

**CITY OF OKLAHOMA CITY  
HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME)  
LOAN AGREEMENT WITH  
HILLCREST GREEN II, LP  
FOR HILLCREST GREEN II APARTMENTS  
MULTIFAMILY HOUSING DEVELOPMENT**

This Loan Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, between The City of Oklahoma City, an Oklahoma municipal corporation, having its principal place of business at 200 North Walker, Second Floor, Oklahoma City, OK 73102, hereinafter called “Lender” or “CITY”; and Hillcrest Green II, LP, an Indiana limited partnership with a principal place of business at 1301 East Washington Street, Suite 100, Indianapolis, IN 46204, hereinafter called “Borrower” or “Developer”.

Definitions: Unless specifically provided otherwise or the context otherwise requires, when in this Loan Agreement:

1. “Act” means the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12722 et seq., as amended, and regulations promulgated there under.
2. “HUD” means the United States Department of Housing and Urban Development.
3. “Regulation(s)” or “HOME Regulation(s)” means the HOME Investment Partnerships Program Final Rule at 24 CFR Part 92 as updated in 2013, with guidance as provided, and/or other federal regulations as specified.
4. “HOME Funds” means HOME Investment Partnerships Program (HOME) Funds provided to the City by HUD pursuant to the Act.
5. “Funds” or “Loan Funds” means HOME Program Funds provided to Borrowers by Lender pursuant to the terms of this Agreement.
6. “HOME Program” means the HOME Investment Partnerships Program.
7. “Borrower” means the developer of affordable housing using CITY-administered HOME Funds through the CITY’s Affordable Housing Development Program identified in the CITY’s 2024-25 Fifth Year Action Plan as amended.
8. “Limited Partner” means The Huntington Community Development Corporation, an Ohio corporation, and its successors and assigns.
9. “Loan Documents” means this Loan Agreement, Promissory Note and Mortgage, Declaration of Affordability Requirements, and any other instrument executed as security for the Note or the indebtedness evidenced thereby.
10. “Project” means pre-approved activities including clearance, provision of site improvements and construction to support the development of residential housing for households with low to moderate income as defined in paragraph 15 below, in a multifamily complex assisted with other leveraged public and matched private funds.
11. “Project Site” means the real property on which the construction of the Project takes place, as identified by legal description in Exhibit “A” to Schedule “A” of this Agreement. “Project Site” may also refer to the property address for the developed Project which is 3317 Southwest 74<sup>th</sup> Street, Oklahoma City, OK 73159.
12. “Project Activities” means the components of the Project applied for by Borrowers and approved by Lender identified in Schedule “A” and which are eligible for funding under the terms of the Act, Regulations and this Loan Agreement.
13. “Initial Project Completion” means construction is complete, a certificate of occupancy has been obtained, and the Borrower has submitted to the CITY copies of the initial leases for rental of the HOME-

assisted units, and certain completion information provided in a manner and format satisfactory to the CITY. Initial Project Completion shall occur by October 1, 2026.

14. "Appropriate Draw Request" shall consist of a complete and accurate invoice submitted to Lender by the appropriate representative of the Borrower using the procedures described in Article IV Section 4.3 and Schedule "B" in this Agreement, as applicable.

15. (This number intentionally left blank.)

16. "Low- and Moderate- Income Persons" or households with "Low- and Moderate- Incomes", for the purpose of this Agreement, means such persons or households with incomes less than 50% or 60% of median income limits annually established for Oklahoma City by HUD and adjusted by household size. The project includes forty-three (43) total units. Eighteen (18) of the project units must be rented to persons or households at or below 50% of median income. The remaining twenty-five (25) units must be rented to persons or households at or below 60% of median income. Eleven (11) of the eighteen (18) units subject to the 50% median income limits are designated as HOME-assisted units.

17. "Occupancy Requirements" means no less than 100% of units in the project shall be rented to persons or households with low- and moderate-incomes.

18. "Promissory Note and Mortgage," or individually, "Note" and "Mortgage" means the instrument executed by Borrower in favor of the Lender evidencing the loan and security for repayment of the Loan.

19. "Affordability Requirements" means the rental housing assisted with HOME funds must meet the Affordability Requirements of the Regulations at 24 CFR § 92.252 and must adhere to terms of the Declaration of Affordability Requirements approved by Lender and filed by Borrower as a requirement to receive Funds under this Agreement.

20. "Declaration of Affordability Requirements" means the mechanism provided by the Lender and executed and filed of record by Borrower in favor of Lender to ensure units assisted with HOME funds in this Project meet the Affordability Requirements for not less than the applicable period specified in this agreement and/or the Regulations at 24 CFR § 92.254, whichever is longer.

21. "Period of Affordability" or "Affordability Period" is the period of time from initial project completion that the project must adhere to the Affordability Requirements. For the purposes of this Agreement, the Affordability Period for each assisted unit is twenty (20) years.

22. "Permitted Transfer" means the transfers as defined in Section 7.1 herein.

23. "Subordination Agreement (CRBT)" means that certain Subordination and Standstill Agreement by and among City, Borrower and Cedar Rapids Bank and Trust Company.

24. "Subordination Agreement (Huntington)" means that certain Subordination Agreement by and among City, Borrower and The Huntington National Bank, a national banking association.

25. "Subordination Agreements" means collectively (i) that certain Subordination Agreement (Huntington); and (ii) Subordination Agreement (CRBT). and Standstill Agreement by and among City, Borrower and Cedar Rapids Bank and Trust Company.

26. "Ground Lease" means that certain Ground Lease dated May 30, 2024 by and between MSF Hillcrest II Apartments LLC, an Oklahoma limited liability company, as landlord, and Borrower, as tenant.

27. "Senior Lenders" means collectively (i) Cedar Rapids Bank and Trust Company; and (ii) The Huntington National Bank, a national banking association.

## RECITALS

WHEREAS, Borrower has applied to Lender for HOME Funds and Lender has approved a loan for Six Hundred Sixty Thousand and 00/100 (\$660,000.00) of HOME Funds (hereafter referred to "Loan Funds" or the "Loan" or the "Funds") to assist with the Project; and

WHEREAS, the Funds are allocated in the Affordable Housing Development Program activity in the CITY's Fiscal Year 2024-25 Fifth Action Year Plan, and are available to the Borrower by the City Council solely upon the terms and conditions set forth below; and

WHEREAS, the CITY, as Lender, has agreed to provide these Funds to Borrower exclusively for development of the Project; and

WHEREAS, the Funds will assist in the development of the Project to provide housing opportunities for households with low- and moderate-income; and

WHEREAS, the Loan shall be evidenced by this Loan Agreement and secured by a Promissory Note and Mortgage, executed by Borrower in favor of Lender on the Project Site(s), provided that the Promissory Note and Mortgage shall be subordinated at all times to the first real estate mortgage lender and subject to the Subordination Agreement(s); and

WHEREAS, Lender is willing to make the Loan to Borrower for the purposes hereinabove set forth, all upon the terms and conditions herein set forth; and

WHEREAS, Lender makes no commitment of future support and assumes no obligation for future support of the activities contracted for herein, except as expressly set forth in this Agreement; and

WHEREAS, the City Council of The City of Oklahoma City deems it desirable to enter into a Loan Agreement with the Borrower named herein, and the Borrower has accepted the Loan Agreement terms.

NOW, THEREFORE, effective August 27, 2024 the CITY and Developer agree as follows:

Scope of Work. As part of the CITY's HOME Program (HOME), the Developer shall undertake and complete the activities described in Schedule "A", and Schedule "A-1" which itemizes special conditions, both attached hereto and incorporated as a part hereof by reference.

Duration of Agreement. The term of this Agreement shall correspond to the term of the loan provided by this Agreement, which is hereby established as beginning on August 27, 2024 and extending twenty (20) years from the date the funds are first drawn. Provisions of this Agreement that are subject to any federal or state requirements shall remain in effect for the applicable federal or state period.

Duration of Affordability. The term of the affordability period established by this Agreement is twenty (20) years from the date of Initial Project Completion as defined by this Agreement.

## ARTICLE I

1.1 The Funds. In reliance upon Borrower's representations and warranties, and subject to the terms and conditions herein, and in the Loan Documents, Lender hereby agrees to advance loan Borrower a principal sum of Six Hundred Sixty Thousand and 00/100 (\$660,000.00). The Lender shall obtain the loan funds from HUD for use in Lender's HOME Program and from no other source. The Borrower has the right to receive such Funds from Lender only pursuant to the terms and conditions of this Agreement, and in accordance with the Act, and then, only to the extent HOME Funds are made available to Lender by HUD. Should anticipated sources of Funds become unavailable to Lender, Lender shall within ten (10) working days, notify Borrower in writing, and Lender shall be released from all contractual liability for that portion of the Funds yet to be provided to Borrower by Lender under the Promissory Note and Mortgage, and this Loan Agreement, which have not been received by Lender from HUD.

1.2 Apportionment of Funds. Per guidance issued by HUD in CPD Notice 15-003: Interim Policy on Maximum per-Unit Subsidy Limits for HOME Program, published on March 17, 2015, Loan Funds shall be restricted to an amount per dwelling unit in accordance with the Section 234-Condominium Housing

basic mortgage limits, for elevator-type projects. Current mortgage limits were published on February 13, 2024 by the HUD Office of Community Planning and Development in Federal Register Volume 89 Number 30.

1.3 Term, Rate and Conditions. The Loan will be financed at 1% annual interest for twenty (20) years, with a final balloon payment per the terms of the Promissory Note of even date herewith. Absent an Event of Default, the Borrower's promise to pay the Lender, at 420 West Main Street, Suite 920, Oklahoma City, Oklahoma 73102, or at such place as Lender may designate in writing, a sum equal to the accumulated interest from loan funding through September 1, 2025, and a sum of Six Thousand Six Hundred and 00/100 Dollars (\$6,600.00) in annual interest beginning on September 1, 2026 and on September 1st each year thereafter until loan maturity on August 31, 2044. Any unpaid balance, to include accumulated interest and penalties, must be paid in full at loan maturity, if not sooner paid.

1.4 Loan Documentation Security. The Loan is evidenced by this Loan Agreement and by the Note. The Loan shall be secured by a Mortgage on the Project Site(s). The Mortgage shall be in a form and substance acceptable to Lender.

1.5 Demand. Besides any other remedies that may be available to Lender under any of the Loan Documents, Lender may demand repayment of the Loan or foreclose on the Mortgage in the event of the following:

- (a) The occurrence of an Event of Default as defined in Article VI under this Agreement or any of the Loan Documents, which is not cured within the applicable period;
- (b) Except as permitted in the Declaration of Affordability Requirements, Borrower conveys, sells, transfers or assigns all or any substantial part of the Project or Project Site(s), whether voluntarily or involuntarily, or by the operation at law without the prior written consent of Lender. Execution of the releases of the Promissory Note and Mortgage, and any other security instrument filed of record pursuant to this Loan Agreement shall constitute written consent.

1.6 Timely Completion. Initial Project Completion shall occur by October 1, 2026. If the project is not initially completed by October 1, 2026, the Developer shall be required to repay all funds and the Agreement shall be terminated, unless otherwise extended and amended.

## **ARTICLE II BORROWER'S REPRESENTATIONS AND WARRANTIES**

In order to induce Lender to make the Loan, Borrower represents and warrants the following information as true and correct as of the date of execution hereof and which shall survive the execution and delivery of this Loan Agreement and the other Loan Documents as follows:

2.1 Organization of Borrower; Authority to Enter into Agreement. Borrower is an Indiana limited partnership duly formed, validly in existence and in good standing under the laws of the State of Indiana. Borrower has the right and power to occupy the Project Site(s), and to develop the Project thereon; and Borrower has full power and authority to enter into this Agreement, to borrow money as contemplated and to execute and carry out the provisions of the Loan Documents. All necessary corporate actions have been taken by the general partner of the Borrower to authorize the execution, delivery and performance of the Loan Documents and no other action of Borrower is required for the execution, delivery and performance of the Loan Documents. This Loan Agreement, the Promissory Note and Mortgage, and all other Loan Documents executed and delivered under this Loan Agreement constitute, or, if not yet executed and delivered, will when so executed and delivered, constitute valid and binding obligations of Borrower, each enforceable under their respective terms.

2.2 Financial Statements. Any financial statements delivered to Lender in connection with the Loan or the application on behalf of Borrower, are true and correct, have been prepared in accordance with generally accepted accounting principles consistently applied, fairly represent the respective financial conditions of the subjects thereof as of the dates thereof and for the periods covered, and no materially adverse change has occurred in the financial conditions presented therein since the execution of the Loan Documents. Borrower has a duty to reasonably notify Lender of any material change in its financial condition for so long as the Loan Documents remain in effect. Information is material if omitting, misstating or obscuring it could reasonably be expected to influence the decisions that the primary users of general purpose financial statements make on the basis of those financial statements.

2.3 No Litigation. As of the date of execution of the Loan Documents, the Borrower represents that there are no actions, suits or proceedings pending, or threatened against or affecting the Borrower, the Project Site(s) or the Project in any court at law or in equity, or before or by any governmental or other municipal authority which might have a materially adverse effect on the ability of Borrower to perform its obligations under any of the Loan Documents to which Borrower is a party.

2.4 Title. Borrower holds, or will hold as a requirement to availability of the Loan Funds, and for as long as this Agreement and the other Loan Documents are in effect, marketable title, leasehold interest pursuant to the Ground Lease, to the Project Site(s), less and except oil, gas and other minerals previously reserved or conveyed of record and subject only to recorded plat restrictions, recorded utility easements.

2.5 Project Activities.

2.5.1 Borrower shall:

(a) **commence the Project no later than** October 1, 2024, or within 60 days of issuance of all necessary Building Permits, whichever is later; and

(b) timely complete the Project with diligence and continuity in good workman-like manner, fully draw all HOME funds and attain Initial Project Completion no later than October 1, 2026, subject to extension based upon reasonable construction delays, but not later than four (4) years from the date of this Agreement.

(c) evidence that the Project is occupied for the purpose intended with eligible tenants who have low- or moderate-income no later than **October 1, 2026.**

(d) obtain a one (1) year builder's warranty against defects in the construction or systems installed.

2.5.2 If Borrower fails to comply with the activity requirements above subject to additional cure periods or extensions based upon reasonable delay, Borrower shall be in Default of this Agreement **and shall be required to pay back all funds drawn upon demand of Lender, no later than sixty (60) days from Notice from Lender of the event of default.**

2.5.3 Notwithstanding the foregoing deadlines, in the event the Borrower's failure to meet such deadlines is the result of force majeure, acts of God or other occurrences outside the control of the Borrower, including without limitation, any governmental agencies' delay or failure to perform, Borrower shall be afforded a reasonable extension of time beyond such deadline to account for such occurrence.

2.6 Use of Funds. Funds advanced by Lender to Borrower under this Agreement and Promissory Note and Mortgage shall be used to pay for HOME eligible costs of the Project Activities under the Act and Regulations and for no other purpose.

2.7 Housing Opportunities. Lender relies upon representations made by Borrower that the Project will allow Borrower to develop dwelling units that will be occupied by persons or households with low- and moderate- incomes. By its execution of the Loan Documents, Borrower acknowledges their representations pertaining to the development of dwelling unit(s) to be occupied by low- and moderate- income persons or households.

2.8 Covenants, Zoning and Codes. To Borrower's best knowledge, Borrower has complied and will continue to comply with all environmental statutes and regulations applicable to development of the Project; and all permits, consents, approvals or authorization by, registrations, declarations, withholding of objections or filings with any governmental body necessary for the valid execution, delivery and performance of the Loan Documents, or necessary to develop the Project, have been obtained, are valid, adequate and in full force and effect or will be obtained prior to the commencement of any development activities for which a permit, consent, approval or authorization is necessary. Borrower also assures that development of the Project will conform to and comply with all covenants, conditions, restrictions and reservations affecting the Project Site and with all applicable zoning, environmental protections, use and building codes, laws, regulations and ordinances.

2.9 Compliance with Documents. As of the date hereof and for so long as the Loan Documents remain in effect, Borrower certifies current and continuing full compliance with all of the representations and warranties and terms and conditions of the Loan Documents, and further, that no Event of Default has or shall have occurred and be continuing, which, with the lapse of time for giving notice would constitute such an Event of Default under the foregoing.

2.10 Incorporation of Representations and Warranties. Borrower's request for any reallocation to Borrower of Loan proceeds under the Loan Documents shall constitute a certification by the Borrower that the aforesaid representations and warranties are true and correct as of the date of such request, except with respect to financial statements that were prepared at an earlier date.

2.11. Renting of the Property. Borrower's marketing and rental of the assisted dwelling units shall be in accordance with the requirements of the Act, particularly those at 24 CFR §§92.216 and 92.25,2 as applicable.

2.12 Sale and/or Conveyance of the Property. Except as provided in the Declaration of Affordability Requirements, it is expressly understood and agreed by the Borrower that the property shall not be conveyed without prior written consent of the Lender, and that such conveyance will remain subject to the Subordination Agreement(s). Execution of releases by the CITY of the Promissory Note and Mortgage, and Declaration of Affordability Requirements shall constitute written consent.

2.13 Property Standards. Construction shall comply with applicable statutes, codes, and ordinances for the type of construction work contemplated. After construction and during the Affordability Period, the assisted units shall meet state and local codes or policies for existing dwelling units or rehabilitation projects, and at minimum, shall meet the property standards established by HUD for housing that is decent, safe, sanitary, in good repair and sustainable, pursuant to 24 CFR 5.703 and 24 CFR 92.251.

### **ARTICLE III EXECUTION AND CONDITIONS**

3.1 Closing. Execution of the Loan and the Loan Documents, by all parties subject to this Loan Agreement shall serve as an informal loan closing unless counsel for the parties agree in writing to a location, date and time for a formal loan closing.

3.2 Conditions Precedent to Closing. Lender's obligation to enter into and perform its duties under this Agreement or the Loan Documents shall be to the full and complete satisfaction of the following conditions:

3.2.1 Documents. Lender shall have reviewed and approved of each of the following documents which shall be duly authorized, executed (and where appropriate, acknowledged), and all delivered by the parties thereto: this Loan Agreement, the Promissory Note and Mortgage, the Declaration of Affordability Requirements, and any and all other documents as Lender may deem reasonably necessary regarding the Loan and include as part of the Closing Documents; provided that execution of this Agreement shall be evidence of Lender's approval of this requirement.

3.2.2 Evidence of Authority. Lender shall, upon written request, receive evidence satisfactory to it that Borrower and the persons signing for Borrower have the capacity and authority to execute and deliver the Loan Documents for Borrower, provided that execution of this Agreement shall be evidence of Lender's approval of this requirement.

3.2.3 Property Insurance. Borrower shall furnish Lender, at Borrower's cost and expense, with evidence of builder's risk or comparable property insurance which indemnifies Borrower against damage or theft to buildings while they are under construction using funds provided by this Agreement. The policy shall contain coverage that protects against physical loss or damage to the building, materials, fixtures and/or equipment being used in rehabilitating/constructing the project. Following construction, Borrower shall furnish Lender with evidence of property insurance that covers most common risks to an existing property. Lender must be added as an additional insured interest on all policies.

3.2.4 Title Insurance. Borrower shall furnish Lender, at Borrower's cost and expense, with an ALTA (American Land Title Association) Loan Policy of title insurance in a sum equal to the value of the property assisted with funds under this Loan Agreement, showing the Borrower has marketable title in fee simple to the Project Site(s) and that the Promissory Note and Mortgage, of a valid lien subject only to superior mortgage lien(s) authorized by the Lender, Subordination Agreement(s), Ground Lease, and that the Declaration of Affordability Requirements in favor of the Lender have been filed of record on the Project Site.

3.2.5 Liability Insurance. Borrower shall, for so long as the Loan Documents remain in effect, at its own cost and expense, carry and maintain general public liability insurance against claims for bodily injury, personal injury, death or property damage occurring or arising out of the Project, which insurance shall cover such claims as may be occasioned by any act, omission, or negligence of the Borrower or their officers, agents, representatives, assigns or servants relating to the Project or its operation. The limits of liability insurance, which may be increased from time to time as deemed necessary by Lender, with the approval of Borrower, which shall not be unreasonably withheld, shall not be less than One Million Dollars (\$1,000,000) combined single limit personal injury and property damage insurance or aggregate insurance in a total amount sufficient to cover damages to all property held by Borrower. The insurance required above shall be issued by an insurance company or companies authorized to do business within Oklahoma. Lender shall be named as an additional insured on all such policies, and any such policy or policies shall be primary to any other valid and collectible insurance. Certificate or certificates or other evidence satisfactory to Lender evidencing the existence and terms and conditions of any insurance required above shall be delivered to Lender prior to or at closing. The policy or policies of insurance required by this Loan Agreement shall not be canceled or given notice of non-renewal nor shall the terms or conditions be altered or amended without thirty (30) days written notice to and written approval being given by the Lender. If the policy provided is aggregate insurance, then Borrower shall secure from the insurer a statement that indicates Borrower has adequate remaining insurance cover to comply with the requirements of this Agreement.

**ARTICLE IV**  
**CONDITIONS PRECEDENT TO FUND ADVANCES**

4.1 Conditions Precedent to Initial Draw of Funds. Lender's obligation to pay Funds is subject to Borrower submitting the required forms and in the required format attached hereto as Schedule "B" and to Borrower's compliance with the terms of Article III above, and said obligation is subject to Lender's receipt of the following documents and satisfaction of the following conditions precedent:

(a) *Environmental Review.* Lender shall have completed the Environmental Review under 24 CFR Part 58, shall have received Notice of Release of Funds from HUD and shall have completed a site-specific environmental review prior to Borrower starting Project Activities and prior to the availability of Funds under this Agreement. Availability of Loan Funds is conditioned on the Lender's determination to proceed with, modify or cancel any project activity based on the results of the site-specific environmental review. Borrower does not assume the Lender's environmental responsibilities, but shall be responsible to the Lender for providing sufficient project information to assure compliance with Environmental Review Record regulations and the Lender's Environmental Review Procedures prior to commencing activity.

(b) Receipt by Lender of any other documents and assurances as it may reasonably request which are required by any federal, state, or county regulatory agency which requests Lender to provide such documents or assurances;

(c) Lender shall have received and have in its possession sufficient Funds to fund the draw request of Borrower;

(d) No condition of subsequent payments as set forth in Section 4.2, below, shall be breached regarding the first payment;

(e) Receipt by Lender of an Appropriate Draw Request covering the sum(s) to be paid, which sum shall be in proportion to other funds secured for the Project completion; and

(f) If requested by Lender, Borrower shall provide to Lender existing loan commitments from an institutional or individual lender(s) or equity investor(s) which shall be in a form and in an amount satisfactory to Lender for development of the Project.

(g) City shall file approved instruments at the office of the Oklahoma County Clerk to secure the City's financial and affordability interest in the Project.

4.2 Conditions Precedent to Subsequent Draws. Besides compliance with the conditions precedent in Article III and Section 4.1, Lender's obligation to make any payment of Funds after the initial payment shall be subject to satisfaction of the following conditions and in the required format attached hereto as Schedule "B."

(a) Borrower shall fully comply and shall not be in default of any the Loan Documents, provided, however, that Lender may elect to make payments notwithstanding the existence of a default, and any payment so made shall be deemed to have been made under the Loan Documents and shall be secured by the Promissory Note and Mortgage;

(b) Neither the Project nor the Project Site shall have been materially damaged, destroyed, condemned or threatened with condemnation unless Borrower shows to Lender's reasonable satisfaction that the Project will be completed under this Agreement; and

(c) No order or notice shall have been made by, or received from, any governmental agency having jurisdiction, stating the development of the Project is or will materially violate any law, ordinance, code or regulation affecting the Project or the Project Site.

4.3 Borrower's Draw Requests. Funds shall be released for eligible costs and expenses, or as approved by the Lender. Borrower acknowledges Borrower has no right to the Funds, other than to have them disbursed by Lender under the terms of this Loan Agreement and under the Act, and then only to the extent Lender has received Funds from HUD.

**ARTICLE V  
BORROWER LOAN COVENANTS**

Throughout the term of this Agreement, and for so long as Loan Documents remain in effect, and until the Loan is fully paid or the terms otherwise satisfied, Borrower covenants and agree:

5.1 General. After the date hereof and for so long as any amount remains unpaid on the Promissory Note and Mortgage, or for so long as any commitment exists to extend credit, or for so long as Loan Documents remain in effect, Borrower covenants and agrees to comply with subparagraph (a), (b), (c), (d) and (e) below:

- (a) Promptly pay the amount owed when the same becomes due;
- (b) Own and continuously maintain the dwelling unit(s) until conveyed for the benefit of low- and moderate-income persons as contemplated;
- (c) Preserve and keep in force and effect its existence as a limited partnership in good standing in Indiana, and retain legal title to the Project Site, pursuant to the Ground Lease, except as to approved sales related to Project completion, or sales, transfers and assignments in Section 5.5(a) hereof;
- (d) Maintain, preserve and keep the property and the Project Site and equipment thereon in good repair, working order and condition and timely make all needed and proper repairs, renewals, replacements and additions thereto so at all times the efficiency and habitability of all units shall be fully preserved and maintained; and
- (e) Obtain and maintain the insurance required, and upon written request by Lender, Borrower shall immediately provide Lender with proof, satisfactory to Lender, that said insurance is in full force and effect.

5.2 Payment of Obligations. Borrower shall pay all indebtedness, taxes and other obligations pertaining to the Project or Project Site for which it is liable before the same become delinquent.

5.3 Changes to Project. There shall be no material change to the originally approved design or budget of the Project, without at least 30 days' written notice by Borrower to Lender and within 30 days after written approval of the Lender is given. If additional approvals are required from HUD, the Secretary or the appropriate governmental authorities, Borrower shall not make changes to the approved Project design or budget until those approvals are obtained, in writing.

5.4 Compliance with Laws and Regulations. All work performed in connection with Borrower's development of the Project and Borrower's use of the proceeds of the Loan shall comply with the Act and with all other applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies. This includes the National Environmental Protection Act and other related authorities, and Section 3 requirements of the Housing and Urban Development Act of 1968 relating to the provision of opportunities for low-income persons .

Borrowers shall comply with all cross-cutting requirements applicable to the use of HOME funds on the Project with particular attention to the following:

- (a) Civil Rights and Non-discrimination. Title VI of the Civil Rights Act, as amended by Public Law 102-166-NOV. 21-1991, 105 STAT, 1075; Oklahoma Fair Housing Law §25-1451 through §25-1453 and Chapter 25 Article III §25-39 of the Oklahoma City Municipal Code, 2020, as amended, No person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of age, familial status, disability, race, color, religion, sex, sexual orientation, gender identity, creed, ancestry or national origin. Borrower shall maintain complete records for four (4) years from the end date of this Agreement of all applicants for housing, and of disposition of such applications, to assure compliance with this Section.

(b) Section 3 Compliance. Developer shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, a copy of which is attached hereto and labeled as Schedule "C" and is incorporated as a part of this Agreement by reference. DEVELOPER SHALL INCLUDE THE PROVISIONS FOR SECTION 3 COMPLIANCE IN EACH AGREEMENT FOR SERVICES WITH A SUBCONTRACTOR. It is specifically agreed and understood by both parties hereto that Developer shall comply with all applicable regulations of the United States Department of Housing and Urban Development (HUD). Developer shall maintain full and adequate records of compliance with applicable laws, rules and regulations. Such records shall be open for inspection by the CITY and/or HUD's authorized representatives.

(c) Davis-Bacon and Related Acts (DBRA) All contractors and subcontractors performing on federal contracts in excess of two thousand dollars (\$2,000.00) (and contractors or subcontractors performing on federally assisted contracts under the related Acts), except with respect to contracts for the rehabilitation or construction of residential property containing less than twelve (12) HOME-assisted units, must pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits listed in the contract's DBRA wage determination for corresponding classes of laborers and mechanics employed on similar projects in the area. DBRA labor standard clauses must be included in covered contracts.

Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor, or with a state apprenticeship agency recognized by the Department. Trainees may be employed at less than predetermined rates if they are in a training program certified by the Department.

Contractors and subcontractors on prime contracts in excess of one hundred thousand dollars (\$100,000) are required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over forty (40) worked on covered contract work in a workweek. Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

Every employer performing work covered by the labor standards of the DBRA must post the WH-1321 "Employee Rights Under the Davis-Bacon Act" poster at the site of the work in a prominent and accessible place where it may be easily seen by employees. There is no particular size requirement. The wage determination must be similarly posted.

All contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work, and for a period of three years thereafter. Records to be maintained include:

- (i) Name, address, and Social Security number of each employee
- (ii) Each employee's work classification(s)
- (iii) Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents
- (iv) Daily and weekly numbers of hours worked
- (v) Deductions made
- (vi) Actual wages paid
- (vii) If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected
- (viii) If applicable, detailed information regarding approved apprenticeship or trainee programs.

5.5 Call Provision. Besides Lender's right to demand repayment of the Loan at any time pursuant to Section 1.5, Lender may also call the Loan immediately due and payable if at any time during the term of the Loan, without Lender's prior written approval:

- (a) Borrower conveys, sells, transfers or assigns all or any substantial part of the Project, or Project Site, whether voluntarily or involuntarily, or by the operation of law in violation of the terms of this Loan Agreement without the prior written approval of Lender;
- (b) There occurs any default under the Promissory Note and Mortgage, this Loan Agreement or the Loan Documents which is not remedied in full within any curative period provided.

5.6 Inspections. Lender and its designee or representatives shall have the right at all reasonable times, during regular business hours (and at any time in the event of an emergency), to enter upon the Project Site and inspect the Project to determine that the same is in conformity with this Agreement, the Act and all laws, ordinances, rules and regulations applicable to the Project and Borrower; use of the Loan Funds. Lender and/or its designee or representatives shall have the right to inspect Borrower's books and records relating to the Project and Borrower's use of the Loan Funds. Borrower shall permit Lender and/or its designee or representatives to examine and copy all books, records and other papers relating to the Project, and Borrower's use of the Loan Funds. Project-related documentation and tenant income certifications shall be maintained onsite and accessible to the Lender for compliance monitoring purposes.

5.7 Audits and Financial Reports. Under 2 CFR 200.501 Non-Federal entities that expend \$75,000 or more in Federal awards in any year shall have a single or program audit conducted by a public accountant, which meets the general standards specified in generally accepted government auditing standards (GAGAS).

Borrower shall provide Lender, at Lender's or the Secretary's request, with copies of all audit reports and/or unaudited quarterly financial statements prepared by Borrower. These documents shall be provided to The City on or before June 30<sup>th</sup> of each year, as long as this Agreement remains in effect.

5.8 Notification to Lender of Litigation or Complaints. Borrower shall immediately notify Lender in writing of all material proceedings, litigation or claims which may adversely affect Borrower's rights or any part of the Project or Project Site, and of all complaints or charges made by any governmental authority affecting the Project, Project Site, or Borrowers which may require material changes in the development of the Project or use of the dwelling(s) constructed.

5.9 Incidence of Loss. Borrower shall notify Lender immediately upon any incidence of loss or damage to the property, materials or equipment related to the project until (the later of) expiration of the affordability period or loan maturity. Risk of loss shall be upon Borrower and shall be covered by requirements of Article III. Any incidence of damage or loss to properties purchased, developed or rehabilitated with funds under this Agreement shall be reported to the Oklahoma City Police Department immediately and a copy of the Police Report shall be submitted to Lender within five (5) business days from the incident of loss or damage.

5.10 Indemnify Lender. Borrower shall indemnify and hold Lender, its elected and appointed officials and any employees, harmless from all claims and actions of any person or entity against Lender caused by any acts of omissions of Borrower and arising out of or connected with the Loan Documents, the Project Site and/or Project development or arising out of Borrower's breach of this Loan Agreement, including the cost of defense using legal counsel approved by Lender. Notwithstanding anything contained herein to the contrary, the foregoing indemnification given by Borrower to Lender shall not be effective or enforceable against Borrower unless, 1) Lender gives Borrower written notice of any such claims or actions of said person or entity made against Lender within ten (10) working days of Lender's written notice of such claims or actions, and 2) Lender does not commence or enter into any settlements or negotiations of settlement with any person or entity relating to the matters covered by Borrower's indemnification without Borrower's prior written consent. If Borrower fails to defend or perform its obligations under this indemnification within ten (10) days after written request by Lender, Lender may settle, commence, appear in or defend any

action or proceeding purporting to affect the rights, duties or liabilities of the parties to the Loan Documents, or the Project Site or the Project and Borrower shall pay all of Lender's costs and expenses incurred, on demand. This section shall survive execution, delivery and performance of the Loan Documents.

5.11 Further Assistance. Borrower shall, upon request of Lender, take or cause to be taken any action, execution, acknowledgment, delivery or recording of any further documents, opinion, or other instruments, or obtain such additional insurance as Lender is required to do or obtain by HUD or other federal, state or county regulatory agency or which Lender feels are required to carry out the intent of the Secretary, Lender and Borrower under the Loan Documents. Upon the nonoccurrence of any of the foregoing, Lender may declare an Event of Default and exercise its rights and remedies under Article VI here below.

## **ARTICLE VI DEFAULT AND REMEDIES**

6.1 Event of Default. The occurrence of any of the following events and failure to cure within stated periods shall constitute an Event of Default:

- (a) Failure of assisted units to qualify as affordable housing throughout the affordability period, as defined in the Definitions section and in the Recitals above.
- (b) Any default by Borrower in the repayment of any indebtedness owed to Lender under the Loan Documents for any purpose or reason, which is not paid in full within thirty (30) days from the date the debt is due and payable.
- (c) Any breach by Borrower of the non-monetary representations, warranties, covenants and conditions of this Agreement (except as to any breach in Labor conditions) or the Loan Documents, that is not cured by Borrower to Lender's reasonable satisfaction within sixty (60) days from the receipt of written notice thereof. If a non-monetary breach or default by Borrower occurs that is outside of the control of Borrower and which cannot be cured within said sixty (60) days, Borrower shall have commenced to cure its breach or default within said sixty (60) days and thereafter diligently proceed to cure its breach or default. Notwithstanding anything to the contrary herein, any violation, breach or default by Borrower of the Act or any laws, ordinances, rules or regulations applicable to the Project, the Project Site or Borrower's use of the Loan Funds not cured within the applicable period shall constitute an Event of Default;
- (d) Any breach by Borrower of the non-monetary representations, warranties, covenants and conditions of this Agreement applying to Labor requirements which cannot be cured by the Borrower within ten (10) working days from receipt of written notice.
- (e) Any written representation, warranty or disclosure made to Lender by Borrower which proves to be materially false or misleading as of the date when made, whether or not such representation or disclosure appears in this Agreement or the Loan Documents;
- (f) Any material deviation in carrying out the Project without the prior written approval of Lender that is not corrected within thirty (30) days after receipt of written notice from Lender to Borrower;
- (g) Filing a petition in bankruptcy or for reorganization under any bankruptcy or insolvency law by or against Borrower, or filing an application for a receiver or trustee for all or a portion of the Project or the Project Site, which is not dismissed within ninety (90) days, or if Borrower makes an assignment for the benefit of creditors or becomes insolvent or cannot pay its debts as they mature, or any attachment or execution is levied against all or a portion of the Project or the Project Site and is not discharged within ninety (90) days; and/or
- (h) Failure by Borrower to defend, indemnify and/or hold harmless Lender under Section 5.10 of this Loan Agreement.

6.2 Remedies. Upon the occurrence of an Event of Default, Lender may, besides any other remedies which Lender may otherwise have, under the Loan Documents or by law, at its option without prior demand or notice, take any or all of the following actions:

- (a) Immediately terminate any further advance of Loan Funds; and/or

(b) Declare the Note immediately due and commence collection proceedings against Borrowers, and/or foreclose the Mortgage.

All remedies of Lender provided for herein and in any other of the Loan Documents are cumulative and shall be in addition to all other rights and remedies provided by law. The exercise of any right or remedy by Lender shall not constitute a cure or waiver of default hereunder or under any other of the Loan Documents or invalidate any act done under any notice of default, or prejudice The CITY in the exercise of any of its rights hereunder or under any other Loan Documents unless, in the exercise of any of its rights hereunder or under any other Loan Documents unless, in the exercise of said rights, The CITY shall solely realize all amounts owed to it.

The Lender agrees to give Borrower's Limited Partner written notice at the address listed in the Declaration of Affordability Requirements of any and all defaults by the Borrower under the Loan Documents, and an opportunity, at the Limited Partner's option, to cause the cure of such default within the cure periods set forth below, prior to exercising any remedies under the Loan Documents. The Lender agrees that the Limited Partner will have ten (10) days after the Limited Partner's receipt of notice of such default to cure, or cause the cure of a monetary default under the Loan Documents, and thirty (30) days (or such longer period as is set forth in the Loan Documents) after the Limited Partner's receipt of such notice to cure any non-monetary defaults under the Loan Documents, or, as to non-monetary defaults, such longer period as is reasonably necessary for the Limited Partner to cause cure, provided that cure is commenced within the above cure period and diligently prosecuted, including, without limitation, such time period as is necessary to remove Borrower's general partner, if necessary in order to effect a cure. The Lender agrees to accept cure by the Limited Partner as if such cure were made by Borrower.

## **ARTICLE VII SPECIAL PROVISIONS**

7.1 Nothing in the Loan Documents shall limit or restrict the ability of Borrower's limited partner, [The Huntington Community Development Corporation], its successors and assigns (the "Limited Partner") to transfer, sell or assign its ownership interest in Borrower, from time to time, without consent of Lender, provided that said Limited Partner remains liable for payment of any then unpaid capital contributions to Borrower, as and when payable, as set forth in Borrower's Partnership Agreement, notwithstanding any such transfer, sale or assignment. In particular, Lender hereby consents to any transfers, sales or assignments of limited partnership interests in Borrower to any affiliate of the Limited Partner or any entity in which the Limited Partner, or an affiliate, is the manager or managing general partner and agrees that such transfers shall not constitute defaults under the Loan Documents.

7.2 The withdrawal, removal, transfer and/or replacement of the general partner of Borrower pursuant to the terms of the Amended and Restated Agreement of Limited Partnership of Borrower ("Borrower's Partnership Agreement") shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan; provided that Borrower agrees to notify the Lender of any proposed replacement general partner prior to replacement, and, upon replacement, shall notify the Lender of the name and contact information of the replacement general partner with reasonable promptness.

**ARTICLE VIII  
DEFERRAL AND FORGIVENESS PROVISIONS**

8.1 Not Applicable

**ARTICLE IX  
COVENANTS**

9.1 Affordability Requirements

(a) Eighteen (18) of the forty-three (43) total project units shall remain available to families earning less than 50% of Area median Income and the remaining twenty-five (25) units shall be rented to households earning less than 60% of the Area Median Income. Eleven (11) of the affordable units will be designated as HOME units and must be included in the eighteen (18) units reserved for persons or households at 50% median income or below. The HOME units will be designated as floating. All units shall benefit persons with low to moderate income throughout the twenty (20) year Affordability Period.

(b) Developer shall ensure continued affordability through a Declaration of Affordability Requirements, which shall be a covenant running with the land and shall, prior to first draw of funds, be filed of record in favor of the CITY at Developer's expense at the office of the Oklahoma County Clerk.

(c) At the end of the Affordability Period, and assuming no Developer default occurs, the CITY shall release the Declaration of Affordability Requirements by a written instrument in recordable form executed and acknowledged by the City upon the satisfaction of the affordability requirements in accordance with the terms of this Agreement.

9.2 Mortgage Requirement

(a) As security for the financial investment and certain performance requirements as defined herein, Developer at its own expense shall execute and file of record at the office of the Oklahoma County Clerk an instrument in favor of the CITY entitled: "Promissory Note and Mortgage HOME Investment Partnerships Program" (hereafter, Mortgage), by which the Developer shall pledge and mortgage the Project together with all improvements, easements, rights, and appurtenances.

(b) The Mortgage shall be released by the CITY by a written instrument in recordable form, executed and acknowledged by the CITY upon successful completion of the Affordability Requirements at the end of the Affordability Period.

**ARTICLE X  
ADDITIONAL REQUIREMENTS**

10.1 Day-to-Day Operation and Administration

Day-to-Day operation of the HOME Program, which is the subject of this Agreement, including accounting responsibilities, shall be performed by and be the responsibility of Developer.

10.2 Developer Contracts

Developer may enter into subcontracts for necessary assistance in completing the scope of work that is the subject of this Agreement. Such subcontracts shall be in writing and in accordance with applicable law and regulations. Developer shall be responsible for the subcontractor's compliance with all regulations, the work performed by such subcontractors and for all expenditures made under such subcontracts.

10.3 Additional Requirements

In addition to requirements of Section 5.4 of this Agreement Developer shall comply with the following:

(a) This Agreement is subject to regulations for the HOME Program in Title II of the Cranston-Gonzalez National Affordable Housing Act, and the HOME Final Rule at 24 CFR Parts 91 and 92.:

(1) Use of Funds

HOME funds shall be used by Developer for the purposes and objectives stated in the Scope of Work section of Schedule "A" of this Agreement, and for no other purpose(s).

(2) Repayment/Program Income

- (i) For purposes of the supporting regulations, Developer is defined as an end user. **Revenue derived from multifamily rents, net operating income of the Project, or developer fees received by Developer (or affiliate of Developer) is not considered Program Income for purposes of this Agreement.** Other revenue received by Developer during the Affordability Period, such as Net Sales Proceeds from the sale, disposition, or refinance of the Property, shall be considered Program Income (less any amount classified as "return of funds") for purposes of this Agreement if the requirements of the Agreement are not met. Other sources of Program Income, by way of example, may include interest earned by Developer on the use of HOME funds, or principal or interest payments made by Developer, if required, for use of HOME funds.
- (ii) To satisfy the regulatory provision, the Developer shall return to the CITY all Program Income in any instance where the total amount received or due is in excess of one thousand dollars (\$1,000.00). Program Income received or due by the Developer in amounts less than one thousand dollars (\$1,000.00) may be accumulated by the Developer until the total reaches or exceeds one thousand dollars (\$1,000.00).

All recapture/repayment/return of funds resulting from failure to complete the project or to maintain compliance with affordability requirements shall be remitted to the CITY for disposition by the CITY.

(3) Maintenance of Rental Property.

Developer shall require that the owners and managers of all rental housing assisted with HOME funds maintain said rental housing in compliance with the CITY's Housing Code requirements or minimum standards established by HUD, whichever is more stringent or as required by HUD, throughout the Affordability Period

(4) Reversion of Assets.

Upon termination (not expiration with full compliance) of this Agreement except in connection with a foreclosure by a lender, the Developer shall remit to the CITY any HOME funds on hand at the time of termination and any accounts receivable attributable to the use of HOME funds. In addition, in the case of projects that are incomplete at time of termination, the Developer shall return to the CITY all HOME funds drawn on the project or convey to the CITY any real property under the Developer's control that was acquired or improved with HOME funds.

(5) Agreements with Third Parties.

All written agreements between the Developer and third parties for HOME program assistance or utilizing HOME program funds shall specify that the Agreement will remain in effect for the period of affordability required by the CITY. If the affordability requirement is not met, 100% of HOME funds provided under this Agreement shall be due and payable to the City's HOME Program.

(6) Uniform Administrative Requirements.

The Developer shall comply with applicable uniform administrative requirements, as, OMB Uniform Guidance at 2 CFR part 200 as applicable.

- (b) Developer shall comply with requirements established by the System for Award Management (SAM) database, and the Federal Funding Accountability and Transparency Act, including 2 CFR Part 25, Appendix A to Part 25, and 2 CFR Part 170. Developer shall obtain a valid Unique Identifier Number (UIN); register or update registration in the System of Award Management (SAM) Federal database of debarred contractors, and maintain an active and approved SAM registration with current information at all times during which it has an active contract or award involving HOME funds.

10.4 Reports and Audits.

- (a) Developer shall furnish CITY a copy of Developer's SAM's number prior to any draw of funds under this Agreement.
- (b) Developer shall furnish to CITY all reports required by the HUD and such additional reports as may be necessary to comply with all applicable laws, regulations, guidelines, and conditions specified in this Agreement; and further, Developer shall provide any other reports deemed reasonably necessary by CITY. CITY, HUD or the Comptroller General of the United States or any of their duly authorized representatives shall at all times have the right and option to monitor, inspect, audit and review the Developer's performance and operation of the HOME program to be performed under this Agreement; and in connection therewith, all of the above mentioned entities shall have the right to inspect any and all records, books, documents, or papers of Developer and the subcontractors of Developer, for the purpose of making audit examination, excerpts and transcriptions.
- (c) If applicable, Borrowers shall provide an independent audit of all activities and funds including HOME activities and funds each program year during the duration of the affordability period established by this Agreement. Said audit shall be conducted in accordance with OMB Circular A-133. Copies of audit reports shall be submitted to the City within 60 days of completion.
- (d) Borrower shall provide a Rental Completion Report project setup form (Form HUD-40097) within ninety (90) days of Initial Project Completion, as defined in item no. 12 on page 1 of this Agreement; to be completed with requested tenant demographic information and project funding sources.
- (e) Borrowers shall complete an annual HOME Rental Certification Form. Borrowers shall provide annual rent and occupancy reports, property rent rolls, annual rent schedules, Tenant income certifications, and copies of tenant lease agreements to fulfill HUD monitoring requirements.

10.5 Documentation Necessary for Required Assurances.

- (a) Developer shall develop and maintain documentation necessary to assure compliance with the provisions of the National Affordable Housing Act of 1990, and any amendments thereto, and shall provide such documentation and certification as needed to enable the Mayor, who is the Chief Executive of the CITY, to execute assurance of such compliance. In addition, Developer will furnish such information and maintain such records as may be needed to enable both Developer and the CITY to meet the requirements of the National Environmental Policy Act and the Clean Air Act, along with such regulations as may be adopted in connection therewith by the Environmental Protection Agency, the State of Oklahoma, or the CITY.
- (b) Developer agrees to retain and maintain, for a period of five years after activity completion; all records pertaining to its HOME program funded activities; all records necessary to document the income eligibility of clients; the appropriateness of the work, service, or benefits provided by the Developer; and all project records as specified in 24 CFR 92.508(c). Records of individual tenant income verifications, project rents, and project inspections must be retained for the most recent five (5) year period, until five (5) years after the twenty (20) year affordability period terminates. If an audit finding(s) is not resolved by the end of the record keeping period, the records shall be retained until the finding(s) is resolved.

10.6 Preparation of the HOME Investment Partnerships Program (HOME) Application to HUD.

The CITY shall be responsible for the preparation of the formal application to the United States Department of Housing and Urban Development for HOME Grant funds. When requested by CITY, Developer shall supply to CITY information necessary for the completion of such application.

10.7 Compliance with CITY Policy Statements.

CITY policy statements applicable to the CITY's HOME program are attached hereto and labeled as Schedule "D" and are made a part of this agreement by reference. Developer and all subcontractors shall comply with such CITY policy statements.

10.8 Citizen Participation (Not Applicable)

10.9 Conflict of Interest.

No member, officer, or employee of the CITY, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities regarding the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement, except as outlined in Schedule "F" if applicable, which is incorporated as a part of this Agreement by reference.

10.10 Non-Discrimination Certificate

In connection with the performance of this Agreement the Developer agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, familial status, handicap, age or ancestry. The Developer further agrees to take affirmative action to confirm that employees are treated without regard to their race, creed, color, national origin, sex, familial status, handicap, age or ancestry which actions shall include, but not be limited to employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, lay-off, or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Developer further agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth provisions of this section. The Developer further agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented in Department of Labor Regulations (41 CFR, Part 60). In the event of the Developer's non-compliance with this non-discrimination clause, this Agreement may be cancelled or terminated by the CITY and the Developer declared by the CITY ineligible for further contracts with the CITY until satisfactory proof of intent to comply shall be made by the Developer. Developer further agrees to include this non-discrimination clause in any subcontracts connected with the performance of this Agreement.

10.11 Hold Harmless Clause

The Developer shall defend, indemnify and save harmless the CITY from any and all damages, claims and causes of action against said CITY for damages or injury to any person or property arising solely out of, or in connection with the negligent performance or negligent acts of Developer, its subcontractors, agents or employees under the terms of this Agreement. In addition to the foregoing, Developer agrees to hold harmless the CITY from any liability arising from the claims of Developer's subcontractors or any others which Developer might employ or obtain services or materials from in connection with the performance of this Agreement.

10.12 Termination

In accordance with 24 CFR 85.43, this Agreement may be suspended or terminated prior to the expiration of the term by unanimous written Agreement by the parties to this Agreement. The CITY may also unilaterally terminate or suspend this Agreement, in whole or in part, upon ten (10) day written notice from the CITY to the Developer for the following reasons:

- (a) Failure to perform the services set forth in the scope of services and requirements incident thereto.
- (b) Failure to comply with the provisions of this Agreement.
- (c) Making unauthorized or improper use of funds provided under this Agreement.
- (d) Submission of an application, report or other documents pertaining to this Agreement which contains misrepresentation of any material aspect.
- (e) The carrying out of the Scope of Services or the objectives of this Agreement is rendered improvable, unfeasible, impossible, or illegal.
- (f) Failure of the U.S. Department of Housing and Urban Development (HUD) to make funds available or if HUD suspends funds for any reason.
- (g) Upon the determination of the CITY that the Agreement be suspended or terminated without cause.

(h) When HOME funds are expended for projects that are terminated before completion, for whatever reason, 100% of the HOME funds that have been expended, including any developer fees, are ineligible and must be repaid.

10.13 Lobbying Certification Required.

Developer shall execute a Lobbying Certification (Schedule "E") annually as an inclusion in this Agreement.

10.14 Budget Policies.

It is expressly understood by Developer that budgets shall not be exceeded in any case. Developer may request consideration of budget revisions by the CITY. Every request for revision shall be submitted in writing.

10.15 Miscellaneous

(a) Should it become necessary to determine the meaning or otherwise interpret any word, phrase or provision of this Agreement, or should the terms in any way be the subject of litigation in any court of laws or equity, it is expressly agreed that the laws of Oklahoma shall exclusively control same.

(b) The parties hereto agree to bind themselves, their heirs, executors, administrators, trustees, successors and assigns, all jointly and severally under this Agreement.

(c) Developer states it possesses experience, knowledge, and ability in constructing and managing the project, which is the subject of this Agreement, and agrees to use such experience, knowledge and ability in its execution and completion of this Agreement for the benefit of CITY. Developer agrees to put forth its best efforts on behalf of the CITY and promises to adhere to good business and professional practices in its prosecution and completion of this Agreement.

(d) All references herein to statutes, ordinances, codes and regulations shall include any amendments thereto adopted or put into effect during the duration of this Agreement.

(e) The form and content of this Loan Agreement is subject to review by the U.S. Department of Housing and Urban Development (HUD). Any changes required by HUD, and any changes recommended by HUD and adopted by the City, arising from said review shall be amended to this Agreement. The Developer may accept or reject any such amended provision, provided however, that in the event the Developer does reject any such provision, this Agreement shall immediately be considered terminated.

(f) The Developer shall provide property insurance in an amount satisfactory to the CITY for all property purchased with the Loan Funds naming the CITY as co-insured. The Developer shall provide a Certificate of Insurance to the CITY.

[Executions Appear on Following Page]

IN WITNESS WHEREOF, the parties hereto set their hands this \_\_\_\_ day of \_\_\_\_\_, 2024.

ATTEST:

**THE CITY OF OKLAHOMA CITY**  
an Oklahoma municipal corporation

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

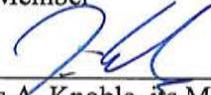
ATTEST:

  
\_\_\_\_\_  
SECRETARY

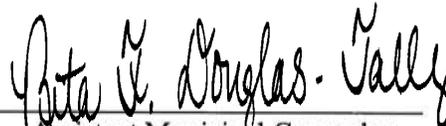
**HILLCREST GREEN II, LP**, an Indiana limited partnership

By: Hillcrest Green II GP, LLC, an Indiana limited liability company, its General Partner

By: TWG GP V, LLC, an Indiana limited liability company, its Sole Member

By:   
\_\_\_\_\_  
Louis A. Knoble, its Manager

APPROVED as to form and legality.

  
\_\_\_\_\_  
Assistant Municipal Counselor

**SCHEDULE "A"**  
**SCOPE OF WORK, BUDGET AND PROJECT SITE(S)**

**Scope of Work:**

1. The work contemplated under this Loan Agreement includes new construction in support of eleven (11) HOME-assisted units. The development will contain forty-three (43) multifamily affordable housing units reserved exclusively for rent to households with low incomes. Eighteen (18) of the units must remain available to families earning less than 50% of Area Median Income (AMI) and the remaining twenty-five (25) units must be rented to households earning less than 60% AMI. The eleven (11) HOME units will be floating and must be leased to families earning less than 50% AMI. All units must benefit persons with Low and Low-to-Moderate-incomes throughout the twenty (20) year Affordability Period. Units must be rented to persons aged 55 and over.
2. Borrower acknowledges that all residential units in the Project must be rented to households with low- and moderate-income in satisfaction of the Low Income Housing Tax Credit assistance requirements. All units in the Project means forty-three (43) residential units, or the entirety of the residential units in the Project. For purposes of monitoring and Project compliance of the eleven (11) floating HOME units assisted under this Agreement, Borrower acknowledges that each HOME-assisted unit must be rented to a person or household at or below 50% of median income.
3. Borrower shall annually designate the eleven (11) HOME units subject to compliance reporting by unit number or address and shall report on income and rent limitations by unit as defined in Schedule "A-1" herein below.
4. Borrower has submitted or will submit documents satisfactory to Lender including a final detailed budget, scope of work, site plan, floor plans and elevations as part of its requirement to draw Funds under this Agreement.
5. Developer shall not proceed with any construction activity at the Project Site until full Environmental Review Record approvals have been obtained from HUD.
6. This proposed Project is covered by Section 3 of the Housing and Urban Development Act of 1968, as Amended by the Housing and Community Development Act of 1992.

**Budget:**

Funds under this Agreement shall constitute the full funding/contribution budgeted for the project as follows:

| HOME Loan | Private Funding | Cash Equity | Deferred Developer Fees | LIHTC       | Total Project Cost  |
|-----------|-----------------|-------------|-------------------------|-------------|---------------------|
| \$660,000 | \$1,975,000     | \$100       | \$348,293               | \$7,649,235 | <b>\$10,632,628</b> |

**Match:**

Non-Federal Match sources and in-kind donations total **\$2,323,393**.

**The Project Site:**

The Project site, having a physical address of 3317 SW 74th Street in Oklahoma City, is legally described is described as follows in Exhibit "A":

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The Land referred to herein below is situated in the County of Oklahoma, State of Oklahoma, and is described as follows:

A PART OF LOT "A" IN BLOCK THREE (3), IN THE MADOLE HILL CREST GREEN ADDITION SECTION 2, IN THE SOUTHEAST QUARTER (SE/4) OF SECTION TWENTY-FIVE (25), TOWNSHIP ELEVEN (11) NORTH, RANGE FOUR (4) WEST, OF THE INDIAN MERIDIAN, OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT FILED IN BOOK 36, PAGE 41.

BEGINNING AT THE NORTHWEST CORNER OF LOT "A", BLOCK 3, IN THE MADOLE HILL CREST GREEN ADDITION SECTION 2;

THENCE SOUTH 89°44'48" EAST ALONG THE NORTH LINE OF SAID LOT "A" A DISTANCE OF 271.28 FEET;

THENCE SOUTH 0°29'02" WEST A DISTANCE OF 175.00 FEET;

THENCE NORTH 89°32'30" WEST A DISTANCE OF 22.29 FEET;

THENCE SOUTH 0°27'30" WEST A DISTANCE OF 103.30 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT "A";

THENCE NORTH 89°44'48" WEST ALONG THE SOUTH LINE OF SAID LOT "A" A DISTANCE OF 158.86 FEET;

THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 50.22 FEET AND A CHORD BEARING OF NORTH 49°29'43" WEST AND A CHORD DISTANCE OF 64.90 FEET FOR AN ARC DISTANCE OF 70.56 FEET;

THENCE NORTH 9°14'37" WEST ALONG THE WESTERLY LINE OF SAID LOT "A" A DEEDED DISTANCE OF 239.75 FEET AND A CALCULATED DISTANCE OF 239.57 FEET TO THE NORTHWEST CORNER OF SAID LOT "A" AND THE POINT OF BEGINNING

Tax ID: 143611330

Plat book/Page: 36/41

Having a physical address of 3317 SW 74<sup>th</sup> Street, Oklahoma

**SCHEDULE "A-1"**  
**SPECIAL CONDITIONS**

**PART A: TASKS TO BE PERFORMED**

- i. It is expressly understood that the activities authorized and funded under this Agreement are **eligible HOME activities, including new construction**, and are in support of development of housing for households with low and low to moderate income, developed with other leveraged public and matched private funds.
- ii. Developer shall purchase all permits and licenses for the completion and execution of the work and labor to be performed. Developer shall furnish all labor, materials, supervision and services to do the work specified. Developer shall keep the premises reasonably clean and orderly during the course of the work and remove all construction debris at the completion of the work. Developer shall allow inspections of the work by authorized inspectors for the protection of the CITY's interest.
- iii. This project is required to remain "affordable" - as defined by HUD - for a period of at least twenty (20) years. The affordability requirement applies without regard to the term of any loan or mortgage or the transfer of ownership. The CITY shall enforce this affordability period through a mechanism acceptable to the CITY and approved by HUD. If the affordability requirement is not met, the funds provided under this Agreement shall be immediately due and payable to the CITY's HOME Program. The affordability restriction may terminate upon foreclosure or transfer in lieu of foreclosure.
- iv. The Developer understands that the initial occupant(s) of the eleven (11) HOME-assisted units must initially have income at or below 50 percent of the Area Median Income; as determined using HUD's Section 8 definition of income. Of the forty-three (43) project units, eighteen (18) must be rented to households earning less than 50% of the Area Median income (inclusive of the eleven (11) HOME-assisted units). The remaining twenty-five (25) units must be rented to households earning less than 60% of the Area Median Income. This project requires verification of all tenant asset income. Tenants must be aged fifty-five (55) or over.
- v. The Developer understands that all *subsequent* occupants of assisted unit(s) must have income at or below 80 percent of the Area Median Income as determined using HUD's Section 8 definition of income unless lower income thresholds are imposed by the Low-Income Housing Tax Credit provisions or other agreements.
- vi. The Developer understands that it must follow the requirements in 24 CFR 5.617(c) (pertaining to disallowance of increase in annual income) when making subsequent income determinations of persons with disabilities who are tenants in the Project.
- vii. The Developer shall count the income of **all** persons in the household, including nonrelated individuals, when making this determination. The Developer shall obtain and maintain written documentation that tenants are eligible and meet the income requirement.
- viii. The Developer understands that for the eleven (11) HOME-assisted units in the project, rents may not exceed rent limits as required by the HOME Investment Partnership Program (HOME) under regulations established at 24 CFR 92.252 and as published annually by HUD and provided to Developer by the CITY. Rent limits include both the rent and utilities.

- ix. The Developer understands that maximum program rents must be inclusive of utilities. If utilities are paid by the tenants, the utility allowance schedule provided annually by the CITY for multifamily properties should be used to calculate the maximum monthly rent for each HOME-assisted unit. The utility allowance shall be deducted from the maximum allowable rent for the assisted unit when determining the amount of allowable rent for the unit as published in the tenant lease agreement.
- x. Developer shall own and is responsible for managing the project. Developer may outsource project management to an agency with sufficient experience managing affordable housing for families with low incomes, If an alternative management company is selected, it must be pre-approved by the CITY.
- xi. The Developer shall not charge fees to tenants if said fees are not reasonable or customary as described in more detail in federal Regulations at 24 CFR 92.214 and 24 CFR 92.504(c)(3)(xi).
- xii. The CITY shall monitor the rents, utility allowance, and income qualification of households living in the HOME-assisted units according to the following schedule: 1) Rent roll and utility monitoring annually; 2) Tenant income monitoring annually; 3) Physical inspection of the HOME-assisted units a minimum of once every three (3) years.
- xiii. Regarding tenant income recertification, the Developer's property manager shall perform full income verification using third party source documentation upon initial occupancy and thereafter in years 6, 12 and 18 of the affordability period. In the interim years, the head of the household in assisted unit(s) may provide either a written statement from a government agency that provides benefits to the household and examines the household's annual income each year, or the head of household may provide a statement of annual income with a certification that the information is complete and accurate. Every sixth year, Developer's property manager shall perform a full review of tenant eligibility in the assisted unit(s) and collect complete third-party source documentation, including but not limited to paystubs, tax returns, Social Security Award Letters, and/or Verifications of Employment. If Low Income Housing Tax Credit Recertification requirements are used, the property manager shall provide tenant income verification annually along with full third-party source documentation. The developer's property manager must follow the requirements in 24 CFR 5.617 (pertaining to disallowance of increase income) when making subsequent income determinations of persons with disabilities who are tenants in the Project.
- xiv. Tenant leases must be in writing, and the lease term must be for one year unless otherwise mutually agreed upon between the tenant and Developer or its property manager. Developer or its property manager shall maintain copies of leases for every tenant throughout the Affordability Period, and for five (5) years thereafter. Lease clauses requiring tenants to accept supportive services (with exception of residents in transitional housing) are prohibited. Leases must comply with tenant protections and selection requirements in 24 CFR 92.253. Termination or nonrenewal of leases may occur for good cause only and good cause does not include nonparticipation in supportive service or tenant increases in income.

**PART B: PROJECT COMPENSATION**

- i. Compensation for the activities defined in Schedule "A-1", Part A of this Agreement includes HOME Program Project funding in the amount of **\$660,000**.
- ii. It is understood and agreed to by the Developer that HOME funds shall not be expended for administration expenses, e.g. general management, oversight and coordination.

PART C: SCHEDULE OF COMPLETION

HOME Program funds to be drawn by the Developer under this Agreement must be set-up in the HUD Integrated Disbursement and Information System by authorized personnel in the Housing & Community Development Division of the Oklahoma City Planning Department within forty (40) months of the date of this Agreement. **The Developer must initiate project activities prior to October 1, 2024, or within 60 days of issuance of all Building Permits, whichever is later.**

All construction activity must be complete, all eligible expenses for payment must be incurred, and the **occupancy permit must be obtained by the Developer prior to April 1, 2026.**

All units must be **initially leased prior to October 1, 2026.**

PART D: DEVELOPER REPORTING REQUIREMENTS

- i. Developer shall keep adequate records of project activity and shall submit timely reports to the CITY upon request or as required by this Agreement.
- ii. Required reports include but are not limited to:
  - a. Annual Tenant income, lease agreements, occupancy reports, and rent roll reports.
  - b. Completion of the annual HOME Rental Certification Form
  - c. Annual unit inspection reports.
  - d. Minority Business Enterprise and Women Business Enterprise reports, which shall be submitted for the project prior to or upon initial draw of funding and, if applicable, annually within sixty (60) days from June 30 each year, as applicable.
  - e. Project completion report, which shall be submitted within ninety (90) days of Initial Project Completion as defined herein. Please note: delinquent completion reports shall be grounds for the CITY to require a return of funds drawn on the project or to call the loan due and payable.
  - f. Initial and annual Section 3 reporting as applicable.
  - g. Davis Bacon and Related Acts as applicable.

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## SCHEDULE "B" DRAW REQUEST FORMS AND FORMAT

Borrower is eligible to draw funds for a Project(s) under this Agreement after funds have been set up in the Lender's Distribution System.

Draw requests shall be for eligible costs and expenses, based upon progress, for completed work, for need, or as may be approved by the Lender and made in accordance with 24 CFR 84.22(b)(2), which states:

*“Cash advances to a recipient organization shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursement by the recipient organization for direct program or project costs, and the proportionate share of any allowable indirect cost.”*

Borrower agrees that they will disburse Loan payments within three (3) days after receipt of each approved draw request from Lender. Draw requests should be made in consideration of the 3-day rule and shall be due to the CITY's Planning Department- Housing & Community Development Division staff - before noon on the Tuesday at least fourteen (14) working days prior to the expected receipt of actual funds.

Draw requests shall be made in accordance with the Lender's following disbursement procedures:

- 1) Borrower must be registered as Vendors with the CITY to be eligible for Funds in this Agreement. Borrowers must submit, if they have not previously done so, a completed Vender Registration / W-9, which shall be provided to Borrower by Lender as needed, prior to any distribution of funds.
- 2) Borrower must submit their Unique Entity Identifier number (UEI) from SAM.gov to Lender prior to funds being set up in Lender's fund distribution system.
- 3) Borrower must submit an invoice on company letterhead containing the Borrower's company name, address, and other contact information, along with sufficient backup documentation to evidence 1) need, or 2) work performed. By way of example, need may be evidenced by a Borrower's draw schedule and the draw request submitted by Borrower along with progress reports in fulfillment of that schedule. Work performed may be evidenced by paid supplier or vendor invoices submitted to Borrower, a printout of Borrower's expense ledger, copies of checks to vendors, etc. Lender may perform an onsite property inspection to confirm that all materials have been installed prior to payment of invoices. Materials onsite, but not installed are not eligible for reimbursement.
- 4) HOME funds must be drawn down on a prorata basis with other funding sources and may not be fully drawn at loan inception. HOME funding for this transaction represents 6.2% of the total project cost and must be invoiced proportionately.
- 5) Borrower must submit with its initial draw request or have previously submitted its Minority Business Enterprise and Women Business Enterprise report(s).
- 6) Borrower must submit with its draw requests or have previously submitted its Section 3 report(s). Section 3 reports apply to vendors and subcontractors as applicable. Section 3 applies to projects for which HUD's share of the project costs exceeds \$200,000; and contracts and subcontracts awarded on projects for which HUD's share or project costs exceeds \$200,000, and the contract or subcontract exceeds \$100,000.
- 7) Lender must ensure that a submitted draw request is date-stamped as received by the Planning Department. At the time of submission, Borrower may request a copy of the date-stamped page as evidence of submission. Borrowers who have had draw requests denied must resubmit. The new draw request shall require a subsequent date-stamp.

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**SCHEDULE "C"**  
**SECTION 3 COMPLIANCE**

Page 1 of 3 Pages

In compliance with regulations at 24 CFR Part 75, Section 3 of the 1968 Housing and Urban Development Act, as amended, regarding Equal Employment Opportunity, Borrower affirms that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low- income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low- income persons. No person shall be discriminated against or denied employment on the basis of age, familial status, disability, race, color, religion, sex, sexual orientation, gender identity, creed, ancestry or national origin.

Holly MacDougall is appointed as the Equal Employment Opportunity Officer for Borrower to coordinate Borrower's efforts, to advise and assist key personnel and staff, and to officially serve as focal point for complaints regarding Section 3 compliance, etc.

Furthermore, Section 3 requirements and language shall be in each subcontract bid and/or proposal for work on this Project. Borrower will require 24 CFR Part 75, and Executive Order 11246 Compliance by covered sub-contractors.

**1. UTILIZING LOWER INCOME RESIDENTS:**

To the maximum extent feasible Borrower and any subcontractors will use residents with lower income as trainees and workers (if qualified) to complete the work of this Project. Special outreach efforts will be made to various public and private recruitment sources. Special emphasis will be made to recruit minorities in the project area. *Minority* means any African American, Native American (*i.e.*, American Indian, Eskimo, Aleut and Native Hawaiian), Hispanic American, Asian-Pacific American, or Subcontinent-Asian American.

Borrower and all subcontractors will determine by craft the approximate workforce needs to complete the Project. Workforce needs shall be made known to local recruitment sources and within housing authority complexes. The racial mix of the total workforce shall, to the extent possible, reflect the racial mix in the Project area.

**2. PROMOTION, DEMOTION, PAY RATES, LAYOFFS, ETC.:**

All personnel actions of Borrower shall be made on a non-discriminatory basis without regard to age, familial status, disability, race, color, religion, sex, sexual orientation, gender identity, creed, ancestry or national origin. Borrower shall inform each sub-contractor of these affirmative requirements and ensure compliance:

**3. 24 CFR 75 Section 3 Contract and Subcontract Clause**

§ 75.27 Contract provisions.

- (a) Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.
- (b) Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of § 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

**4. § 75.1 SECTION 3 - PURPOSE.**

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to persons with low- and very low-incomes, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Safe Harbor Benchmarks:

- 25% of all labor hours must be performed by a Section 3 worker
- 5% of all labor hours must be performed by Targeted Section 3 workers

Section 3 worker is:

- A worker whose income for the previous or annualized calendar year is below the oncome limit established by HUD
- Employed by a Section 3 business concern
- The priority hiring of Targeted Section 3 workers living in public or Section 8-assisted housing or within a 1-mile radius of the Project site; or
- If <5,000 people live within one mile of Section 3 project. Then, Service Area = an area within a circle centered around the Section 3 Project site that encompasses 5,000 people

Section 3 business

- At least 51% owned and controlled by low- or very low-income persons
- Businesses where Section 3 workers perform over 75% of the labor hours over a 3-month period; or
- At least 51% owned and controlled by current public housing or Section 8-assisted housing residents

**5. § 75.19 SECTION 3 REQUIREMENTS**

(a) Employment and training.

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the Project is located.

(2) Where feasible, priority for opportunities and training described in paragraph (a)(1) of this section should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the Project, and

(b) Contracting.

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with

Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the Project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the Project, and

**6. SECTION 3 RECORDS AND REPORTS.**

Borrower shall document efforts made to comply with these Section 3 requirements. Borrower shall submit all reports required in a timely fashion. Borrower shall also ensure that all sub-contractors submit required reports as appropriate. Borrower and all contractors and sub-contractors shall maintain Section 3 worker, and Targeted Section 3 worker certifications, labor hours worked by all workers, the labor hours worked by Section 3 workers, and Targeted Section 3 workers. If the Safe Harbor benchmarks are not met, then any or all qualitative activities must be documented to show the Safe Harbor benchmarks have been met to comply (see 24 CFR 75.31 for examples).

**SCHEDULE "D"**  
**CITY POLICY STATEMENTS FOR CONTRACTORS**  
**UNDER THE**  
**HOME INVESTMENT PARTNERSHIPS PROGRAM**  
**(HOME PROGRAM)**

A. Procurement Standards:

1. All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition consistent with OMB Uniform Guidance at 2 CFR part 200 and such other standards as may be incorporated in this Agreement by the CITY.
2. Positive efforts shall be made by Developer to utilize small business and minority-owned business sources of supplies and service.
3. An inventory of all articles purchased at a cost over \$500, or which are considered equipment, shall be appropriately tagged by the Developer and records shall be maintained on all such items. A copy of the inventory shall be kept up to date and submitted to the Planning Department Grants Management staff upon reasonable request. An updated inventory shall be provided to the City within 24 business hours from when an inventory change occurs.
4. All loss, damage or theft of equipment or supplies purchased with HOME monies shall be investigated and fully documented in a written report made to the Oklahoma City Police Department. A copy of the Police report shall be forwarded within ten (10) days to the Planning Department and items lost due to theft removed from the Project's inventory list.

B. Program Income:

1. 24 CFR 570.504(c) and 24 CFR 92.504(c)(3) provide that this Agreement shall specify whether Program Income is to be returned to the CITY or retained by the Developer.
2. All program income earned in whole or in part with HOME funds shall be reported in monthly financial reports and shall be returned to the CITY within 30 days of receipt.

C. Federal Audits, Records

1. Developer shall employ those management techniques necessary to insure adequate and proper fiscal accountability of all HOME funds received and disbursed. This may include but not be limited to separate ledgers for HOME funds and other funds and/or a separate bank account with ledger documentation.
2. A record of all HOME expenditures shall be kept on file by the Developer and reserved for a five (5) year period for federal audit.
3. Progress reports shall be retained by the Developer for a five-year period for audit purposes.
4. Developer shall submit to the CITY a copy of any audit reports pertaining to the use of HOME funds.

5. Non-profit contractors or developers must comply with the independent audit provisions of A-133 if applicable.

D. Liability Insurance

The Housing & Community Development Division of the CITY's Planning Department shall be furnished copies of all licenses and certifications of Public Liability Insurance for all HOME program activities, upon request, after the execution of this Agreement.

E. Immigration Status

Tenants must have a legal right to reside in the United States by one of the following:

1. Qualify as a citizen by birth, naturalized citizenship or as a national of the United States; or
2. Have immigrant status under 101(a)(15) or 101(a)(20) of the Immigration and Nationality Act (INA); or
3. Have permanent residence under 249 of INA; or
4. Have refugee, asylum, or conditional entry status under 203, 207 or 208 of the INA; or
5. Have parole status under Section 212(d) (5) of the INA; or
6. Have threat to life or freedom under Section 243(h) of the INA; or
7. Have amnesty under Section 245(a) of the INA

**SCHEDULE "E"**  
**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

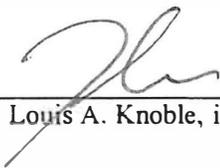
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontract, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subgrantees shall certify and disclose accordingly.

**HILLCREST GREEN II, LP**, an Indiana limited partnership

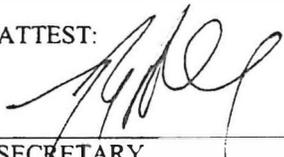
By: Hillcrest Green II GP, LLC, an Indiana limited liability company, its General Partner

By: TWG GP V, LLC, an Indiana limited liability company, its Sole Member

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

  
Louis A. Knoble, its Manager

ATTEST:

  
\_\_\_\_\_  
SECRETARY

**SCHEDULE "F"**  
**CONFLICTS OF INTEREST**

None identified.

**HILLCREST GREEN II, LP**, an Indiana limited partnership  
By: Hillcrest Green II GP, LLC, an Indiana limited liability company, its General Partner  
By: TWG GP V, LLC, an Indiana limited liability company, its Sole Member

By:   
Louis A. Knoble, its Manager

## SCHEDULE "G"

### APPENDIX II TO 2 CFR PART 200- CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by Developer under this HOME award must contain provisions covering the following, as applicable.

1. Davis Bacon provisions (previously referenced in section 5.4(d) of the Agreement) as applicable.
2. Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
3. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity over \$100,000, that involve the employment of mechanics or laborers, must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work over the standard work week is permissible provided that the worker is compensated at not less than one and a half times the basic rate of pay for all hours worked over 40 hours in the work week. The requirements of 40 U.S.C. 3704 apply to construction work and provide that no laborer or mechanic must work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
4. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
5. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts over \$150,000 must contain a provision that requires the non-Federal award to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
6. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)---Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
8. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41U.S.C. 1908, must address administrative contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
9. All contracts over \$10,000 must address termination for cause and for convenience by the non- Federal entity, including the manner by which it will be affected and the basis for settlement.
10. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964- 1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

  
\_\_\_\_\_  
Manager's Initials