

City of Houston, Texas, Ordinance No. 2020 - 813

AN ORDINANCE APPROVING AND AUTHORIZING AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE CITY OF HOUSTON AND CANTWELL-ANDERSON, INC., JOINED BY 4600 MAIN STREET HOUSING, L.P., WHICH PROVIDES FOR A LOAN OF FUNDS FOR AN OFFICE BUILDING AT 4600 MAIN STREET IN HOUSTON, TEXAS TO BE REDEVELOPED INTO A 56 UNIT AFFORDABLE HOUSING COMMUNITY, TO REFLECT DESIGN, BUDGET AND FINANCING CHANGES REQUIRED TO COMPLETE THE DEVELOPMENT OF THE 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 the 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 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 then-expected 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 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 Construction Loan be amended as set forth the in the First Amendment To Loan Agreement (HOME Transactions”) (“First Amendment”) attached hereto, and that the Acquisition Loan be similarly amended by separate instrument, to reflect the current plans, budget and construction schedule for the Project, including 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.

At J. Hanley

City Secretary

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

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

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: SEP 29 2020

AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		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 (HOME Transactions”)

FIRST AMENDMENT TO LOAN AGREEMENT (HOME TRANSACTION)

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 **CANTWELL-ANDERSON, INC.**, a California corporation ("Borrower"), and is joined herein by **4600 MAIN STREET HOUSING, LP**, a Texas limited partnership ("Owner").

WHEREAS, Owner, an affiliate of 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 Owner to provide a \$1,971,618.00 loan ("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, Owner agreed that at least 25 floating units in the Project, being approximately 52% of the 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 Owner and Cantwell-Anderson, Inc., 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 Borrower, joined by Owner, to provide a \$1,500,000.00 loan (“Construction Loan”) to Borrower, which Borrower would re-loan to Owner to assist with the renovation of the Project 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, Borrower and Owner 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 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 Owner (“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 would re-loan to Owner 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 Non-profit and Owner will agree that at least 29 floating units in the Project, being approximately 52% of the 56 residential units that are to comprise the Project, would 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 Construction Loan and, by separate instrument, the Acquisition 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, Owner and the City agree that the Construction 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 Construction Loan Agreement if they are not otherwise defined herein:

I

Section One M. is amended to read as follows:

Owner previously acquired the Project with a portion of the proceeds of a \$1,971,618.00 loan (“Acquisition Loan”) from the City which, without limitation, is evidenced by a Deed of Trust, Security Agreement and Financing Statement recorded in the Official Records of Real Property of Harris County, Texas under Clerk’s File Number 20130254921 (“Acquisition Deed of Trust”) and Restrictive Covenants recorded in the Official Records of Real Property of Harris County, Texas under Clerk’s File Number 20130254919 (“Acquisition Restrictive Covenants”).

Owner 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 and the County Loan herein described, and Owner 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 and the Acquisition Loan total at least the amount required by the Project 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 Project Budget, including any increases thereto, or otherwise payable under this Agreement to the extent not covered by the Loan Proceeds.

II

The first sentence of Section 2.6 is amended to read as follows:

As of the Closing Date, there are no existing or threatened liens against the Project (other than the statutory ad valorem tax lien for taxes not yet due and the liens securing the Acquisition Loan, the County Loan, and the Senior Loan), and the Borrower and Owner do not know of any reason such liens may be filed or threatened against the Project.

III

The last sentence of Section 3.5 is amended to read as follows:

The City's funding shall be subject to funding of all Other Financing (including, without limitation, the Senior Loan and the County Loan) in the order specified in the Approved Final Construction Schedule or in the Intercreditor Agreement.

IV

Section 3.7 is amended to read as follows:

Priority of City's Restrictive Covenants and Declaration of Subordination. 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 (the "Subordination Agreement").

V

Section 3.8 is amended to read as follows:

Intercreditor Agreement. The lenders under the Other Financings, including, without limitation, the Senior Loan, the County Loan and the Acquisition Loan, as well as, Borrower, Owner and the City shall have executed an intercreditor agreement (the "Intercreditor Agreement") in the form set forth in the Attachments, or in a form otherwise approved by the City Attorney.

VI

Section 3.14.2 is amended to read as follows:

City's Loan Title Policy. The Title Company shall issue at Borrower's or Owner's expense, in substance approved by the Director, a Commitment to issue to the City a Loan Policy of Title Insurance ("City's Loan Title Policy") naming the City as Insured, insuring the second lien priority of the liens securing the City's Loan, subject only to:

- (1) the Senior Loan;
- (2) the Non-Profit Loan, provided that the exception shall state that the liens securing the Non-Profit Loan is deemed to have equal priority to the liens securing the City Loan;
- (3) the City's Restrictive Covenants; and
- (3) Schedule B Exceptions approved by the Director, in his or her reasonable discretion.

VII

The following sentence is added to the end of Section 3.15.1:

The environmental assessment must be dated within six (6) months of Closing or if this timeframe is exceeded, an assessment which is less than twelve (12) months old may be updated by the original issuer if the update report is issued within six (6) months prior to Closing and an update is acceptable to the City's in-house environmental risk manager.

VIII

Section 4.1, Item 35 is amended to read as follows:

City's Owner's Title Policy, or a Commitment to issue the same, dated as of the Closing Date, in conformity with the requirements of this Agreement and the Insured Closing Letter;

IX

Section 4.3 is amended to read as follows:

Escrow at Title Company. All or any part of the sums to be funded by the City pursuant to this Agreement may be disbursed, for purposes of the closing draw, to a title company or mortgage servicer approved by the Director, to be held in escrow for subsequent disbursement to Borrower and other authorized payees or for return to the City pursuant to the terms and conditions of this Agreement. For all draws other than the initial closing draw, the remaining amounts of the City Loan shall be drawn into an account in the name of Owner and controlled by and held by Senior Lender (the "Construction Account"). Funds may only be drawn down for eligible costs in accordance with the Final Construction Budget. The Senior Lender has the authority to further approve such draws that have been submitted by the Owner, approved by the Director and wired into the Construction Account in accordance

with the requirements of this Agreement and the other Loan Documents. Upon receipt of a payment or disbursement request from the City's Housing and Community Development Department, the Controller of the City is authorized to issue a check or warrant made payable to the order of the designated title company or mortgage servicer or for disposition in the Construction Account pursuant to this paragraph and to fund the obligations of the City under this Agreement.

X

Section 4.5 is amended to read as follows:

Closing Deadline. Notwithstanding anything contained in this Agreement to the contrary, Borrower shall cause all conditions precedent to Closing to be satisfied on or before 30 days following the date hereof (the "Outside Closing Date"). Unless Closing occurs on or before the Outside Closing Date (unless the Director, in his sole and absolute discretion, consents to an extension of the Outside Closing Date), the Director may, without providing prior notice, terminate this Agreement by written notice to Borrower and Owner, in which event the City's obligations hereunder shall automatically cease and be of no further effect.

XI

Section 6.1.2 is amended to read as follows:

Commencement and Completion of Work; Change Orders. No Work shall commence on the Project prior to the Closing of the City's Loan. Borrower shall cause Owner to, and Owner shall, begin the Work within thirty (30) days following the Closing, but the City shall have no obligation to fund any portion of the Loan Proceeds until the issuance of all City authorizations and required permits, including, without limitation, the Notice to Proceed to be issued by the City.

Borrower shall cause Owner to, and Owner shall, complete the Work in accordance with the Approved Final Construction Schedule but in no case later than eighteen (18) months following the commencement of Work, in accordance with the Approved Construction Schedule, time being of the essence (the "Approved Construction Period"). Any changes to the Approved Final Construction Schedule, Approved Construction Contract, Approved Construction Period, or the Approved Plans, Specifications, and Drawings must be approved by the Director. Subject to waiver by the Director, neither Borrower nor Owner shall be entitled to receive any disbursements of the City Loan after the expiration of the Approved Construction Period.

XII

Section 6.8.1 is amended to read as follows:

6.8.1 The Director has determined that the number of Designated Units for the Project covered by this Agreement shall consist of thirteen (13) units, being approximately twenty-three percent (23%) of the fifty-six (56) total residential units in the Project, the location of which may float during the Affordability Period. The size and type of the Designated Units shall be set forth on the Certificate of Satisfaction of Closing Conditions. At least thirty (30) days prior to the occupancy of any unit within the Project, the Owner shall notify the Director in writing of the initial addresses of the Designated Units; provided, however, that the Designated Units are permitted to float within the Project and therefore are anticipated to change location from time to time.

XIII

Section 6.8.2 is amended to read as follows:

6.8.2 The number of Designated Units rented or available for rent to Very Low-Income Households shall be three (3) units (20% of the Designated Units). The number of Designated Units rented or available for rent to Low-Income Households shall be ten (10) units (80% of the Designated Units). In the event that the formula set forth in 24 CFR Sec. 92.252 in the future would require a greater or lesser number of Designated Units to be rented or available for rent to Very Low-Income Households, the number of Designated Units rented or available for rent to Very Low-Income Households shall not change from the number specified in this Section.

XIV

Section 10.1 is amended to read as follows:

Default. 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:

XV

Sections 10.1.15 and 10.1.16 are deleted in their entirety.

XVI

Section 10.3 is amended to read as follows:

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, the Nonprofit and the County 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, the Nonprofit or the County 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.

XVIII

Section 10.4 is deleted in its entirety and is re-labeled *Reserved*.

XIX

The first sentence of Section 10.5 is revised to read as follows:

Upon the declaration of a Default by the Director and the failure by Borrower or Senior Lender, County or Nonprofit 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 Project; (iv) cease funding any disbursements under the Loan; (v) foreclose on the Collateral Note and/or (vi) take any other action authorized or available under this Agreement, any of the Loan Documents or under Applicable Law or in equity.

XX

Section Fifteen 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, 9th Floor
Houston, TX 77007
Attention: Director

XXI

Section 18.12 is amended to read as follows:

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

XXII

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

Acquisition Loan shall mean the performance-based loan of Community Development Block Grant funds in the maximum principal amount of \$1,971,618.00 made by the City to Owner to fund acquisition of the Project. The Acquisition Loan closed on May 15, 2013.

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

Acquisition Mortgage shall mean the Deed of Trust, Security Agreement and Financing Statement, recorded in the Official Public Records of Real Property of Harris County, Texas under Clerk's File No. 20130254921, which secures the Acquisition Loan.

Acquisition Restrictive Covenants shall mean the covenants embodied in the Declaration of Land Use Restrictions (Restrictive Covenants) executed by Owner in consideration of the Acquisition Loan, as such covenants may be amended at the closing of the loan to be provided pursuant to this Agreement.

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 Acquisition Loan and the 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.

Designated Units shall mean those units in the Project which have been designated by Owner and approved by the Director as subject to all occupancy, rent, and affordability requirements of this Agreement and the Restrictive Covenants. The Designated Units shall remain in compliance with the requirements of this Agreement without regard to the term of any mortgage or the transfer of ownership, pursuant to the Restrictive Covenants. The Designated Units covered by this Agreement include 13 of the total units and may "Float" within the Project.

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.

XXIII

The following Exhibits to the Construction Loan Agreement are replaced by the similarly labelled Exhibits attached to this First Amendment:

EXHIBIT A	Legal Description of the "Land"
EXHIBIT B	Commitments for "Other Financings"
EXHIBIT C	Project Budget and Construction Budget
EXHIBIT D	Scope of Work
EXHIBIT E	Construction Schedule

XXIV

The following Attachments to the Construction Loan Agreement are replaced by the similarly labelled Attachments attached to this First Amendment:

- A. City's Restrictive Covenants
- B. Borrower's Note
- C. Owner's Deed of Trust
- E. Collateral Note
- H. Declaration of Subordination
- I. Intercreditor Agreement
- P. Loan Agreement (Owner)

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:

CANTWELL-ANDERSON, INC.,
a California corporation

By: _____
Randall A. Bishop
Chief Financial Officer

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

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# _____

EXHIBITS TO FIRST AMENDMENT

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

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 2nd and 3rd 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%
Total Developer Fee	\$ 1,091,872	100%

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, Senior Vice President

Accepted and Agreed to:





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:

K:\Disaster Recovery\Harris\AFF Rental Housing Proj RTP\11-0181\GLO Review Information\Light Rail\Conditional Award Letter\CDBG-DR Light Rail Lofts, LLC - Light Rail Lofts Conditional Award to GLO conditions-020120.docx

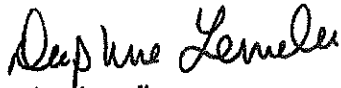
Letter to Mr. Postlmayr
February 6, 2020
Page 2

- 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. 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.

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

Noteholder: 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
TOTAL	29	0

- 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

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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

Project Budget and 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
Acquisition Costs						
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
Off-Site						
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
Site Work						
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
Direct Construction /Rehab costs						
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>
Total Site plus Construction /Rehab Costs	7,679,976	0	1,068,790	0	0	8,748,766
Other Construction Costs						
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	<u>525,000</u>					525,000
Subtotal Other Construction and Rehab costs	<u>1,472,400</u>	0	0	0	0	<u>1,472,400</u>
Total Construction/Rehab costs	9,152,376	0	1,068,790	0	0	10,221,166
General Soft Costs						
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>
Subtotal General Soft Costs	0	0	431,210	797,702	0	1,228,912
Construction Financing						
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>
Subtotal Construction Financing	0	0	0	365,412	0	365,412
Reserves						
Rent-up				69,624		69,624
Operating				79,570		79,570
Replacement				<u>16,800</u>		<u>16,800</u>
Subtotal Reserves	0	0	0	165,994	0	165,994
Developer Fees						
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>
Subtotal Developer Fee	0	0	0	1,141,872	0	1,141,872
Total Development Cost before CSD and HCED	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	<u>120,000</u>					<u>120,000</u>
Total Development Cost	9,546,947	1,964,143	1,500,000	2,976,440	351,475	16,339,005

HUMPHRIES CONSTRUCTION CORPORATION

Light Rail Lofts

Application for Payment Schedule of Values

8/14/20

CSI CODE	DESCRIPTION OF WORK	SCHEDULED VALUE
DIVISION 01	General Conditions	\$565,610
DIVISION 02	Asbestos Abatement/Demolition/Bracing/Shoring	485,160
DIVISION 02	Street/Sidewalk Closures/Hoisting & 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
TOTAL:	\$9,941,450

EXHIBIT D

Scope of Work

EXHIBIT D

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 1st 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 2nd floor roof to support the 3rd level floor with steel beams connected to the posts. This will allow the 3rd 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 3rd 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 E

Construction Schedule

PROJECT SCHEDULE FOR
LIGHT RAIL LOFTS

Task #	Task Name	Duration	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11	Month 12	Month 13	Month 14	Month 15	Month 16	Month 17	Month 18		
1	Asbestos Abatement & Interior Demolition	40 days	[Gantt bar]																			
2	Mobilization	5 days	[Gantt bar]																			
3	Remove 1st Floor Plaster & Ceiling	5 days	[Gantt bar]																			
4	Interior Slab Demolition	15 days	[Gantt bar]																			
5	Interior Structural Demolition	10 days	[Gantt bar]																			
6	Foundation Work	20 days	[Gantt bar]																			
7	Plumbing Underground	15 days	[Gantt bar]																			
8	Slab Patch	5 days	[Gantt bar]																			
9	Remove Roofing	10 days	[Gantt bar]																			
10	Deliver Structural Steel	1 day	[Gantt bar]																			
11	Erect Structural Steel	15 days	[Gantt bar]																			
12	1st Floor	1 day	[Gantt bar]																			
13	Framing	15 days	[Gantt bar]																			
14	MEP Rough-in	30 days	[Gantt bar]																			
15	Drywall	15 days	[Gantt bar]																			
16	Interior Finishes	20 days	[Gantt bar]																			
17	Casework/Equipment/ME	90 days	[Gantt bar]																			
18	2nd Floor	1 day	[Gantt bar]																			
19	2nd Floor Framing	80 days	[Gantt bar]																			
20	MEP Rough-in	40 days	[Gantt bar]																			
21	Drywall	35 days	[Gantt bar]																			
22	Interior Finishes	60 days	[Gantt bar]																			
23	Casework/Equipment/ME	70 days	[Gantt bar]																			
24	3rd Floor	1 day	[Gantt bar]																			
25	Erect 3rd Floor Trusses	10 days	[Gantt bar]																			
26	Install Sprinkler System below 3rd Floor	10 days	[Gantt bar]																			
27	3rd Floor Framing	35 days	[Gantt bar]																			
28	Roof Trusses & Decking	10 days	[Gantt bar]																			
29	Roofing	10 days	[Gantt bar]																			
30	MEP Rough-in	40 days	[Gantt bar]																			
31	Drywall	35 days	[Gantt bar]																			
32	Interior Finishes	70 days	[Gantt bar]																			
33	Casework/Equipment/ME	65 days	[Gantt bar]																			

Project: Light Rail Lofts Rev 3.2	Task	Project Summary	Manual Task	Start-only	Deadline
Date: Wed 2/19/20	Split	Inactive Task	Duration-only	End-only	Progress
	Milestone	Inactive Milestone	Manual Summary Rollup	External Task	Manual Progress
	Summary	Inactive Summary	Manual Summary	External Milestone	

PREPARED BY
HUMPHRES CONSTRUCTION CORPORATION
2/12/20

ATTACHMENTS TO FIRST AMENDMENT

- A. City's Restrictive Covenants
 - B. Borrower's Note
 - C. Owner's Deed of Trust
 - E. Collateral Note
 - H. Declaration of Subordination
 - I. Intercreditor Agreement
 - P. Loan Agreement (Owner)
-

ATTACHMENT A

City's Restrictive Covenants

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DECLARATION OF LAND USE RESTRICTIONS (RESTRICTIVE COVENANTS)

In consideration of the making of a loan of HOME funds by the **CITY OF HOUSTON, TEXAS**, a home-rule city organized under the laws of the State of Texas (the "City"), and the disbursement of any part thereof, and in order to comply with the requirements of the Cranston-Gonzalez National Affordable Housing Act, 42 USC 1270, et. seq., and 24 CFR Part 92 adopted by the Secretary of Housing and Urban Development pursuant thereto, **4600 MAIN STREET HOUSING, LP**, a Texas limited partnership (together with its successors and assigns and subsequent owners of the Project, collectively, "Owner"), hereby executes this Declaration of Land Use Restrictions (Restrictive Covenants) (this "Restrictive Covenant Agreement"), effective as of _____, 2020 (the "Effective Date"), and agrees that the following restrictions shall apply to the real property described in the attached EXHIBIT A commonly known as the Light Rail Lofts located at 4600 Main St., Houston, Harris County, Texas ("Project"):

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 of Housing and Community Development Department of the City of Houston (the "Director") as subject to all occupancy, rent, and affordability requirements contained in 24 CFR 92 ("Designated Units") shall consist of thirteen (13) units, being approximately twenty-three percent (23%) of the fifty-six (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 ("Low-Income Families") shall be three (3) units (20% of the Designated Units). The number of Designated Units rented or available for rent to families whose annual incomes do not exceed fifty (50%) percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families ("Very Low-Income Families") shall be ten (10) units (80% of the Designated Units).

3) Owner shall comply with the following rent requirements, determined in accordance with the formulas set forth in 24 CFR Sec. 92.252(a) and (b):

- a. High HOME Rents. Designated Units rented or available for rent to Low-Income Families, shall have a maximum rent that is the lesser of the following:
 - (1) the fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR Sec. 888.111; or

- (2) a rent that does not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals sixty-five percent (65%) of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the Designated Unit.
- b. Low HOME Rents. Designated Units rented or available for rent to Very Low-Income Families must meet one of the following rent requirements:
- (1) the rent does not exceed thirty percent (30%) of the annual income of a family whose income equals fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families (if the rent determined by this calculation is higher than the rent determined by following the formula in subsection (a) above, then the amount determined in subsection (a) above shall be the rent); or
 - (2) the rent does not exceed thirty percent (30%) of the family's adjusted income. If the family receives Federal or Texas project-based rental subsidy and the tenant pays as a contribution toward rent not more than thirty percent (30%) of the family's adjusted income, then the maximum rent is the rent allowable under the Federal or Texas project-based rental subsidy program.
- c. The Owner will not refuse to lease a Designated Unit to a holder of a certificate of family participation under 24 CFR Part 882 (Rental Certificate Program) or a rental voucher under 24 CFR Part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a HOME tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher, or comparable HOME tenant-based assistance document.

4) Pursuant to 24 CFR Sec. 92.252(j), the location of the Designated Units may "float" within the Project. No later than ninety (90) days prior to the initiation of rental activities at the Project, Owner shall contact the Director to establish a procedure for identifying the floating Designated Units to be occupied by qualified tenants on a periodic basis thereafter, all in compliance with applicable HUD regulations and directives. Floating Designated Units shall conform with the requirements of this Section, the Restrictive Covenants (hereinafter defined) and the requirements set forth at 24 CFR Sec. 92.252.

5) The Owner must comply with the requirement of 24 CFR Sec. 92.252(i). If the income of the tenant family occupying a Designated Unit increases above the threshold eligible median income, adjusted for family size, for the area where the Project is located, as such median income is established by HUD and as provided for in this Restrictive Covenant Agreement and in the Restrictive Covenants, then the next available non-Designated Unit at the Project must be set aside for an eligible family, and that new unit then becomes a Designated Unit.

6) The Designated Units shall remain affordable in accordance with 24 CFR Part 92.252 for a period of not less than twenty (20) years commencing on the date of issuance of the final occupancy permit by the City (“Affordability Period”).

7) The restrictions, covenants, agreements and provisions of this Restrictive Covenant Agreement (collectively, the “Restrictive Covenants”) and the Affordability Period (i) shall run with the land, (ii) shall be binding upon the Owner and Owner’s heirs, personal representatives, successors and assigns, and (iii) shall be enforceable by actions at law or in equity by the City, its successors and assigns and/or one or more third-party beneficiaries. For the purpose of this Restrictive Covenant Agreement, a third-party beneficiary shall be any member of a Houston Low-Income Family.

8) Owner hereby agrees to execute further documentation required by the City or HUD which may be necessary to cause this Declaration to comply with the laws, ordinances and/or regulations referenced herein or in the Loan Agreement referenced below (or any other Applicable Laws that supplement, amend, restate, replace or otherwise pertain to such laws, ordinances and/or regulations).

9) All capitalized terms not defined herein shall have the meaning proscribed to them in the Loan Agreement dated September 15, 2017, by and among the City, Cantwell-Anderson, Inc., a California corporation, and Owner, as amended by First Amendment dated _____, 2020.

[SIGNATURE PAGES FOLLOW]

Signature Page

Declaration of Land Use Restrictions (Restrictive Covenants)

WITNESS its hand this _____ day of _____, 2020.

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

Signature Page

Declaration of Land Use Restrictions (Restrictive Covenants)

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

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
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 as 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 semicolon 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.

EXHIBIT A
LEGAL DESCRIPTION

ATTACHMENT B

Borrower's Note

NOTE

\$1,500,000.00

_____, 2020

I. PROMISE TO REPAY.

For value received, **CANTWELL-ANDERSON, INC.**, a California corporation ("**Maker**"), hereby agrees and promises to pay to the order of **THE CITY OF HOUSTON, TEXAS**, a home-rule city organized under the laws of the State of Texas (together with its successors and assigns, "**Payee**" or "**holder**"), at City Hall Annex, 900 Bagby, City of Houston, Harris County, Texas 77002, or at any other place as the holder hereof may from time to time in writing designate, on the Maturity Date, in coin or currency, which at the time of payment shall constitute legal tender of the United States of America, the principal sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00), or so much thereof as may be advanced, together with interest on the principal balance from time to time remaining unpaid at the rates set forth below.

II. LOAN AGREEMENT; DEED OF TRUST; BORROWER/OWNER LOAN.

This Note is executed pursuant to a Loan Agreement executed or to be executed ("**Loan Agreement**") between Maker and Payee setting forth the terms of the loan evidenced by this Note (the "**Loan**"). All capitalized terms used herein that are not defined herein shall have the same meaning as given in the Loan Agreement. This Note is secured by and entitled to the benefits of a certain Collateral Assignment of Note and Liens ("**Collateral Assignment**") executed by Maker assigning Maker's right, title and interest in and to a promissory note ("**Collateral Note**") made by 4600 Main Street Housing, LP, a Texas limited partnership ("**Owner**"), to Maker in the principal amount of \$1,500,000.00, which Collateral Note is secured by a Deed of Trust, Assignment, Security Agreement and Financing Statement of even date herewith ("**Deed of Trust**") by Owner, to Tom McCasland, Trustee, for the benefit of Maker and collaterally assigned to Payee, said Deed of Trust covering certain real property located in Harris County, Texas, together with the buildings and other improvements now or hereafter erected thereon and the personal property attached to or used in connection therewith ("**Property**"), said Property being owned in fee simple by Owner.

The proceeds of the Loan will be loaned by Maker to Owner under that certain loan agreement between Maker and Owner dated as of the date hereof to be used for costs to renovate and/or construct a community to be known as the Light Rail Lofts, located on the Property to house low and very-low income residents. Funding is being provided to Payee pursuant to a HOME Investment Partnerships Agreement between Payee and the United States of America, acting by and through its Department of Housing and Urban Development, for federal funding of a HOME Investment Partnerships Program under the National Affordable Housing Act of 1990, as amended. The Loan is a community development activity undertaken by the City and authorized under Chapter 373 or Chapter 374 of the Texas Local Government Code.

III. PAYMENTS; TERM.

No payment of principal or interest shall accrue or be payable under this Note except in the event of a Default (as hereinafter defined). Upon the expiration of the Affordability Period (as defined in the Loan Agreement), if no Default has occurred which remains uncured, the amount of the deferred principal shall be deemed paid at maturity. Upon the event of a Default, the outstanding deferred principal balance shall, at the option of the holder hereof, be immediately due and payable, without notice or opportunity to cure. Interest will not be charged on the deferred principal unless there is a Default.

This Note shall mature on the Maturity Date, which is the date that the Affordability Period expires.

IV. DEFAULT; ACCELERATION.

If a Default as defined in any of the Loan Documents, including without limitation the Loan Agreement, shall occur, the entire debt represented by this Note, consisting of the outstanding principal balance and all accrued interest thereon, shall, at the option of the holder hereof, and without notice, presentment for payment, demand, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration or any other notice or any other action (**ALL OF WHICH PAYEE HEREBY EXPRESSLY WAIVES AND RELINQUISHES**), become immediately due and payable, anything herein to the contrary notwithstanding, time being of the essence hereof. Payee's rights under this paragraph shall be in addition to any other rights or remedies it may have under any of the Loan Documents and at law or in equity to enforce Maker's obligations under the Loan Documents. During the continuance of any Default, interest shall accrue on the outstanding balance of this Note at a rate equal to the lesser of six (6%) percent per annum or the Highest Lawful Rate ("**Default Rate**").

V. PREPAYMENT.

Subject to the terms of the Loan Agreement, Maker shall have the right to prepay, at any time and from time to time upon five (5) business days' prior written notice to Payee, without fee, premium or penalty (except as may otherwise be provided in this paragraph), all or any portion of the outstanding principal balance hereof, provided, however, that such prepayment shall also include any and all accrued but unpaid interest on the amount of principal being so prepaid through and including the date of prepayment, plus any other sums which have become due to Payee under the other Loan Documents on or before the date of prepayment, but which have not been fully paid. If this Note is prepaid in full, any commitment of Payee to make further advances shall automatically terminate and shall be of no further force or effect.

VI. APPLICATION OF PAYMENTS.

Each payment made on this Note shall be credited first to accrued, unpaid interest and the remainder to principal, and interest shall thereupon cease to accrue upon the principal so paid. Notwithstanding the foregoing, however, after the occurrence of a Default, Payee may apply

payments on this Note in any manner deemed necessary or desirable by Payee, in its sole and absolute discretion.

VII. UNCONDITIONAL OBLIGATION TO PAY.

Maker is and shall be obligated to pay all principal, interest and any and all other amounts which become payable under this Note or under any of the other Loan Documents absolutely and unconditionally and without any abatement, postponement, diminution or deduction whatsoever and without any reduction for counterclaim or setoff whatsoever. If at any time any payment received by Payee hereunder shall be deemed by a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance under any Debtor Relief Law (as defined below), then the obligation to make such payment shall survive any cancellation or satisfaction of this Note or return thereof to Payee and shall not be discharged or satisfied with any prior payment thereof or cancellation of this Note, but shall remain a valid and binding obligation enforceable in accordance with the terms and provisions hereof, and such payment shall be immediately due and payable upon demand. For purposes of this Note, "**Debtor Relief Law**" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts or similar laws affecting the rights of creditors.

VIII. WAIVER.

Maker hereby waives presentment for payment, protest and demand, notice of protest, demand and dishonor, and non-payment of this Note, notice of default, notice of acceleration, and notice of intent to accelerate, and hereby consents that the holder hereof may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, at the request of any person liable hereon, and such consent shall not alter nor diminish the liability of any other person. **FURTHER, MAKER AND ANY ENDORSERS OR GUARANTORS HEREOF SEVERALLY WAIVE AND RELINQUISH, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO THE BENEFITS OF ANY MORATORIUM, REINSTATEMENT, MARSHALING, FORBEARANCE, VALUATION, STAY, EXTENSION, REDEMPTION, APPRAISEMENT, EXEMPTION AND HOMESTEAD NOW OR HEREAFTER PROVIDED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES OF AMERICA AND OF EACH STATE THEREOF, BOTH AS TO ITSELF AND IN AND TO ALL OF ITS PROPERTY, REAL AND PERSONAL, AGAINST THE ENFORCEMENT AND COLLECTION OF THE OBLIGATIONS EVIDENCED BY THIS NOTE OR BY THE OTHER LOAN DOCUMENTS.**

IX. COSTS OF COLLECTION; ATTORNEYS' FEES.

Maker agrees to pay all costs of collection, including attorneys' fees, if the principal of this Note or any payment on the principal or interest hereon is not paid at the respective maturity and to pay all costs including, attorneys' fees and court costs, if it becomes necessary to protect the security hereof, whether suit be brought or not, after Default hereunder by Maker.

X. USURY LIMITATIONS.

No provision of the Loan Agreement, this Note, or any instrument securing payment of or relating to the indebtedness evidenced hereby, shall require the payment or permit the collection of interest in excess of the Highest Lawful Rate. If any excess of interest in such respect is herein or in any other instrument provided for, or shall be adjudicated to be so provided for herein or in any other instrument, the provisions of this paragraph shall govern and neither Maker nor any guarantor or endorser of this Note nor their respective heirs, personal representatives, successors, or assigns shall be obligated to pay such interest to the extent it is in excess of the Highest Lawful Rate.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Note or the indebtedness evidenced hereby (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Maker and Payee related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged or received by reason of Payee's exercise of the option to accelerate the maturity of the Note and/or the indebtedness evidenced hereby, or (iii) Maker will have paid or Payee will have received by reason of any voluntary prepayment by Maker of the Note and/or the indebtedness evidenced hereby, then it is Maker's and Payee's express intent that all amounts charged in excess of the Highest Lawful Rate shall be automatically cancelled, ab initio, and all amounts in excess of the Highest Lawful Rate theretofore collected by Payee shall be credited on the principal balance of the Note and/or the indebtedness evidenced hereby (or, if the Note and all such indebtedness have been or would thereby be paid in full, refunded to Maker), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Maker and Payee agree that Payee shall, with reasonable promptness after Payee discovers or is advised by Maker that interest was received in an amount in excess of the Highest Lawful Rate, either refund such excess interest to Maker and/or credit such excess interest against the Note and/or any indebtedness then owing by Maker to Payee. Maker hereby agrees that as a condition precedent to any claim seeking usury penalties against Payee, Maker will provide written notice to Payee, advising Payee in reasonable detail of the nature and amount of the violation, and Payee shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Maker or crediting such excess interest against the Note and/or the indebtedness owing by Maker to Payee. All sums contracted for, charged or received by Payee for the use, forbearance or detention of any debt evidenced by the Note and/or the indebtedness evidenced hereby shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note and/or the indebtedness evidenced

hereby (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or the indebtedness evidenced hereby does not exceed the Highest Lawful Rate from time to time in effect and applicable to the Note and/or the indebtedness evidenced hereby for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or the indebtedness evidenced hereby. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Payee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

XI. LATE PAYMENTS.

If a payment is not received within ten (10) days of the due date, and the holder of this Note elects to accept a late payment, a late payment fee of five percent (5%) of the payment amount will be charged. This provision does not obligate the holder of this Note to accept any late installment.

XII. CUMULATIVE RIGHTS.

No delay on the part of Payee or other holder of this Note in the exercise of any power or right under this Note or under any other Loan Document, shall operate as a waiver thereof, nor shall a single or partial exercise of any power or right preclude other or further exercise thereof or exercise of any other power or right. Enforcement by Payee or other holder of this Note of any security for the payment hereof shall not constitute any election by it of remedies so as to preclude the exercise of any other remedy available to it.

XIII. GOVERNING LAW.

This Note is made in the State of Texas and shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any dispute regarding this Note in any way shall lie exclusively in Harris County, Texas.

XIV. JURY WAIVER.

MAKER AND PAYEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS NOTE OR THE INDEBTEDNESS.

XV. NO WAIVER; AMENDMENT.

No failure to accelerate the indebtedness evidenced hereby by reason of a Default hereunder, acceptance of a partial or past due payment or indulgences granted from time to time shall be construed (i) as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or of the right of Payee thereafter to insist upon strict compliance with the terms of this Note, or (ii) to prevent the exercise of such right of acceleration or any other right granted under this Note, under any of the other Loan Documents or by any applicable laws. Maker hereby expressly waives and relinquishes the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing. The failure to exercise any remedy available to Payee shall not be deemed to be a waiver of any rights or remedies of Payee under this Note or under any of the other Loan Documents, or at law or in equity. No extension of the time for the payment of this Note or any installment due hereunder, made by agreement with any person now or hereafter liable for the payment of this Note, shall operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part, unless Payee specifically, unequivocally and expressly agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change or modification is sought.

XVI. ENTIRE AGREEMENT.

THIS NOTE AND THE WRITTEN LOAN AGREEMENT (AS DEFINED BY SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE) 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 NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[SIGNATURE PAGE FOLLOWS]

Signature Page
\$1,500,000.00 Promissory Note

EXECUTED on the date first written above.

MAKER:

CANTWELL-ANDERSON, INC.,
a California Corporation

By: _____
Randall A. Bishop
Chief Financial Officer

ATTACHMENT C

Owner's Deed of Trust

When recorded, return to:

THE CITY OF HOUSTON
P. O. Box 1562
Houston, TX 77251-1562
Attention: Director, Housing and Community Development Department

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT
AND FIXTURE FILING

From

4600 MAIN STREET HOUSING, LP,
a Texas limited partnership
as Grantor

to

TOM MCCASLAND,
as Trustee

for the benefit of

CANTWELL-ANDERSON, INC.,
a California corporation,
as Beneficiary

_____, 2020

**DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY
AGREEMENT AND FIXTURE FILING**

That in consideration of certain indebtedness hereinafter described, justly owing by **4600 MAIN STREET HOUSING, LP**, a Texas limited partnership ("**Grantor**"), to **CANTWELL-ANDERSON, INC.**, a California corporation ("**Beneficiary**") and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration paid to the Grantor, the receipt and sufficiency of which are hereby acknowledged, Grantor has GRANTED, ASSIGNED, TRANSFERRED and CONVEYED, and does hereby GRANT, ASSIGN, TRANSFER and CONVEY unto **TOM MCCASLAND**, as trustee (the "**Trustee**"), all of the following described property which is collectively referred to herein as the "**Property**":

A. All of Grantor's right, title and interest, whether now or hereafter arising, in and to the real property situated in Harris County, Texas, described in **EXHIBIT A** hereto, together with all right, title and interest now and/or hereafter owned by Grantor, its successors and assigns, in the whole or any part of the above described real property and/or any strips or gores, and/or any street or road adjacent and/or contiguous to the above described real property (the "**Land**").

B. All of Grantor's right, title and interest, whether now or hereafter arising, in and to all buildings and other improvements now or hereafter placed on the Land, as well as all appurtenances, betterments and additions thereto (the "**Improvements**"); all and singular the rights, privileges, hereditaments and appurtenances in anywise incident or appurtenant to the Land and Improvements; and the rents, revenue, profits and income from the Land and Improvements.

C. All of Grantor's right, title and interest, whether now or hereafter arising, in and to any and all plumbing, electrical, heating, cooling and other equipment and all building materials and other goods of every type, kind and character that are now or hereafter situated upon the Land and which (i) are intended to be incorporated into the Improvements or (ii) are now, or hereafter become, fixtures related to the Land or the Improvements; any and all other goods of every type, kind and character, including without limitation, all appliances, furniture, fixtures, inventory and equipment now owned or hereafter acquired by Grantor that are now or hereafter situated upon the Land (whether or not situated within or attached to the Improvements) and that facilitate the use and occupancy of the Improvements for the purpose for which they were or are to be constructed; all plans and specifications for the Improvements, all rights of Grantor under all existing and future leases, lease guaranties, construction, maintenance and other contracts covering or relating to the Land or the Improvements, all tenants deposits made pursuant to or in connection with such leases, all rights of ingress and egress, easements, water and wastewater rights, and to the extent assignable, all licenses, permits, franchises, certificates, accounts, instruments, chattel paper, documents, agreements, contracts, including without limitation any agreements with the United States Department of Housing and Urban Development, and general intangibles, and all rights of Grantor in and to any development rights relating to the Land or the Improvements (including, without limitation, trade names and symbols used in connection therewith and any deposits with utility companies) and all other

rights and privileges obtained in connection with, relating to or associated with the Land or the Improvements (collectively, the “**Personalty**”) and all proceeds of the Personalty.

D. All of Grantor’s right, title and interest, whether now or hereafter arising, in and to any tax refunds, including interest thereon, tax rebates, ad valorem tax credits, and tax abatements, and the right to receive the same, which may be payable or available with respect to the Property.

E. All of Grantor’s right, title and interest in the proceeds (including conversion to cash or liquidation claims) of (i) insurance relating to the Property and (ii) all awards made for the taking by eminent domain (or by any proceeding or purchase in lieu thereof) of the Property, including awards resulting from a change of any streets (whether as to grade, access, or otherwise) and for severance damages.

F. All of Grantor’s right, title and interest, if any, in and to all substances in, on, or under the Land which are now, or may become in the future, intrinsically valuable, that is, valuable in themselves, and which now or may be in the future enjoyed through extraction or removal from the property, including without limitation, oil, gas, and all other hydrocarbons, coal, lignite, carbon dioxide and all other nonhydrocarbon gases, uranium and all other radioactive substances, and gold, silver, copper, iron and all other metallic substances or ores (collectively, “**Minerals**”).

G. All funds of Grantor that may be deposited with Beneficiary at any time and from time to time for any purpose, which funds shall be deemed to be part of the Personalty for purposes hereof. In the event of a conflict between the terms and conditions of this instrument and the instrument under which Beneficiary holds any funds of Grantor, the terms and conditions of the latter instrument shall prevail.

TO HAVE AND TO HOLD the Property unto the Trustee and the assigns of the Trustee, and Grantor does hereby bind Grantor and the successors and assigns of Grantor, to **WARRANT AND FOREVER DEFEND** all and singular the Property and title thereto unto the Trustee and unto the assigns of the Trustee, against every person or party whomsoever claiming or to claim the same, or any part thereof, subject, however, to the permitted encumbrances set forth on **EXHIBIT B** attached hereto (the “**Permitted Encumbrances**”) and the liens securing the Senior Note (as described below).

I.

SECURITY FOR PERFORMANCE OF OBLIGATIONS

This conveyance is made in trust, however, to secure the performance of all covenants and agreements contained in this Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (this “**Deed of Trust**”) and that one certain Loan Agreement (the “**Loan Agreement**”) executed or to be executed between Grantor and Beneficiary and the full and prompt payment when due (by lapse of time or otherwise), of the following indebtedness (the “**Indebtedness**”):

A. Loan. All sums, including principal, interest and attorneys' fees, called for in that certain promissory note (the "**Note**") of even date herewith, executed by Grantor payable to the order of Beneficiary, in the original principal amount of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00), which Note evidences that certain loan from Beneficiary to Grantor of the amount set forth in the Note (the "**Loan**"), bearing interest at the rates therein stated and providing for acceleration of maturity should a default under such Note or any of the documents evidencing, securing, or otherwise pertaining to the Loan occur.

B. Other Sums. All other sums owing by Grantor to Beneficiary or other holder(s) of any part of the Indebtedness or becoming due under the Loan Agreement. (This Deed of Trust and all other instruments now or hereafter evidencing, governing or securing any part of the Indebtedness are hereinafter collectively referred to as the "**Loan Documents**").

II.

PAYMENT OF THE INDEBTEDNESS; DEFAULT; ENFORCEMENT OF TRUST

A. Payments. If the Indebtedness is fully paid and if all of Grantor's covenants and agreements herein and in the Loan Agreement and the other Loan Documents are fully kept and performed, then this conveyance shall thereupon become of no further force and effect and shall be released by Beneficiary or other holder(s) of the Indebtedness upon the written request and at the expense of Grantor.

B. Enforcement. But if there occurs any default or event of default (as such term is used in the Loan Agreement) (a "**Default**"), the whole of the Indebtedness shall at the option of Beneficiary, without notice to Grantor or any other person, which notice is hereby waived, become immediately due and payable and thereupon, or at any time thereafter that the Indebtedness or any part thereof remains unpaid, it shall be the duty of the Trustee, or the Substitute Trustee, as hereinafter defined, at the request of Beneficiary, or the holder(s) of the Indebtedness, which request shall be presumed, to enforce this Trust and to sell as an entirety, or in parcels, by one sale or by several sales, held at one time or at different times, as the Trustee acting may elect (all rights to a marshaling of Grantor's assets, including Property, or to a sale in inverse order of alienation, being hereby expressly waived by Grantor), the Property in the county in which the Property, or a part of the Property to be sold, is situated (the "**County**") at such area at the courthouse designated by the Commissioner's Court of the County as the area where sales are to take place, or if no area is designated, at the door of the County Courthouse, each sale to be made on the first Tuesday of a calendar month between the hours of 10:00 A.M. and 4:00 P.M. to the highest bidder for cash at public auction, after both posting or causing to be posted written or printed notice of the time (including the earliest time at which the sale will occur), place, and term of sale at the door of the Courthouse of the County and filing or causing to be filed a copy of the notice in the Office of the County Clerk of the County, for at least twenty-one (21) days preceding the day of sale, and to execute and to deliver to the purchaser(s) at each such sale proper conveyance(s) of the property sold, with general warranty of title binding upon Grantor and the successors and assigns of Grantor; or Beneficiary or other

holder(s) of the Indebtedness may foreclose or cause to be foreclosed the Lien of this Deed of Trust, in whole or in part, through judicial foreclosure or in any manner as may at any time be authorized under the statutes of the State of Texas. In addition, the holder(s) of the Indebtedness to which the power is related shall, at least twenty-one (21) days preceding the date of sale, serve written notice of the proposed sale by certified mail on each person obligated to pay the Indebtedness according to the records of the holder(s). Service of the notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to each debtor at the most recent address as shown by the records of the holder(s) of the Indebtedness, in a post office or official depository under the care and custody of the United States Postal Service. The Affidavit of any person having knowledge of the facts to the effect that service was completed shall be prima facie evidence of the fact of service. No notice of the sale or sales other than that herein provided for need be given to Grantor or any other person or party, and any other notice is hereby waived. Beneficiary or other holder(s) of the Indebtedness shall have the right to become the purchaser at any sale to the same extent as any other party, being the highest bidder, and in lieu of paying cash may credit the amount of the bid upon the Indebtedness up to the full amount of the Indebtedness then unpaid. Any such sale (including notice thereof) shall comply with the applicable requirements, at the time of the sale, of Section 51.002 of the Texas Property Code or, if and to the extent such statute is not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of Texas real property under powers of sale conferred by deeds of trust. If there is no statute in force at the time of the sale governing sales of Texas real property under powers of sale conferred by deeds of trust, such sale shall comply with applicable law, at the time of the sale, governing sales of Texas real property under powers of sale conferred by deeds of trust.

C. Proceeds. The Trustee acting shall apply the proceeds arising from each sale, first, to pay all reasonable expenses of the sale actually incurred, second, to reimburse Beneficiary for any expenses incurred by Beneficiary in protecting, administering or operating the Property prior to the foreclosure sale and third, to the payment of the Indebtedness (including all principal, interest and attorneys' fees owing as part of the Indebtedness). The proceeds of each sale paid to Beneficiary may be applied by Beneficiary on the Indebtedness in any order and manner as Beneficiary may elect. Any surplus funds from the foreclosure sale or sales hereunder shall be paid to Grantor or the person(s) lawfully entitled thereto.

D. Waiver of Notices. Beneficiary may, without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action, all of which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the Indebtedness, declare the entire unpaid balance of the Indebtedness immediately due and payable, and upon such declaration, the entire unpaid balance of the Indebtedness shall be immediately due and payable. The failure to exercise any remedy available to Beneficiary shall not be deemed to be a waiver of any rights or remedies of Beneficiary under the Loan Documents, at law or in equity.

III.

UNMATURED INDEBTEDNESS

If any Default occurs, Beneficiary or other holder(s) thereof shall, in addition to any remedies available to Beneficiary at law or in equity, have the option to proceed with foreclosure in satisfaction of such item or items, either through the courts or by directing the Trustee, or the Substitute Trustee, as hereinafter provided for, to proceed as if under a foreclosure, conducting the sale as herein provided and without declaring the whole debt due, and if a sale is made because of such Default, the sale may be made subject to the unmatured part of the Indebtedness, but as to the unmatured part of the Indebtedness, this Deed of Trust shall remain in full force and effect just as though no sale had been made under the provisions of this paragraph. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Indebtedness, it being the purpose hereof to provide for a foreclosure and sale of the Property, in whole or in part, for any matured portion of the Indebtedness without exhausting the power of foreclosure and the power to sell the Property, in whole or in part, for any other part of the Indebtedness subsequently maturing.

IV.

SUBSTITUTE TRUSTEE

In case of the resignation of the Trustee, or the inability (through death or otherwise), refusal or failure of the Trustee to act, or at the option of Beneficiary or the holder(s) of the Indebtedness for any other reason (which reason need not be stated), one or more substitute trustees (each, a "**Substitute Trustee**") may be named, constituted and appointed by Beneficiary or the holder(s) of the Indebtedness, without other formality than an appointment and designation in writing; the appointment and designation shall be full evidence of the right and authority to make the same and of all facts therein recited; and this conveyance shall vest in the Substitute Trustee the title, power and duties herein conferred on the Trustee originally named herein and the conveyance of the Substitute Trustee to the purchaser(s) at any sale shall be equally valid and effective. The right to appoint a Substitute Trustee shall exist as often and whenever from any of said causes, the Trustee, original or Substitute Trustee, resigns, or cannot, will not, or does not act, or Beneficiary or the holder(s) of a majority of the Indebtedness desire to appoint a new Trustee. No bond shall ever be required of the Trustee, original or Substitute Trustee. The recitals in any conveyance made by the Trustee, original or Substitute Trustee, shall be accepted and construed in court and elsewhere as prima facie evidence and proof of the facts recited and no other proof shall be required as to the request by Beneficiary or the holder(s) of a majority of the Indebtedness to the Trustee to enforce this Trust, or as to the notice of or holding of the sale, or as to any particulars thereof, or as to the resignation of the Trustee, original or Substitute Trustee, or as to the inability, refusal or failure of the Trustee, original or Substitute Trustee, to act or as to the election of Beneficiary or the holder(s) of a majority of the Indebtedness to appoint a new Trustee, or as to appointment of a Substitute Trustee, and all prerequisites of the sale shall be presumed to have been performed; and each sale made under the powers herein granted shall be a perpetual bar against Grantor and the successors and assigns of Grantor.

V.

REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS OF GRANTOR

For the purpose of better securing to Beneficiary the payment of the Indebtedness, Grantor represents, warrants and covenants to Beneficiary as follows:

A. Title, Authority, and Performance under Leases. At the time of the execution and delivery of this Deed of Trust, Grantor is the sole and lawful owner of the Land in fee simple, and Grantor has the authority to execute this Deed of Trust. The Property is free from all encumbrances and charges whatsoever except for the liens securing the Senior Note and to the extent otherwise expressly stated in **EXHIBIT B**. No assignments or pledges are currently in effect with respect to any leases of or rentals or income from the Property except for assignments and/or pledges to Beneficiary, those expressly stated in ~~EXHIBIT B~~, and those securing the Senior Note, the County Note and the Acquisition Note and until the Indebtedness is fully paid and this Deed of Trust is released, Grantor shall not make any additional assignment or pledge thereof without Beneficiary's prior written consent.

B. Tax and Insurance Escrow. Upon written request by Beneficiary, Grantor agrees to deposit with Beneficiary on a monthly basis, or at other intervals as specified, a sum that shall be sufficient to pay taxes, assessments, charges, and insurance premiums as they become due, all as reasonably estimated by Beneficiary, which sum shall be held by Beneficiary (or by a banking institution selected by Beneficiary whose funds are insured by a federal agency or instrumentality) in trust to pay taxes, assessments, charges and premiums, but which shall not bear interest and may be commingled with other funds. If at any time the funds so held by (or on behalf of) Beneficiary are insufficient to pay any tax, assessment, charge or insurance premium, Grantor shall, upon receipt of notice, deposit with Beneficiary (or such banking institution), all additional funds as are necessary to remove the deficiency. If the Indebtedness is for any reason declared immediately due and payable, funds held by (or on behalf of) Beneficiary for payment of taxes, assessments, charges or premiums as herein provided may, at Beneficiary's election, be applied on the Indebtedness in any manner as Beneficiary so elects. In the event that Grantor is escrowing with Senior Lender (as defined below) a sum for payment of taxes, assessments, charges and insurance premiums and such amount is sufficient to fully discharge such taxes, assessments, charges and insurance premiums, Beneficiary agrees not to require an additional escrow deposit under this paragraph. In the event that Beneficiary does not require the escrow deposits described in the paragraph, Grantor shall provide Beneficiary with written evidence that (i) all applicable taxes and assessments have been paid at least thirty (30) days prior to delinquency and (ii) all insurance premiums have been paid thirty (30) days before the renewal date of the applicable policies. Grantor shall duly pay and discharge, or cause to be paid and discharged, all taxes, assessments, charges, and insurance premiums as they become due.

C. Insurance. Grantor shall, prior to or concurrently with the execution of this Deed of Trust, deliver to Beneficiary all of the following insurance policies together with evidence of such other insurance coverage as required pursuant to the Loan Agreement, accompanied by paid

premium receipts evidencing payment in full of the required premiums for at least the first full year of coverage:

- (i) fire insurance with extended coverage and standard Beneficiary and replacement cost endorsement for the full insurable value of the insurable portion of the Property, but in no event for an amount less than the amount of the Note (90% shall be acceptable co-insurance rates for fire insurance); and
- (ii) public liability insurance in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate for a twelve (12) month policy period. Each renewal policy shall be delivered to Beneficiary not less than thirty (30) days before the termination of the prior policy and with each policy there shall be delivered to Beneficiary a receipt showing payment of the premium therefor.

Upon request, Grantor shall also carry additional insurance or additional reasonable amounts of insurance covering Grantor or the Property as Beneficiary shall reasonably require, insuring against such other insurable hazards which at the time are commonly insured against for property similar to the Property located in the region where the Property is located.

Grantor shall obtain flood insurance in such total amounts as Beneficiary may from time to time reasonably require and shall otherwise comply with the requirements of the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, or any successor law.

All insurance required under this Deed of Trust and the Loan Agreement shall be fully paid for, non-assessable, and such policies shall contain such provisions, endorsements, and expiration dates as Beneficiary shall reasonably require. Such policies shall be issued by insurance companies authorized and licensed to transact business in the State of Texas with ratings acceptable to Beneficiary in its sole and absolute discretion and shall name Beneficiary as an additional insured.

D. Operations. Grantor will abstain from and not permit the commission of waste in or about the Property, will maintain the Property in good operating condition and repair at all times, ordinary wear and tear excepted, will not remove or demolish the buildings or other improvements now or hereafter constituting a part of the Property, or alter the design or structural character of any buildings or improvements unless Beneficiary shall first consent thereto in writing, which consent shall be granted or denied in Beneficiary's reasonable discretion, and will comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property or the use thereof, which consent shall not be unreasonably withheld, delayed or conditioned. Grantor will not seek or acquiesce in a zoning reclassification of all or any portion of the Property or grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or any amendment or modification thereof, covering all or any portion of the Property, without Beneficiary's prior written consent. Grantor will not, without the prior written consent of Beneficiary, permit any

drilling or exploration for or extraction, removal, or production of, any Minerals from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof.

E. Obligations Under Other Loan Documents. Grantor hereby agrees to comply with and perform all of its obligations under the other Loan Documents and agrees to be bound by the representations, warranties and covenants made by Grantor contained in the Loan Documents. All of representations, warranties and covenants contained in the other Loan Documents are hereby fully incorporated herein.

F. Casualty and Condemnation Proceeds. Subject to the terms of the Loan Agreement and the Intercreditor Agreement (as defined below), in the event of any fire or other casualty to the Property or eminent domain proceedings resulting in condemnation of the Property or any part thereof, Grantor shall have the right to rebuild the Property, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to rebuild the Improvements in a manner that provides adequate security to Beneficiary for repayment of the Indebtedness or if such proceeds are insufficient then Grantor shall have funded any deficiency, (b) Beneficiary shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no Default then exists under the Loan Documents. If the casualty or condemnation affects only part of the Property and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Indebtedness in a manner that provides adequate security to Beneficiary for repayment of the remaining balance of the Indebtedness.

G. Failure to Pay. All taxes and any assessments that are due and payable affecting the Property shall be paid and discharged in full prior to execution and delivery of this Deed of Trust, or as they subsequently become due and payable and prior to delinquency. If Grantor fails to pay any tax, assessment, charge or insurance premium called for herein, Beneficiary may, at its option, pay the same, or if Grantor fails to perform any of Grantor's covenants or agreements herein, Beneficiary may, at its option, correct or cause to be corrected the same and pay any sums in connection therewith as Beneficiary shall determine to be necessary or advisable, and all taxes, assessments, charges, insurance premiums and sums paid by Beneficiary in connection with such matters (collectively, whether one or more, an "Assessment") shall be immediately repayable by Grantor to Beneficiary, together with interest on each amount at the default rate provided in the Note from the date the sum is paid by Beneficiary, until the same is refunded to Beneficiary and all such amounts and interest thereon, shall be secured hereby. Notwithstanding the foregoing, Grantor shall have the right to object and protest to ad valorem taxes on the Property in good faith and with due diligence provided that (i) no Default exists under this Deed of Trust or any of the other Loan Documents, (ii) Grantor gives Beneficiary prior written notice of its intent to contest an Assessment; (iii) Grantor demonstrates to Beneficiary's reasonable satisfaction that (A) the Property will not be sold to satisfy the Assessment prior to the final determination of the legal proceedings, (B) Grantor has taken such actions as are required or permitted to accomplish a stay of any such sale, and (C) Grantor has either (1) furnished a bond or surety (satisfactory to Beneficiary in form and amount) sufficient to prevent a sale of the Property or (2) at Beneficiary's option, deposited one hundred fifty percent (150%) of the full

amount necessary to pay any unpaid portion of any Assessment with Beneficiary; and (iv) such proceeding shall be permitted under any other instrument to which Grantor or the Property is subject (whether superior or inferior to this Instrument).

H. Title Litigation. Subject to title insurance coverage, in case of any litigation involving the title to any part of the Property, or the validity of this Deed of Trust, Beneficiary may be represented in the litigation through attorneys of its own selection and Grantor shall, upon demand, promptly reimburse Beneficiary for all court costs and reasonable attorneys' fees incurred by Beneficiary in defending and/or protecting its rights in any litigation.

I. Default. Subject to applicable notice provisions, if a Default occurs, the whole of the Indebtedness, at the option of Beneficiary, shall become immediately due and payable, without further notice or demand.

J. Tenancy at Sufferance. Following any sale of the Property, or any part thereof, under the provisions of this Deed of Trust, and to the extent permissible under applicable law, all persons and parties in possession of the Property sold shall be obligated to immediately vacate the premises and prior to such vacation shall be tenants at sufferance of the purchaser of the Property sold and shall be subject to eviction in an action of forcible detainer; provided, the provisions of this Subparagraph J shall be subject to any agreements made in writing by Beneficiary with reference to any existing and/or future leases; provided, further, the purchaser at any foreclosure sale shall have the option to affirm any then existing leases or tenancies or otherwise to succeed to the rights of Grantor thereunder.

K. Subrogation. To the extent that any of the Indebtedness represents funds utilized to satisfy any outstanding Indebtedness or obligations secured by liens, rights, or claims against the Property or any part thereof, Beneficiary shall be subrogated to any and all liens, rights, superior titles and equities owned or claimed by the holder of any outstanding indebtedness or obligation so satisfied, however remote, regardless of whether the liens, rights, superior titles and equities are assigned to Beneficiary or released by the holder(s) thereof.

L. Homestead Disclaimer. Grantor represents and covenants that the Property forms no part of any property owned, used, or claimed by Grantor as a business or residential homestead, or as exempt from forced sale under the laws of the State of Texas and disclaims and renounces all and every such claim thereto.

M. Additional Transfers and Encumbrances. Beneficiary shall have the right to declare the Indebtedness secured hereby immediately due and payable in the event the Grantor sells, transfers, assigns, or conveys its interest, whether voluntarily or involuntarily, in the Property, or any part thereof, without the prior written consent of Beneficiary, or in the event any junior or subordinate mortgage, lien, deed of trust, or other encumbrance is placed upon the Property without the prior written consent of Beneficiary, provided the foregoing shall not prohibit the removal of worn or obsolete Personalty that is replaced with new items of the same or similar quality. If Beneficiary consents to the sale, transfer, assignment, or conveyance of Grantor's interest in the Property, or any part thereof, and waives in writing its right to accelerate the Indebtedness secured hereby as provided in this Subparagraph M, Beneficiary may require

that the transferee assume all the obligations of Grantor under this Deed of Trust, the Loan Agreement and the Note in a form reasonably acceptable to Beneficiary and its legal counsel. For purposes of this Subparagraph M, "transfer" of the Property includes any direct or indirect transfer of any beneficial ownership in Grantor or the general partner or managing member of Grantor, except to the extent that such transfer is permitted under the Loan Agreement after satisfaction of all requirements for such transfer including the consent of the City of Houston (the "City") if required for such transfer, but does not include any limited partnership interest.

N. No Reliance on Beneficiary. Grantor is experienced in the ownership and operation of properties similar to the Property, and Beneficiary is relying solely upon Grantor's expertise and business plan in connection with the construction of the Improvements and ownership and operation of the Property. Grantor is not relying on Beneficiary's expertise or business acumen in connection with the Property or in connection with the construction of the Improvements.

O. No Litigation. Except as disclosed in writing to Beneficiary, there are no (i) actions, suits, or proceedings, at law or in equity, before any Governmental Authority or arbitrator pending or threatened against or affecting Grantor, any guarantor, or involving the Property, (ii) outstanding or unpaid judgments against the Grantor or the Property, or (iii) defaults by Grantor with respect to any order, writ, injunction, decree, or demand of any Governmental Authority or arbitrator.

P. Payment for Labor and Materials. Grantor will promptly pay all bills for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any unbonded lien or security interest, even though inferior to the liens and security interests hereof, for any such bill, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest on a parity with, superior, or inferior to any of the liens or security interests hereof, except for the Permitted Encumbrances and the liens securing the Senior Note.

Q. Tax on Deed of Trust. At any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Deed of Trust, or upon any rights, titles, liens, or security interests created hereby, or upon the Indebtedness or any part thereof, Grantor will immediately pay all such taxes, provided that if such law as enacted makes it unlawful for Grantor to pay such tax, Grantor shall not pay nor be obligated to pay such tax. Nevertheless, if a law is enacted making it unlawful for Grantor to pay such taxes, then Grantor must prepay the Indebtedness in full within sixty (60) days after demand therefor by Beneficiary.

R. ERISA. If and to the extent that Grantor is obligated under any plan governed by or subject to the Employee Retirement Income Security Act, as amended ("**ERISA**"), Grantor shall fully discharge and satisfy all of its obligations and funding requirements under such plan, ERISA and the Internal Revenue Code, as amended ("**IRC**"). Furthermore, Grantor shall comply in all material respects with any and all applicable provisions of ERISA and the IRC and will not incur or permit to exist any unfunded liabilities to the Pension Benefit Guaranty Corporation or to such plan under ERISA or the IRC.

S. Disclosures. If at any time Grantor shall become aware of the existence or occurrence of any financial or economic conditions or natural disasters which are likely to have a material adverse effect on the Property or Grantor's financial condition, Grantor shall promptly notify Beneficiary of the existence or occurrence thereof and of Grantor's opinion as to what effect such may have on the Property or Grantor. Grantor shall also give prompt notice to Beneficiary of (i) the serious illness or death of any principal or key employee of Grantor, (ii) any litigation or dispute, threatened or pending against or affecting Grantor, the Property or any guarantor which could have a material adverse effect on the Property or the financial condition or business of any of the aforementioned parties, (iii) any Default, (iv) any default by Grantor or any acceleration of any indebtedness owed by Grantor under any contract to which Grantor is a party, and (v) any change in the character of Grantor's business as it existed on the date hereof.

VI.

CAPTIONS

The captions contained in this Deed of Trust are for convenience only and shall not be taken into account in determining the meaning of any provision of this Deed of Trust.

VII.

ASSIGNMENT OF LEASES

A. Assignment. As further security for the payment of the Indebtedness, and subject to the rights of senior lienholders, Grantor hereby assigns to Beneficiary, its successors and assigns, all leases, whether now in existence or hereafter created, covering all or any portion of the Property together with all rents to become due under each such lease, subject, however, to any prior assignment in connection with senior indebtedness. For so long as no Default has occurred, Grantor may collect the rents, but not more than one (1) month in advance, except in the ordinary course of business, unless otherwise provided by the express terms of the leases and approved by Beneficiary. In the event of any Default and at any and all times during the continuance thereof, in addition to all other rights and remedies of Beneficiary, Beneficiary shall have the exclusive right and power (but not the obligation) to enter upon and take possession of the Property or any part thereof, to rent or re-rent the same, either in the name of Beneficiary or Grantor, to receive all rents, revenues, profits, or other income from the Property and to apply all amounts received first, to the costs and expenses incurred by Beneficiary in protecting and operating the Property and next, to the payment of the Indebtedness in any manner and in any order of priority as Beneficiary shall determine. This action by Beneficiary shall not operate as a waiver of the Default, or as an affirmation of any lease or of the rights of any tenant of title to that part of the Property covered by the lease or held by the tenant, should the Property, or any part thereof, be acquired by Beneficiary or other purchaser at a foreclosure sale. The right of Beneficiary to receive all rents, revenues, profits, or other income from the Property during the continuance of any Default shall be applicable whether Beneficiary has entered upon or taken possession of the Property, or has otherwise attempted to exercise its rights hereunder and if any

rents, revenues, profits, or other income are paid to or received by Grantor, Grantor shall immediately pay the same to Beneficiary, without the necessity of any request or demand therefor. Grantor agrees at any time and from time to time until the Indebtedness is paid in full to execute and to deliver any additional assignments of leases and/or rents, security agreements and other instruments as Beneficiary shall from time to time reasonably require. The substance, form, execution and delivery of additional assignments of leases and/or rents, security agreements and other instruments shall be reasonably satisfactory to Beneficiary.

B. Assignment of Leases Statute. Grantor and Beneficiary acknowledge and agree that (i) to the extent that specific terms and requirements of this Deed of Trust conflict with specific terms and requirements of Chapter 64 of Subtitle B, Title 5 of the Texas Property Code (the "**Assignment of Leases Statute**"), and such terms and requirements of the Assignment of Leases Statute are permitted under the Assignment of Leases Statute to be superseded by an agreement between Grantor and Beneficiary, the specific terms and requirements of this Deed of Trust hereby supersede such specific terms and requirements of the Assignment of Leases Statute, and (ii) to the extent that specific terms and requirements of this Deed of Trust conflict with specific terms and requirements of the Assignment of Leases Statute, and such terms and requirements of the Assignment of Leases Statute are not permitted by the Assignment of Leases Statute to be superseded by an agreement between Grantor and Beneficiary, the specific terms and requirements of the Assignment of Leases Statute shall control, and Grantor and Beneficiary further agree that the all other terms and requirements of this Deed of Trust shall not otherwise be impaired or superseded thereby and shall remain in full force and effect

VIII.

PERSONALTY

This Deed of Trust covers and includes, without limitation, Grantor's interest in the Personalty hereinabove described.

IX.

USE OF PERSONALTY

Grantor represents that all Personalty is property for business use and is not consumer goods. Grantor further covenants that there are and shall be no conditional sales contracts that cover any of the Personalty.

X.

SECURITY INTEREST IN PERSONALTY

Without limiting any of the provisions of this instrument, Grantor, as referred to in this paragraph as "**Debtor**," expressly does the following:

A. Grant. Debtor hereby grants unto the holder of all Indebtedness, described herein as Secured Party, and referred to in this paragraph as “**Secured Party**”, a security interest in Debtor’s interest in the Personalty.

B. UCC Remedies. Debtor agrees, in addition to any other remedies granted in this instrument to Secured Party or the Trustee, that Secured Party may, during the existence of any Default, proceed under Chapter 9 of the Texas Uniform Commercial Code (the “UCC”) as to all or any part of the Personalty and shall have and may exercise with respect to the Personalty all the rights, remedies and powers of a Secured Party under the UCC, including, without limitation, the right and power to sell at public or private sale or sales, or otherwise to dispose of, to lease, or to utilize the Personalty and any part or parts thereof, in any manner authorized or permitted under the UCC after default by a debtor and to apply the proceeds thereof toward payment of any costs, expenses and attorneys’ fees and legal expenses thereby incurred by Secured Party and toward the payment of Debtor’s obligations, including the Note and all other Indebtedness described in this instrument in any order or manner as Secured Party may elect. Among the rights of Secured Party during the existence of a Default, and without limitation, Secured Party shall have the right to take possession of the Personalty and to enter upon any premises where same may be situated for this purpose without being deemed guilty of trespass and without liability for damages thereby occasioned and to take any action deemed necessary or appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish or otherwise prepare the Personalty for sale, lease, or other use or disposition as herein authorized. Debtor agrees that if any notice of sale required under the UCC is mailed, first class postage prepaid, return receipt requested, to Debtor at the address shown herein at least ten (10) days before the time of the sale or disposition, the notice shall be deemed reasonable and shall fully satisfy any requirement for giving of the notice.

To the extent it may lawfully do so and without limiting any rights and/or privileges herein granted to Secured Party, Debtor agrees that Secured Party and/or the above Trustee and any Substitute Trustee, may dispose of any or all of the Personalty at the same time and place and after giving the same notice provided for in this Deed of Trust in connection with a nonjudicial foreclosure sale under the terms and conditions set forth in this Deed of Trust. In this connection, Debtor agrees that the sale may be conducted by the Trustee or the Substitute Trustee; that the sale of the Land and Improvements described in this Deed of Trust and the Personalty or any part thereof, may be sold separately and/or together; and that if the Land and Improvements described herein and the Personalty or any part thereof, are sold together, the Secured Party will not be obligated to allocate the consideration received as between the Land and Improvements and the Personalty.

C. Possession. Debtor hereby grants to Secured Party the right, at its option upon a Default or subsequent to a foreclosure sale, to transfer at any time to itself or to its nominee the Personalty, or any part thereof and to receive the monies, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for Debtor’s obligations or to apply it on the principal and interest or other amounts owing on any of Debtor’s obligations, whether or not then due, in any order or manner as Secured Party may elect. All rights with respect to marshalling of assets of Debtor, including with respect to the Personalty, or to a sale in inverse order of alienation, are hereby waived.

D. Authority. Debtor hereby covenants, stipulates and agrees that all recitals in any instrument of assignment or any other instrument executed by Secured Party incident to the sale, transfer, assignment, lease or other disposition or utilization of the Personalty or any part thereof hereunder shall be prima facie evidence of the matters stated therein and all prerequisites of the sale or other action taken by Secured Party or of any fact, condition or thing incident thereto shall be presumed to have been performed or to have occurred.

E. Assembly and Expenses. Debtor hereby covenants and agrees that Secured Party upon a Default may require Debtor to assemble the Personalty and to make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties. All expenses of retaking, holding, preparing for sale, lease, or other use or disposition, selling, leasing or otherwise using or disposing of the Personalty and the like that are incurred or paid by Secured Party as authorized or permitted hereunder, including also all attorneys' fees, legal expenses and costs, shall be added to the Indebtedness and Debtor shall be liable therefor.

F. Financing Statement. A carbon, photographic, or other reproduction of this Deed of Trust may be filed as a Financing Statement under the UCC between Debtor and Secured Party whose addresses are set forth below. Except for the security interest granted hereby in the Personalty or otherwise expressly stated in **EXHIBIT B** hereto, Debtor is owner and holder of the Personalty free of any adverse claim, security interest or encumbrance, and Debtor will defend the Personalty against all claims and demands of any person at any time claiming the same or any interest therein. Debtor has not heretofore signed any financing statement and no financing statement signed by Debtor is now on file in any public office except those statements, true and correct copies of which have been delivered to the Secured Party or in connection with the Senior Note (as defined below). So long as any amount remains unpaid on any Indebtedness described in this Deed of Trust, Debtor will not execute and there will not be filed in any public office any financing statement or statements affecting the Personalty other than financing statements in favor of the Senior Lender or Secured Party hereunder, unless the prior written specific consent and approval of Secured Party shall have first been obtained. Debtor authorizes Secured Party to file, in jurisdiction where this authorization will be given effect, a financing statement signed only by Secured Party covering the Personalty and at the request of Secured Party, Debtor will join Secured Party in executing one or more financing statements, pursuant to the UCC in form satisfactory to Secured Party and will pay the cost of filing the same or filing or recording this instrument as a financing statement, in all public offices at any time and from time to time whenever filing or recording of any financing statement or of this instrument is deemed by Secured Party to be necessary or desirable.

XI.

ADDRESSES

The addresses of Grantor and Beneficiary are as follows:

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

Beneficiary: Cantwell-Anderson, Inc.
414 S. Marengo Avenue
Pasadena, California 91101
Attn: Randall A. Bishop

With a copy to: THE CITY OF HOUSTON
P. O. Box 1562
Houston, TX 77251-1562
Attention: Director, Housing and Community Development
Department

Each party shall have the right to designate from time to time another address within the continental United States for purposes of this Deed of Trust by written notice to the other party. Notwithstanding the foregoing agreement to provide courtesy copies, such copies shall be a courtesy only and failure to provide such copies shall have no effect on the validity of a notice properly given to Grantor.

Notices under this Deed of Trust shall be effective in the case of utilization of the U.S. Mail Service, upon the earlier of (i) three days after deposit of such notice in the mail, return receipt requested or (ii) delivery; provided, however, notices sent by overnight courier services shall be effective one day after deposit with such service. All other notices shall be effective upon delivery. Notwithstanding the foregoing, any foreclosure notices shall be effective upon deposit with the U.S. Mail Service.

XII.

RESTRICTIVE COVENANTS

Grantor has executed and filed of record or will execute and file of record a certain Declaration of Land Use Restrictions (Restrictive Covenants) (the "**Restrictive Covenants**") covering the Property. The Restrictive Covenants shall remain in full force and effect until expiration or termination in accordance with the provisions thereof and no invalidity, release or termination of this Deed of Trust shall operate to invalidate, release or terminate the Restrictive Covenants. The Restrictive Covenants shall not be deemed a "Loan Document" as such term is used herein or in any of the other Loan Documents.

XIII.

ENVIRONMENTAL MATTERS

A. Compliance with Laws. Grantor hereby represents, warrants, covenants and agrees to and with Beneficiary that:

- (i) Grantor will not and will not permit any tenant or occupant of the Property to, generate, store, handle or otherwise deal with hazardous or toxic substances in, on, about or under the Property; and
- (ii) Grantor has not at any time engaged in or permitted, nor, to the best of Grantor's knowledge after reasonable and prudent inquiry, which has consisted of the Phase I report previously delivered to Beneficiary, has any current or former tenant, occupant or owner of the Property, or any portion thereof, engaged in or permitted any generation, storage, handling, dumping, discharge, disposal, spillage or leakage of any hazardous or toxic substances, at, on, or about the Property, or any portion thereof.

Notwithstanding the foregoing, Grantor shall be permitted to have such chemicals, materials and supplies on the Property which are normally used in connection with the prudent operation, use, maintenance and ownership of a multi-family unit apartment complex and which are used in compliance with environmental laws.

B. Indemnification. **GRANTOR HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND (WITH COUNSEL REASONABLY APPROVED BY BENEFICIARY) AND TO HOLD BENEFICIARY, ITS AGENTS, MEMBERS, OFFICERS, DIRECTORS, SHAREHOLDERS, REPRESENTATIVES AND ITS EMPLOYEES FREE AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, ACTIONS, ADMINISTRATIVE PROCEEDINGS, JUDGMENTS, DAMAGES, PUNITIVE DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES (INCLUDING SUMS PAID IN SETTLEMENT OF CLAIMS), INTEREST OR LOSSES, INCLUDING REASONABLE ATTORNEYS', CONSULTANTS' AND EXPERTS' FEES AND EXPENSES, OF ANY KIND OR NATURE (COLLECTIVELY, THE "COSTS") THAT ARISE DIRECTLY OR INDIRECTLY, FROM OR IN CONNECTION WITH THE PRESENCE, SUSPECTED PRESENCE, RELEASE OR SUSPECTED RELEASE (A "RELEASE") OF ANY HAZARDOUS OR TOXIC SUBSTANCE, FROM, ON, ABOUT, UNDER OR WITHIN THE PROPERTY, OR ANY PORTION THEREOF. NOTWITHSTANDING THE FOREGOING TO THE CONTRARY, GRANTOR'S LIABILITY HEREUNDER SHALL NOT INCLUDE ANY LOSS ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF BENEFICIARY OR RELEASE OF HAZARDOUS OR TOXIC SUBSTANCES BY BENEFICIARY AFTER BENEFICIARY HAS TAKEN POSSESSION OF THE PROPERTY.**

C. Remediation. If any investigation or monitoring of site conditions, or any cleanup, containment, restoration, removal or other remedial work (collectively, the "remedial work") is required under any applicable federal, state or local law or regulation, by any judicial order, or by any governmental entity, or in order to comply with any agreements affecting the Property because of, or in connection with any release of hazardous or toxic substances, Grantor shall perform, or cause to be performed, the remedial work in compliance with such law, regulation, order or agreement. All remedial work shall be performed by one or more contractors selected by Grantor and approved in advance, in writing, by Beneficiary and under the supervision of a consulting engineer selected by Grantor and approved in advance, in writing, by Beneficiary. All costs of any remedial work shall be paid by Grantor, including, without limitation, the charges of contractor(s) and/or the consulting engineer and Beneficiary's attorneys' fees and costs incurred in connection with the monitoring or review of any remedial work. If Grantor shall fail to timely commence or cause to be timely commenced, or fail to diligently prosecute to completion, any remedial work, then Beneficiary may, but shall not be required to, cause such remedial work to be performed and all costs and expenses thereof, or incurred in connection therewith, shall be "Costs" within the meaning of Subparagraph B above. All costs shall be due and payable upon demand therefor by Beneficiary, together with interest thereon at the Default Rate provided in the Note from the date such costs are paid by Beneficiary, until the same are refunded to Beneficiary and all such costs and the interest thereon shall be secured hereby.

D. Survival. Notwithstanding anything to the contrary contained herein, or in the Note or Loan Agreement, the obligations of Grantor under this Paragraph XIII shall survive any assumption of the Indebtedness by a successor to Grantor (whether or not the assumption has been approved or disapproved, or whether or not Grantor was released from liability on the Indebtedness), foreclosure of this Deed of Trust (or transfer of the Property in lieu of foreclosure) and release or termination of this Deed of Trust.

XIV.

MISCELLANEOUS

A. No Waiver. No delay by Beneficiary in exercising any right, option or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any Default.

B. Cumulative Remedy. All rights and remedies of Beneficiary under this Deed of Trust and any and all other instruments evidencing or securing the Indebtedness, are cumulative and concurrent and may be exercised singularly, successively, or concurrently.

C. No Release. The granting to Grantor or to any other person or party of any extension(s) of time for payment of all or any part of the Indebtedness or the performance of any covenant or agreement contained herein, or the taking of other or additional security for the payment of the whole or any part of the Indebtedness, or the releasing of any part of the security at any time held in connection with the Indebtedness, shall not in any way release Grantor or any other person or party obligated for the payment of the Indebtedness, or release or impair this

Deed of Trust or any other security held in connection with the Indebtedness, except to the extent of the person, party or property expressly released in writing by Beneficiary.

D. Severability. If any provision in this Deed of Trust is invalid or unenforceable in whole or in part, this instrument shall in all other respects remain in full force and effect.

E. Successors and Assigns. All of the provisions hereof shall apply to and be binding upon Grantor and the successors and assigns of Grantor (provided the foregoing shall not be construed as a consent to any transfer by Grantor of the Property) and shall apply to and inure to the benefit of Beneficiary and its successors and assigns, including all future holders of the Indebtedness.

F. Further Assurances and Corrections. From time to time, at the request of Beneficiary, Grantor will (i) promptly correct any defect, error, or omission which may be discovered in the contents of this Deed of Trust or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver, record and/or file such further instruments (including, without limitation, further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents or leases) and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in Beneficiary's opinion, to carry out more effectively the purposes of this Deed of Trust and the Loan Documents and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; (iii) execute, acknowledge, deliver, procure, file, and/or record any document or instrument (including without limitation, any financing statement) deemed advisable by Beneficiary to protect the liens and the security interests herein granted against the rights or interests of third persons; and (iv) pay all costs connected with any of the foregoing.

G. Choice of Law. This Deed of Trust shall be performable and enforced in Harris County, Texas, and shall be construed and interpreted accordance with the laws of the State of Texas and the City of Houston. Venue for any disputes relating in any way to this Deed of Trust shall lie exclusively in Harris County, Texas.

H. Usury. In no event shall any provision of this Deed of Trust, the Note, the Loan Agreement or any other instrument evidencing or securing the Indebtedness ever obligate Grantor to pay interest on the Note or any other Note secured hereby at a rate greater than that permitted by law, or obligate Grantor to pay any taxes, assessments, charges, insurance premiums, or other amounts to the extent that the payments, when added to the interest payable on the Note or any other Note secured hereby, would be held to constitute the payment by Grantor of interest at a rate greater than that permitted by law; and this provision shall control over any provision to the contrary.

It is expressly stipulated and agreed to be the intent of Grantor and Beneficiary at all times to comply strictly with the applicable Texas law governing the maximum rate or amount of interest payable on the Note or the Indebtedness or applicable United States federal law to the extent that it permits Beneficiary to contract for, charge, take, reserve or receive a greater amount

of interest than under Texas law ("Highest Lawful Rate"). If the applicable law is ever judicially interpreted so as to render usurious any amount (i) contracted for, charged, taken, reserved or received pursuant to the Note, any of the other Loan Documents or any other communication or writing by or between Grantor and Beneficiary related to the transaction or transactions that are the subject matter of the Loan Documents, (ii) contracted for, charged or received by reason of Beneficiary's exercise of the option to accelerate the maturity of the Note and/or the Indebtedness, or (iii) Grantor will have paid or Beneficiary will have received by reason of any voluntary prepayment by Grantor of the Note and/or the Indebtedness, then it is Grantor's and Beneficiary's express intent that all amounts charged in excess of the Highest Lawful Rate shall be automatically cancelled, ab initio, and all amounts in excess of the Highest Lawful Rate theretofore collected by Beneficiary shall be credited on the principal balance of the Note and/or the Indebtedness (or, if the Note and all Indebtedness have been or would thereby be paid in full, refunded to Grantor), and the provisions of the Note and the other Loan Documents immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder; provided, however, if the Note has been paid in full before the end of the stated term of the Note, then Grantor and Beneficiary agree that Beneficiary shall, with reasonable promptness after Beneficiary discovers or is advised by Grantor that interest was received in an amount in excess of the Highest Lawful Rate, either refund such excess interest to Grantor and/or credit such excess interest against the Note and/or any Indebtedness then owing by Grantor to Beneficiary. Grantor hereby agrees that as a condition precedent to any claim seeking usury penalties against Beneficiary, Grantor will provide written notice to Beneficiary, advising Beneficiary in reasonable detail of the nature and amount of the violation, and Beneficiary shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Grantor, or crediting such excess interest against the Note and/or the Indebtedness then owing by Grantor to Beneficiary. All sums contracted for, charged or received by Beneficiary for the use, forbearance or detention of any debt evidenced by the Note and/or the Indebtedness shall, to the extent permitted by applicable law, be amortized or spread, using the actuarial method, throughout the stated term of the Note and/or the Indebtedness (including any and all renewal and extension periods) until payment in full so that the rate or amount of interest on account of the Note and/or the Indebtedness does not exceed the Highest Lawful Rate from time to time in effect and applicable to the Note and/or the Indebtedness for so long as debt is outstanding. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note and/or the Indebtedness. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Beneficiary to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

I. Covenants Run with the Land. All Obligations contained in this Deed of Trust and the other Loan Documents are intended by Grantor, Beneficiary and Trustee to be, and shall be construed as, covenants running with the Property until the lien of this Deed of Trust has been fully released by Beneficiary.

J. JURY WAIVER. GRANTOR AND BENEFICIARY ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS NOTE, THE INDEBTEDNESS OR THIS DEED OF TRUST.

K. Entire Agreement. THIS DEED OF TRUST, TOGETHER WITH THE NOTE AND LOAN AGREEMENT, THE OTHER LOAN DOCUMENTS AND THE RESTRICTIVE COVENANTS CONSTITUTE A WRITTEN LOAN AGREEMENT AS DEFINED IN SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE. THIS WRITTEN LOAN AGREEMENT CONSTITUTES 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 NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

L. Subordination to Senior Loan(s). It is the intent of Beneficiary and Grantor that the indebtedness evidenced by the Note shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a promissory note (the "**Senior Note**") made by Grantor for the benefit of ZIONS BANCORPORATION, N.A. dba Amegy Bank ("**Senior Lender**") to the extent and in the manner provided in that certain Intercreditor Agreement to be entered into among Beneficiary, Grantor, Cantwell-Anderson, Inc., Improved Living Foundation, Inc., the County, the City and Senior Lender (the "**Intercreditor Agreement**"). This Deed of Trust and all of the other Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the deed of trust securing the Senior Note as more fully set forth in the Intercreditor Agreement. The rights and remedies of the Beneficiary and each subsequent holder of the Note and this Deed of Trust are subject to the restrictions and limitations set forth in the Intercreditor Agreement. Each subsequent holder of the Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by Beneficiary under the Intercreditor Agreement. Nothing in this paragraph shall be deemed to subordinate the Restrictive Covenants to any Senior Note or any payee's rights thereunder.

Signature Page
Deed of Trust, Assignment of Rents and Leases, Security Agreement
and Fixture Filing

IN WITNESS WHEREOF, Grantor has executed this Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing on the date set forth in the acknowledgments below but to be effective as of _____, 2020.

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

ATTACHMENTS:

EXHIBIT "A" Land
EXHIBIT "B" Permitted Encumbrances

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, include the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**EXHIBIT A
LAND**

EXHIBIT B
PERMITTED ENCUMBRANCES

ATTACHMENT E

Collateral Note

NOTE

\$1,500,000.00

_____, 2020

I. PROMISE TO REPAY.

FOR VALUE RECEIVED, 4600 MAIN STREET HOUSING, LP, a Texas limited partnership ("Maker"), hereby agrees and promises to pay to the order of **CANTWELL-ANDERSON, INC.**, a California corporation ("Payee"), at 414 S. Marengo Avenue, Pasadena, California 91101, or at any other place as the holder hereof may from time to time in writing designate, on the Maturity Date, in coin or currency, which at the time of payment shall constitute legal tender of the United States of America, the principal sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) (the "Loan Amount"), or so much thereof as may be advanced, with interest thereon at the rate of five one-hundredths percent (0.05%) per annum.

The loan ("Loan") evidenced by this Note is subject to the terms and conditions of that one certain Loan Agreement ("Owner Loan Agreement") between Maker and Payee, dated of even date herewith, which incorporates the terms and conditions of a Loan Agreement among the City of Houston (the "City"), Maker and Payee, dated of even date herewith ("City Loan Agreement").

II. TERM.

The term of the Loan shall commence on the date on which the loan documents are executed (the "Closing Date") and shall mature upon the date which is forty (40) years after Project Completion, as defined in the City Loan Agreement (the "Maturity Date"). This Note is secured by and entitled to the benefits of a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing of even date herewith ("Deed of Trust") by Maker, as grantor, to Tom McCasland, as trustee, for the benefit of Payee, covering fee ownership interest in certain real property located at 4600 Main St., Houston, Harris County, Texas, together with the buildings and other improvements now or hereafter erected thereon and the personal property attached to or used in connection therewith (collectively, the "Property").

III. PAYMENTS AND INTEREST.

Installments of principal and accrued interest (the "Annual Installments") for the preceding calendar year shall be payable annually on May 1st of each year. Annual Installments shall each consist of a \$3,156.42 payment, which shall be applied first to all accrued but unpaid interest for the preceding calendar year on a non-compounding basis, and secondly to a reduction of the outstanding principal balance. Notwithstanding the foregoing, the Annual Installments shall be paid solely from forty percent (40%) of the net cash and cash-equivalent (as determined in accordance with generally accepted accounting principles) generated by the Property ("Cash Flow") during the preceding calendar year for which an Annual Installment is due and payable. In the event that forty percent (40%) of Cash Flow for any given calendar year is insufficient to pay the entire Annual Installment for that year, the unpaid portion of the Annual Installment shall be deferred until the maturity of this Note, when it shall be due and payable without any additional interest accruing on such deferred portion of the Annual Installment. A final payment

of the outstanding principal balance and all accrued and unpaid interest shall be due and payable at the maturity of this Note.

IV. DEFAULT; ACCELERATION.

If a Default shall occur, the entire debt represented by this Note, consisting of the outstanding principal balance and all accrued interest thereon, shall, at the option of the holder hereof, become immediately due and payable, and except as otherwise herein provided, without notice, presentment for payment, demand, notice of nonpayment, notice of intention to accelerate, acceleration, or other notices of any type, which are specifically waived. Time is of the essence hereof. Payee's rights under this paragraph shall be in addition to any other rights or remedies it may have under the Owner Loan Agreement and any other loan documents executed in connection therewith ("Loan Documents"), at law or in equity, to enforce Maker's obligations under the Loan Documents. During the continuance of any Default, interest shall accrue on the outstanding balance of this Note at a rate equal to six percent (6%) per annum ("Default Rate"). For purposes of this Note, the term "Default" shall mean a default in payment of the Note or under the terms of this Note, the Deed of Trust, the Owner Loan Agreement, the City Loan Agreement or any Loan Document securing or executed in connection with this Note.

V. PREPAYMENT.

THE AMOUNTS DUE UNDER THIS NOTE MAY NOT BE PREPAID OR MODIFIED WITHOUT THE PRIOR WRITTEN CONSENT OF THE PAYEE, WHICH CONSENT MAY BE WITHHELD OR GRANTED IN THE SOLE DISCRETION OF THE PAYEE.

VI. APPLICATION OF PAYMENTS.

Each payment made on this Note shall be credited first to accrued, unpaid interest and the remainder to principal, and interest shall thereupon cease to accrue upon the principal so paid.

VII. WAIVER.

Maker hereby waives presentment for payment, protest and demand, notice of protest, demand and dishonor, and non-payment of this Note and, except as otherwise specified in the Owner Loan Agreement, waives notice of default, notice of acceleration, and notice of intent to accelerate, and Maker hereby consents that the holder hereof may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, at the request of any other person liable hereon, and such consent shall not alter nor diminish the liability of any person. The failure to exercise any remedy available to Payee shall not be deemed to be a waiver of any rights or remedies of Payee under this Note or under any of the other Loan Documents, or at law or in equity. No extension of the time for the payment of this Note or any installment due hereunder, made by agreement with any person now or hereafter liable for the payment of this Note, shall operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part, unless Payee specifically, unequivocally and expressly agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change or modification is sought.

VIII. COSTS OF COLLECTION; ATTORNEYS' FEES.

Maker agrees to pay all costs of collection, including reasonable attorneys' fees, if the principal of this Note or any payment on the principal or interest hereon is not paid at the respective maturity and to pay all reasonable costs including, attorneys' fees and court costs, if it becomes necessary to protect the security hereof, whether suit be brought or not, after default hereunder by Maker.

IX. USURY LIMITATIONS.

No provision of the Owner Loan Agreement, this Note, or any instrument securing payment of or relating to the indebtedness, shall require the payment or permit the collection of interest in excess of the Default Rate. If any excess of interest in such respect is herein or in any other instrument provided for, or shall be adjudicated to be so provided for herein or in any other instrument, the provisions of this paragraph shall govern and neither Maker nor any guarantor or endorser of this Note nor their respective heirs, personal representatives, successors, or assigns shall be obligated to pay such interest to the extent it is in excess of the Default Rate. Any fees or other sums that under applicable law are deemed to constitute interest shall be or other sums so deemed interest shall be amortized, prorated, allocated and spread in equal parts over the full stated term of the loan evidenced hereby.

If the maturity of this Note is accelerated for any reason before the due date stated, or in the event of any prepayment by Maker, or in any other event, earned interest may never exceed the Default Rate, computed from the date of disbursement of the loan evidenced hereby until payment, and any unearned interest otherwise payable hereunder that is in excess of the Default Rate shall be cancelled automatically as of the date of the acceleration, prepayment, or other event, and if previously paid, shall at the option of the holder of this Note be either refunded to Maker or credited on the principal of this Note, provided that, if the holder elects to credit the unearned interest on the principal of this Note, and such unearned interest exceeds the principal balance, the excess shall be refunded to Maker. Any interest computation under this Note and the Owner Loan Agreement shall be at not more than the Default Rate upon the portion of the face amount hereof representing principal that remains unpaid from time to time, it being the intention of the parties hereto to conform strictly to the laws applicable to the loan evidenced by this Note and the Owner Loan Agreement, and should it be held that interest payable under this Note and the Owner Loan Agreement is in excess of the Default Rate, the interest chargeable hereunder shall be reduced to the maximum amount permitted by law.

X. LATE PAYMENTS.

If a payment is not received within ten (10) days of the due date, a late payment fee of five percent (5%) of the payment amount will be charged.

XI. GOVERNING LAW.

This Note is made in the State of Texas and shall be construed and interpreted in accordance with the applicable laws of the State of Texas and the City of Houston. Venue for any dispute relating in any way to this Note shall lie exclusively in Harris County, Texas.

XII. SUCCESSORS.

This Note shall be binding upon the parties hereto and their respective successors and assigns.

XIII. JURY WAIVER.

MAKER AND PAYEE ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS NOTE OR THE INDEBTEDNESS.

XIV. ENTIRE AGREEMENT.

THIS WRITTEN LOAN AGREEMENT (AS DEFINED BY SECTION 26.02 OF THE TEXAS BUSINESS AND COMMERCE CODE) REPRESENTS 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 NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

XV. BANKRUPTCY PREFERENCES.

If at any time any payment received by Payee hereunder shall be deemed by a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance under any Debtor Relief Law (as defined below), then the obligation to make such payment shall survive any cancellation or satisfaction of this Note or return thereof to Payee and shall not be discharged or satisfied with any prior payment thereof or cancellation of this Note, but shall remain a valid and binding obligation enforceable in accordance with the terms and provisions hereof, and such payment shall be immediately due and payable upon demand. For purposes of this Note, "Debtor Relief Law" shall mean Title 11 of the United States Code, as now or hereafter in effect, or any other applicable law, domestic or foreign, as now or hereafter in effect, relating to bankruptcy, insolvency, liquidation, receivership, reorganization, arrangement or composition, extension or adjustment of debts or similar laws affecting the rights of creditors.

XVI. LIMITS ON PERSONAL LIABILITY.

(a) Notwithstanding anything to the contrary set forth herein, or in the City Loan Agreement, or in any other documents executed in connection with the City Loan, as defined in the City Loan Agreement, upon the commencement of the Affordability Period, as defined in the City Loan Agreement, Maker and its partners, except any guarantor, shall have no personal liability under this Note, the Deed of Trust or the Owner Loan Agreement for the repayment of the indebtedness or for the performance of any other obligations of Maker under the Loan Documents, and Payee's only recourse for the satisfaction of the indebtedness payable under the Loan Documents and the performance of such obligations shall be Payee's exercise of its rights and remedies with respect to the Property and any other collateral held by Payee as security for the indebtedness. This limitation on Maker's liability shall not limit or impair Payee's enforcement of its rights against the Maker for any indebtedness or obligations of Maker under Section XVI (b) of this Note.

(b) Maker shall be personally liable to Payee for the repayment of a portion of the indebtedness payable under the Loan Documents equal to any loss or damage suffered by Payee as a result of:

(i) failure of Maker to pay to Payee upon demand after a Default all rents, revenues and profits from the operation of the Property to which Payee is entitled under the Deed of Trust and the amount of all security deposits collected by Maker from tenants then in residence;

(ii) failure of Maker to apply all insurance proceeds and condemnation proceeds as required by the Loan Documents;

(iii) failure of Maker to comply with the requirements in the Deed of Trust relating to the delivery of books and records, statements, schedules and reports;

(iv) fraud or any written material misrepresentation by Maker or any officer, agent, director, partner, member or employee of Maker in connection with the application for the Loan, the Loan Documents, or any request by Payee;

(v) failure to apply rents, revenues and profits, first, to the payment of reasonable operating expenses (other than property management fees that are not currently payable) and then to debt service amounts due, except that Maker will not be personally liable (a) to the extent that Maker lacks the legal right to direct the disbursement of such sums because of a senior loan deed of trust encumbering the Property, or bankruptcy, receivership or similar judicial proceedings, or (b) with respect to surplus cash distributed in any calendar year if Maker has paid all operating expenses and debt service amounts due for that calendar year;

(vi) failure of Maker to pay all deductibles required under any of the insurance policies required to be maintained under the Owner Loan Agreement;
or

(vii) the failure of the Maker to complete the construction or renovation of improvements on the Property by the date required under the City Loan Agreement.

[Signatures on following pages]

*Signature Page to
Promissory Note*

EXECUTED on the date first written above.

MAKER:

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

FOR VALUE RECEIVED, PAY TO THE ORDER OF THE CITY OF HOUSTON, as collateral in accordance with the Collateral Assignment of Note and Liens dated _____, 2020, between Payee and the City of Houston.

CANTWELL-ANDERSON, INC.,
a California corporation

By: _____
Randall A. Bishop
Chief Financial Officer

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 ("**Owner**"), in the maximum principal amount of THREE MILLION NINE HUNDRED SEVENTY SIX THOUSAND FOUR HUNDRED FORTY (\$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 (\$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 Owner ("**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 Owner, 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 **CANTWELL-ANDERSON, INC.**, a California corporation ("**Borrower**"), in the original principal amount of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) (the "**City Loan**"), and

Borrower will then lend the proceeds of the City Loan to Owner ("**Subordinate Owner Loan**"; collectively with the City Loan, the "**Subordinate Loans**") for the purpose of financing a portion of the cost to renovate one or more buildings and associated premises located at the Property, as evidenced by that certain Note of even date herewith executed by Owner and secured by that certain Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing of even date herewith executed by Owner, which encumbers the Property and has been or will be recorded in the Official Public Records of Real Property of Harris County, Texas (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 (or will be encumbered) by that certain Declaration of Land Use Restrictions (Restrictive Covenants) executed (or to be executed) by Owner for the benefit of the City (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 September 15, 2017, as amended by the First Amendment dated _____, 2020, (the "**Loan Agreement**"), by and among the City, Owner 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 Owner 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, Owner, Borrower, Improved Living Foundation, Inc., 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: Cantwell-Anderson, Inc.
414 S. Marengo Avenue
Pasadena, California 91101
Attn: Randall Bishop

OWNER: 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, 9th Floor
Houston, TX 77007
Attention: Director

WITH COPY TO: City of Houston Legal Department
900 Bagby, 4th 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, 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 Councils 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: _____

OWNER:

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) (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.

BORROWER:

CANTWELL-ANDERSON, INC.

By: _____
Randall A. Bishop
Chief Financial Officer

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 ~~he~~/she/they executed the same in his ~~his~~/her/their authorized capacity(ies), and that by his ~~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, include 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 acquitted 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 (10th) 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 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

(Please 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 as 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, 4th 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

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.

**[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

[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 3rd Party Inspection]:

Borrower's Representative receives Pay App from the General Contractor by the [25th] 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 1st of the month. On or around the 3rd day of the month, the Borrower's Representative will: (i) forward the Pay App to the Bank's 3rd Party Inspector for its review/inspection; and (ii) forward the Pay App for the Architect Certification. The Bank's 3rd Party Inspector review typically is completed within 5 business days after receipt of the Pay App. The Bank's 3rd 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 5th 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 3rd 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 3rd 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 3rd 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 29th, 2019.
- October 10, 2019 – The Bank’s 3rd 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 29th, 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	
Acquisition Costs						
Site Acquisition		1,964,143			351,475	2,315,618
Total Acquisition Costs	0	1,964,143		0	351,475	2,315,618
Off-Site						
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
Site Work						
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
Direct Construction /Rehab costs						
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
Total Site plus Construction /Rehab Costs	7,679,976	0	1,068,790	0	0	8,748,766

Other Construction Costs							
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	<u>525,000</u>						<u>525,000</u>
Subtotal Other Construction and Rehab costs	<u>1,472,400</u>	0	0	0	0	0	<u>1,472,400</u>
Total Construction/Rehab costs	9,152,376	0	1,068,790	0	0	0	10,221,166
General Soft Costs							
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>
Subtotal General Soft Costs	0	0	431,210	797,702	0	0	1,228,912
Construction Financing							
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>
Subtotal Construction Financing	0	0	0	365,412	0	0	365,412
Reserves							
Rent-up				69,624			69,624
Operating				79,570			79,570
Replacement				<u>16,800</u>			<u>16,800</u>
Subtotal Reserves	0	0	0	165,994	0	0	165,994
Developer Fees							
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>
Subtotal Developer Fee	0	0	0	1,141,872	0	0	1,141,872
Total Development Cost before CSD and HCED	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	<u>120,000</u>						<u>120,000</u>
Total Development Cost	<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>

e139014

Job : Microsoft Word - ATTCH P - Loan Agreement (Owner) - 091720

Host : XI034

Date : 2020/09/17

Time : 21:43

ATTACHMENT P

Loan Agreement (Owner)

**Loan Agreement
(Borrower/Owner)**

This Loan Agreement ("Agreement") is made and entered into this the ___ day of _____, 2020, by and between CANTWELL-ANDERSON, INC., a California corporation ("Lender"), and 4600 MAIN STREET HOUSING, LP, a Texas limited partnership ("Borrower"), for the purposes and consideration hereinafter set forth.

WHEREAS, Lender has agreed to make a loan ("Borrower Loan") to Borrower in the original principal sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) as evidenced by a note ("Borrower Note") of even date herewith and secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing (the "Deed of Trust") against the property ("Property") more particularly described in Exhibit A attached hereto; and

WHEREAS, Borrower and Lender desire to enter into this Agreement to set forth certain terms and conditions of the Borrower Loan to supplement the provisions of the other documents executed in connection with or securing the Borrower Loan ("Loan Documents").

NOW, THEREFORE, for and in consideration of the Borrower Loan and the mutual covenants contained herein, the parties agree as follows:

1. Terms of Borrower Loan.

(a) Note. Borrower's obligation to repay Lender is evidenced by a promissory note of even date herewith, payable to Lender in the original principal amount of \$1,500,000.00.

(b) Purpose. The purpose of the loan is to pay a portion of the cost of renovations to the one or more buildings and associated premises located at 4600 Main St., Houston, Harris County, Texas.

(c) Term. The term of the Loan shall commence on the date of Closing and shall mature 40 years after Project Completion (as defined in the COH Loan Agreement [hereinafter defined]) (the "Maturity Date").

(d) Interest. The Loan shall bear interest at the rate of five one-hundredths percent (0.05%) per annum, except that in the event of a Default (hereinafter defined) under the Borrower Loan or any of the Loan Documents, the Borrower Loan shall accrue interest at default rate interest in the amount of six percent (6.0%) per annum.

2. COH Loan and COH Loan Agreement. The Borrower, Lender and the City of Houston ("City") have entered into that certain Loan Agreement dated September 15, 2017 ("COH Loan Agreement"), with respect to a \$1,500,000.00 loan ("COH Loan") from the City to Lender, the proceeds of which are funding the Borrower Loan. The Borrower Loan, this Agreement, the promissory note evidencing the Borrower Loan and all the Loan Documents executed in connection with or securing the Borrower Loan (including, without limitation, the Deed of Trust) have been collaterally assigned to the City to secure the COH Loan. The

covenants, obligations, requirements, representations and warranties of Borrower under the COH Loan Agreement, to the extent applicable to Borrower or the Project (as defined in the COH Loan Agreement), or to the ability of the parties hereto to perform their obligations related to the Project and the COH Loan Agreement as determined by Lender in its sole discretion, are incorporated into and made a part of this Agreement and shall additionally constitute covenants, obligations, requirements, representations and warranties of Borrower to Lender. In the event of a conflict between the terms and conditions of this Agreement and the COH Loan Agreement, the terms and conditions of the COH Loan Agreement shall control.

3. Funding.

(a) No Liability for Interruption of Funding. In the event that the City ceases funding the COH Loan to Lender in accordance with the COH Loan Agreement, Lender may cease funding to the Borrower without obligation to the Borrower and without being liable to the Borrower for any damages Borrower may incur as a result of such cessation in funding; provided, however, Lender agrees to deliver to Borrower reasonably satisfactory documentation evidencing City's decision to cease funding, and Lender agrees to use reasonable efforts to resolve any City concerns.

(b) Deemed Funding under Loan. Disbursements under the COH Loan will be by check or wire transfer by the City made payable to Lender, Borrower, or the entity which has provided the services entitled to be funded under the COH Loan Agreement and this Agreement, or to the Construction Account under and as defined in the COH Loan Agreement,. The entire amount of any funding provided by the City to Lender under the COH Loan shall be used by Lender to fund the Borrower Loan and shall be deemed to be funding of the Borrower Loan.

4. Default under this Agreement. The Lender 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:

(a) Monetary Default. If Borrower fails to pay when due any portion of the sums owing under the Borrower Note, this Agreement and/or any of the Loan Documents and such failure continues for ten (10) business days after written notice thereof from the Lender or any holder of the Borrower Loan.

(b) Non-Monetary Default. If Borrower fails, refuses or neglects to perform fully and timely any obligation or breaches and covenant, condition, representation or warranty under this Agreement or any other Loan Document and such failure continues for thirty (30) days following written notice from Lender to Borrower, provided, however, that in the event that any such cure periods would cause a material violation to occur under applicable law or cause a recapture of any tax credits or any breach or failure of a life safety covenant, such event shall be deemed a "Default" hereunder without any notice or opportunity to cure.

(c) Default under COH Loan Agreement by Borrower. Notwithstanding the foregoing, a "Default" (as defined by the COH Loan Agreement) under the COH Loan

Agreement by Borrower shall immediately constitute a Default by Borrower under this Agreement. Notwithstanding the provisions of Subparagraphs 4(a) and 4(b) above, in the event of a conflict between the available notice and cure periods under the COH Loan Agreement and this Agreement, the COH Loan Agreement shall control, and upon the occurrence of a Default under the COH Loan Agreement, no further notice and/or cure periods shall be available under this Agreement for such event and such event shall immediately be deemed a Default by Borrower under this Agreement.

5. RESERVED.

6. Lender's Remedies. Upon the occurrence of a Default under this Agreement, Lender shall be entitled to exercise all rights and remedies available under the Loan Documents, without further notice or further opportunity to cure by Borrower except as may be required by applicable law.

7. Amendments and Waivers. Borrower and Lender acknowledge and agree that the terms and provisions of this Agreement and the Loan Documents may not be amended and no waivers of any provisions of the Agreement or any Loan Document shall be effective without the prior written consent of the City as the collateral assignee of Lender. In addition, any prepayment of the Borrower Note shall require the prior written consent of the City as the collateral assignee of the Lender.

8. Limit to Indemnification. Notwithstanding anything to the contrary set forth in any of the Loan Documents, no indemnity obligation set forth in any Loan Document shall extend to or be enforceable against any limited partner of Borrower including any Tax Credit Investor in its capacity as a limited partner of Borrower (but not otherwise).

9. Insurance. Borrower shall, prior to or concurrently with the closing of the Borrower's Loan, deliver to Lender and City insurance policies evidencing the insurance coverages and requirements set forth in Section 6.2.6 and Appendix 2 of the COH Loan Agreement and which policies shall name Lender and the City as additional insureds thereunder. In the event of a conflict between the insurance requirements of the Deed of Trust and the COH Loan Agreement, the COH Loan Agreement will control.

10. Miscellaneous.

(a) This Agreement as supplemented by the Loan Documents contains the entire agreement between the parties relating to the Loan and shall be amended only by an instrument in writing executed by the parties hereto.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns, as the case may require.

(c) This Agreement shall be governed by the law of the State of Texas. Any dispute arising out of or in connection with this Agreement shall be resolved in the courts located in Harris County, Texas.

(d) This Agreement may be executed in multiple counterparts, each of which shall constitute an original.

(e) Notices under the Loan Documents shall be effective in the case of utilization of the U.S. Mail Service, upon the earlier of (i) three days after deposit of such notice in the mail, return receipt requested or (ii) delivery. Notices sent by overnight courier services shall be effective one day after deposit with such service. All other notices shall be effective upon delivery. Notwithstanding the foregoing, any foreclosure notices shall be effective upon deposit with the U.S. Mail Service.

11. Limits on Personal Liability

(a) Notwithstanding anything to the contrary set forth herein, or in the COH Loan Agreement or any other documents executed in connection with the City Loan and subject to Section 11(b) below, upon the commencement of the Affordability Period, Borrower and its general and limited partners, except any guarantors, shall have no personal liability under Borrower's Note, the Deed of Trust or this Agreement for the repayment of the indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and Lender's only recourse for the satisfaction of the indebtedness payable under the Loan Documents and the performance of such obligations shall be Lender's exercise of its rights and remedies with respect to the Property and any other collateral held by Lender as security for the indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's enforcement of its rights against the Borrower for any indebtedness or obligations of Borrower under Section XVI (b) of the Note.

(b) Notwithstanding anything in Section 11(a) above to the contrary, Borrower shall be personally liable to Lender for the repayment of a portion of the indebtedness payable under the Loan Documents equal to any loss or damage suffered by Lender as a result of:

(i) failure of Borrower to pay to Lender upon demand after an Event of Default, all rents, revenues and profits from the operation of the Project to which Lender is entitled under the Deed of Trust, and the amount of all security deposits collected by Borrower from tenants then in residence;

(ii) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Loan Documents;

(iii) failure of Borrower to comply with the requirements in the Deed of Trust relating to the delivery of books and records, statements, schedules and reports;

(iv) fraud or any written material misrepresentation by Borrower or any officer, agent, director, partner, member or employee of Borrower in connection with the application for the Loan, the Loan Documents, or any request by Lender;

(v) failure to apply rents, revenues and profits, first, to the payment of reasonable operating expenses (other than property management fees that are not currently payable) and then to debt service amounts due, except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a senior loan deed of trust encumbering the Property, or bankruptcy, receivership or similar judicial proceedings, or (ii) with respect to surplus cash distributed in any calendar year if Borrower has paid all operating expenses and debt service amounts due for that calendar year;

(vi) failure of Borrower to pay all deductibles required under any of the insurance policies required to be maintained under the COH Loan Agreement; or

(vii) the failure of the Borrower to complete the construction of the Project by the date required under the COH Loan Agreement.

[Signature Page Follows]

Executed effective as of the date first set forth above.

LENDER:

CANTWELL-ANDERSON, INC.,
a California corporation

By: _____
Randall A. Bishop
Chief Financial Officer

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

EXHIBIT A
LEGAL DESCRIPTION