Hereinafter referred to as this "Note")

Date:                     

Amount: \$1,900,000

Lender Reference: Huntington Plaza Apartments

For value received, the undersigned **HUNTINGTON PARK 607, LP** (hereinafter, "BORROWER"), for the property ("PROPERTY") located at: **6330 Rugby Avenue, Huntington Park, CA 90255** acknowledges receiving a deferred loan amount and hereby promises to pay, in lawful money of the United States, to the City of Huntington Park (hereinafter, "LENDER") at the following address: **6650 Miles Avenue, Huntington Park, CA 90255**, or at such other place as the Lender may from time to time designate by written notice to the Borrower(s), the principal sum of up to **One Million Nine Hundred Thousand Dollars (\$1,900,000)**. The principal balance of this Note shall bear three (3%) percent interest.

TERMS:

1. **Borrower's Acknowledge(s) and Agrees:** The Loan is subject to the terms, conditions and restrictions of the AFFORDABLE HOUSING AGREEMENT (the "AHA"), between Lender and Borrower, dated on or about the date hereof and relating to the Property.
2. **Disbursement of Loan Proceeds:** Lender shall disburse the loan proceeds in accordance with procedures established under the AHA and documents relating thereto. The occurrence of a default or the failure of Borrower to comply with the disbursement provisions described above may at Lender's election result in a termination or suspension of further funding of the loan in which case Lender shall not be liable for any damage, suit, cost, expense or other liability incurred by Borrower and Borrower shall indemnify, defend and hold Lender harmless therefrom.
3. **Term/Repayment of Loan Principal and Interest:** No periodic payments are required hereunder. This Note shall be for a term commencing upon the date hereof and continuing until the fifty-fifth (55th) anniversary of the date the earlier to occur of the scheduled completion date for the Rehabilitation as described in the AHA or the recordation of the Release of Construction Covenants for the Rehabilitation in the real property records (the "MATURITY DATE"). Interest shall accrue on this Note from the date hereof until paid in full. Unless previously accelerated as provided in this Note or the AHA or any Project Documents, as defined in the AHA, now or hereafter existing, on the Maturity Date all outstanding principal and interest under this Note shall be due and payable with further notice, presentment or demand.
4. **Due on Transfer:** If a Transfer occurs with regard to the Property without the prior consent of Lender, Borrower agrees to repay the unpaid principal balance to the Lender.

Transfer shall mean if at any time in the event that the Property or any part thereof or interest therein or direct or indirect interest in Borrower shall be sold, conveyed,

disposed of, alienated, hypothecated, leased (except to occupants under space leases), assigned, pledged, mortgaged, further encumbered (except for the Construction Loan, as defined in the AHA) or otherwise transferred or Borrower shall be divested of its title to the Property or any interest therein, in any manner or way, whether voluntarily or involuntarily, by operation of law or otherwise. Also Transfer shall include:

(i) in the event either Borrower or any of its shareholders, general partners or members is a corporation or trust, the direct or indirect sale, conveyance, transfer or disposition, alienation, hypothecation, or encumbering of more than 10% of the issued and outstanding capital stock of Borrower or any of its shareholders, general partners or members or of the beneficial interest of such trust (or the issuance of new shares of capital stock in Borrower or any of its shareholders, general partners or members so that immediately after such issuance, in one or a series of transactions, the total capital stock then issued and outstanding is more than 110% of the total immediately prior to such issuance); and

(ii) in the event Borrower or any shareholder, general partner or managing member of Borrower is a limited or general partnership, a joint venture or a limited liability company, a change of any general partner, joint venturer, limited liability company manager or managing member or a change in the ownership interests in any general partner, joint venturer, limited liability company manager or managing member, either voluntarily, involuntarily or otherwise, or the sale, conveyance, transfer, disposition, alienation, hypothecation or encumbering of all or any portion of the interest of any shareholder, general partner, joint venturer, limited liability company manager or managing member in Borrower or such shareholder, general partner, joint venturer, limited liability company manager or managing member (whether in the form of a beneficial or ownership interest or in the form of a power of direction, control or management, or otherwise); and

(iii) any change or transfer in respect of the Property or any interest therein, or any direct or indirect change or transfer in Borrower or any interest therein, resulting in any change in the management or control of Borrower or the Property.

However, the prior consent of Lender shall not be required for a transfer permitted under section 1401.1 of the AHA

5. **Security Interest:** Borrower hereby grants to the Lender a security interest in the Property to secure the Borrower's obligations under this Note. Borrower also grants to the Lender a security interest in any interest the Borrower may have in premium refunds or proceeds under any insurance covering the property and in any payments received on account of a condemnation or threat of condemnation of all or any part of the Property. Borrower further agrees to execute a Deed of Trust necessary to perfect the Lender's security interest in the Property.
6. **Protection of the Property:** Borrower with respect to the Property: (a) keep it in good condition and repair; (b) not commit waste on it; (c) not use it for any unlawful purposes; (d) pay all taxes, assessments, encumbrances and insurances due for the Property; (e) permit Lender and/or Lender's representative to inspect it at any reasonable time and upon reasonable notice.

7. **Events of Default:** Any of the following shall constitute an event of default under this Note:
- (a) A Transfer of the Property occurs in violation of this Note.
  - (b) Borrower fails to perform any obligation set forth in this Note.
  - (c) Borrower fails to pay taxes, insurance or other financial obligations associated with this Property.
  - (d) Any of the Borrower's representations or warranties in this Note or in Borrower's application for the loan, the AHA and any documents or agreements relating thereto, shall prove to have been untrue in any material respect when made, or the Borrower concealed any material fact from the Lender.
  - (e) A default shall occur under the AHA or any Project Documents, as defined in the AHA, now or hereafter existing.
8. **Remedies:** In the event of default under this Note, Lender may:
- (a) Declare all sums secured by this Note immediately due and payable. Failure of the Lender to exercise this option to accelerate payment will not constitute waiver of the right to exercise this option in the event of subsequent cause for acceleration.
  - (b) Incur expenses, including reasonable attorney's fees and legal expenses, to exercise any right or power under this note, which expenses shall in the discretion of Lender be reimbursed either by being added to the principal sum of this Note or payable by Borrower upon demand by Lender.
  - (c) Take action to dispose of the Property and apply the proceeds of the disposition, first to reimburse Lender for any costs, expense or liability incurred by lender in connection with or arising from this Note, the AHA or any Project Documents, now or hereafter existing (regardless of whether incurred before or after the occurrence of a default), including without limitation, reasonable attorney's fees and legal expenses, advances to protect or restore the Property, actions to cure defaults by Borrower under other agreements or obligations which may affect the Property; second to pay the Prepayment Premium, described below; third to pay any outstanding interest; and fourth to pay outstanding principal under this Note.
9. **Place and Manner of Payments:** All amounts due and payable under this Note are payable at the principal office of the Lender as set forth above, or at such other places as the Lender designates to the Borrower in writing from time to time.
10. **Prepayment of Policy:** Borrower may prepay this Note at any time prior to its maturity date whether voluntarily or involuntarily by operation of law or otherwise. Borrower shall pay a Prepayment Premium calculated as set forth in Exhibit A attached hereto and made a part hereof.

11. **Governing Law:** This Note shall be construed in accordance with and be governed by the laws of the State of California.
12. **Severability:** If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
13. **No Waiver by the Lender:** No Waiver of any breach, default or failure of condition under the terms of this Note shall thereby be implied from any failure of the Lender to take, or any delay by the Lender in taking action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure: and waiver of any term of the Note or any obligations secured thereby must be made in writing and shall be limited to express written terms of such waiver.
14. **Successors and Assignees:** The promises and agreements herein contained shall bind and inure to the benefit of, as applicable, the respective heirs, executors, administrators, successors and assignees of the parties.
15. **The Undersigned promise to notify:** The undersigned promise to notify in writing Lender upon the occurrence of any default by Borrower under any other obligations pertaining to the Property, any violations of law regarding the Property, any damage or destruction to the Property affecting 20% or more of the floor area of the improvements located at the Property or having an estimated repair cost of \$500,000 or more.

If more than one Borrower executed this Note, the obligations hereunder are joint and several. All words used herein in the singular shall be deemed to have been used in the plural when context and construction so require.

With the execution of the Note, a Deed of Trust lien shall be recorded by the Lender in the office of Los Angeles County Recorders.

**Executed as of the dates set forth above at Huntington Park, California.**

Huntington Park 607, LP, a California limited partnership

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

## EXHIBIT A – PREPAYMENT PREMIUM CALCULATION

### Applicable to Voluntary and Involuntary Prepayments.

- (a) Any receipt by Lender of principal due under this Note prior to the Maturity Date, other than principal required to be paid in monthly installments, if any, constitutes a prepayment of principal under this Note. Without limiting the foregoing, any application by Lender, prior to the Maturity Date, of any proceeds of collateral or other security to the repayment of any portion of the unpaid principal balance of this Note constitutes a prepayment under this Note.
- (b) Borrower may voluntarily prepay all of the unpaid principal balance of this Note upon at least 30 days' written notice to Lender prior to the date of such prepayment.
- (c) Borrower may not voluntarily prepay less than all of the unpaid principal balance of this Note. In order to voluntarily prepay all of the principal of this Note, Borrower must pay to Lender, together with the amount of principal being prepaid, (i) all accrued and unpaid interest due under this Note, plus (ii) all other sums due to Lender at the time of such prepayment, plus (iii) any prepayment premium calculated pursuant to this Section.
- (d) The prepayment premium shall be computed as follows:
  - (i) For any prepayment, the prepayment premium shall be whichever is the greater of subsections (A) and (B) below:
    - (A) 1.0% of the amount of principal being prepaid; or
    - (B) the product obtained by multiplying:
      - (1) the amount of principal being prepaid or accelerated,  
*by*
      - (2) the excess (if any) of the Monthly Note Rate over the Assumed Reinvestment Rate,  
*by*
      - (3) the Present Value Factor.

For purposes of this Section, the following definitions shall apply:

**Monthly Note Rate:** 1/12 of the Fixed Interest Rate, expressed as a decimal calculated to five digits.

**Prepayment Date:** in the case of a voluntary prepayment, the date on which the prepayment is made; in the case of the application by Lender of collateral or security to a portion of the principal balance, the date of such application.

**Assumed Reinvestment Rate:** 1/12 of the yield rate expressed as a decimal to two digits, as of the close of the trading session which is five business days before the Prepayment Date, found among the Daily

Treasury Yield Curve Rates, commonly known as Constant Maturity Treasury ("CMT") rates, with a maturity equal to the remaining Yield Maintenance Period, as reported on the U.S. Department of the Treasury website. If no published CMT maturity matches the remaining Yield Maintenance Period, Lender shall interpolate as a decimal to two digits the yield rate between (a) the CMT with a maturity closest to, but shorter than, the remaining Yield Maintenance Period, and (b) the CMT with a maturity closest to, but longer than, the remaining Yield Maintenance Period, as follows:

$$\left[ \left( \frac{B-A}{D-C} \right) \times (E-C) \right] + A$$

A = yield rate for the CMT with a maturity shorter than the remaining Yield Maintenance Period

B = yield rate for the CMT with a maturity longer than the remaining Yield Maintenance Period

C = number of months to maturity for the CMT maturity shorter than the remaining Yield Maintenance Period

D = number of months to maturity for the CMT maturity longer than the remaining Yield Maintenance Period

E = number of months remaining in the Yield Maintenance Period

In the event the U.S. Department of the Treasury ceases publication of the CMT rates, the Assumed Reinvestment Rate shall equal the yield rate on the first U.S. Treasury security which is not callable or indexed to inflation and which matures after the expiration of the Maturity Date.

**Present Value Factor:** the factor that discounts to present value the costs resulting to Lender from the difference in interest rates during the months remaining in until the Maturity Date, using the Assumed Reinvestment Rate as the discount rate, with monthly compounding, expressed numerically as follows:

$$\frac{1 - \left( \frac{1}{1 + ARR} \right)^n}{ARR}$$

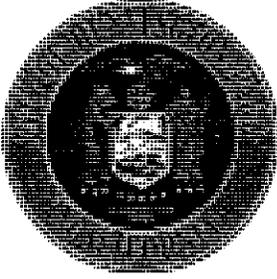
**n** = the number of months remaining until the Maturity Date.

**ARR** = Assumed Reinvestment Rate

- (e) Unless Lender agrees otherwise in writing, a permitted or required prepayment of less than the unpaid principal balance of this Note shall not extend or postpone the

due date of any subsequent monthly installments or change the amount of such installments.

- (f) Borrower recognizes that any prepayment of any of the unpaid principal balance of this Note, whether voluntary or involuntary or resulting from a default by Borrower, will result in Lender's incurring loss, including reinvestment loss, additional expense and frustration or impairment of Lender's ability to meet its commitments to third parties. Borrower agrees to pay to Lender upon demand damages for the detriment caused by any prepayment, and agrees that it is extremely difficult and impractical to ascertain the extent of such damages. Borrower therefore acknowledges and agrees that the formula for calculating prepayment premiums set forth in this Note represents a reasonable estimate of the damages Lender will incur because of a prepayment. Borrower further acknowledges that the prepayment premium provisions of this Note are a material part of the consideration for the Loan, and that the terms of this Note are in other respects more favorable to Borrower as a result of the Borrower's voluntary agreement to the prepayment premium provisions.



# **CITY OF HUNTINGTON PARK**

Community Development Department  
City Council Agenda Report

March 18, 2013

Honorable Mayor and Members of the City Council  
City of Huntington Park  
6550 Miles Avenue  
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

## **AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH PRIMESTOR DEVELOPMENT INC. TO PREPARE A REVITALIZATION STRATEGY FOR DOWNTOWN HUNTINGTON PARK**

### **IT IS RECOMMENDED THAT THE CITY COUNCIL:**

1. Amend the professional services contract with Primestor Development Inc. (Primestor) to include additional services to the proposed agreement for the preparation of the Revitalization Strategy for the Downtown Huntington Park.
2. Authorize the City Attorney to amend the services in professional services contract.
3. Authorize the City Manager to execute the contract and all related documents.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On January 22, 2013, the City Council approved a professional service agreement with Primestor Development Inc. (Primestor) to prepare a Revitalization Strategy for the Downtown Huntington Park in connection with the Metro 2009 Call for Projects grant for the installation of pedestrian improvements within the Downtown. The amendment to the approved recommendation is to increase the contract amount from \$189,000 to \$234,000 to include third party consultant services to prepare design plans as part of the Revitalization Strategy Plan. The additional services will include third party consultant services with a Landscape Architect, Architect, Civil Engineer and Signage Consultant to prepare the following design documents:

- Conceptual Plan for streetscape improvements including recommended plant materials, curb treatment, transit furniture, music systems, pedestrian furniture, street lighting, media elements and art elements.
- Propose locations and conceptual designs of public spaces and nodes with an emphasis on encouraging entertainment uses/venues in the Project Area.
- Sketch-up Digital model showing proposed improvements to facilitate implementation of the plans and to use for City and marketing purposes, as well as potential funding sources.
- Provide architectural design recommendations for renovations, redevelopment and new construction in the Project Area.
- Propose signage recommendations in the Project Area for way finding, advertising, storefronts, parking facilities, and gateway signage.

#### **FISCAL IMPACT/FINANCING**

The Revitalization Strategy will be funded with Community Development Block Grant funds (\$34,000) and Measure R funds (\$200,000). The cost to complete the Revitalization Strategy will be part of the City's match towards the Metro 2009 Call for Projects grant.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The strategy will provide a pragmatic action plan that will include an analysis of issues and opportunities, identification of development opportunity sites and recommended tenant solicitation list, and the development of a conceptual streetscape improvement plan to enhance pedestrian safety and activity within the downtown area. Public participation is a major emphasis of Primestor's to ensure community engagement. The completion of the Revitalization Strategy will provide the basis for the implementation of the Metro Call for Projects grant.

Primestor's proposal did not include third party consultant costs as part of their fee such as architect, landscape architect, civil engineer, and signage consultant. The additional cost is within the range proposals we received between \$197,460 to \$295,000 which include the third party consultant fees.

Upon the completion of the interviews, all three interviewers independently and unanimously selected Primestor has having the prerequisite working experience to deliver a successful revitalization strategy for Downtown Huntington Park. Primestor demonstrated their firm understanding of the project and the market dynamics of the Southeast Los Angeles County region, having established themselves as the premiere developer of several highly successful shopping centers and the recently completed

Jordon Downs Retail Market Analysis for the City of Los Angeles. They provided a succinct and pragmatic approach to developing the Revitalization Strategy, which includes an overall plan that is site specific to attract new development and businesses. In addition to their real world experience of revitalizing urban areas, Primestor has personal connections with national retail tenants, which would be instrumental during the implementation phase of the Revitalization Strategy.

Primestor distinguished themselves from the other firms. The firm's principals will be personally engaged in this project, bringing with them a tremendous depth of knowledge within the Huntington Park trade area. Primestor spoke repeatedly of the importance of community engagement in developing the streetscape improvements as an essential ingredient in creating a sense of place and Brand.

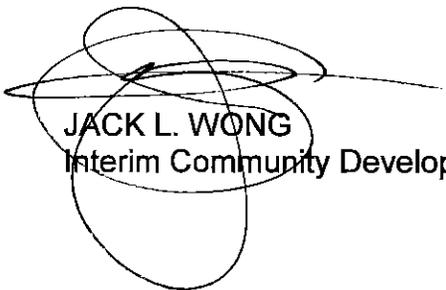
### CONCLUSION

The City Attorney will amend the professional services contract for an amount not to exceed \$234,000 for the City Manager's signature.

Respectfully submitted,



RENÉ BOBADILLA  
City Manager, P.E.



JACK L. WONG  
Interim Community Development Director