

City of Houston, Texas, Ordinance No. 2020 - 814

**AN ORDINANCE APPROVING AND AUTHORIZING AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY OF HOUSTON AND 4600 MAIN STREET HOUSING, L.P., WHICH FUNDED THE ACQUISITION OF AN OFFICE BUILDING AT 4600 MAIN STREET IN HOUSTON, TEXAS WHICH IS TO BE DEVELOPED INTO AN AFFORDABLE HOUSING COMMUNITY, TO REFLECT THE DESIGN, BUDGET AND FINANCING CHANGES THAT ARE REQUIRED TO COMPLETE THE CONVERSION OF THE BUILDING INTO A 56 UNIT AFFORDABLE HOUSING COMMUNITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \*

**WHEREAS**, pursuant to Ordinance Number 2013-357, passed and adopted by the City Council (“City Council”) of the City of Houston (“City”) on April 24, 2013, the City entered a Loan Agreement (“Acquisition Loan Agreement”) with 4600 Main Street Housing, LP (“Borrower”) to provide a loan of up to \$1,971,618.00 (“Acquisition Loan”) of funds which were awarded pursuant to a Grant Agreement between the City and the United States of America, acting by and through its Department of Housing and Urban Development (“HUD”), for federal funding of a Community Development Block Grant (“CDBG”) Program under the Housing and Community Development Act of 1974, as amended, to assist with the acquisition of an office building, which was then expected to be converted into a 48-unit affordable housing community (“Project”), which would primarily serve veterans; and

**WHEREAS**, in consideration of and subject to the terms and conditions of the financial assistance sought to be provided by the City pursuant to Acquisition Loan Agreement, Borrower agreed that at least 25 floating units in the Project, being approximately 52% of the then-expected 48 residential units that were expected to comprise the Project, would be made subject to certain occupancy, rent and affordability requirements; and

**WHEREAS**, the acquisition of the Project and the Acquisition Loan closed and funded in May 2013 and various loan documents evidencing the Acquisition Loan (“Acquisition Loan Documents”) were executed including, without limitation, the following: (i) Note; (ii) Deed of Trust, Security Agreement and Financing Statement; (iii) Financing Statements; (iv) Restrictive Covenants; (v) Environmental Indemnity Agreement; (vi) Affidavit of No Commissions; (vii) Affidavit of Use of Funds; (viii) Letter Agreement; (ix) Notice; and (x) Construction Completion Guaranty Agreement; and

**WHEREAS**, pursuant to Ordinance Number 2017-0658, passed and adopted by City Council on August 23, 2017, the City entered a Loan Agreement (“Construction Loan Agreement”) with Cantwell-Anderson, Inc. (“Cantwell”), joined by Borrower, to provide a \$1,500,000.00 loan to Cantwell (“Construction Loan”) of funds provided to the City pursuant to a HOME Investment Partnerships Agreement between the City and HUD for federal funding of a HOME Investment Partnerships Program Grant under the Cranston-Gonzales National Affordable Housing Act, as

amended, which Cantwell would re-loan to Borrower to assist with the renovation and conversion of the Project to become a 56-unit affordable housing community which would primarily serve veterans; and

**WHEREAS**, in consideration of and subject to the terms and conditions of the financial assistance sought to be provided by the City pursuant to the Construction Loan Agreement, Cantwell and Borrower agreed that at least 13 floating units in the Project, being approximately 23% of the 56 residential units that were expected to comprise the Project, would be made subject to certain occupancy, rent and affordability requirements; and

**WHEREAS**, the plans, budget and construction schedule for the Project have changed; and

**WHEREAS**, the other sources of financing of the project have also changed to exclude the previously anticipated tax credit financing and are expected include the following:

1. A loan from Zions Bancorporation, N.A. dba Amegy Bank (“Senior Lender”) directly to the Borrower (“Senior Loan”), which will be secured by a lien against the Project that will be senior to the liens securing the Acquisition Loan and the Construction Loan; and
2. A loan of 2017 Community Development Block Grant Disaster Recovery funds from Harris County to Improved Living Foundation, Inc., a Texas nonprofit corporation (“Nonprofit”) (“County Loan”), which Nonprofit will re-loan to Borrower to assist with the reconstruction of the Project, which will be secured by a lien having equal priority with the liens securing the Acquisition Loan and the Construction Loan, and in consideration of which Nonprofit and Borrower will agree that at least 29 floating units in the Project, being at least 51% of the 56 residential units that are to comprise the Project, will be made subject to certain occupancy, rent and affordability requirements; and

**WHEREAS**, in order to facilitate the completion of the Project it is desirable and necessary that the Acquisition Loan be amended as set forth in the First Amendment to Loan Agreement (CDBG Acquisition Loan) (“First Amendment”) attached hereto as Exhibit “A” and that the Construction Loan be similarly amended by separate instrument, to reflect the current plans, budget and construction schedule for the Project, including a change in the number of affordable units to be provided in consideration of the Acquisition Loan, and the status of the Senior Loan and the County Loan; and

**WHEREAS**, the City Council finds that the Community will provide housing to low-income and moderate-income persons and that it is in the City’s best interest to amend the acquisition loan and to execute the First Amendment in substantially the form attached hereto; and

**WHEREAS**, the City is acting pursuant to the authority of Chapters 373 and/or 374 of the Local Government Code; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON,  
TEXAS:**

**Section 1.** That the findings and recitals contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That the City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents. The City Attorney is hereby authorized to take all action necessary to enforce legal obligations under said contract without further authorization from City Council.

**Section 3.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 23rd day of September, 2020.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is SEP 29 2020.

Est. J. H. Haniel  
City Secretary

(Prepared by Legal Dept. Reni F. Bell)  
(RFB 9/17/2020) Senior Assistant City Attorney

(Requested by Tom McCasland, Director, Housing and Community Development Department)

AYE	NO	
✓		<b>MAYOR TURNER</b>
....	....	<b>COUNCIL MEMBERS</b>
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
	✓	TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

**EXHIBIT A**

First Amendment to Loan Agreement (CDBG Acquisition Loan)

**FIRST AMENDMENT TO LOAN AGREEMENT**

**(CDBG ACQUISITION LOAN)**

The parties to this First Amendment to Loan Agreement (this "First Amendment") are the **CITY OF HOUSTON, TEXAS**, a home-rule city organized under the laws of the State of Texas ("City"), and **4600 MAIN STREET HOUSING, LP**, a Texas limited partnership ("Borrower").

**WHEREAS**, Borrower seeks to reconstruct a former office building located near 4600 Main Street in Houston, Texas to become a 56-unit affordable housing community with associated first-floor commercial space, which will primarily serve veterans (the "Project"); and

**WHEREAS**, pursuant to Ordinance Number 2013-357, passed and adopted by the City Council of the City ("City Council") on April 24, 2013, the City entered a Loan Agreement ("Acquisition Loan Agreement") with Borrower to provide a loan of up to \$1,971,618.00 ("Acquisition Loan") of funds which were awarded pursuant to a Grant Agreement between the City and the United States of America, acting by and through its Department of Housing and Urban Development ("HUD"), for federal funding of a Community Development Block Grant ("CDBG") Program under the Housing and Community Development Act of 1974, as amended, to assist with the acquisition of the Project, which was then expected to be converted into a 48-unit affordable housing community, which would primarily serve veterans; and

**WHEREAS**, in consideration of and subject to the terms and conditions of the financial assistance sought to be provided by the City pursuant to Acquisition Loan Agreement, Borrower agreed that at least 25 floating units in the Project, being approximately 52% of the then-expected 48 residential units that were expected to comprise the Project, would be made subject to certain occupancy, rent and affordability requirements; and

**WHEREAS**, the acquisition of the Project and the Acquisition Loan closed and funded in May 2013 and various loan documents evidencing the Acquisition Loan (“Acquisition Loan Documents”) were executed including, without limitation, the following: (i) Note; (ii) Deed of Trust, Security Agreement and Financing Statement; (iii) Financing Statements; (iv) Restrictive Covenants; (v) Environmental Indemnity Agreement; (v) Affidavit of No Commissions; (vi) Affidavit of Use of Funds; (vii) Letter Agreement; (viii) Notice; and (viii) Construction Completion Guaranty Agreement.

**WHEREAS**, the City, the Borrower and Cantwell-Anderson, Inc. (“Cantwell”), in its capacity as guarantor of the Acquisition Loan, entered a Date Clarification Agreement, dated effective May 15, 2013, to stipulate that the Acquisition Loan Documents, other than the Acquisition Loan Agreement, were agreed by the parties to be dated and effective as of May 15, 2013;

**WHEREAS**, pursuant to Ordinance Number 2017-0658, passed and adopted by City Council on August 23, 2017, the City entered a Loan Agreement (“Construction Loan Agreement”) with Cantwell, joined by Borrower, to provide a \$1,500,000.00 loan (“Construction Loan”) to Cantwell, which Cantwell would re-loan to Borrower to assist with the reconstruction of the Project, which was then expected to become a 56-unit affordable housing community with associated first-floor commercial space which would primarily serve veterans; and

**WHEREAS**, in consideration of and subject to the terms and conditions of the financial assistance sought to be provided by the City pursuant to the Construction Loan Agreement, Cantwell and Borrower agreed that at least 13 floating units in the Project, being approximately 23% of the 56 residential units that were expected to comprise the Project, would be made subject to certain occupancy, rent and affordability requirements; and

**WHEREAS**, the plans, budget and construction schedule for the Project have changed as set forth herein;

**WHEREAS**, the other sources of financing of the project have also changed to exclude the previously anticipated tax credit financing and are expected include the following:

1. A loan from Zions Bancorporation, N.A. dba Amegy Bank (“Senior Lender”) directly to the Borrower (“Senior Loan”), which will be secured by a lien against the Project that will be senior to the liens securing the Acquisition Loan and the Construction Loan; and
2. A loan of 2017 Community Development Block Grant Disaster Recovery funds from Harris County to Improved Living Foundation, Inc., a Texas nonprofit corporation (“Nonprofit”) (“County Loan”), which Nonprofit will re-loan to Borrower to assist with the reconstruction of the Project, which will be secured by a lien having equal priority with the liens securing the Acquisition Loan and the Construction Loan, and in consideration of which Nonprofit and Borrower will agree that at least 29 floating units in the Project, being at least 51% of the 56 residential units that are to comprise the Project, will be made subject to certain occupancy, rent and affordability requirements;

**WHEREAS**, in order to facilitate the completion of the Project it is desirable and necessary that the Acquisition Loan and, by separate instrument, the Construction Loan be amended to reflect the current plans, budget and construction schedule for the Project, including a change in the number of affordable units to be provided in consideration of the Acquisition Loan, and the status of the Senior Loan and the County Loan,

**NOW THEREFORE**, Borrower and the City, joined by Cantwell as guarantor, agree that the Acquisition Loan Agreement is amended as follows, provided that unless the context otherwise

requires, the initial capitalized words herein shall have the meanings ascribed to them in “Definitions” following the main text of the Acquisition Loan Agreement if they are not otherwise defined herein:

I

Section One K. is amended to read as follows:

Borrower has now obtained one or more firm commitment(s) for the funding of construction and permanent financing of the Project (collectively, the “Other Financings”), which include the Senior Loan, the County Loan and the Construction Loan herein described, and Borrower has obtained a firm commitment for the necessary equity contributions, if any, to the extent that Owner does not currently possess sufficient equity funds, all of which when combined with the City Loan total at least the acquisition costs and the amount required by the Preliminary Construction Budget, which commitments and evidence of equity are in form and content approved by the Director and are attached hereto in the Exhibits to this Agreement. In any case, Owner shall be responsible for funding or obtaining funding for any costs or expenses of the Work, other Project costs under the Approved Construction Budget, including any increases thereto, or otherwise payable under this Agreement to the extent not covered by the Loan Proceeds.

II

Section 3.8 is amended to read as follows:

**3.8 Priority of City’s Restrictive Covenants.** The City’s Restrictive Covenants, once recorded in the Official Public Records of Real Property of Harris County, Texas, shall have priority over any and all liens proposed to evidence or secure Other Financings (including, without limitation, the Senior Loan and any permitted refinancings or refundings thereof subsequent to the Closing Date), provided that the restrictive covenants in favor of the County shall be equal in priority to the City’s Restrictive Covenants. Such priority shall be evidenced pursuant to the Intercreditor Agreement, hereafter defined, and/or the Declaration of Subordination Agreement executed by the Senior Lender, the County, the City, Borrower and Owner (and/or any other lender or person providing any Other Financing to Borrower or Owner) and filed for record in the Official Public Records

of Real Property, Harris County, Texas, on the Closing Date, in the form set forth in the Attachments or in a form otherwise approved by the City Attorney

### III

The first clause of Section Four is amended to read as follows:

All of the conditions listed in this Section must be satisfied no later than the Effective Date of this First Amendment.

### IV

The first clause of Section Five is amended to read as follows:

All of the conditions listed in this Section must be satisfied no later than 30 days following the Effective Date of this First Amendment (but in no case later than the closing of the earlier of the Senior Loan, the County Loan or the Construction Loan):

### V

The following sentence is added to the end of Section 5.4:

A list of the Preliminary Plans, Specifications and Drawings is attached as Exhibit 5/Exhibit E:

### VI

The following sentence is added to the end of Section 5.5:

The Preliminary Construction Schedule is attached as Exhibit 6/Exhibit F.

### VII

Section 5.7.1 is amended to read as follows:

**5.7.1** The Director shall have approved the documents evidencing the Other Financings, including those relating to the Senior Loan, the County Loan and the Construction Loan, which approval shall not be unreasonably withheld.

### VIII

The following sentence is added to the end of Section 5.9.1:

The Preliminary Operating Budget is attached as Exhibit 4/Exhibit D.

### IX

The following sentence is added to the end of Section 5.9.2:

The Preliminary Construction Budget is attached as Exhibit 3/Exhibit C.

### X

The introductory clause of Section 6.2 is amended to read as follows:

Borrower must, no later than 30 days following the Effective Date of this First Amendment (but no later than the earlier of the closing of the Senior Loan, the County Loan or the Construction Loan), execute, or cause to be executed as applicable, and deliver to the City the following documents, together with any other documents, certificates, affidavits and polices required hereunder or under any of the Appendices hereto or otherwise reasonably required by Lender:

**XI**

The following item is added to the end of the list of documents in Section 6.2:

- 18. First Amendment to Restrictive Covenants
- 19. First Supplement to Deed of Trust

**XII**

Section 8.1.1 is amended to read as follows:

**8.1.1 Use of Proceeds.** Borrower shall use the proceeds of the Senior Loan only for items included in the Approved Final Construction Budget.

**XIII**

Section 8.1.2 is amended to read as follows:

**8.1.2 Order of Funding and Disbursement.** Except for the disbursement of retainage for funds previously advanced, additional proceeds of the City Loan shall not be advanced. The proceeds of the City Loan (retainage only), Senior Loan, County Loan and Construction Loan and any additional Other Financings, shall be disbursed under the terms and in the order as set forth in the "Intercreditor Agreement" among City, Senior Lender, County, Nonprofit, Borrower and Guarantor, in the form attached hereto in the Attachments.

**XIV**

The first two sentences of Section 8.2.1 are amended to read as follows:

**Commencement and Completion of Work; Change Orders.** Borrower shall not commence Work on the Project prior to the Closing of the City's Loan. Borrower shall begin the Work no later than 30 days following the Effective Date of this First Amendment and the issuance of all City authorizations. Borrower shall complete the Work, no later than 18 months following the commencement of Work, in accordance with the Approved Construction Schedule, time being of the essence (the "Approved Construction Period").

**XV**

Section 8.6.1 is amended to read as follows:

**8.6.1** The Director, in compliance with the maximum per unit subsidy amount rules at 24 CFR Sec. 92.250(a) and the minimum amount of assistance rules at 24 CFR Sec. 92.205(c), has determined that the number of Designated Units for the Project covered by this Agreement shall consist of twenty-nine (29) units, being at least 51% of the fifty-six (56) total residential units in the Project.

**XVI**

Section 8.6.2 is amended to read as follows:

**8.6.2** The number of Designated Units rented or available for rent to Low-Income Households shall be twenty-nine (29) units (100% of the Designated Units).

**XVII**

The third sentence of Section 8.20 is amended to read as follows:

If the Senior Lender does not require that a Replacement Reserve Account be established or if there is no Senior Lender, City may require the Replacement Reserve Account be established.

**XVIII**

The introductory clause of Section 10.2 is amended to read as follows:

The Director may declare a default (“Default”) under this Agreement or any one or more of the Loan Documents upon the occurrence of any one or more of the following circumstances:

**XIX**

Section 10.1.3 is amended to read as follows:

**10.1.3 Breach of Other Covenants or Conditions.** Borrower fails, refuses or neglects to perform fully and timely any obligation, or breaches any covenant or condition (including any condition prior to or subsequent to the issuance of the City Loan) under this Agreement, or under any other Loan Document, and such failure continues for thirty (30) days after written notice from the City to Borrower; provided, however that in the event that (i) any such cure periods would cause a violation to occur under Applicable Law or (ii) any breach or failure of performance of a life safety requirement, such event shall be deemed a Default hereunder without any notice or opportunity to cure.

**XX**

Section 10.1.12 (a) is amended to read as follows:

(a) All or any part of Borrower's interest in the Project is transferred (excluding transfers of membership or partnership interests in Borrower by its members or partners holding less than forty-nine percent (49%) ownership interest in Borrower, unless such interests being transferred are general partner or managing interests), sold or assigned, voluntarily or involuntarily, or there is a change of management of the Project, at any time within the Affordability Period, such transfer of interest or change of management must first be approved in writing by the Director, which approval may be granted or withheld by the Director. In the case of a transfer of Borrower's interest in the Project, the Director's consent, if any, shall not be effective unless or until the purchaser or transferee assumes in writing all obligations and covenants of Borrower under the Loan Documents in a form acceptable to the Director and the City Attorney; or

**XXI**

Section 10.1.15 is amended to read as follows:

**10.1.15**        **[Reserved]**

**XXII**

Section 10.1.16 is amended to read as follows:

**10.1.16**        **Removal of Borrower's General Partner.** Notwithstanding anything to the contrary contained in this Agreement or the Loan Documents, the removal and/or replacement of Borrower's general partner for cause in accordance with Borrower's partnership agreement shall not require the consent of the City or Director, shall not constitute a default under this Agreement or the Loan Documents or accelerate the maturity of the Loan. The consent of the Director shall be required for the appointment of a new general partner. The substitute general partner shall assume all of the rights and obligations of the removed general partner of Borrower hereunder.

**XXIII**

Section 10.3 is amended to read as follows:

**10.3**        **Senior Lender's Right to Cure.** Any time there is an event or a condition described in Section 10.1 which, with the passage of time might become a Default, the Senior Lender shall have the independent and concurrent right to cure such event or condition during the same period of time as that provided to Borrower. A cure by the Senior Lender of any event or condition that,

with the passage of time might become a Default, shall have the same effect as a cure of such event or condition by Borrower.

**XXIV**

**10.4.1 City's Remedies.** Upon the declaration of a Default by the Director and the failure by Borrower or the Senior Lender to cure same within a time period specified herein (if any), the Director may in his or her sole discretion: (i) terminate this Agreement; (ii) accelerate payment of the Note and declare that all sums under the Loan are immediately due and payable; (iii) foreclose on the Deed of Trust and the Project; (iv) cease funding any disbursements under the Loan and/or (v) take any other action authorized or available under this Agreement, any of the Loan Documents or Applicable Law, or in equity. In the event of a Default, if the Director so chooses this remedy, the outstanding principal balance shall be immediately due and payable. Upon the occurrence of any Default hereunder, the principal shall bear interest at a rate of the lesser of (i) six percent (6.0%) per annum or (ii) the maximum rate of interest permitted to be contracted for by Applicable Law ("Highest Lawful Rate").

**XXV**

Section Thirteen is amended so that the City address on Sawyer is replaced with the following:

**TO THE CITY:** City of Houston  
c/o Department of Housing and Community Development  
2100 Travis, 9<sup>th</sup> Floor  
Houston, TX 77007  
Attention: Director

**XXVI**

Section 14.13 is amended to read as follows:

**14.13 Applicable Law.** This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston.

**XXVII**

The following Definitions either supplement or replace the corresponding definitions in the Definitions section of the Agreement:

**Construction Loan** shall mean the performance-based loan of HOME funds in the maximum principal amount of \$1,500,000.00 made by the City to Cantwell which Cantwell will re-loan to Borrower to assist with the reconstruction of the Project and which will

be secured by a lien having equal priority with the liens securing the County Loan and the loan to be provided pursuant to this Agreement.

**Construction Loan Documents** shall mean the all documents evidencing or securing, guaranteeing or otherwise pertaining to the Construction Loan, including without limitation the Construction Mortgage, but excluding the Construction Restrictive Covenants.

**Construction Mortgage** shall mean the Deed of Trust, Security Agreement and Financing Statement, which will be recorded in the Official Public Records of Real Property of Harris County, Texas to directly or indirectly secure the Construction Loan.

**Construction Restrictive Covenants** shall mean the covenants embodied in the Declaration of Land Use Restrictions (Restrictive Covenants) executed by Borrower in consideration of the Construction Loan,

**County** shall mean Harris County, Texas.

**County Loan** shall mean a loan of 2017 Community Development Block Grant Disaster Recovery funds from County to Nonprofit in an amount to exceed \$9,546,947.00, without the Director's written approval, which Nonprofit will re-loan to Owner to assist with the reconstruction of the Project and which will be secured by a lien having equal priority with the liens securing the Construction Loan and the Acquisition Loan to be provided pursuant to this Agreement.

**County Loan Documents** shall mean all documents evidencing, securing, guaranteeing or otherwise pertaining to the County Loan, including without limitation, the County Mortgage, but excluding the County Restrictive Covenants.

**County Mortgage** shall mean the lien or liens securing the County Loan.

**Deed of Trust** shall mean and include the Deed of Trust, Security Agreement and Financing Statement to be executed by Borrower, initially granting to the City a first lien on Borrower's fee interest in the Project, whose priority may be modified by instruments executed by the City, and which shall be substantially in the form attached as ATTACHMENT C to this Agreement, as such Deed of Trust may be amended by the First Supplement to Deed of Trust which shall be substantially in the form attached as ATTACHMENT R to reference certain easement rights required for the development and operation of the Project

**Land** shall mean the real property included within the Project, as described in Section 2.1, and shall include all easement rights required for the development and operation of the Project.

**Note** shall mean the note to be executed by Borrower evidencing the Loan, and which shall be substantially in the form attached as **ATTACHMENT B** to this Agreement.

**Restrictive Covenants or Acquisition Restrictive Covenants** shall mean the covenants embodied in the Declaration of Land Use Restrictions (Restrictive Covenants) to be executed by Borrower, which shall be substantially in the form attached as **ATTACHMENT A** to this Agreement, which covenants require Borrower and its successors and assigns, to comply with certain occupancy and use restrictions for the duration of the Affordability Period, as such Restrictive Covenants may be amended by the First Amendment to Declaration of Land Use Restrictions (Restrictive Covenants) which shall be substantially in the form attached as **ATTACHMENT Q** and all of which shall be superior to any liens evidencing or securing the Senior Loan and all other liens and encumbrances other than the County Declaration in accordance with the Declaration of Subordination.

**Senior Lender** shall mean Zions Bancorporation, N.A. dba Amegy Bank or another lender which has been approved by the Director to be the Senior Lender.

**Senior Loan** shall mean, during construction, a revolving loan in the maximum principal amount of \$3,976,440.00 and, upon conversion, a loan in the original principal amount not to exceed the amount of \$2,976,440.00 (unless otherwise approved by the Director) made by Senior Lender to Owner, secured by the Project, and subordinate to the Restrictive Covenants pursuant to the Subordination Agreement.

**Work** as used in this Agreement shall mean all labor necessary to complete the construction work on the Project required by this Agreement, the Approved Plans, Specifications and Drawings or the Construction Contract, and all the materials and equipment incorporated or to be incorporated into the Project during the course of such construction work.

## XXVIII

The following Definitions are hereby deleted:

**Original Tax Credit Investor**

**Tax Credit Compliance Period**

**Tax Credit Investor**

**Tax Credits**

**XXIX**

The list of EXHIBITS TO LOAN AGREEMENT is amended to read as set forth on Schedule I attached to this First Amendment.

**XXX**

The list of ATTACHMENTS TO LOAN AGREEMENT is amended to read as set forth on Schedule II attached to this First Amendment

**XXXI**

The following Exhibits to this First Amendment supplement or, if similarly labelled, replace the Exhibits to the Acquisition Loan Agreement:

EXHIBIT 1/A	Legal Description of the "Land"
EXHIBIT 2/B	Preliminary Commitments for "Other Financings"
EXHIBIT 3/C	Preliminary Operating Budget
EXHIBIT 4/D	Preliminary Construction Budget
EXHIBIT 4/E	Preliminary Plans, Specifications and Drawings
EXHIBIT 5/F	Preliminary Construction Schedule and Draw Down Schedule.

**XXXII**

The following Attachments to this First Amendment supplement or, if similarly labelled, replace the Attachments to the Acquisition Loan Agreement:

- H. Declaration of Subordination
- I. Intercreditor Agreement
- Q. First Amendment to Restrictive Covenants
- R. First Supplement to Deed of Trust

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties execute this First Amendment in multiple counterparts as of the date of countersignature by the City Controller as set out below.

**BORROWER:**

**4600 MAIN STREET HOUSING, LP,**  
a Texas limited partnership

By: Light Rail Lofts, LLC,  
a Texas limited liability company,  
its general partner

By: \_\_\_\_\_  
Randall A. Bishop  
Manager

**GUARANTOR (to confirm that the  
Construction Completion Guaranty is not  
impaired by the transactions contemplated  
hereby and remains in full force and effect):**

**CANTWELL-ANDERSON, INC.,**  
a California corporation

By: \_\_\_\_\_  
Randall A. Bishop  
Chief Financial Officer

**SEAL/ATTEST:**

**CITY OF HOUSTON, TEXAS**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Sylvester Turner, Mayor

**APPROVED:**

**COUNTERSIGNED:**

\_\_\_\_\_  
Tom McCasland, Director  
Housing and Community Development  
Department

\_\_\_\_\_  
Chris B. Brown, City Controller

**APPROVED AS TO FORM:**

**COUNTERSIGNATURE DATE:**

\_\_\_\_\_  
Senior Assistant City Attorney  
LD# \_\_\_\_\_

\_\_\_\_\_

**SCHEDULES TO FIRST AMENDMENT**

SCHEDULE I

Exhibits to Loan Agreement

SCHEDULE II

Attachments to Loan Agreement

**SCHEDULE I**

**EXHIBITS TO FIRST AMENDMENT**

EXHIBIT A	Legal Description of the “Land”
EXHIBIT B	Commitments for “Other Financings”
EXHIBIT C	Preliminary Operating Budget
EXHIBIT D	Preliminary Construction Budget
EXHIBIT E	Preliminary Scope of Work
EXHIBIT F	Preliminary Construction Schedule

**SCHEDULE II**

**ATTACHMENTS TO LOAN AGREEMENT**

- A. City's Restrictive Covenants
- B. Borrowers' Note
- C. Deed of Trust
- D. Financing Statements
- E. Intentionally Deleted
- F. Intentionally Deleted
- G. Construction Completion Guaranty
- H. Declaration of Subordination
- I. Intercreditor Agreement
- J. Collateral Assignment of Project Management Agreement
- K. Collateral Assignment of Property Management Agreement
- L. Assignment of Architect's Contract, Plans and Specifications, and Consent
- M. Collateral Assignment of Construction Contract
- N. Environmental Indemnity Agreement
- O. Form of the Performance Bond, Maintenance Bond, and Payment Bond
- Q. First Amendment to Restrictive Covenants
- R. First Supplement to Deed of Trust

**EXHIBITS TO FIRST AMENDMENT**

EXHIBIT A	Legal Description of the “Land”
EXHIBIT B	Commitments for “Other Financings”
EXHIBIT C	Preliminary Operating Budget
EXHIBIT D	Preliminary Construction Budget
EXHIBIT E	Preliminary Scope of Work
EXHIBIT F	Preliminary Schedule

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**EXHIBIT A**

Legal Description of the "Land"

**EXHIBIT A**

**Legal description of land:**

**TRACT I: All of Unrestricted Reserve "A", Block 1, LIGHT RAIL LOFTS, as recorded under Film Code No. 682106, Harris County Map Records, Harris County, Texas.**

**TRACT II: Easement rights created by Amended and Restated Access, Parking, Improvement and Repair Easement Agreement dated May 7, 2018, by and between Cloudbreak Houston, LLC and 4600 Main Street Housing LP filed under Harris County Clerk's File No. RP-2018-270176. (Subject to Requirement)**

**TRACT III: Easement rights created by No Build Agreement dated \_\_\_\_\_, 2020, by and between Cloudbreak Houston, LLC and 4600 Main Street Housing, LP, filed under Harris County Clerk's File No. RP-2020-\_\_\_\_\_.**

**EXHIBIT B**

Commitments for “Other Financings”



Sara J. Hale  
Senior Vice President  
4576 Research Forest Drive  
The Woodlands, TX 77381

Via: E-Mail

July 16, 2020

Revised September 2, 2020

Randy Bishop  
Chief Financial Officer  
Cantwell-Anderson, Inc.  
414 S. Marengo Ave.  
Pasadena, CA 91101

RE: Light Rail Lofts , Houston, TX

Dear Mr. Bishop,

Zions Bancorporation, N.A dba Amegy Bank ("Lender") is interested in providing financing for the Property, as described below. Based on our discussions and the information you have presented to us, I am pleased to present the following "Term Sheet" as a preliminary outline of financing for your consideration. In this regard, I present the following proposed loan terms for your consideration:

### General Information

**Structure:**

You have advised Lender that the Harris County Community Services Department ("HCCSD") has received a conditional commitment of \$9,546,947. (the "HCCSD Loan") for new construction for the Property with the proceeds of a Community Development Block Grant made under the U.S. Department of Housing and Urban Development's Disaster Recovery Program. The HCCSD Loan shall be made available to Borrower from the HCCSD (or its designee) to the Borrower on terms satisfactory to the Lender. The HCCSD Loan shall be subordinate to the Mortgage Loan as to payment and lien position in a manner satisfactory to Lender.

Borrower has received a conditional commitment for a CDBG-Disaster Recovery grant (the "City Grant"), in the amount of \$1,500,000., from the City of Houston through its Housing and Community Development Department. As a condition to Lender's closing of the Mortgage Loan, the City Grant shall have closed on terms acceptable to Lender. The City Grant shall be subordinate to the Mortgage Loan as to payment and lien position in a manner satisfactory to Lender.

In addition to the HCCSD Loan and the City Grant, Lender will provide a revolving first lien debt financing with respect to the Property (the "Mortgage Loan") for the following items: (1) initial funding to pay closing costs, (2) Lender-approved construction advances for work that has been completed, and (3) permanent financing upon completion

of construction. Notwithstanding the foregoing, the HCCSD Loan and the City Loan shall be fully funded during the construction period on terms and in a manner satisfactory to Lender.

- Borrower:** 4600 Main Street Housing LP, a single asset entity (the "Borrower").
- Property:** A 3 story building with 10,000 square feet of office space on the first floor and 56-unit single room occupancy rental housing units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors, to be constructed on land located at 4600 Main Street, Houston, Harris County, Texas 77002 (the "Property").
- Purpose:** To provide a "Mortgage Loan" for construction and permanent financing of a multifamily rental housing property and related facilities and improvements.
- Security:** A valid, first lien encumbering the Property along with a first security interest and assignment of the plans, specs, equity contributions, leases, rents, architect/engineering contracts, construction contracts, licenses, permits, the right to the proceeds of the HCCSD Loan and the City Grant and other items required by Lender as collateral.
- Recourse:** Prior to the Amortization Commencement (as herein defined and used), Lender shall have full recourse against the Borrower. Additionally, Cantwell-Anderson, Inc. (the "Guarantor") shall sign a full unconditional guaranty of the Mortgage Loan and shall guaranty construction completion.
- Upon satisfying the requirements for Amortization Commencement, Lender's recourse against Borrower and each Guarantor shall be non-recourse and the guaranty, except for certain "bad boy" carve-outs, including fraud, misrepresentation, environmental issues, bankruptcy, and other items required by Lender.

### Loan Terms

- Loan Amount:** The Mortgage Loan shall be in an amount not greater than (a) \$3,976,440 unless approved by the Lender in its sole and absolute discretion, (b) 80% of the Property's appraised rent-restricted, as completed value, based upon Lender's review of an approved third-party appraisal, or (c) an amount necessary to fill the gap in HCCSD Loan and City Grant funding as determined prior to closing. The Mortgage Loan amount is based upon a total project cost of \$16,339,005.
- Permanent Loan Term Amount:** The "Permanent Loan Term Amount" is estimated to be \$2,976,440. The Permanent Loan Term Amount may not exceed 80% of the Property's appraised value "as stabilized" assuming restricted rents based upon Lender's review of a third-party appraisal, with a minimum underwritten debt service coverage ratio of 1.15 to 1 at project completion and stabilization based upon the actual rate locked at closing and a 35-year amortization.

**Other Anticipated  
Sources of Funds:**

Prior to the closing of the Mortgage Loan, Lender shall receive and approve evidence that the HCCSD Loan and the City Grant has closed on terms acceptable to Lender, and in connection therewith, Lender shall have received and approved the fully executed Multi-Family Residential Construction Contract executed in connection with the HCCSD Loan and all documentation executed in connection with or as security for the HCCSD Loan.

The City of Houston loan (the "City Loan") in the amount of \$1,964,143 that was provided to the project in 2013 shall be subordinate to the Mortgage Loan as to payment and lien position in a manner satisfactory to Lender.

The seller note from Cloudbreak Houston, LLC to the Borrower in the amount of \$351,475, shall be subordinate to the Mortgage Loan as to payment and lien position in a manner satisfactory to Lender.

**Interest Rate:**

The Interest Rate on the Mortgage Loan during the construction period is calculated by adding a base spread of 2.50% to the 30-day LIBOR rate (with a LIBOR floor of 1%) adjusted monthly. (Currently, underwritten at a 3.50% rate)

The Interest Rate on the Permanent Loan Term amount must be fixed via an Interest Rate Swap with Amegy Bank to be based upon 30-day LIBOR + 275 basis points adjusted monthly. For reference, the indicative rate under current market conditions today is approximately 3.75%, the fixed rate would be set at the time the Interest Rate Swap is finalized based on then-current market conditions at closing. (Currently, underwritten at a 4.00% rate)

Borrower may opt to swap the rate for 10-years, then float for the remaining 8 years.

**Loan Term:**

The term for the Mortgage Loan will be 20.50 years. (30 months construction period and 18 years permanent period).

**Loan Payments:**

Monthly payments for the Mortgage Loan will be interest only for the first 30 months, thereafter converting to principal and interest payments based upon a 35-year amortization period.

**Amortization  
Commencement:**

"Amortization Commencement" is the date that the Mortgage Loan begins amortization which occurs after (1) completion of the Project, (2) principal balance of the Mortgage Loan reduced to the Permanent Loan Term Amount, (3) Project occupancy of 90% for 90 days, (4) operating performance at a debt coverage ratio of no less than a 1.15 to 1 for 90 days and full payment of the HCCSD Loan funds and the City Grant funds. Failure to achieve Amortization Commencement within 30 months from loan closing shall be deemed to be an Event of Default

under and as defined in the loan documents pertaining to the Mortgage Loan. The debt coverage ratio calculation will include principal, interest, operating expenses, any and all taxes payable, insurance and replacement reserves, and use the actual rate locked at closing and a 35-year amortization, as well as the interest payments due on the HCCSD Loan and the City Loan.

- Construction Completion:** Project construction must be completed within 18 months of loan closing.
- Construction Contract:** Humphries Construction will be the Contractor for the project. The construction contract must be for a fixed cost consistent with the budget approved by Lender. Any lien rights of the Contractor shall be subordinate to liens of the Lender. No bonding or letter of credit will be required by Lender, unless bonding is required by the HCCSD Loan, City Grant or the City Loan which in that event, Lender shall be named as an additional insured on a Dual Oblige Rider.
- Advances:** At closing, the Mortgage Loan shall fund budgeted closing costs approved by Lender.
- Requests by Borrower for advances will be funded provided the funding of an advance of the HCCSD Loan is delayed, as a result of ministerial issues or otherwise, Lender may fund an advance of the Mortgage Loan to cover such delayed advance and in that event when the delayed funding of the HCCSD Loan is funded by HCCSD, the Lender loan is repaid.
- Requests by Borrower for advances will be funded provided the funding of an advance of the City Grant is delayed, as a result of ministerial issues or otherwise, Lender may fund an advance of the Mortgage Loan to cover such delayed advance and in that event when the delayed funding of the City Grant is funded by the City Grant such fundings shall be deposited in a controlled account at Lender for disbursement to the Borrower at the next request for disbursement or for reducing the amount of the Mortgage Loan to the Permanent Loan Term Amount at Amortization Commencement. In any event, the HCCSD Loan funds and the City Grant funds must be fully advanced prior to the Lender's required completion date.
- All construction draws can be submitted for consideration by Lender on a monthly basis as will be provided for in the Loan Agreement. All advances are subject to a 10% retainage.

**Developer Fees & Overhead:**

Developer fees and overhead may be paid based on a schedule approved by the Lender. It is anticipated that the developer fee payments will be paid as follows:

Pay-Out of Developer Fee		%
Loan Closing	262,049	24%
At 100% Completion	300,795	28%
Permanent Loan Conversion	529,028	48%
Deferred (At Perm Conversion)	-	0%
<b>Total Developer Fee</b>	<b>\$ 1,091,872</b>	<b>100%</b>

- Inspections:** An independent inspection firm will verify draw requests involving hard construction costs. The cost of the inspections will be paid for by the Borrower. Any testing reports that the Borrower receives during construction should be forwarded to Lender so these reports can be provided to Lender's inspecting engineer.
- Prepayment:** No prepayment penalty. If the Mortgage Loan is prepaid Swap breakage fees may apply.

### Funds and Accounts

- Tax and Insurance Escrow:** An escrow account will be required for real estate taxes, assessments and insurance premiums commencing the month following Amortization Commencement.
- Capital Improvement Reserve:** The Lender will establish a designated escrow account for the Capital Improvements Reserve. Borrower shall make monthly deposits to said account in the amount of \$1,633 ( $\$350 \times 56 = \$19,600 / 12$ ) per month for replacement items commencing the month following Amortization Commencement.
- Reserves:** A Rent Up Reserve must be included in the development budget equal to \$69,624. These funds may be drawn during the lease-up phase up until Amortization Commencement.
- An Operating Reserve must be included in the development budget equal to \$79,570 for future operating deficits after Amortization Commencement.

### Deposits and Fees

- Expense Deposit:** An expense deposit is not required. However, Borrower agrees to pay for any Lender ordered third party reports, such as the appraisal, and to pay all legal and professional costs and fees incurred by Lender regardless of whether or not the Mortgage Loan closes.
- Origination Fee:** Borrower agrees to pay to Lender non-refundable "Origination Fees" in an amount equal to 1.0% of the Mortgage Loan amount and 1.0% of the Permanent Loan Term Amount at closing.
- Legal Fees:** Borrower agrees to pay Lender's legal fees incurred in connection with the preparation and negotiation of the loan documents.
- Broker Fees:** It is Lender's understanding that no mortgage broker is involved in this transaction. No broker's fees will be paid by Lender or from any fees due Lender.

THIS TERM SHEET REFLECTS LENDER'S PRELIMINARY INTEREST IN EXPLORING THE POSSIBILITY OF A CREDIT ARRANGEMENT AND WILL NOT BE BINDING ON THE LENDER OR THE ADDRESSEE. The terms proposed herein are subject to revision at Lender's discretion. Should Lender enter into a credit relationship with the borrower, documents may contain additional or different

terms, covenants, and conditions. This term sheet may not be contradicted by evidence or any alleged oral agreement, may not be disclosed, and may not be relied upon for any purpose without Lender's prior written consent.

This term sheet is provided as an outline of terms only and is not to be considered a commitment by Lender to lend at a contract rate of interest. Any commitment by Lender is subject to further due diligence, including but not limited, to the following:

- The receipt, review and acceptance of an appraisal to be commissioned by Lender,
- The receipt, review and acceptance of an environmental report for the project,
- The receipt, review and acceptance of a Plan and Cost Review report,
- Verification of the commitment of HCCSD Loan funds, the City Grant to the Borrower for the construction of the Property,
- Evidence of permissive zoning, adequacy of parking, and flood zone determination,
- a review of the apartment market in Houston, Harris County, Texas,
- Acceptability of the financial condition, credit worthiness and references of the Borrower and each Guarantor with no material change in the information prior to closing, and
- Review and final approval by the loan committee of Lender.

ZIONS BANCORPORATION, N.A. DBA AMEGY BANK,  
a national banking association

By: Sara Hale  
Sara Hale, Senior Vice President

Accepted and Agreed to:

[Signature]



## HARRIS COUNTY, TEXAS COMMUNITY SERVICES DEPARTMENT

Joshua Stuckey  
Interim Director

8410 Lantern Point Drive  
Houston, Texas 77054  
Tel (832) 927-4700  
Fax (713) 578-2090

February 6, 2020

Peter Postlmayr  
Manager  
Light Rail Lofts, LLC.  
414 S. Marengo Ave  
Pasadena, CA 91101

Attn: Randall Bishop, Manager

RE: 2017 CDBG-DR Affordable Rental Housing Funding  
4600 Main Street Housing, LP - Light Rail Lofts  
Project Number: D2017-063

Dear Mr. Postlmayr:

We are pleased to inform you that the above referenced project has received clearance from the Texas General Land Office (TX GLO) regarding their Affirmatively Furthering Fair Housing (AFFH) Review. Completion of the review and AFFH clearance indicates approval of the proposed Light Rail Loft Apartments site with conditions as detailed in the attached *Exhibit of Loan Conditions*. Additionally, the project has also been approved for a conditional award in the amount of \$9,546,947. Harris County funding is part of a total project cost of \$16,339,005. This funding will assist Light Rail Lofts, LLC. in acquiring and rehabilitating property located at 4600 Main Street, Houston, TX 77002 in order to provide 56 units of affordable housing for families.

The terms and conditions of the proposed 2017 CDBG-DR loan are detailed in the attached Exhibit of Loan Conditions. It is important to note that as part of the implementation of the project, the Harris County Community Services Department (HCCSD) and Harris County Engineering Department (HCED) will provide project management, oversight and inspection services. To cover these expenses, HCCSD has designated \$274,571 of the awarded 2017 CDBG-DR rental housing funding for this purpose. In addition, \$120,000 of CDBG-DR funding is designated for construction management services.

This award is contingent upon the following:

- 1) Approval from the Harris County Commissioner's Court regarding the execution of a contract with Harris County
- 2) Approval from the U.S. Department of Housing and Urban Development (HUD) and the Texas General Land Office (GLO) regarding the project and Environmental Review Record

The project must also comply with the Mitigation Measures and Conditions identified in the required environmental review. A potential noise mitigation issue has been identified with more details provided in the attached *Exhibit of Loan Conditions*.

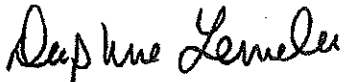
As a condition of funding, you are required to provide the following items prior to contract execution:

- 1) A written response on letterhead acknowledging your organizations acceptance of the revised conditional award, loan terms and conditions by February 19, 2020.
- 2) Submission of an updated design/construction timeline by February 19, 2020.
- 3) Copies of all project-related subcontracts currently in effect or that will be in effect as of February 19, 2020.

Non-receipt of these items will delay the contract development phase as well as funding of the project. Any awarded grant funds expended prior to contract execution and Commissioners Court approval will not be reimbursed. In addition, please retain a copy of all information submitted for your records. Any changes that alter the proposed project's scope, beneficiaries, services, or impacts the underwriting require notification be sent to HCCSD ten (10) days prior to the change for review and approval.

All documentation and questions regarding the allocation of funding or the loan terms should be sent to the attention of Mrs. Candace Stevens at (832) 927-4802 or by email at [Candace.Stevens@csd.hctx.net](mailto:Candace.Stevens@csd.hctx.net). All contract development and closing timeline questions can be directed to Rene Martinez, Assistant Director Housing Development and Special Initiatives at (832)-927-4824 or [Rene.Martinez@csd.hctx.net](mailto:Rene.Martinez@csd.hctx.net).

Sincerely,



Daphne Lemelle  
Deputy Director

Enclosures: Exhibit of Loan Conditions

JS/DL/MN/cl/jb/cs

**Exhibit of Loan Conditions**  
 February 6, 2020

**Project Name:** Light Rail Lofts

**Beneficiaries Served:** Fifty-six (56) units of affordable housing for families

**Maker:** Light Rail Lofts, LLC.

**Maker's Address:** 414 S. Marengo Ave Pasadena, CA 91101

**Notchholder:** Harris County, a political subdivision under the laws of the State of Texas

**Place of Payment:** 8410 Lantern Point Drive, Houston, Texas 77054

**CDBG-DR Loan Term:** CDBG-DR Loan \$9,546,947 Terms – 20 Years interest only hard payments to HCCSD. Years 1-20 at 0.25% (25BPS).

**CDBG-DR Loan Interest:** 0.25% (25BPS) for Years 1-20

**CDBG-DR Repayment:** \$23,867.40 annually due 12 months after the issuance of Certificate of Occupancy permit and annually thereafter for the duration of the loan term.

**Loan Conditions:**

- A Land Use Restriction Agreement or LURA will be enacted to ensure affordability and compliance as required by HOME and CDBG-DR regulations and will be filed superior to all other liens.
- As a condition of funding, you will be required to provide twenty-nine units (29) of CDBG-DR assisted, including eight (8) Rehabilitation Act Section 504 compliant units. The breakdown of units follows:

2018 Rent Limits
High Rent Limit: 17 units
Low Rent Limit: 5 units
60% Low HOME Rent Limit: 7 units

\*Light Rail Lofts has a total of 56 units.

Section 504 Accessibility (Base)	HCCSD Additional Accessibility	Total
Mobility Impaired: 3 units	Mobility Impaired: 2 units	Mobility Impaired: 5 units
Sensory Impaired: 2 units	Sensory Impaired: 1 units	Sensory Impaired: 3 units

Note: For new construction and major rehabilitation, HCCSD required additional accessibility units above the base Section 504 requirements in the application. Additional accessibility units above are based on applicant's selection.

- The total number of affordable units by unit type of which twenty-nine (29) units, are CDBG-DR assisted and twenty-seven (27) are market rate units. The CDBG-DR units must be leased in accordance to the median household income levels provided:

Household Median Income	Number of Affordable Zero-Bedroom Efficiency	Number of Affordable One-bedroom Units
30% or Below	7	0
31-50%	5	0
51-80%	17	0
<b>TOTAL</b>	<b>29</b>	<b>0</b>

- Twenty-nine (29) units are to be set-aside for supportive housing through the local Continuum of Care (The Way Home) coordinated access system or a comparable system as agreed to by HCCSD.
- Proposed project will adhere to Harris County Affordable Housing Standards and meet Energy Star Certification as indicated in application and utilize Energy Star rated electric devices and other measures to minimize negative thermal influences.
- The proposed project will have an annual monitoring fee of \$50.00 per assisted unit (29 units) for a total fee of \$1,450.00 due 12 months after the issuance of Certificate of Occupancy permit and annually thereafter for the duration of the loan term.
- Cantwell-Anderson or any subsequent property management must allow required unit inspections annually and at the request of HCCSD.
- The proposed project is required to comply with HUD Section 3/MWBE and Davis Bacon requirements.
- The proposed project must be equipped for broadband internet service and install broadband infrastructure. If the installation of broadband infrastructure creates an undue financial burden or is not feasible, then your organization must provide an explanation and documentation for Harris County and GLO's records.

**TX GLO AFFH Review Determination Approval Conditions**

- Applicant must equitably distribute units of various sizes between those reserved for low and moderate income (LMI) households with restricted rents (in this case 30%, 50%, 60% AMFI) and market-rate units, so that an approximately equal number of larger units and smaller units are available as rent-restricted units. There should be a similar equitable distribution of units

based on their quality and location within the property, so that rent-restricted units are indistinguishable from market-rate units.

- Applicant should consider installing additional security measures such as cameras and coded or keyed entryways to reduce crime risk caused by non-tenants.
- Applicant should acknowledge that HUD requires broadband infrastructure installation be included for all new multifamily construction and substantial rehabilitation activities conducted with CDBG-DR funds.
- Applicant will complete mitigation activities required in the Part 58 environmental review including those related to Phase I ESA findings regarding noise, lead and asbestos abatement.

**EXHIBIT C**

Preliminary Operating Budget

Pro-Forms Operating Budget  
This form should be reproduced to show projections for the entire affordability period.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
<b>Beginning CASH</b>	\$ 89,409.00	\$ 89,927.72	\$ 91,398.95	\$ 93,812.88	\$ 73,371.87	\$ 45,528.01	\$ 8,852.95	\$ 139,201.81	\$ (100,342.56)	
<b>Operating Income</b>	\$ 589,386.00	\$ 600,163.92	\$ 612,187.20	\$ 624,410.54	\$ 636,893.75	\$ 703,187.89	\$ 776,376.03	\$ 857,181.87	\$ 946,388.04	\$ 1,044,899.81
Gross Rent Potential (e)	\$ 44,124.00	\$ 45,008.48	\$ 45,806.81	\$ 46,324.74	\$ 47,781.24	\$ 62,732.26	\$ 68,220.68	\$ 74,280.34	\$ 79,970.89	\$ 86,357.37
Vacancy Allowance (% of line 1)	\$ 544,272.00	\$ 555,157.44	\$ 566,380.39	\$ 577,985.80	\$ 589,112.51	\$ 640,455.63	\$ 708,155.36	\$ 782,901.53	\$ 866,417.15	\$ 958,542.44
Effective Gross Rent	\$ 86,569.00	\$ 88,280.18	\$ 90,053.99	\$ 91,657.10	\$ 93,684.25	\$ 114,212.78	\$ 126,100.12	\$ 139,224.72	\$ 153,715.34	\$ 168,715.34
Other Income	\$ 3,584.00	\$ 5,685.08	\$ 5,778.38	\$ 5,893.95	\$ 6,011.83	\$ 6,637.54	\$ 7,328.38	\$ 8,091.13	\$ 8,933.28	\$ 9,863.04
Reserve for bad debt	\$ 625,277.00	\$ 637,782.94	\$ 650,538.19	\$ 663,543.93	\$ 676,819.93	\$ 747,263.98	\$ 825,039.74	\$ 910,810.52	\$ 1,005,718.32	\$ 1,110,384.84
<b>Gross Income (GI)</b>	\$ 35,810.00	\$ 18,540.00	\$ 19,088.20	\$ 19,668.08	\$ 20,258.16	\$ 23,485.92	\$ 27,228.62	\$ 31,563.11	\$ 36,590.28	\$ 42,418.78
<b>Operating Expenses</b>	\$ 34,400.00	\$ 35,432.00	\$ 36,494.86	\$ 37,589.81	\$ 38,717.50	\$ 44,884.20	\$ 52,093.09	\$ 60,320.81	\$ 69,528.12	\$ 81,065.85
Management Fees	\$ 7,200.00	\$ 7,418.00	\$ 7,638.48	\$ 7,867.63	\$ 8,103.66	\$ 9,384.37	\$ 10,890.65	\$ 12,625.24	\$ 14,638.12	\$ 16,987.21
Management Staff Cost	\$ 6,000.00	\$ 6,180.00	\$ 6,365.40	\$ 6,556.38	\$ 6,753.05	\$ 7,828.64	\$ 9,076.54	\$ 10,521.04	\$ 12,188.78	\$ 14,139.38
Legal Fees										
Accounting/Audit Fees										
Advertising/Marketing										
Telephone										
Office Supplies	\$ 18,088.00	\$ 18,630.84	\$ 19,189.56	\$ 19,765.25	\$ 20,358.20	\$ 23,600.74	\$ 27,359.72	\$ 31,717.42	\$ 36,789.18	\$ 42,625.96
Other Administrative Expenses	\$ 1,200.00	\$ 1,236.00	\$ 1,273.08	\$ 1,311.27	\$ 1,350.61	\$ 1,565.73	\$ 1,815.11	\$ 2,104.21	\$ 2,439.35	\$ 2,827.88
<b>Subtotal</b>	\$ 34,400.00	\$ 35,432.00	\$ 36,494.86	\$ 37,589.81	\$ 38,717.50	\$ 44,884.20	\$ 52,093.09	\$ 60,320.81	\$ 69,528.12	\$ 81,065.85
Maintenance	\$ 7,200.00	\$ 7,418.00	\$ 7,638.48	\$ 7,867.63	\$ 8,103.66	\$ 9,384.37	\$ 10,890.65	\$ 12,625.24	\$ 14,638.12	\$ 16,987.21
Maintenance Staff Cost	\$ 6,000.00	\$ 6,180.00	\$ 6,365.40	\$ 6,556.38	\$ 6,753.05	\$ 7,828.64	\$ 9,076.54	\$ 10,521.04	\$ 12,188.78	\$ 14,139.38
Elevator (if any)										
Other Mechanical Equipment (specify)										
Decorating (specify)										
Routine Repairs and Supplies	\$ 36,400.00	\$ 37,462.00	\$ 38,616.76	\$ 39,775.28	\$ 40,938.52	\$ 47,483.74	\$ 55,088.27	\$ 63,827.62	\$ 73,993.71	\$ 85,778.98
Exterminating	\$ 1,200.00	\$ 1,236.00	\$ 1,273.08	\$ 1,311.27	\$ 1,350.61	\$ 1,565.73	\$ 1,815.11	\$ 2,104.21	\$ 2,439.35	\$ 2,827.88
Laundry and Landscaping	\$ 9,200.00	\$ 9,476.00	\$ 9,760.28	\$ 10,053.08	\$ 10,354.68	\$ 12,003.91	\$ 13,915.83	\$ 16,132.28	\$ 18,701.71	\$ 21,680.40
Garage/Trash Removal										
Snow Removal	\$ 44,785.00	\$ 46,088.68	\$ 47,481.84	\$ 48,966.09	\$ 50,543.27	\$ 58,386.43	\$ 67,697.47	\$ 78,478.92	\$ 90,779.73	\$ 105,470.45
Other (specify)	\$ 139,156.00	\$ 143,530.88	\$ 147,830.60	\$ 152,059.52	\$ 156,221.30	\$ 181,587.02	\$ 210,485.94	\$ 244,010.89	\$ 282,875.50	\$ 327,830.23
<b>Subtotal</b>	\$ 34,400.00	\$ 35,432.00	\$ 36,494.86	\$ 37,589.81	\$ 38,717.50	\$ 44,884.20	\$ 52,093.09	\$ 60,320.81	\$ 69,528.12	\$ 81,065.85
Utilities	\$ 30,400.00	\$ 31,312.00	\$ 32,251.36	\$ 33,218.90	\$ 34,215.47	\$ 39,685.10	\$ 45,982.73	\$ 53,306.59	\$ 61,795.94	\$ 71,539.58
Residential	\$ 10,932.00	\$ 10,332.96	\$ 10,642.95	\$ 10,962.24	\$ 11,291.10	\$ 13,088.48	\$ 15,174.30	\$ 17,591.17	\$ 20,392.89	\$ 23,841.07
Commercial Areas										
Common Areas										
Heat and Hot Water (specify fuel)	\$ 3,600.00	\$ 3,605.00	\$ 3,713.15	\$ 3,824.54	\$ 3,939.28	\$ 4,566.71	\$ 5,284.08	\$ 6,137.27	\$ 7,114.78	\$ 8,247.98
Residential	\$ 1,500.00	\$ 1,545.00	\$ 1,591.35	\$ 1,639.09	\$ 1,688.28	\$ 1,957.18	\$ 2,268.88	\$ 2,630.20	\$ 3,049.19	\$ 3,534.85
Commercial Areas										
Common Areas	\$ 21,280.00	\$ 21,918.40	\$ 22,575.95	\$ 23,253.23	\$ 23,950.63	\$ 27,765.57	\$ 32,187.81	\$ 37,314.81	\$ 43,267.86	\$ 50,147.71
Sewer and Water	\$ 65,712.00	\$ 68,713.98	\$ 70,714.76	\$ 72,898.00	\$ 75,054.94	\$ 87,044.03	\$ 100,907.89	\$ 116,979.90	\$ 135,511.76	\$ 157,211.20
<b>Subtotal</b>	\$ 23,408.00	\$ 24,110.24	\$ 24,833.55	\$ 25,578.55	\$ 26,345.91	\$ 30,542.13	\$ 35,408.70	\$ 41,048.07	\$ 47,583.64	\$ 55,162.49
Taxes/Insurance/Reserves	\$ 31,820.00	\$ 32,877.60	\$ 33,863.93	\$ 34,879.85	\$ 35,926.24	\$ 41,648.38	\$ 48,281.86	\$ 55,971.91	\$ 64,856.78	\$ 75,221.57
Property Insurance	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00	\$ 11,950.00
Real Estate Taxes	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00	\$ 20,138.00
Annual Monitoring Fee - (Reserve)										
Reserve Replacement										
Operating Deficit Reserves	\$ 87,416.00	\$ 89,075.64	\$ 90,795.46	\$ 92,548.40	\$ 94,330.15	\$ 104,378.49	\$ 116,776.58	\$ 131,058.88	\$ 147,559.43	\$ 166,472.08
<b>Subtotal</b>	\$ 353,032.00	\$ 363,018.82	\$ 373,305.24	\$ 383,970.26	\$ 394,813.13	\$ 454,488.18	\$ 523,670.04	\$ 603,868.64	\$ 696,842.96	\$ 804,824.52
<b>Total Operating Expenses (TOE)</b>	\$ 272,245.00	\$ 274,763.72	\$ 277,232.98	\$ 279,648.69	\$ 282,015.80	\$ 292,774.73	\$ 301,369.68	\$ 307,040.88	\$ 308,875.86	\$ 305,770.32
Effective Gross Income (GI - TOE)	\$ 185,836.00	\$ 185,836.00	\$ 185,836.00	\$ 185,836.00	\$ 185,836.00	\$ 217,401.84	\$ 254,328.40	\$ 287,528.42	\$ 348,087.34	\$ 407,189.56
Debt Service	1.46	1.48	1.49	1.50	1.52	1.35	1.18	1.03	0.89	0.75
Debt Service Coverage Ratio Required	\$ 86,409.00	\$ 88,927.72	\$ 91,396.95	\$ 93,812.88	\$ 96,170.80	\$ 75,372.90	\$ 47,040.28	\$ 9,511.45	\$ (39,191.49)	\$ (101,418.24)
Ending Cash:										

**EXHIBIT D**

Preliminary Construction Budget

Light Rail Lofts  
Development Cost  
Updated 8-17-20

	Harris County CDBG-DR	City of Houston CDBG	HOME	Amegy Bank Leveraging	Seller Note	Total Project Cost
<b>Acquisition Costs</b>						
Site Acquisition		<u>1,964,143</u>			<u>351,475</u>	<u>2,315,618</u>
Total Acquisition Costs	0	1,964,143		0	351,475	2,315,618
<b>Off-Site</b>						
Off-Site concrete				37,400		37,400
Storm drains and devices				18,320		18,320
Water and Fire Hydrants				48,700		48,700
Off-site utilities				16,800		16,800
Sewer laterals				21,500		21,500
Off-site paving				6,900		6,900
Off-site electrical				5,400		5,400
Other (parking deck improvements)				<u>350,440</u>		<u>350,440</u>
Sub-total Off-site costs	0	0	0	505,460	0	505,460
<b>Site Work</b>						
Demolition	352,115					352,115
Rough grading						0
Fine grading	5,400					5,400
On-site concrete	7,800					7,800
On-site electrical						0
On-site paving	4,900					4,900
On-site utilities	107,515					107,515
Decorative masonry	5,000					5,000
Site Work (roads, sewer and water lines)						0
Bumper stops, striping and signs	45,000					45,000
Landscape	35,985					35,985
Pool and decking						0
Athletic court						0
Fencing	26,450					26,450
Other (second story access)	<u>39,500</u>					<u>39,500</u>
Sub-total Site Costs	629,665	0	0	0	0	629,665
<b>Direct Construction /Rehab costs</b>						
Concrete	202,345		30,675			233,020
Masonry	40,639		6,161			46,800
Metals	615,933		93,372			709,305
Woods and Plastics	585,458		88,752			674,210
Thermal and Moisture Protection	70,767		10,728			81,495
Roof covering	162,978		24,707			187,685
Doors and Windows	587,138		89,007			676,145
Finishes	1,133,750		171,870			1,305,620
Specialties	117,342		17,788			135,130
Equipment	134,691		20,419			155,110
Furnishings	101,225		15,345			116,570
Special Construction	0		0			0
Conveyance Systems	90,657		13,743			104,400
Mechanical (HVAC, Plumbing)	1,721,409		260,956			1,982,365
Electrical	544,836		82,594			627,430
Lead Based Paint Abatement	15,630		2,370			18,000
Asbestos Abatement	30,393		4,607			35,000
Other Common Area Rehab	573,141		86,885			660,026
Other (sales tax)	321,980		48,810			370,790

Subtotal construction and rehab costs	<u>7,050,311</u>		<u>1,068,790</u>	<u>0</u>	<u>0</u>	<u>8,119,101</u>
<b>Total Site plus Construction /Rehab Costs</b>	<b>7,679,976</b>	<b>0</b>	<b>1,068,790</b>	<b>0</b>	<b>0</b>	<b>8,748,766</b>
<b>Other Construction Costs</b>						
General Requirements	447,595					447,595
Field Supervision						0
Contractor Overhead	174,353					174,353
General and Administrative						0
Contractor Profit	325,452					325,452
Sum						0
Construction Contingency	<u>525,000</u>					<u>525,000</u>
<b>Subtotal Other Construction and Rehab costs</b>	<b><u>1,472,400</u></b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b><u>1,472,400</u></b>
<b>Total Construction/Rehab costs</b>	<b>9,152,376</b>	<b>0</b>	<b>1,068,790</b>	<b>0</b>	<b>0</b>	<b>10,221,166</b>
<b>General Soft Costs</b>						
Architect/engineering fee			428,731			428,731
Building Permits			2,479	14,521		17,000
Audit				55,000		55,000
Affirmative Marketing/fair Housing				5,000		5,000
Impact Fees				113,000		113,000
Surveys				20,000		20,000
Appraisal				15,000		15,000
Market analysis				4,500		4,500
Environmental				6,750		6,750
Insurance				95,000		95,000
Other (owners contingency)				<u>468,931</u>		<u>468,931</u>
<b>Subtotal General Soft Costs</b>	<b>0</b>	<b>0</b>	<b>431,210</b>	<b>797,702</b>	<b>0</b>	<b>1,228,912</b>
<b>Construction Financing</b>						
Construction - Loan Origination				142,000		142,000
Taxes during Construction						0
Construction Loan Origination				58,000		58,000
Property Taxes during Construction				12,000		12,000
Other (construction loan interest res)				<u>153,412</u>		<u>153,412</u>
<b>Subtotal Construction Financing</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>365,412</b>	<b>0</b>	<b>365,412</b>
<b>Reserves</b>						
Rent-up				69,624		69,624
Operating				79,570		79,570
Replacement				<u>16,800</u>		<u>16,800</u>
<b>Subtotal Reserves</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>165,994</b>	<b>0</b>	<b>165,994</b>
<b>Developer Fees</b>						
Housing Consultant Fees				50,000		50,000
General and Administrative				50,000		50,000
Profit or fee				<u>1,041,872</u>		<u>1,041,872</u>
<b>Subtotal Developer Fee</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,141,872</b>	<b>0</b>	<b>1,141,872</b>
<b>Total Development Cost before CSD and HCED</b>	<b>9,152,376</b>	<b>1,964,143</b>	<b>1,500,000</b>	<b>2,976,440</b>	<b>351,475</b>	<b>15,944,434</b>
HC Engineering Dept Services	274,571					274,571
Construction Manager	<u>120,000</u>					<u>120,000</u>
<b>Total Development Cost</b>	<b>9,546,947</b>	<b>1,964,143</b>	<b>1,500,000</b>	<b>2,976,440</b>	<b>351,475</b>	<b>16,339,005</b>

**HUMPHRIES CONSTRUCTION CORPORATION**

Light Rail Lofts

Application for Payment Schedule of Values

8/14/20

<b>CSI CODE</b>	<b>DESCRIPTION OF WORK</b>	<b>SCHEDULED VALUE</b>
DIVISION 01	General Conditions	\$565,610
DIVISION 02	Asbestos Abatement/Demolition/Bracing/Shoring	485,160
DIVISION 02	Street/Sidewalk Closures/Holsting & Traffic Control	151,800
DIVISION 03	Concrete	288,230
DIVISION 03	Gypcrete Topping & Acoustic Sound Board	30,795
DIVISION 04	Masonry	139,920
DIVISION 05	Structural & Miscellaneous Steel	790,850
DIVISION 06	Framing & Rough Carpentry	877,760
DIVISION 06	Finish Carpentry & Casework	328,700
DIVISION 07	Waterproofing & Sealants	82,875
DIVISION 07	Insulation & Fire Safing	120,105
DIVISION 07	Roofing & Sheetmetal Flashing	156,645
DIVISION 08	Doors, Frames, & Hardware	182,020
DIVISION 08	Vinyl Windows & Storefront Aluminum & Glass	193,975
DIVISION 09	Drywall	655,305
DIVISION 09	Plaster	145,670
DIVISION 09	Flooring & Tiling	251,345
DIVISION 09	Metal Panel Ceilings	60,450
DIVISION 09	Painting	237,265
DIVISION 10	Interior Specialties	69,995
DIVISION 11	Equipment	175,315
DIVISION 12	Site Furnishings	24,555
DIVISION 12	Window Treatments	27,770
DIVISION 13	Aluminum Canopies	14,590
DIVISION 14	Elevator	82,300
DIVISION 14	Trash Chute	19,990
DIVISION 21	Fire Sprinkler System	147,000
DIVISION 22	Plumbing	579,700
DIVISION 23	HVAC	710,000
DIVISION 26 & 28	Electrical & Fire Alarm	628,425
DIVISION 31	Earthwork/SWPPP/Haul Spoils	47,030
DIVISION 32	Exterior Improvements	69,485
DIVISION 33	Site Utilities	130,285
	Parking Structure Repairs Allowance	131,250
	Parking Structure Lighting/Controls/Fencing Allowance	78,750
	Building Marque Allowance	36,750

**HUMPHRIES CONSTRUCTION CORPORATION**

First Floor Tennant Finish Allowance	660,026
Project Insurance	104,369
Contractor's Fee	379,285
Payment & Performance Bond	80,100
<b>TOTAL:</b>	<b>\$9,941,450</b>

**EXHIBIT E**

Preliminary Scope of Work

4600 Main Street Housing, LP  
Light Rail Lofts - Scope of Work

Building 4600 Main Street is an existing two-story building with 29,948 square feet of interior space. After renovation, the building will be a total of 3 stories with approximately 41,000 interior square feet. Floors 2 and 3 will provide a total of 56 permanent housing rental units (28 per floor) with average square feet of 340 while the first floor provides resident circulation and support service area in addition to 8,600 square feet of leasable support area.

Access to the residential units is provided by a new central elevator and stair. There is a connection via a "bridge" over the private alley to the parking deck on the west. A second stair is located on the south west side of the building. Resident parking is provided at an existing parking structure to the northwest. Use of the existing parking structure is provided under an arrangement with Midtown Terrace. The first floor allows for resident access from Main Street on the east directly adjacent to bus and light rail transportation hubs. Residents will have use of a central laundry, mail room, and two multipurpose rooms located at the first-floor level. Resident supportive services will be located within the 1<sup>st</sup> floor leasable space and greater Midtown Campus.

The rehabilitation / new construction of Light Rail Lofts will consist of the following components.

**First Floor-**The existing first floor of the building will be demolished leaving only the structural steel and concrete/brick exterior. The first-floor space will be initially built out to only accommodate the second and third story residential units, and will include the elevator lobby, entrance lobby, stairwells, trash and janitor closets, public restrooms, laundry room, mailboxes and a multi-purpose room.

**Second / Third Floors-** Each of these floors will be improved with 28 Efficiency apartments. Each unit's occupancy is intended for a single adult resident. The unit design contains: a bathroom with tub/shower, wall sink and toilet; a kitchen area with stove, sink and refrigerator; and, a combined living/sleeping area with closet, phone, internet and cable outlets. Finishes include vinyl plank flooring, painted 5/8" drywall, hard surface kitchen counter tops, solid wood cabinet fronts and drawers, tile flooring in bathrooms with high density fiberglass tubs/showers. Plumbing fixtures are low flow with electrical fixtures meeting energy star ratings. Access to unit entries is from a central internal corridor. A trash chute is provided at floors 2 thru 3. The addition of the 3 floor is structurally supported with a design independent from the existing structure allowing the existing building to remain intact. The structural plan provides new footings and steel posts going vertically past the existing 2<sup>nd</sup> floor roof to support the 3<sup>rd</sup> level floor with steel beams connected to the posts. This will allow the 3<sup>rd</sup> floor to be type 5 construction over a steel and concrete decking.

Work will include new plumbing, heating and cooling, electrical, insulation, roof, windows, millwork, flooring and wall finishes. Existing exterior walls will be refinished on floors 1 & 2 with the 3<sup>rd</sup> floor added by completely new construction. A new stair and elevator will extend from first floor to roof. New building systems will include electrical switch gear, fire sprinklers and alarm, with properly sized gas and

water meters. The first floor except for the residential circulation and services space, will be a "finished shell" and await interior treatments and finishes meeting tenant needs.

The building covers a majority of the site except for the private ally to the west. The "Garden Ally" provides an opportunity for a landscape entry fashioned around an "old town" garden theme. This area includes planters, bar-b-ques, sitting areas with walking pavers to create an inviting and relaxed setting for resident engagement.

# LIGHT RAIL LOFTS DRAWING LOG 10/01/2018

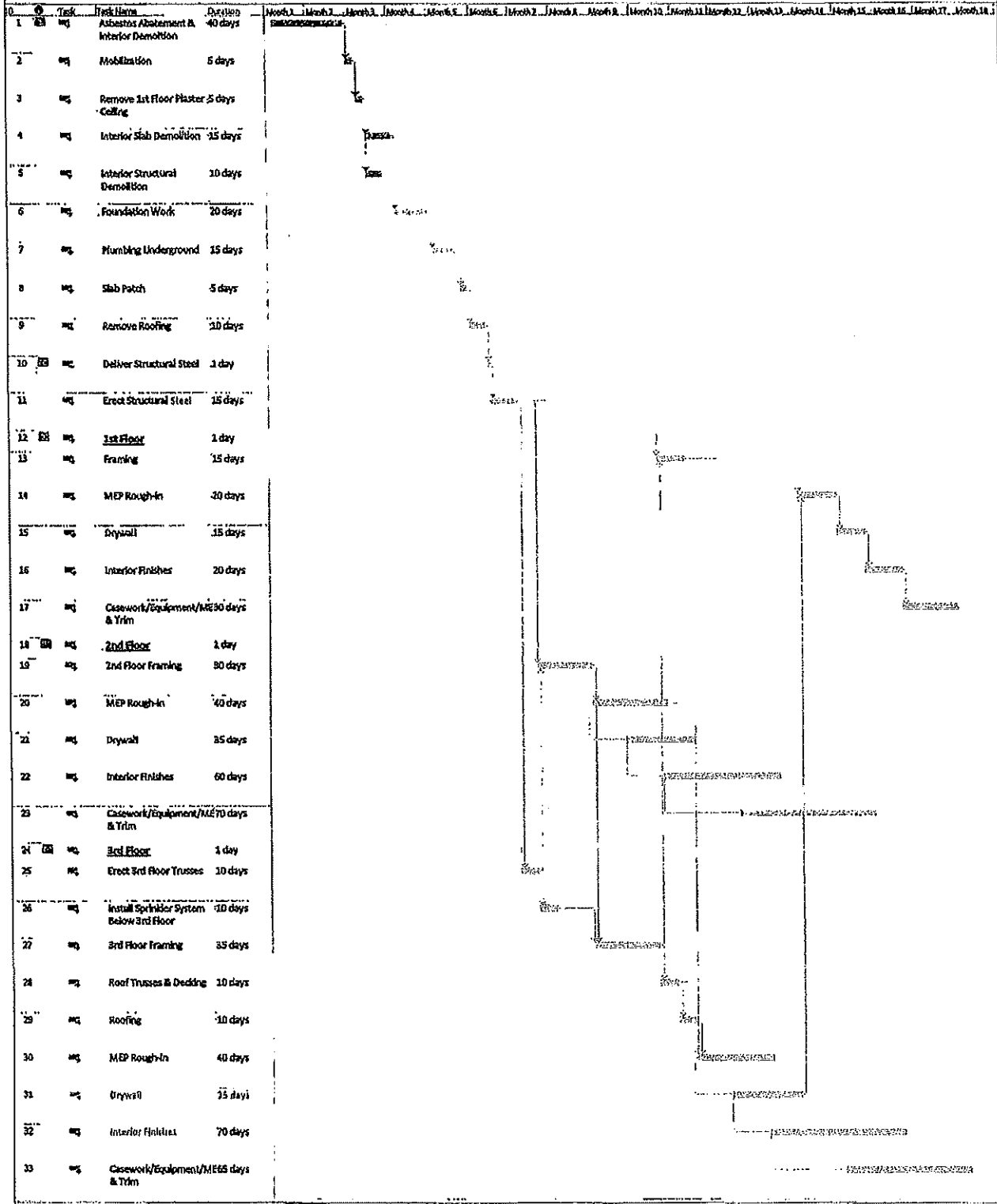
SHEET #	SHEET TITLE	ISSUE DATE	ISSUE NAME
C001	GENERAL NOTES	10/1/2018	ISSUED FOR BIDDING
C002	SUBDIVISION PLAT	10/1/2018	ISSUED FOR BIDDING
C100	EXISTING CONDITIONS PLAN	10/1/2018	ISSUED FOR BIDDING
C200	EROSION & SEDIMENTATION CONTROL PLAN	10/1/2018	ISSUED FOR BIDDING
C500	STANDARD DETAILS (STORM)	10/1/2018	ISSUED FOR BIDDING
C501	STANDARD DETAILS (WATER)	10/1/2018	ISSUED FOR BIDDING
CD100	DEMOLITION PLAN	10/1/2018	ISSUED FOR BIDDING
CG101	PROPOSED GRADING & UTILITY PLAN	10/1/2018	ISSUED FOR BIDDING
CG200	(E) & PROPOSED DRAINAGE AREA MAPS	10/1/2018	ISSUED FOR BIDDING
CS100	DETAILED SITE & DIM CONTROL PLAN	10/1/2018	ISSUED FOR BIDDING
L1.1	LANDSCAPE PLAN	10/1/2018	ISSUED FOR BIDDING
L2.1	IRRIGATION PLAN	10/1/2018	ISSUED FOR BIDDING
A0.00	COVER SHEET	10/1/2018	ISSUED FOR BIDDING
A0.01	CODE ANALYSIS	10/1/2018	ISSUED FOR BIDDING
A0.02	MULTIFAMILY REVIEW	10/1/2018	ISSUED FOR BIDDING
A0.03	ACCESSIBILITY DETAILS	10/1/2018	ISSUED FOR BIDDING
A0.04	ACCESSIBILITY DETAILS	10/1/2018	ISSUED FOR BIDDING
A0.10	SITE PLAN	10/1/2018	ISSUED FOR BIDDING
A0.11	PARKING PLANS	10/1/2018	ISSUED FOR BIDDING
A1.00	DEMO PLANS	10/1/2018	ISSUED FOR BIDDING
A1.01	DEMO ELEVATIONS	10/1/2018	ISSUED FOR BIDDING
A2.10	ARCHITECTURAL GROUND FLOOR PLAN	10/1/2018	ISSUED FOR BIDDING
A2.20	ARCHITECTURAL SECOND FLOOR PLAN	10/1/2018	ISSUED FOR BIDDING
A2.30	ARCHITECTURAL THIRD FLOOR PLAN	10/1/2018	ISSUED FOR BIDDING
A2.40	ARCHITECTURAL ROOF PLAN	10/1/2018	ISSUED FOR BIDDING
A3.00	BUILDING ELEVATIONS	10/1/2018	ISSUED FOR BIDDING
A4.00	BUILDING SECTIONS	10/1/2018	ISSUED FOR BIDDING
A5.00	WALL SECTIONS	10/1/2018	ISSUED FOR BIDDING
A5.01	WALL SECTIONS	10/1/2018	ISSUED FOR BIDDING
A6.02	ENLARGED PUBLIC SPACES	10/1/2018	ISSUED FOR BIDDING
A6.03	ENLARGED TRASH CHUTE/UTILITY	10/1/2018	ISSUED FOR BIDDING
A6.21	ENLARGED UNIT PLANS - 2ND FLOOR	10/1/2018	ISSUED FOR BIDDING
A6.22	ENLARGED UNIT PLANS - 3RD FLOOR	10/1/2018	ISSUED FOR BIDDING
A6.23	INT ELEVATIONS - TYP UNITS	10/1/2018	ISSUED FOR BIDDING
A6.24	INT ELEVATIONS - HC UNITS	10/1/2018	ISSUED FOR BIDDING
A8.10	RCP - GROUND FLOOR	10/1/2018	ISSUED FOR BIDDING
A8.20	RCP - SECOND FLOOR	10/1/2018	ISSUED FOR BIDDING
A8.30	RCP - THIRD FLOOR	10/1/2018	ISSUED FOR BIDDING
A9.10	SITE & HARDSCAPE DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.20	EXTERIOR DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.30	ROOF DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.31	ROOF DETAILS - FIRESTONE	10/1/2018	ISSUED FOR BIDDING
A9.32	ROOF DETAILS - FIRESTONE 2	10/1/2018	ISSUED FOR BIDDING
A9.40	PARTITION DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.41	ACOUSTIC & FIRE RATING DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.42	ACOUSTIC & FIRE RATING DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.50	DOOR SCHEDULE & DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.51	DOOR DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.60	STOREFRONT SCHEDULE & DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.61	WINDOW SCHEDULE & DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.71	ENLARGED STAIRS	10/1/2018	ISSUED FOR BIDDING
A9.72	ENLARGED STAIRS	10/1/2018	ISSUED FOR BIDDING
A9.73	ENLARGED ELEVATOR	10/1/2018	ISSUED FOR BIDDING
A9.80	INTERIOR DETAILS	10/1/2018	ISSUED FOR BIDDING
A9.85	FINISH SCHEDULE AND PLANS	10/1/2018	ISSUED FOR BIDDING
S0.1	STRUCTURAL SPECIFICATIONS	10/1/2018	ISSUED FOR BIDDING
S0.2	STRUCTURAL SCHEDULES	10/1/2018	ISSUED FOR BIDDING
S0.3	SHEARWALL SECTIONS AND DETAILS	10/1/2018	ISSUED FOR BIDDING
S1.0	FOUNDATION PLAN	10/1/2018	ISSUED FOR BIDDING
S2.0	SECOND FLOOR FRAMING PLAN	10/1/2018	ISSUED FOR BIDDING
S3.0	EXISTING ROOF FRAMING PLAN	10/1/2018	ISSUED FOR BIDDING
S4.0	THIRD FLOOR FRAMING PLAN	10/1/2018	ISSUED FOR BIDDING
S5.0	ROOF FRAMING PLAN	10/1/2018	ISSUED FOR BIDDING
S6.0	FOUNDATION SECTIONS	10/1/2018	ISSUED FOR BIDDING
S7.0	FLOOR FRAMING SECTIONS AND DETAILS	10/1/2018	ISSUED FOR BIDDING
S7.1	FLOOR FRAMING SECTIONS AND DETAILS	10/1/2018	ISSUED FOR BIDDING
S7.2	FLOOR FRAMING SECTIONS AND DETAILS	10/1/2018	ISSUED FOR BIDDING
S8.0	ROOF FRAMING SECTIONS AND DETAILS	10/1/2018	ISSUED FOR BIDDING
M.010	MECH NOTES, SYMBOLS, & ABBREVIATIONS	10/1/2018	ISSUED FOR BIDDING
M.101	GROUND FLOOR HVAC MECHANICAL PLAN	10/1/2018	ISSUED FOR BIDDING
M.102	SECOND FLOOR HVAC MECH PLAN	10/1/2018	ISSUED FOR BIDDING
M.103	THIRD FLOOR HVAC MECH PLAN	10/1/2018	ISSUED FOR BIDDING
M.301	ROOF MECH PLAN	10/1/2018	ISSUED FOR BIDDING
M.401	TYPICAL UNIT HVAC MECH PLANS	10/1/2018	ISSUED FOR BIDDING
M.501	MECHANICAL SCHEDULES	10/1/2018	ISSUED FOR BIDDING
M.601	MECHANICAL DETAILS	10/1/2018	ISSUED FOR BIDDING

Project Manual For Light Rail Lofts Issued for Bidding October 1, 2018

**EXHIBIT F**

Preliminary Construction Schedule

**PROJECT SCHEDULE FOR  
LIGHT RAIL LOFTS**



Project: Light Rail Lofts Rev 2	Task	Project Summary	Master Task	Start-only	Deadline
Date: Wed 2/19/20	Split	Isolate Task	Duration only	Finish-only	Progress
	Milestone	Isolate Milestone	Master Summary/Link	External Task	Master Progress
	Summary	Isolate Summary	Master Summary	External Milestone	

PREPARED BY  
HUMPHRIES CONSTRUCTION CORPORATION  
2/12/20

**ATTACHMENTS TO FIRST AMENDMENT**

- H. Declaration of Subordination
- I. Intercreditor Agreement
- Q. First Amendment to Restrictive Covenants
- R. First Supplement to Deed of Trust

**ATTACHMENT H**

Declaration of Subordination

**DECLARATION OF SUBORDINATION OF SENIOR LENDER**

**STATE OF TEXAS**                   §  
  §  
**COUNTY OF HARRIS**           §

**WHEREAS, ZIONS BANCORPORATION, N.A., DBA AMEGY BANK ("Senior Lender")**, has made a construction loan to **4600 MAIN STREET HOUSING, LP**, a Texas limited partnership ("**Borrower**"), in the maximum principal amount of **THREE MILLION NINE HUNDRED SEVENTY SIX THOUSAND FOUR HUNDRED FORTY AND NO/100 DOLLARS (\$3,976,440.00)**, which loan will be converted to a permanent loan, with an original principal amount not to exceed the amount of **TWO MILLION NINE HUNDRED SEVENTY SIX THOUSAND FOUR HUNDRED FORTY AND NO/100 DOLLARS (\$2,976,440.00)** (unless otherwise approved by the Director) ("**Senior Loan**"), for the purpose of financing a portion of the cost to renovate one or more buildings and associated premises located at 4600 Main Street, Houston, Harris County, Texas, as more particularly described in Exhibit A attached hereto and incorporated herein ("**Property**"), as evidenced by that certain **Promissory Note-Revolving (with SWAP Provisions)** of even date herewith executed by Borrower ("**Senior Lien Note**"), and secured by that certain **Multifamily Construction and Permanent Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing** of even date herewith executed by Borrower, which encumbers the Property and has been or will be recorded in the Official Public Records of Real Property of Harris County, Texas ("**Senior DOT**");

**WHEREAS, THE CITY OF HOUSTON, TEXAS**, a home-rule city organized under the laws of the State of Texas ("**City**"), has made a loan to Borrower, in a principal amount up to **ONE MILLION NINE HUNDRED SEVENTY ONE THOUSAND SIX HUNDRED EIGHTEEN AND NO/100 DOLLARS (\$1,971,618.00)** (the "**City Loan**" and/or the

“**Subordinate Loan**”), for the purpose of financing a costs to acquire the land and improvements at 4600 MAIN STREET, HOUSTON, TEXAS, as evidenced by that certain Note dated May 15, 2013 executed by Borrower and secured by that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing of even date therewith executed by Borrower, which encumbers the Property and has been recorded in the Official Public Records of Real Property of Harris County, Texas, as such documents may be amended by amendments to be dated of even date herewith (such deed of trust collectively with all documents evidencing, securing, guaranteeing or otherwise pertaining to the Subordinate Loans, the "**Subordinate Lien Loan Documents**"); and

**WHEREAS**, the Property is encumbered by that certain Declaration of Land Use Restrictions (Restrictive Covenants) executed by Borrower for the benefit of the City, as such Declaration my be amended by an amendment to be dated of even date herewith (collectively with all renewals, modifications, consolidations, replacements and extensions thereof, the "**LURA**").

**NOW, THEREFORE**, for and in consideration of the City's extension of credit to Borrower evidenced by the City Loan, of the mutual promises, covenants and agreements contained herein, and in satisfaction of certain requirements set forth in that certain Loan Agreement dated May 7, 2013, as amended by the First Amendment dated \_\_\_\_\_, 2020, (the "**Loan Agreement**"), by and among the City and Borrower, Senior Lender agrees, covenants, represents and warrants for the benefit of the City and its successors and assigns as follows:

I. The documents evidencing, securing, guaranteeing or otherwise pertaining to the Senior Loan, including, without limitation, the Senior Lien Note, Senior DOT and any express or

implied vendor's lien retained in connection with the transfer of the Property to Borrower or other equitable lien (such documents being collectively referred to herein as the "**Senior Lien Loan Documents**" and the liens created thereby together with any equitable liens or vendor liens collectively referred to herein as the "**Senior Liens**") are now and shall at all times during the "**Affordability Period**" (as defined in the LURA) be subject, subordinate and inferior to the lien, operation and effect of the LURA (SAVE AND EXCEPT the repayment of any part of the Subordinate Loan that is triggered by the default under the LURA) with the same effect as if the LURA had been executed, delivered and recorded prior to the execution, delivery and recordation of the Senior Lien Loan Documents, regardless of the order of recordation of the Senior Lien Loan Documents and the LURA.

II. So long as the Affordability Period has not expired, the LURA shall at all times be an exception and encumbrance to title of the Property delivered to Senior Lender pursuant to the Senior DOT.

III. Notwithstanding anything to the contrary contained in this Declaration of Subordination of Senior Lender (this "**Declaration**"), the Subordinate Lien Loan Documents, that certain Intercreditor Agreement, dated as of even date herewith, by and among the City, Cantwell Anderson, Inc., Improved Living Foundation, Inc., Borrower, Harris County and Senior Lender (the "**Intercreditor Agreement**") or the Senior Lien Loan Documents, (i) in no event shall the LURA be deemed a "Subordinate Lien Loan Document" as such term is used in the Intercreditor Agreement or a "Loan Document" as such term is used in any of the Subordinate Lien Loan Documents, (ii) during the Affordability Period, the LURA shall at all times be prior and superior to the Senior Liens and any and all other provisions of the Senior Lien Loan Documents (SAVE AND EXCEPT the repayment of any part of the Subordinate Loan that is

triggered by the default under the LURA), and (iii) in the event that there is a conflict in the terms and provisions of (a) this Declaration, (b) the Senior Lien Loan Documents, (c) the Subordinate Lien Loan Documents or (d) the Intercreditor Agreement, the terms and provisions of this Declaration shall control.

IV. All notices, demands, certificates, or other communications hereunder shall be in writing and shall be deemed sufficiently given or served for all purposes when delivered personally, when sent by certified or registered mail, postage prepaid, return receipt requested or by private courier service, in each case, with the proper address as indicated below; provided that any such notices, demands, certificates, or other communications shall be deemed effective only upon receipt. Each party may, by written notice given to the other parties, designate any other address or addresses to which notices, certificates or other communications to them shall be sent as contemplated by this Declaration. Until otherwise so provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

**SENIOR LENDER:** Zions Bancorporation, N.A. dba Amegy Bank  
4576 Research Forest Drive  
The Woodlands, Texas 77381  
Attn: Don Hickey

**BORROWER:** 4600 Main Street Housing, LP  
414 S. Marengo Avenue  
Pasadena, California 91101  
Attn: Randall Bishop

**CITY:** City of Houston  
c/o Department of Housing and Community Development  
2100 Travis, 9<sup>th</sup> Floor  
Houston, TX 77007  
Attention: Director

**WITH COPY TO:** City of Houston Legal Department  
900 Bagby, 4<sup>th</sup> Floor  
Houston, TX 77002  
Attn: Section Chief, Real Estate

V. Whenever in this Declaration any party hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all rights, benefits, covenants, promises, and agreements in this Declaration by or on behalf of the respective parties hereto shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

VI. This Declaration shall be performable and enforced in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas, without regard to the conflicts of laws rules of the State of Texas. Venue shall be appropriate in Harris County, as applicable.

VII. No amendment or waiver of any provision of this Declaration shall be effective unless the same shall be (a) in writing and signed by the party or parties against whom it is to be enforced and (b) approved in writing by the Mayor of the City of Houston and countersigned by the Controller of the City, and any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. The obligations set forth herein constitute covenants running with the Property and shall be binding upon Senior Lender, its successors and assigns.

VIII. Notwithstanding anything contained herein to the contrary, neither this Declaration, nor the City's acceptance hereof, shall foreclose or waive, nor shall it be construed to, foreclose or waive, the application of all lawful requirements under the applicable laws of the State of Texas for the approval or issuance of future agreements, permits or licenses by the City.

IX. In case any one or more of the provisions contained in this Declaration shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected and/or impaired thereby.

X. Any provision of this Declaration which contemplates (i) the payment of money by the City, which payment would require the appropriation of funds over and above any sums appropriated prior to the Effective Date of this Declaration in connection with this Declaration (and the transactions contemplated herein), or (ii) any other future action, decision, agreement, waiver or approval which by its nature must be approved by the City Council, including, without limitation, the issuance of permits or licenses, shall be subject to the approval of any subsequent City Council to which such matter is presented and to the appropriation by such City Council of the required funds, in the exercise of its legislative discretion.

XI. The parties have executed this Declaration in multiple originals, each having full force and effect, as of the date of this Declaration. Facsimile or electronically transmitted signatures shall be deemed originals for all purposes hereunder.

XII. This Declaration shall remain in full force and effect until payment in full of the Senior Loan (including any refinancing thereof).

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be duly executed by their respective officers thereunto duly authorized, as of the day and year first above written.

**SENIOR LENDER:**

ZIONS BANCORPORATION, N.A. dba Amegy Bank

By: \_\_\_\_\_  
Sara Hale, Senior Vice President

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2020, by Sara Hale, Senior Vice President of ZIONS BANCORPORATION N.A., dba Amegy Bank, on behalf of said association.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary  
My commission expires: \_\_\_\_\_

**BORROWER:**

4600 MAIN STREET HOUSING, LP,

By: Light Rail Lofts, LLC,  
its general partner

By: \_\_\_\_\_  
Randall A. Bishop  
Manager

# ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California \_\_\_\_\_ }

County of Los Angeles \_\_\_\_\_ }

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary \_\_\_\_\_

(Here insert name and title of the officer)

personally appeared Randall A. Bishop  
 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 Signature (Notary Public Seal)

### ADDITIONAL OPTIONAL INFORMATION

#### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
 (Title or description of attached document)

\_\_\_\_\_  
 (Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer  
 \_\_\_\_\_  
 (Title)  
 Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- \* State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- \* Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- \* The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- \* Print the name(s) of document signer(s) who personally appear at the time of notarization.
- \* Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they; is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- \* The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- \* Signature of the notary public must match the signature on file with the office of the county clerk.
  - ◆ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ◆ Indicate title or type of attached document, number of pages and date.
  - ◆ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- \* Securely attach this document to the signed document with a staple.

**CITY:**

THE CITY OF HOUSTON, TEXAS

---

Tom McCasland, Director  
Housing and Community Development Department

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

~~.....The foregoing instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Tom McCasland, Director, Housing and Community Development Department of the City of Houston, State of Texas.~~

---

Notary Public, State of Texas

---

Printed Name of Notary

My commission expires: \_\_\_\_\_

**EXHIBIT A  
LEGAL DESCRIPTION  
[ATTACH]**

**ATTACHMENT I**

Intercreditor Agreement

## INTERCREDITOR, SUBORDINATION, AND FUNDING AGREEMENT

This **INTERCREDITOR, SUBORDINATION, AND FUNDING AGREEMENT** (the "**Agreement**") is entered into effective as of September \_\_\_\_, 2020 ("**Effective Date**"), among Harris County, a body politic and corporate under the laws of the State of Texas (referred to herein interchangeably as the "**County**" or the "**Intermediate County Lender**"), City of Houston, a Texas home rule municipality ("**City**", and collectively with the County, the "**Public Funders**"), Improved Living Foundation, Inc., a Texas nonprofit corporation (the "**Subordinate County Lender**"), Cantwell-Anderson, Inc., a California corporation (the "**Subordinate City HOME Lender**"), and Zions Bancorporation, N.A., a national banking association (the "**Senior Lender**"), and 4600 Main Street Housing, LP, a Texas limited partnership (the "**Borrower**"). All such parties, together with their respective permitted successors and assigns, are collectively referred to as the "**Parties**" and individually referred to as a "**Party**" to this Agreement.

### RECITALS:

A. The Borrower (i) has acquired fee simple title to the real property located in Houston, Texas, more particularly described in **Exhibit A** attached hereto (the "**Property**"), and (ii) proposes to design, develop, construct and operate Light Rail Lofts ("**Light Rail Lofts**"), a new 56-unit multi-family residential project within Harris County, Texas (the "**Project**"). On October 8, 2019, Commissioners Court of Harris County approved its portion of the funding for Light Rail Lofts, under Project D2017-0631 (CDBG-DK) (\$9,546,947.00) of the total Project budget of \$16,339,005.00. Borrower will maintain ownership of the Project at the completion of construction.

B. The Borrower has arranged for additional Project financing from the Senior Lender and the City to develop and operate the Project.

C. Subject to satisfaction of certain requirements of Senior Lender, Senior Lender has agreed to make a loan of \$3,976,440.00 to the Borrower (the "**Senior Loan**") to be used for construction costs of the Project. The Senior Loan is secured by that certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "**Senior Deed of Trust**") and will be advanced to Borrower pursuant to that certain Construction Loan Agreement, dated as of September \_\_\_\_, 2020, by and between Borrower and Senior Lender (the "**Senior Loan Agreement**"). The documents and agreements evidencing, securing or relating to the Senior Loan are listed in **Exhibit B-I** attached hereto (collectively, "**Senior Loan Documents**").

D. Subject to satisfaction of certain requirements of the Intermediate County Lender, the Intermediate County Lender has agreed to lend to the Subordinate County Lender the sum of \$9,546,947.00 from 2017 Community Development Block Grant Disaster Recovery Program (CDBG-DR Harvey) funds (the "**Intermediate County Loan**"). The Intermediate County Loan Documents, as defined below, will govern the uses that may be made of the Intermediate County Loan funds and may include both hard and soft project development and construction costs depending on the source.

E. The Intermediate County Loan will be loaned to the Subordinate County Lender, which will immediately upon its receipt, lend the proceeds of the Intermediate County Loan to the Borrower ("**County Subloan**," and together with the Intermediate County Loan, collectively, the "**Junior County Loans**") for the development and construction costs of the Project, as provided in the Intermediate County Loan Documents (as hereinafter defined). The County Subloan shall be secured by a Deed of Trust, a Regulatory Agreement, and Declaration of Covenants and Restrictions, and a Security Agreement and Financing Statement ("**Junior County Deed of Trust**") which Junior County Deed of Trust and related loan documents shall be collaterally assigned to the Intermediate County Lender as collateral for the Intermediate County Loan. The documents and agreements evidencing, securing or relating to the

Intermediate County Loan and the County Subloan are listed in **Exhibit B-II** attached hereto (collectively, "**Intermediate County Loan Documents**").

F. Prior to the Effective Date, the City has made a loan to the Borrower in the total sum of \$1,971,618.00 from a Community Development Block Grant ("**City Acquisition Loan**"). The City Acquisition Loan is secured by a Deed of Trust made by the Borrower dated as of May 15, 2013, which Deed of Trust was supplemented by first supplement thereof dated as of the Effective Date ("**City Acquisition Deed of Trust**") against the Project. The documents and agreements evidencing, securing or relating to the City Acquisition Loan are listed in **Exhibit B-III** attached hereto (collectively, "**City Acquisition Loan Documents**").

G. Subject to satisfaction of certain requirements of the City, and to further the goal of providing permanent supportive housing for households that are very-low and low-income, the City has also agreed to lend to the Subordinate City HOME Lender the sum of \$1,500,000.00 from HOME Investment Partnership (HOME) Program funds (the "**City HOME Loan**"). The City HOME Loan will be loaned to the Subordinate City HOME Lender which will lend the proceeds of the City HOME Loan to the Borrower ("**City HOME Subloan**", and collectively with the Senior Loan, the Intermediate County Loan, the County Subloan, the City Acquisition Loan, and the City HOME Loan, the "**Sources**") for the development and construction costs of the Project, as provided in the City HOME Loan Documents. The City HOME Subloan shall be secured by a Deed of Trust, Security Agreement and Financing Statement ("**City HOME Loan Deed of Trust**") against the Project and the City HOME Loan Deed of Trust is collaterally assigned to the City as collateral for the City HOME Loan. The documents and agreements evidencing, securing or relating to the City HOME Loan are listed in **Exhibit B-IV** attached hereto (collectively, "**City HOME Loan Documents**").

H. The documents and agreements evidencing, securing and/or relating to each Public Funder's loans or other funding for the Project (together with any amendment, modification, restatement or refinancing thereof, are collectively referred to as the "**Public Funding Documents**", and the Public Funding Documents specifically include any loans, liens or other loan documents collaterally assigned to the City or County. The Public Funding Documents and the Senior Loan Documents described above are collectively referred to as the "**Funding Documents**". The Funding Documents of each Source will govern the uses that may be made of the funds to be advanced thereunder and may include both hard and soft Project development and construction costs depending on the Source.

I. The Public Funders, Senior Lender, the Subordinate County Lender, in its capacity as a lender under the County Subloan, and the Subordinate City HOME Lender, in its capacity as a lender under the City HOME Subloan, are collectively referred to as the "**Funders**" and individually referred to as a "**Funder**".

J. The "**Junior Loans**" shall consist of the Intermediate County Loan, the County Subloan, the City Acquisition Loan, the City HOME Loan, and the City HOME Subloan. The deeds of trust securing the Junior Loans are collectively referred to as the "**Junior Deeds of Trust**".

K. The purpose of this Agreement, among other things, is: (i) to set forth the relative priorities of each Funder's component of the total Project costs; and (ii) to set forth procedures to be followed in the event of the occurrence of an event of default under the various agreements of the Borrower, the Subordinate County Lender, and the Subordinate City HOME Lender, with the Funders.

## AGREEMENT:

NOW, THEREFORE, for a good and valuable consideration, including the mutual promises of the Parties contained herein, the Parties agree as follows:

### SECTION 1. LOAN AND GRANT

1.1 Notice of Assignment. Each Funder shall give the other Parties written notice of any assignment of any of their rights in connection with their Funding Documents within ten (10) days following the effective date of any such assignment. The Funders each consent (a) to the collateral assignment of the County Subloan, Junior County Deed of Trust and related loan documents by the Subordinate County Lender to the Intermediate County Lender, and (b) to the collateral assignment of the City HOME Subloan, City HOME Loan Deed of Trust and related loan documents by the Subordinate City HOME Lender to the City.

1.2 Consent. Senior Lender hereby consents to the execution, delivery and performance of the Intermediate County Loan Documents, the City Acquisition Loan Documents, the City HOME Loan Documents and the recording of each Junior Deed of Trust and other liens and restrictions securing and relating to same in the Official Records of Harris County, Texas.

### SECTION 2. AFFORDABILITY RESTRICTIONS

2.1 Priority of Restrictions. As required by the terms of the Intermediate County Loan, the Borrower has also executed that certain Declaration of Restrictive Covenants, dated as of the Effective Date, which imposes certain land use restrictions on the Project (the "**County Restrictions**"). As required by the terms of the City Acquisition Loan, the Borrower has also executed the Restrictive Covenants dated as of May 13, 2013, which imposes certain land use restrictions on the Project and which land use restrictions were amended by first amendment thereof dated as of the Effective Date (the "**City Acquisition Loan Restrictions**"). As required by the terms of the City HOME Loan, the Borrower has also executed the Restrictive Covenants dated as of the Effective Date, which imposes certain land use restrictions on the Project (the "**City HOME Loan Restrictions**"). The County Restrictions, the City Acquisition Loan Restrictions, and the City HOME Loan Restrictions, are collectively referred to as the "**Affordability Restrictions**" and shall have equal priority and shall be cumulative of each other. In the event of a conflict, the most restrictive of the Affordability Restrictions shall apply.

### SECTION 3. SECURITY DOCUMENTS.

3.1 Subordination to Affordability Restrictions. The Affordability Restrictions shall at all times be superior to all of the deeds of trust on the Project (including, without limitation, all deeds of trust described herein) and all other liens, security interests, assignments, and pledges (collectively, "**Security Documents**") now or hereafter given to secure the Sources, as applicable. The Senior Deed of Trust securing the Senior Loan and the Junior Deeds of Trust securing the Junior Loans are expressly subordinate to the Affordability Restrictions. Notwithstanding anything herein to the contrary, in the event of the foreclosure of any of the Security Documents, the Affordability Restrictions shall remain in full force and effect with respect to the Project.

3.2 Priority of Security Documents. Notwithstanding the dates of execution, order of recording or other apparent priority of the Security Documents securing the Intermediate County Loan, the Security Documents securing the City Acquisition Loan, and the Security Documents securing the City HOME Loan, the City and County expressly stipulate, acknowledge and agree that the Security Documents securing the Public Funding shall at all times be subordinate to the Security Documents securing the Senior

Loan and the Security Documents shall have the following priority relative to each other, regardless of the frequency or manner of renewal, extension, change or alteration thereof:

- (1) First Priority: Senior Deed of Trust; and
- (2) Second Priority: (a) the Junior County Deed of Trust, (b) the City Acquisition Deed of Trust, and (c) the City HOME Loan Deed of Trust;

The City and the County shall have equal priority in their Security Documents, *pari passu*, regardless of the sequence or timing of the execution and/or recording or filing thereof in any public records. Prior to any foreclosure, the City and County shall use good faith efforts to enter into an agreement regarding the foreclosure that will protect the rights of the County and City with respect to the Project, the sharing of proceeds and title to the Project. In the event of the foreclosure of any of the Security Documents, all cash proceeds therefrom from the sale to a third party shall be distributed as set forth above (or credited in that manner to the extent of a credit bid) but on a *pari passu* basis to the County and the City in proportion to the ratio that their respective actual funding at the time of foreclosure bears to the aggregate amount of their combined actual funding at the time of foreclosure. Upon foreclosure by the County or the City or their respective successors, title will be taken jointly in the name of the City and the County unless otherwise agreed by the City and County.

3.3 No Modifications. The Public Funders may from time to time enter into modifications, renewals, extensions, and replacements of the loans evidencing the Public Funding without the further consent of Senior Lender so long as such agreements recite that they are, and shall be at all times, subject to the terms of this Agreement and so long as those agreements do not increase the principal amount or the amount of the periodic installments due under the Public Funding or increase the interest rate of the Public Funding. Unless and until the Senior Loan secured by the Project is fully paid and satisfied and the obligations of Senior Lender to make any further loans or advances under the Senior Loan have ceased and terminated, the Public Funders will not, without the consent of the Senior Lender, take any additional collateral for the City Acquisition Loan, the City HOME Loan, the City HOME Loan Subloan, the County Loan, or the County Subloan. Senior Lender shall not amend the Senior Loan Documents without the prior written consent of the "Public Funders" (City's Housing and Community Development Department, "Director," and Harris County Community Services Department, "Executive Director"), with any administrative consents (as opposed to consents required from the County Commissioners or City Council) not to be unreasonably withheld, if such amendment will have the effect of (i) increasing the principal amount of the Senior Loan or any amounts payable to the Senior Lender, except that amounts advanced by Senior Lender, on a reasonably commercial basis, relating to the construction, development, operation and/or protection, preservation, and maintenance of the Project or protecting its lien, including repairs, taxes, insurance, and legal fees and other expenses of collection or defense of Senior Lender's lien or the security therefor in accordance with the Senior Loan Documents shall not require consent (however notice will be provided), (ii) increasing the rate of interest of the Senior Loan, other than default interest and late charges, (iii) shortening the maturity of the Senior Loan, or (iv) increasing or decreasing the monthly payments or escrows for taxes, insurance, and other reserves on the Senior Loan except as may necessary to cover actual increases in the costs of taxes and insurance. Senior Lender may otherwise amend the Senior Loan Documents without the Public Funders prior written consent (Senior Lender, to the extent amended in writing and signed by Borrower, will make reasonable efforts to advise the City and the County of that amendment). Notwithstanding the foregoing, however, in no event shall any such modification be made, and no Public Funder shall be obligated to consent to any modification, that amends or terminates the Affordability Restrictions, other than a modification that extends the period during which the Affordability Restrictions encumber the Project.

Any provision in Senior Loan Documents that purports to secure "other indebtedness" that is unrelated to the Senior Loan, shall be ineffective as against the Public Funders and their Security Documents, and the Security Documents of the Public Funders shall have priority over any such "other indebtedness."

In the event that it becomes necessary pursuant to the Senior Loan Documents for the Senior Lender and the Borrower to establish a substitute independent interest index for the London Interbank Offered Rate ("LIBOR"), provided that the identification of such a substitute independent interest index was made pursuant to the terms of the Senior Loan Documents, such substitute independent interest index shall not be subject to approval or consent by the Public Funders.

3.4 Collateral. Each of the items constituting collateral for the Senior Loan, the City Acquisition Loan, the City HOME Loan, the City HOME Subloan, the County Loan, or the County Subloan (together with all equipment, accounts, general intangibles, fixtures and other personal property used or acquired for use, on or in connection with the use or operation of the Project) being referred to collectively as the "Collateral."

3.5 Secured Parties. The Funders are sometimes called the "Secured Parties" in this Agreement.

3.6 Actions by Subordinate County Lender and by Subordinate City HOME Lender. Subordinate County Lender, in its capacity as lender, shall have no authority to declare any defaults or exercise any remedies under the County Subloan without the express consent of the Intermediate County Lender to whom the County Subloan has been collaterally assigned. Subordinate City HOME Lender, in its capacity as lender, shall have no authority to declare any defaults or exercise any remedies under the City HOME Subloan without the express consent of the City to whom the City HOME Subloan has been collaterally assigned.

3.7 Subordinate of Right to Payment. The Subordinate County Lender and the Intermediate County Lender each subordinate their right to payment of the Junior County Loans to the Senior Lender's right to payment of the Senior Loan. The Subordinate City HOME Lender and the City each subordinate their right to payment of the City HOME Loan and the City HOME Subloan to the Senior Lender's right to payment of the Senior Loan. The City subordinates its right to payment of the City Acquisition Loan to the Senior Lender's right to payment of the Senior Loan. Without limiting the foregoing, regularly scheduled payments (but not prepayments) may be made on each Junior Loan until the Senior Lender provides the other Funders with a notice that a default is then existing under the Senior Loan Documents whereupon Borrower shall not make and Intermediate County Lender, the County, the Subordinate HOME Lender, and the City shall not knowingly accept, any payment on a Junior Loan unless and until Senior Lender notifies the other Funders that such default has been fully cured. Any payment made contrary to the foregoing shall be held in trust and immediately paid to Senior Lender upon request.

#### **SECTION 4. PROCEDURES FOR DISBURSEMENT REQUESTS AND FUNDING.**

##### 4.1 Applications for Payments.

(a) Funding under the Funding Documents will be in accordance with the requirements of and for the items allowed under each Funder's Funding Documents; provided that notwithstanding anything in the Funding Agreements to the contrary, the Funders and Borrower agree and acknowledge that the Budget attached hereto as Exhibit C (the "Final Construction Budget") will be the basis for each Funder's funding under their respective loan and accurately sets forth which Funder will fund

a particular line item (and the funding order of budget line items to be funded by more than one Funder). The Approved Budget cannot be amended or replaced without the written consent of each Funder.

(b) Unless otherwise agreed, the Borrower shall submit its applications for payment (each an "**Application for Payment**") to all Funders no more frequently than once in any thirty (30) day period (regardless if a particular Funder is to fund under a particular Application for Payment, each Application for Payment and all supporting materials will be provided for each Application for Payment).

(c) Subject to the terms and conditions of the Funding Documents, Borrower, the Intermediate County Lender, the Subordinate City HOME Lender, and the Subordinate County Lender, agree that the advances and funding for the construction of the Project using proceeds from the Junior Loans shall occur in accordance with the as set forth in the Final Construction Budget. The Funders and the Borrower have agreed that the budgeted line items in the Final Construction Budget will be funded by the Funders based on the designation made therefor in the Final Construction Budget (in this Agreement, such items may be referred to as items designated to be funded by particular Funders; it being agreed that certain items will be funded by more than one Funder as provided in this Agreement) . The Intermediate County Lender funding for construction draws approved by the Intermediate County Lender (the "**Intermediate County Loan Proceeds**") shall be paid by the Intermediate County Lender into a general ledger account controlled by the Senior Lender and located at the Senior Lender (the "**Construction Account**"). The City funding for construction draws approved by the City (the "**HOME Loan Proceeds**") shall be paid by the City into the Construction Account. It is acknowledged and agreed that once the Intermediate County Loan Proceeds and the City HOME Loan Proceeds are transferred by the City and the Intermediate County Lender into the Construction Account, such funds shall be used for reimbursement to Senior Lender of advances of costs of the Project previously made and approved by Senior Lender. Notwithstanding anything herein to the contrary, advances by the City and the County to reimburse the Senior Lender for funding an advance of the Senior Loan for those items approved by the City and County for that advance will only be for amounts approved in connection with that advance.

(d) The Borrower represents and warrants to the Funders, as of the Effective Date and as of the date of each Application for Payment, that neither the Borrower nor the Project is in breach of or in default under any of the Funding Documents.

(e) The Borrower agrees that the Funders may share information that each Funder may acquire with respect to the Borrower and/or the Property, and consents to the transfer of such information, whether financial or otherwise, between them, without having to obtain the Borrower's consent.

(f) Notwithstanding the foregoing, the Parties acknowledge that any agreement of a Funder to make transfer into the Construction Account and of the Senior Lender to make advance of the Senior Loan shall in each case be subject to the terms and conditions of the Funder's respective Funding Documents (including limitations on the amount of advances the Senior Lender may make pending funding by the Intermediate County Lender and/or the City).

4.2 **Inspections.** Prior to the Effective Date, the Funders will engage a third party independent inspector, acceptable to them (the "**Inspector**"), to inspect the progress of construction of the Project and verify the completion of the work covered by the Application for Payment in accordance with the final plans approved by all Parties (together with any change orders approved by the Funders in accordance with their respective Funding Documents). The Inspector shall furnish its report to all Funders at their addresses provided for notice below after receipt of an Application for Payment.

4.3 **Objections.** Upon receipt of the Inspector's report, if any Funder objects to an item or a portion thereof included in the Application for Payment or the Inspector's report, such Funder shall make

reasonable efforts to notify Borrower and all other Funders within **FIVE (5) BUSINESS DAYS** after receipt of the Inspector's report (provided the failure of a Funder to provide an objection within such time period shall not be a waiver of that Funding Lender's objection or right to refuse funding so long as the objection is made in accordance with the Funding Documents applicable to that Funder). Upon the giving of notice of such objection from any Funder, the Funders shall be relieved of any obligation (but shall have the right) to make a disbursement for the item or portion thereof contained in the Application for Payment until such time as the Borrower has cured the objection to the reasonable satisfaction of the Funders. Borrower acknowledges that the Intermediate County Lender, the County, and the City each reserves the right to approve all Change Orders that are in excess of \$50,000.00 individually, or that exceed \$250,000.00 in the aggregate that revise the final plans that were initially approved by all Parties. Borrower agrees the Intermediate County Lender shall not authorize or permit any such Change Order requiring approval unless it has been submitted for review and approval by the Intermediate County Lender. Further, no Change Order shall be in effect in any event unless that Change Order is authorized under the terms of the Senior Loan Agreement, the City Acquisition Loan Documents, and the City HOME Loan Documents.

#### 4.4 Funding Sequence.

(a) Funding under the Funding Documents shall occur, subject to each eligible project cost to be funded by each particular Funder and in the agreed upon funding order, as each is provided in the Final Construction Budget, pursuant to this Section 4.4, which process is more specifically detailed in **Exhibit B and in subsection (b) below.**

(b) Notwithstanding anything herein to the contrary, each of the Parties acknowledges and agrees that the City Acquisition Loan was fully funded and used to pay the budget acquisition costs prior to the Effective Date, excluding 10% construction retainage required by the City Acquisition Loan Documents. Unless otherwise agreed in writing by the Funders, funds shall be disbursed for approved amounts in an Application for Payments in the following order, or simultaneously as may be necessary to fund construction and soft cost approved pay application disbursement:

(i) first, the closing draw will be funded from (A) the City HOME Loan (and related City HOME Subloan), net of required retainage, to pay budgeted architecture and engineering costs, (B) the Junior County Loans, net of required retainage, to pay budgeted site development costs, and (C) the Senior Loan for budgeted costs not funded by the other Funders and to fund any delayed funding of the items described in (A) and (B) of this clause;

(ii) second, for second, third, and fourth post-closing draws (based on the associated Applications for Payment) will be funded from (A) the Junior County Loans, net of required retainage, to pay eligible costs to be funded under the Junior County Loans as provided in the Final Construction Budget, and (B) the Senior Loan for budgeted costs not funded by the County (and Subordinate County Lender) to fund any delayed funding of the items described in (A) of this clause;

(iii) third, draws beginning with the fifth post-closing draw (and associated Application for Payment) will be funded (A) first from the City HOME Loan (and related City HOME Subloan), until the City HOME Loan (and related City HOME Subloan) are fully funded, net of required retainage, to pay eligible costs to be funded under the City HOME Loan (and related City HOME Subloan), then from the Junior County Loans, net of required retainage, to pay eligible cost to be funded under the Junior County Loans as provided in the Final Construction Budget, and (C) then, from the Senior Loan for budgeted items in the Final Construction Budget (the Senior Loan will also fund any delayed funding of the items described in (A) and (B) of this clause to the extent funds are then available under the Senior loan); and

(iv) the final draw for retainage for each Junior Loan and for the Senior Loan withheld by the Funders will be funded by each Funder based on the retainage withheld by each Funder.

The City and the County acknowledge and agree with the Senior Lender that each of the City and the County will, in any event, only make advances for items that are eligible for funding with respect to their own particular loan as and to the extent provided in the Final Construction Budget. Nothing in this **subsection (b)** shall prevent the Senior Lender from making an advance of the Senior Loan (as provided in the Senior Loan Agreement) for an item to be funded by another Funder as provided in the Final Construction Budget and in that event, Senior Lender will be reimbursed as a payment on the Senior Loan as set forth in **Section 4.1(c)**. In any event, a budgeted item which is not eligible to be funded by either the City or the County, like the garage repairs, will be funded by the Senior Loan if and to the extent as provided in the Final Construction Budget.

(c) Notwithstanding the above, the Senior Loan may be advanced for interest carry on the Senior Loan, origination or similar loan fees associated with the Senior Loan, and attorney' fees associated with the Senior Loan, or to bridge a pending Application for Payment with the City and/or the Subordinate HOME Lender or the County and/or the Subordinate County Lender.

(d) Disbursements that are reimbursed for eligible construction costs and/or soft costs by the City and/or the Subordinate HOME Lender or the County and/or the Subordinate County Lender shall be made by ACH or wire transfer for deposit in the Construction Account as provided for in **Section 4.1(b)**. The proceeds of each such disbursement shall be used to repay the Senior Loan, to the extent that it has directly or indirectly been the source of funds that were applied to the payment of qualified costs for the Project, and thereafter any other source of the funds shall be used as provided for hereinabove and only in compliance with the applicable Funding Documents.

(e) If an Application for Payment is otherwise complete, as reasonably determined by the applicable Funder (or Funders, as the case may be) to fund that Application for Payment, no outstanding objections remain pursuant to an inspection report, and Borrower has otherwise complied with the requirements of the Funding Documents, funds to satisfy such approved Application for Payment shall be disbursed by the relevant Funder (or Funders, as the case may be) into the Construction Account within **TWENTY (20) BUSINESS DAYS** following the later of (a) receipt of the Application for Payment or (b) receipt of all approvals or documentation required in order to fund the Application for Payment (including approval by Senior Lender). Notwithstanding the above, the Senior Loan may be advanced prior to Junior Loans in accordance with the Final Construction Budget, including but not limited to: for interest carry on the Senior Loan, origination or similar loan fees associated with the Senior Loan, reimbursement for Property acquisition and pre-development expenses and attorney' fees associated with the Senior Loan. The payment of soft costs within an Application for Payment shall be considered simultaneously with the Funders' consideration of the construction costs. Disbursements that are reimbursed into the Construction Account for eligible construction costs and/or soft costs shall be made by ACH or wire transfer by the relevant Funder. The proceeds of each such disbursement shall be used to repay the Senior Loan, to the extent that it has directly or indirectly been the source of funds that were applied to the payment of qualified costs for the Project, until the Senior Loan has been repaid from the appropriate subordinate Funder, and thereafter any other source of the funds that were initially applied to the payment of qualified costs for the Project and only in compliance with the applicable Funding Documents. Additional requirements relating to the Intermediate County Loan and the County Subloan (and with respect to the loans made with funds provided by the City, to the extent required by the City) are:

(v) **Stored Materials:** If eligible, the Intermediate County Lender will only reimburse the cost of stored materials that are located in an off-site, bonded and secured warehouse

and with the provision of a stored materials log. The reimbursement shall be consistent with or shall exceed the requirements of (a) the Senior Loan Agreement, (b) the Intermediate Loan Agreement, and (c) Harris County's construction policies.

(vi) Construction Draw Funding - Draft ("Monthly Construction Pencil Draw") HCCSD Approval: "Monthly Construction Pencil Draws" must also be reviewed and approved by the Borrower's construction representative at final form prior to submittal to the Intermediate Lender. HCCSD DBRA reports and Section 3 reports shall be required to be submitted to the Intermediate Lender and approved by the Intermediate Lender and Intermediate Lender's Section 3 program staff prior to approval of any current Monthly Construction Draw that is submitted to the Intermediate Lender.

(vii) Harris County Reimbursement: The Borrower shall submit monthly invoices from the Contractor (pay estimates) for the construction portions of the work performed, and similar Soft Cost invoices (if applicable). Reimbursement requests, addressed to the Intermediate Lender must include a cover letter with the Application and Certificate for Payment form G702 & G703 American Institute of Architects (AIA) and all supporting documentation of the draw submitted on or before the tenth (10<sup>th</sup>) working day of the month for costs incurred during the preceding month. Down-date endorsement from the title company, will be required by the Intermediate Lender. Prior to payment by Intermediate Lender, Intermediate Lender and the Harris County Auditor must approve all invoices.

(viii) Lien Releases. Unconditional Lien Releases from the General Contractor and Unconditional Lien Release from all Subcontractors for no more than a thirty-day trailing period will be required for reimbursement by Intermediate Lender. Funding may be reduced or potentially withheld for a subcontractor if reporting requirements are not adhered.

4.5 Approvals. Except as may be provided herein, none of the Public Funders shall be required to obtain approval from any other Party prior to funding of any amounts under their Funding Documents.

## **SECTION 5. DEFAULTS AND REMEDIES**

5.1 Notice of Default. Upon the occurrence of a default by the Borrower, the Senior Lender, the Subordinate County Lender or the Subordinate City HOME Lender under any of the Funding Documents, each Funder agrees to give written notice to the other Funders at the same time as the giving of any written notice of that default to the Borrower but in any event such notice is only required if the Funder elects to declare such default.

5.2 Funders' Opportunity to Cure. With respect to any monetary default under any Funding Documents, each Funder shall have the right (but not an obligation) to cure any such default during the period that is the longer of (i) forty-five (45) days from the date such notice of default is given to the Funders; or (ii) five (5) days after the expiration of any cure period provided to the Borrower or the Subordinate City HOME Lender or the Subordinate County Lender (as applicable) under any applicable Funding Documents. With respect to any non-monetary default by the Borrower or Subordinate City HOME Lender or the Subordinate County Lender (as applicable) under any Funding Documents, each Funder shall have the right (but not an obligation) to cure any such default during the period that is the longer of (i) sixty (60) days from the date such notice of default is given to such Funder; or (ii) five (5) days after the expiration of any cure period provided to the Borrower or Subordinate City HOME Lender or the Subordinate County Lender (as applicable) under any applicable Funding Documents. Senior Lender agrees that it will not accelerate the Senior Loan, or exercise any remedies under the Senior Loan Documents, unless the other Funders fail to cure such defaults prior to the expiration of the cure periods

stated herein, and if any portion of the Senior Loan has previously been or is thereafter accelerated, Senior Lender agrees to reinstate the Senior Loan in accordance with its original terms, upon the cure of the defaults under the Senior Loan Documents within such cure period. The failure of any Funder to provide any notice to another Funder shall not affect the validity of such notice or any obligation of the Subordinate City HOME Lender or the Subordinate County Lender or the Borrower to any Funder and shall not affect the relative priorities between the Senior Loan and the Junior Loans as set forth herein. Borrower and Subordinate City HOME Lender or the Subordinate County Lender covenant and agree to forward to Public Funders, within three (3) business days of their receipt thereof, a copy of any notice of a default under the Senior Loan that Borrower and/or Subordinate City HOME Lender or the Subordinate County Lender receive from the Senior Lender.

5.3 Senior Lender Exercise of Remedies. Senior Lender agrees that it will not accelerate the Senior Loan, or exercise any remedies under the Senior Loan Documents unless the other Funders fail to cure such defaults prior to the expiration of the cure periods stated herein, and if any portion of the Senior Loan has previously been or is thereafter accelerated, Senior Lender agrees to reinstate the Senior Loan in accordance with its original terms, upon the cure of the defaults under the Senior Loan Documents within such cure period.

5.4 Junior Loan Exercise of Remedies. Without limiting **Section 5.10**, Subordinate Lender and the Intermediate Lender each agrees that they will not accelerate the Junior Loans, or exercise any remedies under the Junior Deed of Trust or the Intermediate County Loan Documents unless other Funders (or any other party, including Borrower or applicable Guarantor) fail to cure such defaults prior to the expiration of the cure periods stated herein.

5.5 Failure to Provide Notice. The failure of any Funder to provide any notice to another Funder shall not affect the validity of such notice or any obligation of the Borrower to any Funder and shall not affect the relative priorities between the Senior Loan and the Junior Loans as set forth herein. Borrower covenants and agrees to forward to each of the Subordinate County Lender, the City, the City Subordinate HOME Lender and the County within three (3) business days of their receipt thereof, a copy of any notice of a default under the Senior Loan that Borrower receive from the Senior Lender.

5.6 Notice of Acceleration. Each Funder agrees that it will provide any notice of intention to accelerate obligations owed by the Borrower to the other Funders at the same time that such notice is given to the Borrower.

5.7 Continuation of Project. In connection with any foreclosure of the Security Documents, the Senior Lender and Public Funders stipulate and agree that they will cooperate diligently, in good faith and using reasonable efforts to identify and engage a qualified operator for the Project to replace the Borrower, for purposes of completing construction of the Project and operating the Project during the term of the Affordability Restrictions to provide permanent supportive housing for homeless disabled individuals that are very-low and low-income, provided, however, that any replacement operator shall be subject to the approval of the Senior Lender, which shall not be unreasonably withheld, delayed or conditioned.

5.8 Right to Purchase Senior Loan. The County and the City shall each have the right, but not the obligation, in lieu of curing any default under the Senior Loan Documents to purchase the Senior Loan by paying the outstanding principal amount thereof, plus all accrued and unpaid interest thereon, together with reasonable unreimbursed expenses incurred by the Senior Lender in connection therewith (including actual attorneys' fees) in exchange for an assignment of the Senior Loan Documents (including any title policies to the extent allowed by applicable law) and an endorsement of the note evidencing the Senior Loan on forms reasonably acceptable to the City, the County, and the Senior Lender. Such transfer shall

be without recourse or warranty by the Senior Lender, and the County and the City shall each release the Senior Lender from all claims and other liabilities in connection with the Senior Loan.

5.9 Extent of Cross-Default. The occurrence of a default or event of default after applicable notice and cure periods under the Senior Loan Documents shall cause a default or event of default under the Public Funding Documents, but the occurrence of a default or event of default under the Public Funding Documents shall not in and of itself cause a default or an event of default under the Senior Loan Documents.

5.10 Standstill. Notwithstanding anything herein to the contrary, without the written consent of the Senior Lender, neither the Intermediate County Lender (nor the Subordinate County Lender), and the City (nor the Subordinate HOME Lender) shall accelerate its Junior Loan or otherwise enforce any right or remedy (including commencing foreclosure proceedings for 90 days after the expiration of the applicable cure period provided to Senior Lender herein with respect to the applicable default) (the "Standstill Period"). The exercise by a Public Funding Lender after the expiration of the Standstill Period, of any of its rights in and to the collateral for that Junior Loan, including, without limitation, (i) a foreclosure sale of the Project to a Public Funding Lender or any affiliate of a Public Funding Lender, (ii) a conveyance to a Public Funding Lender, or any affiliate of a Public Funding Lender to a deed-in-lieu of foreclosure, or (iii) a sale of the Project by a Public Funding Lender, or any affiliate of a Public Funding Lender, following a conveyance of the Project by foreclosure or deed-in-lieu of foreclosure, shall not constitute a default under the Senior Loan Documents, but any such conveyance shall be subject to the Senior Loan Documents. Conveyances to third parties (other than a Public Funding Lender or its affiliates) shall require the prior written consent of the Senior Lender which shall not be unreasonably withheld.

## SECTION 6. MISCELLANEOUS

6.1 Invalid Provisions. In the event, any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not be affected in any way thereby.

6.2 Waivers and Amendments. No waiver, modification, addition, or amendment to any of the terms hereof shall be binding or effective unless and until made in writing and duly executed by all Parties.

6.3 Time. A "business day" means any day other than Saturday, Sunday, or a holiday during which any of the Funders is not open for business. Any time period expressed as a number of days without expressly specifying business days shall be calculated on the basis of calendar days. With respect to any time period referred to herein, the Parties stipulate, acknowledge, and agree that **TIME IS OF THE ESSENCE OF THIS AGREEMENT.**

6.4 Applicable Law. This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas, and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

6.5 Notices. Except as otherwise provided herein, all notices, demands, requests, and other communications required or permitted hereunder shall be given in writing and sent by (i) personal delivery, or (ii) expedited delivery service with proof of delivery, or (iii) United States mail, postage prepaid, registered or certified mail, return receipt requested, or (iv) facsimile (provided that such facsimile is confirmed by expedited delivery service or by United States mail in the manner previously described), addressed to the addressee at such Party's address set forth by its signature below, or to such other address as such Party may specify by written notice, sent in accordance with this paragraph at least thirty (30) days prior to the date of the giving of such notice. Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery, or in the case of mail, as of the date of

deposit in an official depository of the United States mail, or in the case of either delivery service, or facsimile, upon receipt. To the extent actual receipt is required, rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was received shall be deemed to be receipt of the notice, demand, request, or other communication sent.

6.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which will constitute an original instrument, all of which will constitute one and the same documents.

6.7 Entirety. This Agreement, including the attached exhibits and documents listed thereon, which are incorporated herein by reference for all purposes, constitute the sole and only agreement of the Parties hereto related to the subject matter hereof and correctly sets forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect. The signatures of the Parties hereto reflect that each of the Parties has fully read and realizes the effect of this Agreement, and the Parties have executed this Agreement as their free and voluntary act with the full opportunity to be advised by each Party's respective counsel.

6.8 No Third-Party Beneficiaries. All of the understandings, agreements, representations, and warranties contained herein are solely for the benefit of the Parties. The Parties do not intend the benefits of this Agreement to inure to any third party. Nothing contained in this Agreement is intended to affect or limit, in any way, the security interests that the Secured Parties may have at any time in the Collateral. Subject to the express terms and provisions of this Agreement, the Secured Parties specifically reserve all of their respective rights and security interests in the Collateral.

6.9 Binding Effect. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns, and shall inure to the benefit of the Parties and their respective successors and assigns.

6.10 Termination. This Agreement shall terminate upon the later of (i) the expiration of the Affordability Restrictions; (ii) repayment or deemed satisfaction in full of all sums advanced by each of the Public Funders under their respective Public Funding Documents, or (iii) the termination of all obligations of the Borrower, the Subordinate County Lender and the Subordinate HOME Lender to the Public Funders.

6.11 Reserved.

6.12 No Joint Venture. The Parties state that it is not their intention to engage in a joint venture and that under no circumstances will any Party be deemed to be the agent of any other Party.

6.13 Casualty and Condemnation. In the event of any casualty or condemnation resulting in insurance or condemnation proceeds being paid to Senior Lender for application to the payment of obligations secured by the Senior Loan Documents, unless the proceeds are used for repair or restoration in accordance with the Senior Deed of Trust, then Senior Lender will remit all proceeds in excess of the portion thereof applied to the repayment of the Senior Loan to the Public Funders, shall be distributed *pari passu* to the County and the City in proportion to the ratio that their respective actual funding at the time of distribution bears to the aggregate amount of their combined funding for application in accordance with the provisions of the Public Funding Documents.

6.14 Escrow Accounts. Pursuant to the Senior Loan Documents, Senior Lender, as may be applicable, may require the Owner to escrow amounts for the payment of taxes and insurance with respect to the Project ("Escrow Accounts"). If Senior Lender requires such Escrow Accounts, then Senior Lender agrees to use such amounts to pay such taxes and insurance as they become due and will not apply such

amounts to the Senior Loan. If Senior Lender does not require the Owner to maintain Escrow Accounts, the City may require (but shall not be obligated to do so) the Owner to maintain Escrow Accounts and to pledge such Escrow Accounts to the City.

6.15 Actions and Proceedings. Public Funders and Borrower with respect to the Junior Loans hereby agree:

(a) In the event of any Bankruptcy Proceeding relating to the Borrower, the Subordinate County Lender, the Subordinate City HOME Lender, and/or the Project or, in the event of any Bankruptcy Proceeding relating to any other person or entity into which the assets or interests of the Subordinate County Lender and Borrower and of the Subordinate City HOME Lender and Borrower are consolidated, then in either event, the Senior Loan shall first be paid in full before Public Funders and/or Borrower shall be entitled to receive and retain any payment or distribution in respect to the Junior Loans. Public Funders and Borrower agree that (i) during the pendency of the Bankruptcy Proceeding, any payment or distribution with respect to the Junior Loans which the City, County, the Subordinate City HOME Lender, or the Subordinate County Loan would be entitled to but for this Agreement (whether in cash, property, or other assets) will be made to the Senior Lender until the Senior Loan is paid in full and (ii) the subordination of the Junior Loans and any documents securing or executed in connection therewith shall not be affected in any way by Senior Lender electing, under Section 1111(b) of the federal bankruptcy code, to have its claim treated as being a fully secured claim. In addition, Public Funders, the Subordinate County Lender, and the Subordinate HOME Lender hereby covenants and agrees that, in connection with a Bankruptcy Proceeding involving Borrower, neither Public Funders, the Subordinate County Lender, the Subordinate HOME Lender nor any of their respective affiliates shall (i) make or participate in a loan facility to or for the benefit of the Borrower on a basis that is senior to or pari passu with the liens and interests held by Senior Lender pursuant to the Senior Loan Documents, and (ii) not contest the continued accrual of interest on the Senior Loan, in accordance with and at the rates specified in the Senior Loan Documents, both for periods before and for periods after the commencement of such Bankruptcy Proceedings.

(b) Public Funders, the Subordinate City HOME Lender, and the Subordinate HOME Lender (in their capacity as lenders to Borrower) with respect to the Junior Loans covenant and agree that the effectiveness of this Agreement and the rights of Senior Lender hereunder shall be in no way impaired, affected, diminished or released by any renewal or extension of the time of payment of the Senior Loan, by any delay, forbearance, failure, neglect or refusal of Senior Lender in enforcing payment thereof or in enforcing the lien of or attempting to realize upon the Senior Loan Documents or any other security which may have been given or may hereafter be given for the Senior Loan, by any waiver or failure to exercise any right or remedy under the Senior Loan Documents, or except as otherwise herein provided, by any other act or failure to act by Senior Lender. Public Funders, Subordinate County Lender and Subordinate City HOME Lender (in their capacity as lenders) acknowledge that Senior Lender, at its sole option, may release all or any portion of the Project from the lien of the Senior Deed of Trust, and may release or waive any guaranty, surety or indemnity providing additional collateral to Senior Lender, and Public Funders, Subordinate County Lender and Subordinate City HOME Lender hereby waive any legal or equitable right in respect of marshaling it might have, in connection with any release of all or any portion of the Project by Senior Lender, to require the separate sales of any portion of the Project or to require Senior Lender to exhaust its remedies against any portion of the Project or any other collateral before proceeding against any other portion of the Project or other collateral (including guarantees) for the Senior Loan. Subject to Section 5.3, Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action (as such terms are hereinafter defined) by Public Funders, Subordinate County Lender, or Subordinate City HOME Lender except as otherwise provided by applicable law or this Agreement. At any time or from time to time and any number of times, without notice to Public Funders, Subordinate County Lender or Subordinate City

HOME Lender (in their capacity as a lender), (a) the time for payment of the Senior Loan may be extended or the Senior Loan may be renewed in whole or in part; (b) the time for the Borrower's performance of or compliance with any covenant or agreement contained in the Senior Loan Documents, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; and (c) any Senior Loan Document may be extended or consolidated by Senior Lender and Borrower (as applicable); and (d) any security for the Senior Loan may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Senior Loan. If, after the occurrence of a default under the Senior Loan, Senior Lender acquires title to any of the Project pursuant to a mortgage foreclosure conducted in accordance with applicable law, the lien, operation, and effect of the Junior Deeds of Trust automatically shall terminate with respect to such Project upon Senior Lender's acquisition of title, but the Affordability Restrictions shall remain in place for the term of the applicable Affordability Restrictions. As used in this section, "*Enforcement Action*" means any exercise of any of remedies under the Junior Deeds of Trust, or any of the other Public Funding Documents, including, without limitation, any of the following: (i) the acceleration of all or any part of the Junior Loans, (ii) the commencement of any judicial or non-judicial action of proceeding to enforce any obligation of the Borrower under any of the Public Funding Documents, collect any monies payable to the Borrower or have a receiver appointed to collect any monies payable to the Borrower (as applicable), or foreclose the lien(s) created by the Junior Deeds of Trust, (iii) the filing or joining in the filing of any involuntary Bankruptcy Proceeding against the Borrower or any person or entity which owns a direct or indirect interest in the Borrower, (iv) the advertising of or commencement of any foreclosure or trustee's sale proceedings, (v) the exercise of any power of sale, (vi) the acceptance of a deed or assignment in lieu of foreclosure or sale, (vii) the collecting of rents, (viii) the obtaining of or seeking of the appointment of a receiver, (ix) the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the notes evidencing the Junior Loans or any other of the Public Funding Documents, (x) the exercising of any banker's lien or rights of set-off or recoupment, or (xi) the taking of any other enforcement action against the Borrower or any other party liable for any of the Junior Loans or obligated under any of the Public Funding Documents, or the Property, and (ii) "*Enforcement Action Notice*" means a written notice from the Public Funders, the Subordinate County Lender, or the Subordinate City HOME Lender in its capacity as lender to Senior Lender, given following a default under a Junior Loan and the expiration of any notice or cure periods provided for such default in the Public Funding Documents, setting forth in reasonable detail the Enforcement Action proposed to be taken.

6.16 **Insurance.** Junior Lenders agree that all original policies of insurance required pursuant to the Senior Deed of Trust shall (as required by the Senior Lender) be held by Senior Lender. The preceding sentence shall not preclude Junior Lenders from requiring that they be named as a loss payee, as its interest may appear, under all policies of property damage insurance maintained by the Borrower with respect to the Project, provided such action does not affect the priority of payment of the proceeds of property damage insurance under the Senior Deed of Trust, or that it be named as an additional insured under all policies of liability insurance maintained by the Borrower with respect to the Project.

6.17 **WAIVER OF TRIAL BY JURY.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF THE PARTIES HERETO (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

6.18 **Extension of Subordination.** Each Public Funding Lender, as the lender of a Junior Loan, consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces

or modifies any provisions of the documents if and to the extent done in accordance with the terms of this Agreement relating to the Senior Lender Loan. Each Public Funding Lender further agrees that its agreement to subordinate hereunder shall extend to the Senior Lender Loan, and, upon written request of the Senior Lender, to any new mortgage debt which is only for the purpose of refinancing all or any part of the Senior Lender Loan (including reasonable and necessary costs associated with the closing and/or the refinancing). In such event, all the terms and covenants of this Agreement shall inure to the benefit of any holder of such new mortgage debt. Additionally, upon the written request of Senior Lender in connection with any such new mortgage debt which is for the purpose of refinancing all or any part of the Agreement, each Public Funding Lender shall execute and deliver a new subordination agreement in substantially the same form as this Agreement.

*[Remainder of this page intentionally left blank; signature page follows.]*

**BORROWER:**

**4600 MAIN STREET HOUSING, LP,**  
a Texas limited partnership

By: Light Rail Lofts. LLC, a Texas limited liability  
company, its General Partner

By: \_\_\_\_\_  
Randall A. Bishop, Manager

Address for Notice:

4500 Main Street, LP

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Los Angeles )

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary (Here insert name and title of the officer)

personally appeared Randall A. Bishop  
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(s)~~ 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 Signature (Notary Public Seal)

### ADDITIONAL OPTIONAL INFORMATION

#### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
 (Title or description of attached document)

\_\_\_\_\_  
 (Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer

\_\_\_\_\_  
 (Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

### INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ◊ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ◊ Indicate title or type of attached document, number of pages and date.
  - ◊ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**“SENIOR LENDER”**

**ZIONS BANCORPORATION, N.A. DBA AMEGY BANK**

By: \_\_\_\_\_  
Sara Hale, Senior Vice President

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Sara Hale, Senior Vice President of Zions Bancorporation, N.A. dba Amegy Bank, a national banking association, on behalf of said banking association.

\_\_\_\_\_  
Notary Public, State of TEXAS  
My Commission Expires: \_\_\_\_\_

Address:

Amegy Bank  
4576 Research Forest Drive  
The Woodlands, Texas 77381  
Attn: Don Hickey

***[SIGNATURE PAGE FOR INTERCREDITOR, SUBORDINATION,  
AND FUNDING AGREEMENT]***

**SUBORDINATE COUNTY LENDER:**

**IMPROVED LIVING FOUNDATION, INC.**, a Texas  
nonprofit corporation

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

THE STATE OF           §  
                                  §  
COUNTY OF           §

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, \_\_\_\_\_, personally  
appeared \_\_\_\_\_, known to me or proven on the basis of satisfactory evidence to be the person  
whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in  
his authorized capacity as the \_\_\_\_\_ of Improved Living Foundation, Inc., a Texas non-profit  
corporation, and that by his signature on the instrument the entity on behalf of which he acted executed the  
instrument.

WITNESS my hand and official seal.

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

(SEAL)

Address:

\_\_\_\_\_  
\_\_\_\_\_

***[SIGNATURE PAGE FOR INTERCREDITOR, SUBORDINATION,  
AND FUNDING AGREEMENT]***

**SEAL/ATTEST:**

**CITY OF HOUSTON, TEXAS**

\_\_\_\_\_, City Secretary

\_\_\_\_\_  
Sylvester Turner, Mayor

**APPROVED:**

**COUNTERSIGNED:**

\_\_\_\_\_  
Tom McCasland, Director  
Housing and Community Development  
Department

\_\_\_\_\_  
Chris Brown, City Controller

**APPROVED AS TO FORM:**

**COUNTERSIGNATURE DATE:**

\_\_\_\_\_  
Senior Assistant City Attorney  
LD# \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_ for Sylvester Turner, Mayor of the City of Houston, State of Texas.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name of Notary

My commission expires: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

CITY OF HOUSTON  
c/o Department of Housing and Community Development  
2100 Travis, Suite 900  
Houston, TX 77002  
Attention: Assistant Director, Multifamily

With copy to:

City of Houston Legal Department  
900 Bagby, 4<sup>th</sup> Floor  
Houston, TX 77002  
Attention: City Attorney

***[SIGNATURE PAGE FOR INTERCREDITOR, SUBORDINATION,  
AND FUNDING AGREEMENT]***

**SUBORDINATE CITY HOME LENDER:**

**CANTWELL-ANDERSON, INC.,** a California  
corporation

By: \_\_\_\_\_  
Randall Bishop,  
Chief Financial Officer

Address:

\_\_\_\_\_  
\_\_\_\_\_

# ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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State of California )

County of Los Angeles )

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary  
(Print name here and title of the officer)

personally appeared Randall A. Bishop  
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 Signature

(Notary Public Seal)

## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer

\_\_\_\_\_  
(Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

## INSTRUCTIONS FOR COMPLETING THIS FORM

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  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary)
- Securely attach this document to the signed document with a staple

***[SIGNATURE PAGE FOR INTERCREDITOR, SUBORDINATION,  
AND FUNDING AGREEMENT]***

INTERMEDIATE LENDER

APPROVED AS TO:

VINCE RYAN  
County Attorney

HARRIS COUNTY

By: \_\_\_\_\_  
RANDY KEENAN  
Assistant County Attorney  
C.A. File No. \_\_\_\_\_

By: \_\_\_\_\_  
JOSHUA STUCKEY  
Interim Director, Harris County  
Community Services Department

STATE OF TEXAS                   §  
   §  
COUNTY OF HARRIS           §

On this \_\_\_ day of \_\_\_\_\_, 2020, by Joshua Stuckey, the Interim Director of Community Services Department, a Department of Harris County, a body corporate and politic under the laws of the State of Texas, as the act and deed of Harris County as authorized by order of the Commissioners Court of Harris County.

Given under my hand and official seal, this \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**ADDRESS FOR NOTICE:**  
8410 Lantern Point Dr  
Houston Texas 77054

**EXHIBIT A  
TO BE ATTACHED**

LEGAL DESCRIPTION

---

**EXHIBIT A**

**Legal description of land:**

**TRACT I: All of Unrestricted Reserve "A", Block 1, LIGHT RAIL LOFTS, as recorded under Film Code No. 682106, Harris County Map Records, Harris County, Texas.**

**TRACT II: Easement rights created by Amended and Restated Access, Parking, Improvement and Repair Easement Agreement dated May 7, 2018, by and between Cloudbreak Houston, LLC and 4600 Main Street Housing LP filed under Harris County Clerk's File No. RP-2018-270176.  
(Subject to Requirement)**

**TRACT III: Easement rights created by No Build Agreement dated \_\_\_\_\_, 2020, by and between Cloudbreak Houston, LLC and 4600 Main Street Housing, LP, filed under Harris County Clerk's File No. RP-2020-\_\_\_\_\_.**

**[NOTE TO HARRIS COUNTY –**

**PLEASE CONFIRM ALL DATES FOR FUNDING ARE CONSISTENT)**

**EXHIBIT B**

**FUNDING SEQUENCE & DOCUMENTS**

**[SUBORDINATE LOANS ONLY]**

NOTES:

1. Soft Costs:

If eligible, Soft Cost Draws will be submitted as a separate application from a construction draw, and will not require the signature of the inspection representative of the Harris County Community Services Department. Soft Cost Draws may be submitted simultaneously with a construction draw. The review process will require review and approval for eligibility for cost reimbursement from the public funders. All Harris County reimbursements require Commissioners Court approval, consistent with the processes described below for construction activity.

2. Stored Materials Reimbursement:

Harris County will reimburse the cost only of stored materials that are located in an off-site bonded and secured warehouse and with the provision of a stored materials log. The reimbursement shall be consistent with or shall exceed the requirements of the Senior Loan Agreement.

3. Construction draw funding and Harris County reimbursement:

In an effort to meet the timely expenditure of Harris County HOME and CDBG-DR funds to be reimbursed, adherence to DBRA and Section 3 requirements and respective deadline, including the General Contractor and Subcontractors certified payrolls, and down date endorsement from the title company, will be required.

Additionally, Unconditional Lien Releases from the General Contractor and Unconditional Lien Release from all Subcontractors for no more than a sixty-day trailing period will be required for Intermediate Lender fund disbursement beginning with the third Monthly Construction Draw. Funding may be reduced or potentially withheld for a subcontractor if reporting requirements are not adhered to.

Construction Draw Funding - Draft (“Monthly Construction Pencil Draw”) HCCSD Approval: “Monthly Construction Pencil Draws” must also be reviewed and approved by Borrower’s construction representative at final form prior to submittal to the Intermediate Lender construction funder. HCCSD DBRA reports and Section 3 reports shall be required to be submitted to HCCSD and approved by HCCSD DBRA and Section 3 program staff prior to approval of any current Monthly Construction Draw that is submitted to the Senior Lender(s).

Step 1 [Receipt of Pay App & Invoices; Bank’s 3<sup>rd</sup> Party Inspection]:

Borrower's Representative receives Pay App from the General Contractor by the [25<sup>th</sup>] of each month. Upon receipt of the Pay App, the Borrower's Representative will forward a copy to a Harris County Community Services Department construction representative for review. The Borrower's Representative also compiles invoices from all other vendors for costs incurred in the prior month, by the 1<sup>st</sup> of the month. On or around the 3<sup>rd</sup> day of the month, the Borrower's Representative will: (i) forward the Pay App to the Bank's 3<sup>rd</sup> Party Inspector for its review/inspection; and (ii) forward the Pay App for the Architect Certification. The Bank's 3<sup>rd</sup> Party Inspector review typically is completed within 5 business days after receipt of the Pay App. The Bank's 3<sup>rd</sup> Party Inspector will send its report directly to Sr. lender(s), with copies to the parties that are also relying on the reports (Harris County).

#### Step 2 [Draw Package Submittal]:

By no later than the 5<sup>th</sup> day of the month, the Borrower's Representative submits a complete Draw Package to Sr. Lender(s), and Harris County. The Draw Package includes: the final Pay App, copies of all invoices and backup documentation for other costs incurred that month, the Architect Certification, contractor and subcontractor G702-703 documentation, General Contractor and Subcontractor Unconditional Lien Releases, Cover Sheet, an updated Schedule of Values draw sheet, Harris County Community Services Department construction representative signature showing approval of the Pay App (to be signed once all other signatures are received), the spending forecast, and all other backup documentation required by each party.

#### Step 3 [Construction loan release]:

Sr. Lender(s) reviews the Draw Package and the Bank's 3<sup>rd</sup> Party Inspection report. Assuming a complete, satisfactory package, a Sr. Lender review time may take an average of 10 business days, from the date that it receives all required documentation, to the date that it authorizes release of funds from the construction loan disbursement account. Once approved, the funds are released from the construction loan disbursement account to Borrower that pays the General Contractor.

#### Step 4 [Harris County Loans Reimbursement]:

Simultaneous with the review conducted by Sr. Lender in Step 3, Harris County will also review the Draw Package and the Bank's 3<sup>rd</sup> Party Inspector's report, along with confirmation from their ongoing compliance reviewer that all is in order with MWSBE, Section 3 and Davis Bacon compliance. Harris County also requires approval of each Draw Package from the County Commissioners Court, which typically meets twice a month (except for two months where it only meets once a month). Assuming a complete, satisfactory package, the parties expect their review times to be as follows:

- Harris County: 30 calendar days from receipt of Draw package, to release of Loan funds.

Once approved, the County Loan Funds will be deposited into a designated Sr. Lender – Borrower controller bank account. The County CSD will notify Borrower via email that the County Loans funds have been disbursed. The Borrower will then authorize transfer of the Loan funds to Sr. Lender(s) to pay down the Loan(s).

#### Sample timeline for a single draw:

- September 25, 2019 – The Borrower's Representative receives Pay App from the General Contractor.
- September 25, 2019 – The Borrower's Representative forwards Pay App to Harris County Community Services Department Construction representative for review/approval

- Between September 25 and October 1, 2019 – The Borrower’s Representative receives invoices/backup from all other vendors
- October 3, 2019 – The Borrower’s Representative forwards Pay App to the Bank’s 3<sup>rd</sup> Party Inspector to initiate inspection / review
- October 3, 2019 – The Borrower’s Representative forwards Pay App for Architect Certification
- October 5, 2019 – The Borrower’s Representative submits Draw Package, including to Sr. Lender(s), provides necessary County documents to County.
- October 9, 2019 – County recommends approval of Draw Package and submits to the Auditor’s Office for inclusion on Commissioner’s Court agenda for October 29<sup>th</sup>, 2019.
- October 10, 2019 – The Bank’s 3<sup>rd</sup> Party Inspector sends its independent inspection report to Sr. Lender(s), and County.
- October 18, 2019 – Sr. Lender(s) approval of Draw Package and release of funds from the loan disbursement account.
- October 19, 2019 – Borrower pays the General Contractor and other vendors.
- October 29<sup>th</sup>, 2019 – County Commissioners Court meeting for approval of release of County Loan funds.

Part 1: Senior Loan(s) Documents

1. Renovation Loan Agreement (Construction to Permanent);
2. Promissory Note;
3. Multifamily Construction and Permanent Deed of Trust, Assignment of Rents, and Security Agreement and Fixture Filing;
4. UCC-1 Financing Statements;
5. Guaranty of Payment and Completion;
6. Borrower’s Affidavit and Certificate;
7. Dispute Resolution Agreement;
8. Developer Fee Subordination Agreement;
9. Affidavit of No Liens;
10. Operating Reserve and Security Agreement;
11. Replacement Reserve and Security Agreement;
12. Assignment of Management Agreement;
13. Notice of Final Agreement;
14. Contractor’s Agreement and Consent;
15. Architect/Lender Agreement and Certificate; and

16. Subordination Agreement (Seller Loan).

Part 2: County Funding Documents

1. Loan Agreement between Harris County, Improved Living Foundation, Inc., and 4600 Main Street Housing, LP for the 4600 Main Street Housing Project;
  2. Loan Note;
  3. Deed of Trust to Secure Performance;
  4. Regulatory Agreement and Declaration of Covenants and Restrictions;
  5. Security, Pledge and Assignment of Account (Affordable Housing Compliance Monitoring Fees);
- 
6. Guaranty of Payment and Completion;
  7. Collateral Note; and
  8. Collateral Assignment of Note and Liens.

Part 3: City Acquisition Loan Documents

Part 4: City HOME Loan Documents

EXHIBIT "C"

FINAL CONSTRUCTION BUDGET

Light Rail Lofts						
Development Cost						
Updated 8-17-20						
	Harris County	City of Houston		Amegy Bank	Seller Note	Total
	CDBG-DR	CDBG	HOME	Leveraging		Project Cost
<b>Acquisition Costs</b>						
Site Acquisition		1,964,143			351,475	2,315,618
Total Acquisition Costs	0	1,964,143		0	351,475	2,315,618
<b>Off-Site</b>						
Off-Site concrete				37,400		37,400
Storm drains and devices				18,320		18,320
Water and Fire Hydrants				48,700		48,700
Off-site utilities				16,800		16,800
Sewer laterals				21,500		21,500
Off-site paving				6,900		6,900
Off-site electrical				5,400		5,400
Other (parking deck improvements)				350,440		350,440
Sub-total Off-site costs	0	0	0	505,460	0	505,460
<b>Site Work</b>						
Demolition	352,115					352,115
Rough grading						0
Fine grading	5,400					5,400
On-site concrete	7,800					7,800
On-site electrical						0
On-site paving	4,900					4,900
On-site utilities	107,515					107,515
Decorative masonry	5,000					5,000
Site Work (roads, sewer and water lines)						0
Bumper stops, striping and signs	45,000					45,000
Landscape	35,985					35,985
Pool and decking						0
Athletic court						0
Fencing	26,450					26,450
Other (second story access)	39,500					39,500
Sub-total Site Costs	629,665	0	0	0	0	629,665
<b>Direct Construction /Rehab costs</b>						
Cconcrete	202,345		30,675			233,020
Masonry	40,639		6,161			46,800
Metals	615,933		93,372			709,305
Woods and Plastics	585,458		88,752			674,210
Thermal and Moisture Protection	70,767		10,728			81,495
Roof covering	162,978		24,707			187,685
Doors and Windows	587,138		89,007			676,145
Finishes	1,133,750		171,870			1,305,620
Specialties	117,342		17,788			135,130
Equipment	134,691		20,419			155,110
Furnishings	101,225		15,345			116,570
Special Construction	0		0			0
Conveyance Systems	90,657		13,743			104,400
Mechanical (HVAC, Plumbing)	1,721,409		260,956			1,982,365
Electrical	544,836		82,594			627,430
Lead Based Paint Abatement	15,630		2,370			18,000
Asbestos Abatement	30,393		4,607			35,000
Other Common Area Rehab	573,141		86,885			660,026
Other (sales tax)	321,980		48,810			370,790
Subtotal construction and rehab costs	7,050,311		1,068,790	0	0	8,119,101
<b>Total Site plus Construction /Rehab Costs</b>	<b>7,679,976</b>	<b>0</b>	<b>1,068,790</b>	<b>0</b>	<b>0</b>	<b>8,748,766</b>

<b>Other Construction Costs</b>							
General Requirements	447,595						447,595
Field Supervision							0
Cocontractor Overhead	174,353						174,353
General and Administrative							0
Contractor Profit	325,452						325,452
Sum							0
Construction Contingency	525,000						525,000
<b>Subtotal Other Construction and Rehab costs</b>	<u>1,472,400</u>	0	0	0	0	0	<u>1,472,400</u>
<b>Total Construction/Rehab costs</b>	9,152,376	0	1,068,790	0	0	0	10,221,166
<b>General Soft Costs</b>							
Architect/engineering fee			428,731				428,731
Building Permits			2,479	14,521			17,000
Audit				55,000			55,000
Affirmative Marketing/fair Housing				5,000			5,000
Impact Fees				113,000			113,000
Surveys				20,000			20,000
Appraisal				15,000			15,000
Market analysis				4,500			4,500
Environmental				6,750			6,750
Insurance				95,000			95,000
Other (owners contingency)				468,931			468,931
<b>Subtotal General Soft Costs</b>	0	0	431,210	797,702		0	1,228,912
<b>Construction Financing</b>							
Construction - Loan Origination				142,000			142,000
Taxes during Construction							0
Construction Loan Origination				58,000			58,000
Property Taxes during Construction				12,000			12,000
Other (construction loan interest res)				153,412			153,412
<b>Subtotal Construction Financing</b>	0	0	0	365,412		0	365,412
<b>Reserves</b>							
Rent-up				69,624			69,624
Operating				79,570			79,570
Replacement				16,800			16,800
<b>Subtotal Reserves</b>	0	0	0	165,994		0	165,994
<b>Developer Fees</b>							
Housing Consultant Fees				50,000			50,000
General and Administrative				50,000			50,000
Profit or fee				1,041,872			1,041,872
<b>Subtotal Developer Fee</b>	0	0	0	1,141,872		0	1,141,872
<b>Total Development Cost before CSD and HCED</b>	9,152,376	1,964,143	1,500,000	2,976,440	351,475		15,944,434
HC Engineering Dept Services	274,571						274,571
Construction Manager	120,000						120,000
<b>Total Development Cost</b>	<u>9,546,947</u>	<u>1,964,143</u>	<u>1,500,000</u>	<u>2,976,440</u>	<u>351,475</u>		<u>16,339,005</u>

**ATTACHMENT Q**

First Amendment to Restrictive Covenants

## FIRST AMENDMENT TO RESTRICTIVE COVENANTS

THIS FIRST AMENDMENT TO RESTRICTIVE COVENANTS (this "**Amendment**") is made and entered into as of the as of the date of countersignature by the City Controller as set out below, by and between 4600 MAIN STREET HOUSING, LP, a Texas limited partnership ("**Owner**") and the CITY OF HOUSTON (the "**City**").

### WITNESSETH:

WHEREAS, in accordance with the terms and provisions of that certain Loan Agreement, dated as of May 7, 2013 (the "**Loan Agreement**"), the City made a loan (the "**Loan**") of federal Community Development Block Grant ("**CDBG**") funds to Owner for the acquisition of the land described on Exhibit "A" ("**Land**") and the improvements located thereon (the "**Improvements**") and Owner executed and delivered for the benefit of the City those certain Restrictive Covenants (the "**Restrictive Covenants**") filed for record under County Clerk's File No. 20130254919 in the Official Public Records of Real Property of Harris County, Texas; and

WHEREAS, at the time of the execution of the Loan Agreement and the Restrictive Covenants, the Improvements were expected to be renovated to be a 48 unit affordable housing facility and, in order to satisfy the CDBG requirements, the Restrictive Covenants provided that 25 of the 48 units in the Improvements, being at least 51% of the total units, were designated to be affordable ("**Designated Units**");

WHEREAS, the Improvements will now be renovated to be a 56 unit affordable housing facility and the parties have agreed to increase the number of Designated Units from 25 to 29 units in order to satisfy the CDBG requirement that at least 51% of the total units be designated to be affordable;

WHEREAS, Owner and the City now wish to amend the Restrictive Covenants to reflect the increase from 48 to 56 the total number units that will comprise the Improvements and to increase from 25 to 29 the number of Designated Units;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

Owner and City agree as follows: Sections 1) and 2) of the Restrictive Covenants are amended to read as follows:

1. Sections 1) and 2) of the Restrictive Covenants are amended to read as follows:

1) In compliance with the maximum per unit subsidy amount rules at 24 CFR Sec. 92.250(a) and the minimum amount of assistance rules at 24 CFR Sec. 92.205(c), the number of units in the Project which have been designated by Owner and approved by the Director as subject to all occupancy, rent, and affordability requirements contained in 24 CFR 92 ("Designated Units") shall consist of 29 units, being at least 51% of the 56 total residential units in the Project.

2) The Designated Units rented or available for rent to families whose annual incomes do not exceed sixty (60%) percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families ("Houston's Low Income Families") shall be 29 units (100% of the Designated Units).

2. Except as specifically amended and modified by the terms of this Amendment and by any other duly executed amendments or supplements, all the terms, provisions, covenants, warranties, and agreements contained in the Loan Agreement, the Restrictive Covenants, and in the other Loan Documents shall remain in full force and effect (any irreconcilable conflicts or inconsistencies between the terms of this Amendment and the Loan Agreement, or any other Loan Document, shall be governed and controlled by this Amendment).

3. This Amendment may be executed in two or more counterparts, and it shall not be necessary that any one of the counterparts be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

4. The Guarantor joins in the execution and delivery of this Amendment to affirm, ratify, and evidence that the Guaranty executed by it is and remains in full force and effect as provided for in the Guaranty, and is not limited, impaired, or otherwise affected by the delivery of this Amendment and any documents, instruments and agreements issued in connection herewith by Grantor.

**5. THIS WRITTEN AGREEMENT AND THE OTHER WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS,**

**OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NOT UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

**IN WITNESS WHEREOF**, the parties execute this Amendment to Restrictive Covenants in multiple counterparts as of the date of countersignature by the City Controller as set out below.

[Signature Pages Follow]

***FIRST AMENDMENT TO RESTRICTIVE COVENANTS***

***SIGNATURE PAGE***

**OWNER:**

**4600 MAIN STREET HOUSING, LP,  
a Texas limited partnership**

By: Light Rail Lofts, LLC,  
a Texas limited liability company,  
its General Partner

---

By: \_\_\_\_\_  
Randall A. Bishop, Manager

**FIRST AMENDMENT TO RESTRICTIVE COVENANTS  
SIGNATURE PAGE**

**ALL-PURPOSE  
CERTIFICATE OF ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Los Angeles )

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary  
(Here insert name and title of the officer)

personally appeared Randall A. Bishop  
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 Signature (Notary Public Seal)

**ADDITIONAL OPTIONAL INFORMATION**

**DESCRIPTION OF THE ATTACHED DOCUMENT**

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)  
 Corporate Officer

\_\_\_\_\_  
(Title)

Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

**INSTRUCTIONS FOR COMPLETING THIS FORM**

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
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- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they - is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ♦ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ♦ Indicate title or type of attached document, number of pages and date.
  - ♦ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**FIRST AMENDMENT TO RESTRICTIVE COVENANTS**

**SIGNATURE PAGE**

**CITY:**

**SEAL/ATTEST:**

**CITY OF HOUSTON, TEXAS**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Sylvester Turner, Mayor

**APPROVED:**

**COUNTERSIGNED:**

\_\_\_\_\_  
Tom McCasland, Director  
Housing and Community Development  
Department

\_\_\_\_\_  
Chris Brown, City Controller

**APPROVED AS TO FORM:**

**COUNTERSIGNATURE DATE:**

\_\_\_\_\_  
Senior Assistant City Attorney  
LD# \_\_\_\_\_

**STATE OF TEXAS       §**  
**§**  
**COUNTY OF HARRIS   §**

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_ for Sylvester Turner, Mayor of the CITY OF HOUSTON, a municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

\_\_\_\_\_  
PRINTED NAME OF NOTARY

My COMMISSION EXPIRES:  
\_\_\_\_\_

**FIRST AMENDMENT TO RESTRICTIVE COVENANTS**

**SIGNATURE PAGE**

ACKNOWLEDGED AND CONSENTED TO:

**GUARANTOR:**

**CANTWELL-ANDERSON, INC.,**  
a California corporation

---

By: \_\_\_\_\_  
Randall Bishop  
Chief Financial Officer

**ATTACHMENTS:**  
**EXHIBIT "A"**      Land

**FIRST AMENDMENT TO RESTRICTIVE COVENANTS  
SIGNATURE PAGE**

**ALL-PURPOSE  
CERTIFICATE OF ACKNOWLEDGMENT**

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State of California }

County of Los Angeles }

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary  
(Here insert name and title of the officer)

personally appeared Randall A. Bishop  
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 Signature (Notary Public Seal)

**ADDITIONAL OPTIONAL INFORMATION**

**DESCRIPTION OF THE ATTACHED DOCUMENT**

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

**CAPACITY CLAIMED BY THE SIGNER**

- Individual (s)
- Corporate Officer

\_\_\_\_\_  
(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other Manager

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  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**EXHIBIT "A"**  
**LAND**

**ATTACHMENT R**

First Supplement to Deed of Trust

**FIRST SUPPLEMENT TO DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT**

THIS FIRST SUPPLEMENT TO DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT (this "**Supplement**") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2020, by and between 4600 MAIN STREET HOUSING, LP, a Texas limited partnership ("**Grantor**") and the CITY OF HOUSTON (the "**City**").

**WITNESSETH:**

WHEREAS, in accordance with the terms and provisions of that certain Loan Agreement, dated as of May 7, 2013 (the "**Loan Agreement**"), the City made a loan (the "**Loan**") to Grantor to fund the acquisition of the land described on Exhibit "A" and the improvements located thereon (the "**Land and Improvements**"), Grantor executed and delivered to the City, and is legally obligated to pay, a Promissory Note (the "**Note**"), dated May 15, 2013, in the maximum principal face amount of \$1,971,618.00, which is secured by the Deed of Trust, Security Agreement, and Financing Statement ("**Deed of Trust**") dated as of May 15, 2013, from Grantor to Neal Rackleff, Trustee ("**Trustee**"), filed for record under County Clerk's File No. 20130254921 in the Official Public Records of Real Property of Harris County, Texas; and

WHEREAS, the Deed of Trust encumbers the Land and Improvements, together with Grantor's rights related thereto, including "all rights of ingress and egress, easements, water and wastewater rights, and, to the extent assignable, all licenses, permits, franchises, . . . contracts . . . and all rights of Grantor in an to any development rights related to the Land and Improvements . . . and all other rights and privileges obtained in connection with, relating to or associated with the Land or the Improvements"; and

WHEREAS, Grantor has obtained the easement rights described on Exhibit "C" ("**Easement Rights**") order to meet certain requirements for the further development of the Land and Improvements as required by the Loan Agreement;

WHEREAS, Grantor and the City now wish to supplement the Deed of Trust to clarify that the Easement Rights are among the property encumbered by the Deed of Trust;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and City agree as follows:

1. Category "C" of the Property listed in the Granting Clause of the Deed of Trust is supplemented by adding the following parenthetical following the word "easements":

(including, without limitation, the Easement Rights set forth on Exhibit "C" attached hereto)

2. The exhibits to the Deed of Trust are hereby supplemented by attaching Exhibit "C" hereto to follow Exhibit "B" of the Deed of Trust.

3. Except as specifically supplemented and modified by the terms of this Supplement and by any other duly executed supplements or amendments, all the terms, provisions, covenants, warranties, and agreements contained in the Loan Agreement, the Deed of Trust, and in the other Loan Documents shall remain in full force and effect (any irreconcilable conflicts or inconsistencies between the terms of this Supplement and the Loan Agreement, or any other Loan Document, shall be governed and controlled by this Supplement).

4. This Supplement may be executed in two or more counterparts, and it shall not be necessary that any one of the counterparts be executed by all of the parties hereto. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

5. Each Guarantor joins in the execution and delivery of this Supplement to affirm, ratify, and evidence that the Guaranty executed by it is and remains in full force and effect as provided for in the Guaranty, and is not limited, impaired, or otherwise affected by the delivery of this Supplement and any documents, instruments and agreements issued in connection herewith by Grantor.

**6. THIS WRITTEN AGREEMENT AND THE OTHER WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NOT UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

**IN WITNESS WHEREOF**, the parties execute this First Supplement to Deed of Trust, Security Agreement and Financing Statement in multiple counterparts as of the date of countersignature by the City Controller as set out below.

[Signature Pages Follow]

**FIRST SUPPLEMENT TO DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT**

**SIGNATURE PAGE**

**GRANTOR:**

**4600 MAIN STREET HOUSING, LP,  
a Texas limited partnership**

By: Light Rail Lofts, LLC,  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Randall A. Bishop, Manager

[Acknowledgement and Additional Signature Pages Follow]

# ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Los Angeles )

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary  
(Here insert name and title of Notary Public)

personally appeared Randall A. Bishop  
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 Signature (Notary Public Seal)

### ADDITIONAL OPTIONAL INFORMATION

#### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer

\_\_\_\_\_  
(Title)

- Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

### INSTRUCTIONS FOR COMPLETING THIS FORM

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  - ✦ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, include the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**FIRST SUPPLEMENT TO DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT**

**SIGNATURE PAGE**

**CITY:**

**SEAL/ATTEST:**

**CITY OF HOUSTON, TEXAS**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Sylvester Turner, Mayor

**APPROVED:**

**COUNTERSIGNED:**

\_\_\_\_\_  
Tom McCasland, Director  
Housing and Community Development  
Department

\_\_\_\_\_  
Chris Brown, City Controller

**APPROVED AS TO FORM:**

**COUNTERSIGNATURE DATE:**

\_\_\_\_\_  
Senior Assistant City Attorney  
LD# \_\_\_\_\_

**STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §**

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_ for Sylvester Turner, Mayor of the CITY OF HOUSTON, a municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

\_\_\_\_\_  
PRINTED NAME OF NOTARY

My COMMISSION EXPIRES:  
\_\_\_\_\_

**FIRST SUPPLEMENT TO DEED OF TRUST, SECURITY AGREEMENT  
AND FINANCING STATEMENT**

**SIGNATURE PAGE**

ACKNOWLEDGED AND CONSENTED TO:

**GUARANTOR:**

**CANTWELL-ANDERSON, INC.,**  
a California corporation

By: \_\_\_\_\_  
Randall A. Bishop  
Chief Financial Officer

[Acknowledgement Page Follows]

**ATTACHMENTS:**

**EXHIBIT "A"**      Land  
**EXHIBIT "C"**      Easement Rights

# ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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State of California }

County of Los Angeles }

On \_\_\_\_\_ before me, Yolanda J. Oliver, Public Notary  
(Here insert name and title of Notary)

personally appeared Randall A. Bishop  
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 Signature (Notary Public Seal)

### ADDITIONAL OPTIONAL INFORMATION

#### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)  
 Corporate Officer  
 \_\_\_\_\_  
 (Title)  
 Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other Manager

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**EXHIBIT "C"**  
**EASEMENT RIGHTS**