305 Fountain Circle
Huntsville, AL 35801

Huntsville, Alabama

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 11/7/2024 **File ID:** TMP-4743

Department: Planning

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into an agreement between the City of Huntsville, Huntsville Housing Authority, and McCormack Baron Salazar, Inc for the Master Development Agreement Mill Creek Choice Neighborhood Initiative Transformation.

Resolution No.

Does this item need to be published? **No**

If yes, please list preferred date(s) of publication: N/A

Finance Information:

Account Number: TBD

City Cost Amount: $0.00

Total Cost: $50,000,000

Special Circumstances:

Grant Funded: $50,000,000.00

Grant Title - CFDA or granting Agency: Choice Neighborhoods Initiative

Resolution #: 23-895

Location:

Address: N/A

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments:

RESOLUTION NO. 24-

BE IT RESOLVED by the City Council of Huntsville, Alabama, that the Mayor, or his designee, in his official capacity, be, and is hereby authorized to enter into an Agreement by and between the City of Huntsville and McCormack Baron Salazar, Inc, Inc., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, for, in the amount of fifty- million dollars ($50,000,000) which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Master Development Agreement by and among the City of Huntsville, Huntsville Housing Authority and McCormack Baron Salazar, Inc., for Mill Creek Choice Neighborhoods Initiative Transformation," consisting of Seventy-Three (73) pages, and the date of November 7, 2024, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and executed copy of said document being permanently kept on file in the office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 7th day of November, 2024

_____
President of the City Council of the
City of Huntsville, Alabama

APPROVED this the 7th day of November, 2024

_____
Mayor of the City of Huntsville, Alabama

MASTER DEVELOPMENT AGREEMENT

by and among

CITY OF HUNTSVILLE, ALABAMA

HUNTSVILLE HOUSING AUTHORITY

and

MCCORMACK BARON SALAZAR, INC.

for

MILL CREEK

CHOICE NEIGHBORHOODS INITIATIVE TRANSFORMATION

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List of Exhibits

A Site Plan
B Phasing Plan
C Preliminary Schedule and Sources of City Expense Funds
D Master Housing Schedule
E Development Budget (including Phase Development Budgets)
F Approved Contractors, Consultants, Etc.
G Environmental Documentation
H Insurance Requirements
I Design Standards

MASTER DEVELOPMENT AGREEMENT

MILL CREEK

CHOICE NEIGHBORHOODS INITIATIVE TRANSFORMATION

THIS MASTER DEVELOPMENT AGREEMENT (this "**Agreement**") is entered into as of _____ __, 2024, by among the CITY OF HUNTSVILLE, ALABAMA, an Alabama municipal corporation (the "**City**"), HUNTSVILLE HOUSING AUTHORITY, an Alabama public corporation ("**HHA**"), and MCCORMACK BARON SALAZAR, INC., a Missouri corporation ("**MBS**" or the "**Developer**"). The City, HHA, and the Developer are each separately referenced in this Agreement as a "**Party**," and collectively as the "**Parties**." The City and HHA are each also referenced in this Agreement as a "**Public Party**," and collectively as the "**Public Parties**."

BACKGROUND

A. HHA owns certain real property located in Huntsville, Alabama and operates certain public housing sites thereon known as Johnson Towers, Butler Terrace, and Butler Terrace Addition (collectively, the "**Target Sites**").

B. Pursuant to a Memorandum of Understanding dated as of February 8, 2024 (the "**MOU**"), HHA, the City, and the Developer agreed to work cooperatively to pursue a multi-phase, mixed-income redevelopment of the Target Sites (the "**Development**"). Pursuant to the MOU, the City (as Lead Applicant) and HHA (as Co-Applicant) agreed to submit an application to the U.S. Department of Housing and Urban Development ("**HUD**") for a Choice Neighborhoods Initiative Implementation Grant (the "**Choice Grant**"). The Developer agreed to serve as the Housing Implementation Entity pursuant to the Choice Grant, if awarded.

C. The City and HHA submitted an application for a Choice Grant (the "**Choice Application**"), and on July 17, 2024, HUD announced the award of a $50,000,000 Choice Grant to the City and HHA. The City, HHA, and HUD are entering into a Grant Agreement (the "**Choice Grant Agreement**"), a copy of which will be provided to the Developer once it is fully executed.

D. The Choice Application and the Choice Grant Agreement establish a Housing Plan that will support a housing development initiative projected to include a total of 580 mixed-income units, of which 284 will be Replacement Housing Units, 174 will be affordable rental units supported by low-income housing tax credits, and 122 will be market-rate units.

E. HHA, the City, and the Developer desire to enter into this Agreement in order to set forth specific rights and responsibilities of each party in connection with further planning and execution of the Housing Plan.

Capitalized terms in this Agreement are either defined under the heading "Definitions" below, or elsewhere within the text of this Agreement.

In consideration of the foregoing recitals and the mutual covenants and agreements set forth herein, which are incorporated herein and which the Parties recognize to be good and valuable consideration, the Parties agree as follows:

Definitions

"Abandoned" is defined in Section 1.5.

"ACC" means the Consolidated Annual Contributions Contract between HUD and HHA, as amended or restated from time to time.

"Additional Services" is defined in Section 2.3.1.

"Additional Services Agreement" is defined in Section 2.3.1.

"Affiliate" means (i) any entity which has the power to direct the management and operation of another entity, or any entity whose management and operation is controlled by such entity, or (ii) any entity in which an entity described in (i) above has a Controlling Interest, or (iii) any entity a majority of whose voting equity is owned by such entity, or (iv) any entity in which or with which such entity, its successors or permitted assigns, is merged or consolidated, in accordance with applicable statutory provisions for merger or consolidation, so long as the liabilities of the entities participating in such merger or consolidation are assumed by the entity surviving such merger or created by such consolidation.

"Agreement" means this Agreement (including all attached exhibits, which by this reference, are made a part of this Agreement), as amended from time to time.

"AHFA" means Alabama Housing Finance Authority.

"Bankruptcy Code" is defined in Section 10.2.

"Breaching Party" is defined in Section 10.3.

"Base MBS Fee" is defined in Section 2.2.1 (and expressly does not include fees for Additional Services).

"Change in Control" means either (i) a merger, consolidation, or conversion of the Developer with or into another business entity that is the surviving entity in such merger, consolidation, or conversion other than a merger, consolidation, or conversion with an Affiliate of the Developer, or (ii) a change in control of the Developer, including, without limitation, by the transfer of 50% or more of the stock in the Developer to any one person or multiple persons or entity or multiple entities, in one or a series of transactions. A Change in Control shall also be deemed to have occurred if in a single transaction or a series of transactions (including without limitation, increased capitalization, merger with another entity, combination with another entity, or other amendments, issuance of additional or new stock, partnership interests or membership interests, reclassification thereof or otherwise), whether related or unrelated, there is any transfer of 50% or more of the ownership interests in the Developer held by any Controlling Interest, from that existing as of the date of this Agreement. Notwithstanding anything to the contrary, a Change of Control

shall not be deemed to occur following a transfer resulting from the death of a natural person with a direct or indirect ownership interest in the Developer or its Affiliates to members of his or her family, to key employees of the Developer or its Affiliates and/or to entities for the benefit of any one or more of them.

"Choice" means the Choice Neighborhoods Initiative program.

"Choice Application" is defined in Section C of the Recitals.

"Choice Budget" means the HUD-approved "Choice Budget" (Form HUD 53236) as defined in Article VI, paragraph (A)(1), of the Choice Grant Agreement, as amended and approved from time to time.

"Choice Funds" is defined in Section 3.1.1.

"Choice Grant" is defined in Section B of the Recitals.

"Choice Grant Agreement" is defined in Section C of the Recitals.

"Choice Requirements" means: (i) the Housing Act, as applicable, including the HOPE VI Authorization, and all implementing regulations, (ii) the 2023 Consolidated Appropriations Act, (Public Law 117-328), (iii) the 2024 Consolidated Appropriations Act (Public Law 118-42), (iv) the Fiscal Year 2023 Notice of Funding Availability ("**NOFA**"), Funding (v) 31 U.S.C. § 1552 (requiring expenditure of all Fiscal Year 2023 Choice Grant funds by September 30, 2032), (vi) Section 24(e)(2)(D) of the 1937 Act, requiring certain involvement of affected residents of the targeted public and/or assisted housing during the implementation process, (vii) all executive orders applicable to the activities being conducted with funds provided under the Choice Grant Agreement, (viii) the terms and requirements of the Choice Grant Agreement, and any amendments or addenda thereto, (ix) all other applicable Federal requirements, including, without limitation, those set forth in Appendix A to the Choice Grant Agreement, and (x) all federal regulations, handbooks, notices, and policies applicable to the activities being conducted with funds provided under the Choice Grant Agreement.

"City" means the City of Huntsville, Alabama.

"City Additional Funds" means the City Housing Funds and the City Expense Funds.

"City Expenses" is defined in Section 3.1.3

"City Expense Funds" is defined in Section 3.1.3

"City Housing Funds" is defined in Section 3.1.2

"City Parking Improvements" is defined in Section 6.4.1.

"Clean and Buildable Condition" means that (i) the demolition of all designated structures shall have been completed in accordance with all applicable laws, including Environmental Laws, including, but not limited to, those governing the removal of asbestos-containing materials and/or lead based paint; (ii) the removal and disposal of all debris from demolition and all other surface and subsurface physical

obstructions shall have been completed in accordance with all applicable laws, including Environmental Laws; (iii) all areas unsuitable to construction of the New Improvements (such as but not limited to old foundations, retaining walls, areas of uncompacted fill, or on-site underground utilities which may be encountered within a proposed building envelope or otherwise to the extent advised by the geotechnical engineer) shall have been removed or closed, and all such areas shall have been compacted with suitable fill material, (iv) all areas shall have been rough graded to within one (1) foot of the proposed finished grade so as to allow the construction of building pads and other components for the New Improvements, and (v) all Hazardous Materials have been removed from the environment at the property or otherwise addressed to comply with Protective Concentration Levels (PCLs) or remediation standards applicable to the intended use of the property.

"Closing" means, with regard to any Phase, the date on which principal commitments regarding such Phase (including financing, land conveyances, covenants, agreements and contracts) are performed or converted to binding obligations of performance, and all of the applicable Owner Entity's equity commitments and construction period loans have closed (except as may otherwise be expressly recognized in Closing Documents).

"Closing Documents" is defined in Section 8.1.

"Construction Loan" means a loan obtained by an Owner Entity for any Phase to fund the construction of such Phase.

"Controlling Interest" means the interest of a managing member, general partner or controlling stockholder of another entity.

"Declaration of Restrictive Covenants" means a Declaration of Restrictive Covenants recorded against each Phase of the Development in which there will be Replacement Housing Units or other units subject to Choice Requirements, as required by HUD pursuant to Choice Requirements.

"Design Standards" is defined in Section 2.1.3 (and further detailed in Exhibit I)

"Demolition Work" is defined in Section 6.1.1

"Developer" means MBS.

"Developer Parking Improvements" is defined in Section 6.4.1.

"Developer Rights" is defined in Section 1.1

"Developer Services" is defined in Section 2.1 (and expressly does not include Additional Services).

"Development" is defined in Section B of the Recitals.

"Development Budget" is defined in Section 4.2.1.

"Development Contingencies" is defined in Section 10.3.1.

"Development Program" is defined in Section 2.1.3.

"Development Sites" means the site of the Target Sites, and/or any portion thereof designated for construction of a Phase or portion thereof and for any Public Infrastructure Improvements Work or portion thereof; provided, however, that (as further detailed in Section 1.2.2) the Hospital Site is not a Development Site.

"Environment" means surface or subsurface soil or strata, surface waters and sediments, navigable waters, wetlands, groundwater, sediments, drinking water supply, ambient air, species, plants, wildlife, animals and natural resources. The term also includes indoor air, surfaces and building materials, to the extent regulated under Environmental Laws.

"Environmental Condition" means the presence of Hazardous Materials in the Environment at, on, in, under or about a Development Site.

"Environmental Law" means any present or future federal, state or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing Hazardous Materials, the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* ("**CERCLA**"); the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* ("**RCRA**"); the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.* ("**TSCA**"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Clean Water Act, 33 U.S.C. § 1251 *et seq.* and any so-called "Superfund" or "Superlien" law, and the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.* ("**OSHA**").

"Event of Default" is defined in Section 10.1.

"Force Majeure" means the following: a general banking moratorium shall have been declared by federal or State authorities (but Force Majeure does not include a mere inability to obtain financing); acts of God; strikes, lockouts or other industrial disturbances; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions, or officials, or any civil, political, or military authority; insurrections; pandemics; epidemics; unanticipated severe and catastrophic or geological events or weather occurrences (beyond normal occurrences); civil disturbances; partial or entire failure of utilities; unusual and unanticipated disruption in transportation; unanticipated unavailability of manufactured materials; or any other cause not within the reasonable control of the Developer significantly affecting the execution of work at a real estate development project, provided that the Developer demonstrates that there is no commercially reasonable alternative means for performing under this Agreement, notwithstanding such event listed above or other event. It is understood and agreed, however, that any such force majeure delay cannot have resulted as a result of the Developer's, or its any of its Affiliate's, fault or negligence, and the Developer or its affected Affiliate shall make reasonable efforts to perform its contractual duties despite the occurrence of said event. For the purposes of this Agreement,

"Force Majeure" shall not include the shortage or unavailability of funds or equity unless due to an extraordinary micro- or macro-economic national or global financial crisis which objectively severely restricts the availability of funds to the Developer from institutional lenders or investors for a period of at least six (6) months.

"General Partner" means the Affiliate of the Developer serving as the general partner or the managing member of an Owner Entity.

"General Contractor" means any general contractor chosen (in accordance with the terms of this Agreement) to construct any or all Phases under general construction contract(s).

"Hazardous Materials" means any solid, liquid, or gaseous material, chemical, waste or substance that is regulated by a federal, state or local governmental authority and includes those substances listed or defined as "hazardous substance" under CERCLA, "hazardous waste" under RCRA or otherwise classified as hazardous, dangerous or toxic under an Environmental Law and shall specifically include petroleum, oil and petroleum hydrocarbons, radon, radioactive materials, asbestos, lead-based paint, urea formaldehyde foam insulation and polychlorinated biphenyls.

"HHA" means Huntsville Housing Authority.

"HHA Fee" is defined in Section 2.2.2.

"HHA Program Income Funds" is defined in Section 3.2.1.

"HHA Funds" is defined in Section 3.2.2.

"Hospital Development" is defined in Section 1.2.2.

"Hospital Site" is defined in Section 1.2.2.

"Housing Act" means the United States Housing Act of 1937, as amended.

"Housing Plan" means those components of the Transformation Plan comprised of the housing plan and other components directly relating to the development of the housing contemplated by the Transformation Plan, as approved by HUD, and as the same may be amended, modified, or supplemented from time to time in accordance with this Agreement.

"HUD" means the U.S. Department of Housing and Urban Development.

"HUD Cost Guidelines" means the "Cost Control and Safe Harbor Standards for Section 8 Projects under Choice Neighborhoods Program" promulgated by HUD as applicable to the Housing Plan.

"HUD Program Schedule" means the Program Schedule, in the format of the Quarterly Reports required by the Choice Grant Agreement, submitted to and approved by HUD pursuant to Article III(D)(2) of the Choice Grant Agreement.

"HUD Requirements" means all requirements of HUD and Federal law, regulation or HUD guidance as applicable to the Development, or a given element thereof (including, as applicable in a given context, Choice Requirements or PBV Requirements).

"Investor" means the limited partner(s) or non-managing member(s) in an Owner Entity for any given Phase selected pursuant to Section 2.1.7.

"Invoice" is defined in Section 10.7.

"Lender" means a third-party mortgage lender for a given Phase, to be selected pursuant to Section 2.1.7, and may include a first mortgage lender (or bond purchaser) and/or a public or quasi-public gap lender, as applicable. As used in this Agreement, the term "Lender" shall expressly not include the City or HHA.

"LIHTC" means federal low-income housing tax credits.

"Master Housing Schedule" is defined in Section 4.1.

"Material Adverse Effect" means any event, occurrence, fact, condition, or change that is materially adverse to (i) the operations, financial condition or assets of the Developer, taken as a whole, or (ii) the ability of the Developer to consummate the transactions contemplated hereby; provided, however, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition, or change, directly or indirectly, arising out of or attributable to: (i) general economic or political conditions; (ii) conditions generally affecting the industries in which the Developer operates; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iv) acts of war (whether or not declared), armed hostilities or terrorism, or the escalation or worsening thereof; (v) any changes in applicable laws or accounting rules (including generally accepted accounting principles) or the enforcement, implementation or interpretation thereof.

"MBM" shall have the meaning set forth in Section 8.7.

"MBS" means McCormack Baron Salazar, Inc., a Missouri corporation.

"MOU" is defined in Section B of the Recitals.

"Neighborhood Strategy" is defined in Section 1.3.2.

"New Improvements" means buildings and improvements (including building fixtures) to be constructed by an Owner Entity on a Development Site, including ancillary buildings and site improvements. New Improvements expressly does not include Public Infrastructure Improvements Work.

"Non-Breaching Party" is defined in Section 10.3.

"Owner Entity" means an entity formed to construct, develop, own and operate a Phase.

"Parking Improvements" is defined in Section 6.4.1.

"Part A" means the portion of the Development Budget labeled "Part A: Development Sources" and "Part A: Development Uses" in the HUD Budget Form HUD-50156. Part A elements of the Development Budget generally correspond to the sources and uses of the Owner Entity for each Phase.

"Part B" means the portion of the Development Budget labeled "Part B: Additional Sources" and "Part B: Additional Uses" in the HUD Budget Form HUD-50156. Part B elements of the Development Budget generally correspond to the sources and uses of the City or HHA as grantee of the Choice Grant.

"Party" or "Parties" means HHA, the City, and the Developer.

"PBV-Assisted Units" means units to be assisted by and subject to a PBV HAP Contract.

"PBV AHAP Contract" means an Agreement to Enter into Housing Assistance Payments Contract with respect to a Phase between HHA and each Owner Entity pursuant to the PBV Program dated on or about the date of the Closing of such Phase.

"PBV HAP Contract" means a Housing Assistance Payments Contract with respect to a Phase to be entered into between HHA and each Owner Entity pursuant to the PBV AHAP Contract with such Owner Entity.

"PBV Program" means the Section 8 Project Based Voucher Program established pursuant to Section 8(o)(13) of United States Housing Act of 1937 (42 U.S.C. § 1437 *et seq.*), as amended, or any successor program.

"PBV Requirements" means all requirements of the PBV Program as set forth in the PBV AHAP Contract and the PBV HAP Contract.

"People Strategy" is defined in Section 1.3.1.

"Permanent Loan" means a first priority secured loan obtained by an Owner Entity secured by a Phase following construction completion and stabilization, whether to pay off a Construction Loan or otherwise.

"Phase" means a separately financed portion of the Development.

"Phase Development Budget" is defined in Section 4.2.2.

"Phasing Plan" is defined in Section 1.2.1.

"Public Infrastructure Improvements Work" is defined in Section 6.3.1.

"Public Party" or "Public Parties" means the City and HHA.

"Public Party Funds" means the City Additional Funds and the HHA Funds.

"Remediation Standards" means applicable Protective Concentration Levels (PCLs), remediation standards applicable to the intended use of the property, or environmental standards imposed by third-party funders.

"Reoccupancy Plan" is defined in Section 8.8.2.

"Replacement Housing Unit" means a PBV-Assisted Unit in the Development (as further defined and established pursuant to the Choice Requirements).

"Right of First Refusal and Option Agreement" is defined in Section 8.2.2.

"Site ESA" means, as applicable, a Phase I environmental site assessment, a Phase II environmental site assessment and/or any associated updates, addenda or further testing or evaluation.

"Site Preparation Work" is defined in Section 6.2.1.

"State" means the State of Alabama.

"Supporting Information" is defined in Section 10.7.

"Target Sites" is defined in Section A of the Recitals. As further detailed in Section 1.2.2, the Target Sites are comprised of the Development Sites and the Hospital Site.

"TDC" is defined in Section 2.2.1.

"Transformation" shall refer to and encompass the Transformation Plan (as defined in the Choice Grant Agreement), including, but not limited to, physical redevelopment activities to be carried out under and in accordance with the Housing Plan and this Agreement, as amended from time to time.

"Transformation Plan" shall have the definition given to such term in the Choice Grant Agreement.

"USI" is defined in Section 1.3.1.

ARTICLE I
ENGAGEMENT; HOUSING PLAN

1.1 Designation as Master Developer; Developer Rights. The City and HHA confirm the designation of the Developer as the master developer for the redevelopment of the Target Sites and as the "Housing Implementation Entity" as established by the Choice Grant Agreement. The designation of the Developer as master developer of the Target Sites encompasses the exclusive right to develop multifamily and senior mixed-income rental housing and commercial or community space on the Target Sites (subject to such HUD restrictions, if any, as may govern the Target Sites), as further described in this Agreement (the "**Developer Rights**"). The Developer expressly acknowledges that its right or option to purchase, lease, or otherwise possess or control any portion of the Target Sites is limited to the terms and conditions specifically contemplated hereunder. The Developer Rights shall remain in effect for the term of this Agreement, as established pursuant to Section 10.1.

1.2 Housing Plan.

1.2.1 The Development. The Housing Plan requires replacement of the Target Sites with a new multi-phase mixed-income rental community across the Development Sites with a total of 580 units (including 284 Replacement Housing Units). The current Housing Plan contemplates that the redevelopment of the Target Sites will occur over five Phases and will contain the types and number of units as described in the site plan attached as **Exhibit A** (the "**Site Plan**") and the phasing plan attached as **Exhibit B** (the "**Phasing Plan**") and will be completed within the timeframes and by the deadlines described in the Master Housing Schedule. The Parties understand and agree that the Site Plan and the Phasing Plan have been approved by HUD and are subject to change or amendment only with the approval of the City, and of HUD as applicable, as described in this Agreement.

1.2.2 Hospital Site. The Neighborhood Strategy also contemplates a discrete, separately-owned development on a portion of the Target Sites identified as the "**Hospital Site**" on the Phasing Plan (the "**Hospital Development**"). The Hospital Development is presently anticipated to consist of approximately one hundred to one hundred twenty-five (100-125) units of housing, with some measure of targeting or preference for Huntsville Hospital employees. The Public Parties anticipate that the Hospital Development will be designed and constructed solely by Huntsville Hospital or its designated developer pursuant to one or more separate agreements. The Developer is not responsible for implementing the Hospital Development and will not be a party to such separate agreements but will continue to confer with and coordinate with the Public Parties in furtherance of the overall Transformation. The Hospital Site and the Hospital Development are not subject to the terms of this Agreement, except that the Parties acknowledge that the City intends to carry out Demolition Work, Site Preparation Work, and Public Infrastructure Improvements Work across all of the Target Sites (including the Development Sites and the Hospital Site) and that the associated Target Site-wide costs are presently reflected in the Development Budget and will be maintained within the Development Budget as such costs are adjusted unless otherwise approved by the Parties. Notwithstanding any role or rights provided to the Developer pursuant to this Agreement or any other explicit or implicit term of this Agreement or any Additional Services Agreement, neither the Developer nor any of its Affiliates, consultants, contractors, or subcontractors shall have any direct or indirect responsibility or liability associated with the performance of Demolition Work, Site Preparation Work, or Public Infrastructure Improvements Work on or relating to the Hospital Site arising directly or indirectly from this Agreement or an Additional Services Agreement. Without limiting the foregoing, the Developer reserves the right to negotiate one or more separate consulting or development agreements with Huntsville Hospital or its affiliates and to perform services and attain rights pursuant to the terms of any such separate agreement – acknowledging that in no event will any such separate agreement give rise to rights on the part of the Developer or Huntsville Hospital directly or indirectly under the terms of this Agreement except as expressly provided herein or as may otherwise be expressly authorized by the City in writing in its sole discretion.

1.2.3 Process for Amending the Housing Plan. As the Parties pursue the further planning and implementation of the Development, they may identify areas in which the Housing Strategy can be improved so as to make the Development more economically feasible, to better achieve the underlying objective of community revitalization and/or to meet expectations or requirements of other stakeholders or funding bodies. The Parties recognize that each Phase and the Housing Plan as a whole are wholly dependent upon factors that are likely to change over the term of this Agreement (such as the availability of the projected funding sources, construction costs, interest rates and other conditions), causing the Housing Plan or segments thereof to become infeasible or otherwise in need of adjustment to the Phasing Plan. When presented with such changes, the Parties will make commercially reasonable efforts to preserve the current terms of the Housing Plan to the greatest extent feasible or will, if necessary, work together to develop such amendments or alterations that accomplish the original goals of the Housing Plan based on changed circumstances. The Developer will be responsible for preparing for City approval and submission to HUD any request to amend the Housing Plan, as required by the Choice Grant Agreement. The City will not submit to HUD any proposed request to amend to the Housing Plan materially affecting the Development or the Housing Plan without prior consultation with the Developer and the Developer's written agreement, which

will not be unreasonably withheld, conditioned or delayed. The Parties understand and agree that no changes to the Housing Plan (including, without limitation, the Site Plan and/or the Phasing Plan) shall be made without the consent and approval of the City as further provided in Article IV and other applicable provisions of this Agreement, and as applicable with the approval of HUD.

1.3 People and Neighborhood Strategies.

1.3.1 People Strategy. The Housing Plan and the Choice Grant Agreement establish expectations and funding for an extensive "**People Strategy**," including case management for current, returning, and new Development residents, establishment and coordination of partnerships with other local service providers and funders to meet resident needs and advance Transformation Plan goals, close integration with the Housing Plan and the Neighborhood Strategy, and tracking and reporting People Strategy outcomes over the life of the Choice Grant. Urban Strategies, Inc. ("**USI**") is the lead entity responsible for coordinating and providing technical assistance for the People Strategy pursuant to a separate contract with the City. The Developer is not responsible for implementing the People Strategy but will continue to confer with and coordinate with the Public Parties and USI in furtherance of the Housing Plan and the People Strategy. The Choice Budget presently includes Ten Million Dollars ($10,000,000) of Choice Funds for the People Strategy. The City agrees not to direct any additional Choice Funds toward the People Strategy without the Developer's prior written agreement (and, if such a change is made, the City will offset a reduction in Choice Funds for the Housing Plan with a corresponding increase in other City Additional Funds).

1.3.2 Neighborhood Strategy. The Housing Plan and the Choice Grant Agreement establish expectations and funding for an extensive "**Neighborhood Strategy**" to create the conditions necessary for public and private reinvestment in the neighborhood in which the Development is located to offer the kinds of amenities and assets, including safety, good schools, and commercial activity, that are important to families' choices about their community. The City is the lead entity responsible for the Neighborhood Strategy. The Developer is not responsible for implementing the Neighborhood Strategy but will continue to confer with and coordinate with the City in furtherance of the Housing Plan and the Neighborhood Strategy. The Choice Budget presently includes Fifty Thousand Dollars ($50,000) of Choice Funds for the Neighborhood Strategy. The City agrees not to direct any additional Choice Funds toward the Neighborhood Strategy without the Developer's prior written agreement (and, if such a change is made, the City will offset a reduction in Choice Funds for the Housing Plan with a corresponding increase in other City Additional Funds).

ARTICLE II
DEVELOPER SERVICES, DEVELOPER FEES AND ADDITIONAL SERVICES

2.1 Developer Services. The Developer, directly or through Owner Entities or Affiliates, shall initiate, coordinate, and carry out or contract for all design, financing, and construction activities in connection with the development, construction and completion of each Phase, as further provided in and subject to the terms of this Agreement, including as described in the Site Plan, the Phasing Plan and the Master Housing Schedule. The Developer, directly or through an Affiliate of the Developer, shall also be responsible for and carry out management of all completed units of each Phase, as more particularly provided in Section 8.7. The services and activities to be performed by Developer in its capacity as developer of a Phase subject to the terms of this Agreement (the "**Developer Services**") include the following (in each case subject to the recognition that Developer Services described in this Agreement as belonging to the Developer may be performed or caused to be performed by the Developer, an Owner Entity, and/or an Affiliate of the Developer):

2.1.1 The Developer shall be responsible for pursuing the award and commitment of all sources of construction and permanent financing needed for each Phase in accordance with the Development

Budget and each Phase Development Budget (including, as needed and as feasible, pursuing alternate sources of funding), other than the HHA Funds, Choice Funds and City Additional Funds. The Developer agrees to confer with the City before it applies for financing and before it enters into, materially amends, or waives any material provision of a financing commitment. All applications for LIHTC shall be prepared by the Developer and shall be provided to the City for review and approval not less than two (2) weeks prior to submission to AHFA. The City acknowledges that the Developer's pursuit of funding sources is time sensitive, and in some cases subject to strict deadlines imposed by third parties. Therefore, the City shall provide comments in connection with funding sources within ten (10) business days of the receipt of materials to be commented upon, or more quickly as needed to meet actual third-party deadlines.

2.1.2 The Developer shall be responsible for applying for, obtaining, and preserving through Closing allocations of LIHTC and/or access to tax-exempt bond volume cap (each as applicable for a given Phase in accordance with the Development Budget and the applicable Phase Development Budget), and for tax and financial structuring for each Phase. For purposes of funding applications, HHA will provide ground lease options to Owner Entities to meet the site control requirements of the particular funding application, as needed. HHA and the City shall provide funding commitment letters for each applicable Phase to support such funding applications subject to the financial commitments of HHA and the City with regard to such Phase as described in the Development Budget and the applicable Phase Development Budget. The Developer will provide the proposed draft commitments to HHA and the City, as applicable, at least two (2) weeks in advance of the application due date to allow an opportunity to review and complete the required documentation.

2.1.3 The Developer is responsible for providing a detailed plan and schedule for the execution of all elements of the Housing Plan, including, without limitation: (a) the Site Plan and the Phasing Plan, as they may be amended, updated or supplemented pursuant to the terms of this Agreement, and (b) amendments, updates and supplements to the Development Budget and the Phase Development Budgets as described in Sections 4.1 and 4.2 hereof(collectively, the "**Development Program**"). The Parties acknowledge that they have created and reached consensus on conceptual plans for the Development and for each Phase thereof, which conceptual plans are described in the Site Plan and the Phasing Plan. The Parties further acknowledge that the current Site Plan and Phasing Plan has been presented to community stakeholders and has been presented to and approved by HUD. In developing the Development Program, the Developer shall remain consistent with the design standards attached as **Exhibit I** (the "**Design Standards**") unless otherwise expressly approved by the City. The Development Program will comply with the Housing Plan and applicable HUD and AHFA standards and requirements. All portions of the Development Program shall be subject to review and approval by the City at the times more particularly provided elsewhere in this Agreement.

2.1.4 The Developer shall be responsible for the design, engineering, construction and overall implementation of all New Improvements for each Phase, as required for such Phase pursuant to the Development Program, subsequent to delivery of the Phase site at Closing in Clean and Buildable Condition, all within the timeframes and by the deadlines required in the Master Housing Schedule. Without limiting the foregoing, the Closing Documents shall require the Developer to cause commencement and completion of construction of all New Improvements in each Phase to be accomplished by the dates listed in the Master Housing Schedule, subject to delays caused by Force Majeure or other events outside of the Developer's reasonable control which delay work on such Phase, including receipt of all necessary permits, completion of all Public Infrastructure Improvements Work necessary to commence work on such Phase, and completion of any other work to be performed by a third party which impacts the commencement of work by the Developer on such Phase. The City shall have the right to review and approve design and specifications at the concept, design development, and construction documents stages, as more specifically set forth in Section 7.1.

2.1.5 The Developer will provide quarterly status reports to the City and HHA during predevelopment and construction.

2.1.6 The Developer shall contract with, supervise and discharge architects, engineers and General Contractors for the New Improvements, each of which shall be under the control and direction of the Developer, and the Developer shall cause the design and construction of the New Improvements to be made in accordance with the Housing Plan and the Development Program and in compliance with all applicable Federal, state and local laws, codes, ordinances, rules and regulations.

2.1.7 The Developer shall be responsible for selecting Investors and Lenders for each Phase. The Developer will provide the City with an opportunity to review and comment on the Developer's proposal for soliciting a Lender and/or Investor. The City will further have the opportunity to advise the Developer of any concerns with, objections to, or negative experiences with any potential Lenders and/or Investors, and the Developer agrees to give reasonable consideration to such information as it develops its list of potential respondents and as it moves forward with the selection process. The Developer will provide the City with copies of all Investor and Lender proposals received upon request, and the City may review and comment on such proposals, but selection of the Investors and Lenders shall remain the function and responsibility of the Developer.

2.2 Developer Fees.

2.2.1 The Parties intend that the total developer fee paid by each Owner Entity to the Developer will be the maximum amount available, subject to AHFA maximum developer fee limits as well as HUD Cost Control and Safe Harbor Standards. The parties agree that the fee paid to the Developer for each Phase ("paid" meaning exclusive of such amounts as may be deferred and payable through cash flow) shall be the maximum amount permitted by such AHFA and HUD limits (the "**Base MBS Fee**"). The Base MBS Fee is presently set at twelve percent (12%) of total development costs ("**TDC**") as calculated under HUD Cost Control and Safe Harbor Standards (provided that the Public Parties acknowledge that if such HUD limit increases or decreases the Base MBS Fee will be set at such increased or decreased amount, provided that it does not exceed the then-applicable AHFA maximum developer fee limits). The Developer acknowledges and agrees that the Public Parties are not guaranteeing the availability of the Base MBS Fee.

2.2.2 HHA shall receive a co-developer fee if and to the extent that the paid developer fee for a Phase exceeds the Base MBS Fee (the "**HHA Fee**"), subject to AHFA maximum developer fee limits as well as HUD Cost Control and Safe Harbor Standards. Payments to the Developer and HHA of Base MBS Fee and HHA Fee shall be pro-rata. For example, if the total paid developer fee is fifteen percent (15%) and at such time the Base MBS Fee remains at twelve percent (12%) of TDC, the Developer will receive the Base MBS Fee of twelve percent (12%) and HHA will receive an HHA Fee of three percent (3%). If the total paid developer fee is fifteen percent (15%) and at such time the Base MBS Fee has increased to fifteen percent (15%) of TDC or more, there will not be an HHA Fee. HHA shall apply the HHA Fee pursuant to Section 3.2.

2.2.3 The milestones to consider the Base MBS Fee and the HHA Fee earned and to pay such fees shall be as negotiated with the Investors and the Lenders for the applicable Phase; provided, however, that payments of such fees are expected to be 50% at Closing for each Phase (such 50% to be calculated net of any mutually agreed upon predevelopment overhead funding reimbursed at Closing), 25% at substantial completion and 25% at stabilization. For purposes of this provision, "substantial completion" shall mean issuance by the inspecting architect a certificate of substantial completion for such Phase and "stabilized occupancy" shall mean such Phase is at least 50% occupied.

2.3 Additional Services.

2.3.1 HHA or the City may request the Developer to undertake additional services in connection with activities which are designated in this Agreement as obligations of HHA or the City ("**Additional Services**"), subject to written agreement with the Developer regarding the scope of services and compensation for such Additional Services which shall be set forth in one or more separate agreements (each an "**Additional Services Agreement**"). Any such Additional Services shall be provided as an independent contractor and not as an agent of HHA or the City. The Developer may cause an Affiliate of the Developer, including without limitation McCormack Baron Salazar Development, Inc., to perform some or all of the Additional Services, to enter into associated agreements and/or to receive associated compensation.

2.3.2 Each Additional Services Agreement will include a budget approved by the City for the estimated costs of all third-party services required for the performance of such Additional Services and the Developer's compensation and identifying the source or sources of funds. The Developer will be compensated for Additional Services with a fixed fee equal to six percent (6%) of the cost of services provided by third-party contractors and consultants, unless otherwise agreed in any Additional Services Agreement. The compensation to the Developer or its Affiliate for performance of any Additional Services is not intended by any Party as a part of or an advance against amounts payable as Base MBS Fee.

2.3.3 Expenses incurred under an Additional Services Agreement will not be included within any Phase Development Budget, but instead will be considered part of Part B Development Budget expenses. If the Developer determines that it would enhance the Applicable Phase Development Budget for an Owner Entity to carry out some or all of the work otherwise to be performed as an Additional Service or as a City Expense and/or to assume or reimburse a Public Party for related expenditures or if the Developer concludes that for tax purposes it is preferable or necessary to do so, it may include such costs in a Phase Development Budget subject to prior approval of the City. Such costs shall then be included in the Part A costs forming the basis for calculating Base MBS Fee, provided that equitable adjustments shall be made to the extent an Additional Service fee was previously paid in connection with the same cost.

ARTICLE III
CITY AND HHA COMMITMENTS AND SUPPORT

3.1 City Financial Commitments.

3.1.1 The City commits Thirty-Nine Million Nine Hundred and Fifty Thousand Dollars ($39,950,000) in Choice Grant funds for the Housing Plan (the "**Choice Funds**"), subject to applicable terms of the Choice Requirements. The parties acknowledge and confirm that such commitment of Choice Funds reflects the agreement of the Public Parties: (a) not to charge an administrative fee (although such a fee would be permitted by the Choice Grant Agreement), and (b) not to increase the amount of Choice Funds presently committed to the Neighborhood Strategy ($50,000) or the People Strategy ($10,000,000) except as referenced in Section 1.3. The City also separately funded costs associated with the Choice Application and associated master planning activities, which costs are not included in the Development Budget. The Parties agree and acknowledge that the Choice Funds shall be allocated and disbursed on a Phase-by-Phase basis as shown in the Development Budget and in each corresponding Phase Development Budget.

3.1.2 In addition to the Choice Funds, the City commits to provide up to a maximum aggregate amount of Forty Million Dollars ($40,000,000) (the "**City Housing Funds**") for Part A costs of the Development. The City Housing Funds for each Phase will be made available to the applicable Owner Entity at Closing in the form of subordinate loans to such Owner Entity pursuant to Section 8.4, unless otherwise approved by the City and the Developer. The Parties acknowledge that the City Housing Funds commitment is a fixed aggregate amount, to be allocated on a Phase-by-Phase as shown in the Development Budget and in each corresponding Phase Development Budget.

3.1.3 The City further commits to provide all funds that may be required to pay for hundred percent (100%) of each of the following expenses as established in the Development Budget: (a) Demolition Work pursuant to Section 6.1, (b) Site Preparation Work pursuant to Section 6.2 (except to the extent such costs are included in Part A pursuant to Section 6.2.2), (c) Public Infrastructure Improvements Work pursuant to Section 6.3, and (d) City Parking Improvements pursuant to Section 6.4 (collectively, "**City Expenses**"). The City shall be responsible to pay for all actual City Expenses with funds (the "**City Expense Funds**") that are separate from and in addition to the Choice Funds and the City Housing Funds. The current Development Budget contains Twenty-Three Million Three Hundred Ninety-Three Thousand Two Hundred Fifty-Three Dollars ($23,393,253) for Demolition Work, Site Preparation Work, and Public Infrastructure Improvements Work and an additional Sixteen Million Four Hundred Thirty-Six Thousand Four Hundred Dollars ($16,436,400) for City Parking Improvements, resulting in a total of Thirty-Nine Million Eight Hundred Twenty-Nine Thousand Six Hundred Fifty-Three Dollars ($39,829,653) of City Expenses. The City expressly acknowledges that this is a preliminary figure subject to change through corresponding updates and changes to the Development Budget and that the City will provide City Expense Funds as needed to fund the actual City Expenses.

3.1.4 The City further affirms that it will waive all fees for building permits and any other local fees within the City's jurisdiction in furtherance of the Development, the estimated value of which as reflected in the current Development Budget is Five Hundred Ninety Thousand Dollars ($590,000).

3.1.5 The Developer hereby acknowledges that nothing in this Agreement shall constitute a promise by the City to pay any funds to the Developer or to any other party. This Agreement, including, without limitation, this Section 3.1, shall never create a debt of the City within the meaning of Section 225 of the Constitution of Alabama. Subject to the foregoing, the City has established a preliminary schedule and identified sources of funds to meet its obligations to provide City Housing Funds and to meet its obligation to provide City Expense Funds as summarized in **Exhibit C**. The City reserves the right to adjust such sources of funds, provided that the Developer's prior written approval shall be required if: (a) the City proposes to use Choice Funds to fund City Expenses, or (b) any other source of funds would impose material constraints on eligible uses or on the operation of the Phases beyond those established by this Agreement or otherwise reflected in the Development Program.

3.2 HHA Financial Commitments.

3.2.1 The Parties do not presently expect HHA to make any financial commitments to the Development beyond the award of operating subsidy for the Replacement Housing Units pursuant to Section 8.9 and HHA Program Income Funds as described below. If funds are made available to HHA arising from the Transformation (such as HHA Fees or ground lease rent from an Owner Entity (each as detailed below)) or any proceeds from disposition of land to a third-party through a deed or long-term ground lease, HHA will recontribute such funds (the "**HHA Program Income Funds**") to the Development Budget as program income in the form of subordinate loans to the Owner Entities pursuant to Section 8.4 (either for the same Phase or for a future Phase, as mutually determined by the Parties), unless otherwise approved by the City and the Developer. The current Development Budget reflects a total of Five Million Nine Hundred Thirty-Eight Thousand Dollars ($5,938,000) of HHA Fees as HHA Program Income Funds.

3.2.2 HHA may, subject to HUD approval, retain HHA Fees for a particular Phase without recontributing it to the Development Budget as HHA Program Income Funds to the extent that additional funding is obtained for the Development Budget and the absence of such HHA Program Income Funds would not cause or expand a financial gap in the overall Development Budget at the time that Phase reaches Closing as confirmed by approval of each Party. HHA also may, in its sole discretion, elect to make other sources of funds available to the Development Budget along with HHA Program Income Funds (together with the HHA Program Income Funds, the "**HHA Funds**").

3.2.3 The Developer hereby acknowledges that nothing in this Agreement shall constitute a promise by HHA to pay any funds to the Developer or to any other party. This Agreement, including, without limitation, this Section 3.2, shall never create a debt of HHA within the meaning of any constitutional or statutory provision of the State of Alabama.

3.3 City and HHA Institutional Support and Coordination.

3.3.1 Each of the Public Parties shall provide all commercially reasonable assistance and support for the Housing Plan with local agencies, HUD, AHFA, Lenders, and other applicable parties. The Public Parties shall provide all commercially reasonable assistance requested by the Developer in obtaining licenses, approvals, clearances, or other cooperation from local, state, and federal agencies, and shall support any application submitted by the Developer for allocations of LIHTC, tax-exempt bond volume cap or other sources of funds. Notwithstanding the foregoing, the Parties acknowledge that the City is entering into this Agreement in its capacity as lead grantee of the Choice Grant and in relation to other associated commitments and undertakings as specified in the Choice Application, the Choice Grant Agreement, and this Agreement. The Developer acknowledges that neither entry by the City into this Agreement nor any approvals given by the City under this Agreement shall be deemed to imply that the Developer has obtained or will be entitled to obtain any required approvals from any departments, agencies, boards, or commissions of the City or any other governmental entity that has jurisdiction over the Development. The Development remains subject to the receipt of approvals, authorizations and permits from City departments, agencies, boards, or commissions with applicable jurisdiction over the Development, and this Agreement shall not directly or indirectly be interpreted to limit the discretion of any such departments, agencies, boards, or commissions.

3.3.2 Each Public Party will provide commitment letters in support of each tax credit or other funding application in the amount of Public Party Funds reflected in the corresponding Phase Development Budget, and HHA will provide ground lease options (at nominal cost for the options but ultimately subject to payment of rent in accordance with Section 8.3 herein), in order to meet the site control requirements of each funding source. If a Phase or a Development Site becomes eligible for exemption from real estate and equivalent taxation, the Public Parties will cooperate with the Developer to move forward in a manner that accomplishes that exemption to the greatest degree legally permitted.

3.3.3 As between the City and HHA, the City agrees to provide staff and other resources as reasonably required to satisfy or help HHA satisfy all administrative functions arising under the Choice Grant Agreement. The Public Parties acknowledge that, as referenced in Section 3.1.1, they will not be drawing on Choice Funds to pay for such administrative functions: the City will provide such services using its own staff or otherwise using resources outside of the Development Budget.

3.3.4 If the Developer delivers a document or information to the City or otherwise communicates with the City regarding any matter subject to the terms of this Agreement, the Developer may rely upon the City to share such items with HHA except to the extent HHA is explicitly and singularly required to receive or approve a given submission pursuant to the terms of this Agreement (such as occupancy-related items pursuant to Section 8.8). The City and HHA shall be responsible for coordinating the sharing of information, input, and authorization between the two Public Parties as required or as they may determine necessary. The Developer may rely upon the approval of the City as evidence of the approval of both Public Parties to the extent the approval of HHA may be explicitly or implicitly required by any term of this Agreement.

3.4 Acquisition and Disposition. The Housing Plan is presently limited to redevelopment of the Target Sites. No off-site development or acquisition is presently anticipated. Any off-site acquisition will advance only with the prior approval of each Party, and any off-site acquisition funded with Choice Funds or otherwise carried-out by HHA will subject to the prior approval of HUD pursuant to HUD Requirements, including without limitation the receipt of environmental clearance as referenced in Section

5.1.1. HHA will timely request all disposition approvals as may be required pursuant to applicable HUD Requirements.

3.5 Delivery of Sites. HHA shall deliver each Development Site to the Developer or applicable Owner Entity at Closing in Clean and Buildable Condition. The City is responsible for the funding and implementation of Demolition Work, Site Preparation Work and Public Infrastructure Improvements Work required to allow such delivery by HHA, as further specified in Article VI. All Public Infrastructure Improvements Work on any Phase of the Development shall be made available to the Developer (or the appropriate Owner Entity) within the timeframes anticipated by the Master Housing Schedule. The Developer's obligations under this Agreement to commence construction of New Improvements with respect to any Phase are contingent upon the completion of Demolition Work, Site Preparation Work and Public Infrastructure Improvements Work within the timeframes anticipated by the Master Housing Schedule, except as may be more particularly provided otherwise in this Agreement.

3.6 HUD Submissions and Approvals. The Parties each acknowledge that the Closings and the consummation of the transactions contemplated by this Agreement are subject to and contingent upon approval by HUD. The Parties agree to cooperate in good faith to obtain all necessary approvals from HUD required pursuant to the Choice Grant Agreement and other HUD Requirements. The City and HHA shall coordinate closely with the Developer regarding all relevant communications with HUD and timely forward to the Developer all relevant correspondence, directives, and other written material either to or from HUD with respect to the Development. The Public Parties shall maintain sole authority for the execution of documents required as the grantees of Choice Grant funds. Any submission to HUD of any agreements in draft or final form, or any submissions intended, upon HUD approval, to become or amend a component of the Housing Plan, shall be subject to prior review and opportunity for comment by the Developer, and shall be submitted to HUD by the City; provided, however, that no submission which, in the reasonable determination of the Developer, materially increases the responsibility or risk of the Developer from that previously contemplated or that materially changes the Housing Plan shall be made without the Developer's approval, such approval not to be unreasonably withheld, conditioned or delayed. The Developer shall provide the City and HHA on a timely basis with all information and assistance which they reasonably require to prepare the submissions required by the Choice Grant Agreement. The Developer further agrees to participate in or attend meetings and discussions with HUD as may be reasonably necessary to advance the purposes of this Agreement or to comply with the terms of the Choice Grant Agreement. The Developer may on occasion communicate directly with HUD in the interest of advancing the Development, provided that it provides prior notification of such communication to the City and copies the City and HHA on all such communication.

ARTICLE IV
OVERALL CONDUCT AND ADMINISTRATION OF TRANSFORMATION

4.1 Master Housing Schedule. An initial schedule for starting and finishing all tasks contemplated by the Housing Plan (in the form submitted to HUD as part of supplemental submissions) is attached as **Exhibit D** (as it may be supplemented and amended in accordance with the terms of this Agreement, the "**Master Housing Schedule**"). The Developer shall revise and update the Master Housing Schedule to reflect evolving events and circumstances and provide each updated Master Housing Schedule to the City for its approval. If the City objects to any change in the Master Housing Schedule, it shall promptly advise the Developer in writing of the basis for such objection and any suggested means of avoiding or otherwise remedying such change. Each Party agrees to advise the other promptly if it learns of any known or reasonably anticipated event or condition that might affect the Master Housing Schedule. The City will not unreasonably withhold, condition, or delay approval of any update to the Master Housing Schedule or any request to seek HUD approval of a corresponding change to the HUD Program Schedule as applicable. The Parties understand and agree that no changes or amendments to the Master Housing Schedule shall be made without the consent and approval of the City. Subject to the foregoing, the

Developer acknowledges that it is responsible to prepare and adhere to a schedule that complies with the HUD Program Schedule and specific deadlines identified in the Choice Grant Agreement for the Housing Plan (subject to all Parties timely performing their obligations under this Agreement) and the City will not provide consent and approval over a proposed change that is inconsistent with the HUD Program Schedule without securing the approval of HUD (or may condition its approval upon such approval from HUD).

4.2 Development Budget; Phase Development Budgets.

4.2.1 An initial budget for the Development is attached as **Exhibit E** (as it may be supplemented and amended in accordance with the terms of this Agreement, the "**Development Budget**"), which includes all costs for the Development, including all expected Base MBS Fees and HHA Fees. Proposed revisions to the Development Budget (including cost increases and shifting expenses for certain components of the Development between Phases) will be submitted by the Developer to the City when a material change is proposed or when otherwise requested by the City, which upon approval by the City shall be deemed to constitute a revised Development Budget. An update to the Development Budget shall be provided by the Developer to the City no less frequently than upon the Closing of each Phase.

4.2.2 An initial budget for each Phase of the Development is included withing the Development Budget (as each such budget may be supplemented and amended in accordance with the terms of this Agreement, each a "**Phase Development Budget**"). Proposed revisions to any Phase Development Budget (including cost overruns and shifting expenses for certain components of the Development between Phases) will be submitted by the Developer to the City when a material change is proposed or when otherwise requested by the City, which upon approval by the City shall be deemed to constitute a revised Phase Development Budget. An update to each Phase Development Budget shall be provided by the Developer to the City no less frequently than upon the Closing of each Phase.

4.2.3 Legal fees incurred by each Party (including those associated with this Agreement and other "master" activities such as those arising under Article 5 or Article 6 or under Additional Services Agreements) may be included in the Development Budget (Part A and/or Part B), and if they are included in Part A may be included within associated Phase Development Budgets. The Developer is presently assuming One Hundred Thirty Thousand Dollars ($130,000) of legal fees per Phase to cover all legal fees for the City and HHA (including costs associated with this Agreement and other "master" activities as well as those relating to Closing Documents and other Phase-specific activities). The City will provide updates to such figures as applicable upon request or otherwise in connection with the review of the Development Budget or Phase Development Budgets.

4.3 Predevelopment Budgets, Loans and Overhead Advances.

4.3.1 The Developer shall develop, for approval by the City, a predevelopment budget for each Phase during such Phase's predevelopment period (or for a stated period if projected costs are allocable to more than one Phase) (the "**Phase Predevelopment Budget**"). Each Phase Predevelopment Budget will identify: (a) all estimated uses of funds for costs expected to be required to be incurred before Closing, including third-party costs for activities within the Developer Services (the "**Phase Predevelopment Expenses**"), and (b) all sources of funds for payment of such costs (with a breakdown of the split between Developer-funded costs and City-funded costs). If the City is using City Housing Funds to pay for Phase Predevelopment Expenses, it will pay 100% of such expenses. If the City is using Choice Funds to pay for Phase Predevelopment Expenses, the Choice Funds will pay 75% and the Developer will pay 25%.

4.3.2 The City's share of Phase Predevelopment Expenses shall be advanced or paid to the Developer, Developer Affiliate, or an Owner Entity for such Phase pursuant to the terms of one or more predevelopment loan agreements consistent with the terms of this Agreement. Such loans will be secured solely by a pledge of work product funded by the City and will be nonrecourse to the Developer and any Affiliates. Each Phase will be the subject of a separate set of predevelopment loan documents. At the Closing of each Phase, predevelopment funds allocable to such Phase shall be reimbursed to the Developer or the City, as applicable. At the Closing of each Phase, the Owner Entity shall have the right to satisfy the predevelopment loan by reflecting a like amount of funds being already drawn on construction/permanent mortgage loan provided by the City at such Closing pursuant to Section 8.4.

4.3.3 Authorization to the Developer or Owner Entity by the City to cause or permit commencement of third-party work contracted for by Developer, a Developer Affiliate or Owner Entity shall constitute a representation by the City that funds for payment of the costs of such work are immediately available. The City and the Developer acknowledge that payment of any such costs from Choice Funds may be subject to approval by HUD under the terms of the Choice Grant Agreement or other applicable HUD Requirements. The Developer will have the right to receive reasonable evidence of approval of the availability of funds prior to commencing such work. The City will request approval or modification of the budgets established under the Choice Grant Agreement to permit timely drawdown of Choice Funds to pay amounts due from Choice Funds pursuant to Phase Predevelopment Budgets. If HUD disapproves, or does not approve, any items for which approval was requested by the City in accordance with the Phase Predevelopment Budget, the City shall immediately notify the Developer and the Developer shall have a right either to stop work or to adjust the Phase Predevelopment Budget accordingly, by identification of an alternate source of City Funds for payment of such items. In no event will Developer be obligated to begin incurring its share of Phase Predevelopment Expenses, if approved, unless and until a predevelopment loan agreement is in effect for City's share of remaining Phase Predevelopment Expenses and the corresponding approval has been received from HUD as applicable.

4.3.4 The City shall fund a predevelopment loan to an Owner Entity from which the Owner Entity will pay the Developer an overhead advance of 15% of the expected Base MBS Fee for the applicable Phase as established pursuant to the Development Budget. As an illustration of the foregoing, if the Base MBS Fee for the applicable Phase is $1,000,000, the overhead advance of the Base MBS Fee for the applicable Phase shall be $150,000. Such advance will be paid monthly in accordance with the Predevelopment Budget for such Phase. The Parties anticipate that such overhead advance will be paid out of proceeds of the City Housing Funds, but the City may use Choice Funds for such purpose with the approval of HUD. Such payments shall be deemed advances against Base MBS Fee and shall be non-recourse and repayable, without interest, only from Base MBS Fee received by Developer for the relevant Phase of the Development.

4.3.5 Funds advanced by the City to pay for a predevelopment loan will be credited to the City as an expenditure of City Housing Funds or Choice Funds for purposes of Section 3.1, except to the extent a predevelopment loan is repaid from a source other than City Housing Funds or Choice Funds. As an illustration of the foregoing, if the City uses $2,000,000 of City Housing Funds to fund a predevelopment loan for $1,500,000 of Phase Predevelopment Expenses pursuant to Section 4.4.3 and $500,000 of overhead advances pursuant to Section 4.4.4 and at the Closing of such Phase the Owner Entity satisfies the Phase

Predevelopment Expenses element of the loan by reflecting a like amount of funds being already drawn on construction/permanent mortgage loan provided by the City at such Closing pursuant to Section 8.4 (i.e., keeps such funds in the Phase) and repays the overhead advances, then $1,500,000 of the predevelopment loan will be credited as an advance of City Housing Funds while the remaining $500,000 returned to the City will not be credited as an advance of City Housing Funds but will remain available for and committed to future use pursuant to the terms of this Agreement.

4.4 Contractors and Consultants.

4.4.1 The Developer or appropriate Owner Entity shall be responsible for the selection and engagement of subcontractors, consultants, and other participating parties necessary for carrying out Developer Services or Additional Services. HHA acknowledges and affirms to the Developer that neither the Developer nor an Owner Entity is required to comply with procedures set forth in the procurement policy of HHA nor otherwise under state or federal procurement standards applicable to HHA, such as 2 CFR Part 200. The Developer's contracts for architecture, engineering and general construction shall be based on the Developer's standard forms or on modified AIA forms and shall incorporate any revisions required by the Investors or Lenders of each Phase and shall include any required HUD provisions.

4.4.2 The Developer shall be responsible for selecting General Contractors, architects and engineers. The Developer shall develop a qualifications-based selection process that it will use to make such selections and will share that selection process with the City in advance for review and approval. The City will further have the opportunity to advise the Developer of any concerns with, objections to, or negative experiences with any potential General Contractors, architects and/or engineers. The Developer's selection process will be conducted in an "open book" manner. The Developer shall be alert to organizational conflicts of interest as well as noncompetitive practices that may restrict or eliminate competition or otherwise restrain trade and will make awards to the bidder or offeror whose bid or offer is in the Developer's (or Owner Entity's) sole determination most advantageous, taking into consideration price, quality, experience and other factors. The Developer currently has no identity of interest with any general contractor and shall disclose any such identity of interest that may arise in the future to the City in writing and the City shall have review and approval rights over any such identity-of-interest contractor. Subject to the standards and procedures of this Section 4.4.2, selection of the General Contractors, architects and engineers shall remain the function and responsibility of the Developer.

4.4.3 The requirements set forth in this Section 4.4.3 relate only to the selection of General Contractors, architects and engineers. Nothing set forth in Section 4.4 shall limit or otherwise affect the Developer's ability to hire or process for hiring any and all other third parties to represent the Developer or the Owner Entity of any Phase, including without limitation legal counsel, accountants, title and disbursing companies, or insurance providers. Notwithstanding the foregoing, no third-party contractor may be debarred or suspended under any applicable federal, state or local programmatic requirement. The third-party contractors and consultants identified in **Exhibit F** have been identified to and, where applicable, approved by the Public Parties.

4.5 Section 3 Goals and Obligations. In accomplishing its development activities as provided herein, the Developer will comply with Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations thereunder at 24 CFR 75. The Developer shall include Section 3 provisions in its contracts with General Contractors including the following minimum goals: provide that 25% or more of the total number of labor hours worked by all workers employed on the applicable Phase with Choice Funds or other public housing financial assistance are "Section 3 workers" and 5% or more of the total number of labor hours worked by all workers employed with Choice Grant funds or other public housing financial assistance are "Targeted Section 3 workers," as such terms are defined at 24 CFR 75.11. Contractors and subcontractors must make best efforts to meet the meet the employment, training,

and contracting requirements at 24 CFR 75.9. While the Section 3 regulations exclude architects and engineers from benchmark requirements, HHA and the City encourage voluntary reporting of such benchmarks. The Developer shall include reports about efforts and results relating to Section 3 contracting for hard and soft costs and Section 3 employment (including hours worked for Section 3 workers, and hours worked for Targeted Section 3 workers for each subcontractor) with each pay application and submission of Davis-Bacon certified payrolls (or more frequently if needed) for HUD reporting. The Developer or each Owner Entity may contract with a third party for Section 3 and Davis-Bacon monitoring and compliance and include the costs relating thereto as a project cost in the applicable Phase Development Budget. HHA and the City agree to assist in identifying and certifying Section 3 businesses and Section 3 residents, including current residents in HHA housing interested in employment opportunities, at the written request of the Developer. HHA further confirms that it will make the services of an HHA employee available to carry out and coordinate associated reporting and compliance activity, and the Parties acknowledge that in reliance on this service the Developer is not including a corresponding cost in the Development Budget.

4.6 Cooperation and Approval Standards.

4.6.1 Each of the Parties shall cooperate with one another in good faith to complete the Development. Such cooperation shall include reasonable efforts to respond to one another as expeditiously as possible with regard to requests for information or approvals required hereby and prompt proactive sharing of information pertinent to the carrying out and orderly progression of the Development, including forwarding of all relevant correspondence, directives, and other written material either to or from the City, AHFA or HUD with respect to the Development. With regard to materials or documents requiring the approval of one or more Parties, if such materials or documents are not approved as initially submitted, then the Parties shall engage in such communication as is necessary under the circumstances to resolve the issues resulting in such disapproval. A spirit of good faith and a mutual desire for the success of the Development shall govern the Parties' relationship under this Agreement. The Parties agree to cooperate and consult with each other in advance of any public statements or publication made regarding the Development or any Phase thereof. Each Party shall promptly review any matter submitted and advise the other Party as applicable in writing of approval or of why approval is being withheld. To the extent this Agreement entitles a Public Party to exercise any rights of approval, consent, or the like, in regard to activities performed by the Developer or documents or plans, such approval and consent rights shall be exercised by such Public Party in a manner which will not result in the applicability of 2 CFR Part 200 in regard to such activities or documents or plans.

4.6.2 Unless otherwise stated in this Agreement, each Party's approval, disapproval, consent, or the like of any matter required hereunder shall be in writing and shall not be unreasonably withheld, conditioned or delayed. If any Party fails to respond to a request or submission by the deadline for the response period specified in the Agreement (or if none is specified, within ten (10) business days of the subject request or submission), then should such Party fail to respond within three (3) business days following a second written notice to such Party advising it of the outstanding request, such Party shall be deemed to have approved or consented to the subject request or submission.

4.7 Communications. To facilitate communication, each Party each shall designate a representative with responsibility for the routine administration of such Party's obligations under this Agreement. Initially such representatives shall be Antonio McGinnis, Executive Director for HHA, Scott Erwin, Director of Community Development, for the City, and Sandra Seals, Senior Vice President, for the Developer.

ARTICLE V
ENVIRONMENTAL AND GEOTECHNICAL REVIEW AND OBLIGATIONS

5.1 Environmental and Geotechnical Assessments.

5.1.1 The City shall be responsible for obtaining all necessary HUD approvals of Requests for Release of Funds for all activities arising under this Agreement (including, as applicable, performance of Additional Services and the Closing of each Phase) pursuant to 24 CFR Part 50 or Part 58, as applicable. The Development Budget will include reasonable costs of a consultant to assist with such HUD approvals (presently budgeted at $50,000).

5.1.2 The City and HHA each have delivered to the Developer any and all existing documentation regarding the Target Sites (including environmental assessments, reports, demolition and as-built drawings, notices, and other material correspondence with any public agency), as specified in **Exhibit G**. Any additional documentation of this nature will be forwarded to the Developer no later than twenty-four (24) hours after receipt of said information by either Public Party.

5.1.3 The City will conduct any environmental or geotechnical assessments required to ensure that the complete Development Site is in Clean and Buildable Condition. The City will, in consultation with the Developer, contract for geotechnical reports and for Site ESAs, beginning with Phase 1 reports, for each portion of the Development Site on a Phase-by-Phase basis as mutually agreed upon between the Developer and the City. If reasonably deemed warranted by the Developer or the City with respect to an existing or reasonably suspected Environmental Condition identified in a Phase I Site ESA or in a geotechnical report, the City will, in consultation with the Developer, cause to be performed one or more updates or supplements to the initial Site ESAs or any further testing or other evaluation reasonably necessary to determine the existence, scope and extent of an Environmental Condition or geotechnical condition. (The Parties acknowledge that the City previously conducted a Phase I Site ESA, and that the Developer has shared and will continue to share comments and recommendations regarding further testing it deems advisable.) If a Site ESA identifies the presence of an Environmental Condition, the Developer and the City shall meet to determine the scope of remediation and any additional testing to define the scope of remediation, if any, to be performed at the affected site in order to remediate the Environmental Condition consistent with Remediation Standards. The Developer may share any reports, assessments or other information regarding the environmental condition of the Development Site with third-party consultants to conduct any additional diligence and/or testing as may be required. The Parties acknowledge that all third-party funders, as a condition of providing funding of any portion of the Development or the Development Site, will likely require: (i) all data available in regard to the foregoing environmental matters; and (ii) evidence that any Environmental Conditions have been remediated to meet applicable Environmental Laws and Remediation Standards, which may include a requirement to obtain a Certificate of Completion or a "no further action" clearance letter with respect thereto from the Alabama Department of Environmental Management or similar department and/or to submit to a "Voluntary Cleanup Plan." The Parties acknowledge that they and their respective consultants and advisors may identify different standards or recommendations during the course of the consultative process identified in this Section 5.1 and in relation to identifying whether a Clean and Buildable Condition has been met or will be met upon the completion of the subject proposed activities. Any Party may, during the course of such process, request that the other Parties identify in writing the agreed-upon proposed actions and associated standards to be met in order to confirm their shared consensus as described below (provided that each Party acknowledges that standards, conditions, and identified facts may continue to evolve throughout the course of related activities and any such written agreement will include a similar acknowledgment).

5.1.4 The City may elect to engage the Developer pursuant to an Additional Services Agreement as a Part B expense to carry out or contract for some or all of the activities referenced in Section

5.1.3. Whether or not an Additional Services Agreement is in place for such activities, the Developer may include reasonable costs of the Developer's third-party consultants incurred in carrying out the activities referenced in such Section 5.1.3 in the Development Budget as a Part B expense (relative to activities carried out under Article 5 or Article 6 of this Agreement) and separately as a Part A expense (relative to activities of the Owner Entity, associated due diligence and insurance requirements and related matters).

5.1.5 The City shall submit or cause to be submitted to the Developer for its review and approval all proposed plans and specifications for remedial actions for Environmental Conditions and geotechnical conditions. If the Developer and the City are able to reach agreement on the scope of remediation, such remediation and relating testing and oversight costs shall be added to the scope of Site Preparation Work for the Development Site or affected portion thereof. If the Developer and the City are unable to reach agreement on the scope of remediation to address an Environmental Condition identified by any Site ESA or a geotechnical condition recommended in a geotechnical evaluation report then the Developer and the City shall meet to consider the continued feasibility of the development of the affected Phase or affected portions thereof and possible alternate or additional methods and sources. The Master Housing Schedule may be extended by the time needed to remediate such Environmental Condition or geotechnical condition, if feasible in the light of controlling deadlines imposed by financing or supervisory agencies. If, after conferring with the Developer, the City determines that the obligation to deliver all or part of a Development Site in Clean and Buildable Conditions cannot feasibly be effected in accordance with a scope of remediation acceptable to the Developer and third-party funding sources (including, if applicable, participation in a Voluntary Compliance Plan), the Parties shall work together to prepare and submit for HUD approval an amendment to the Housing Plan in accordance with Section 1.2.3.

5.2 Environmental Covenants.

5.2.1 The Developer shall not, nor shall it permit any other third parties with whom the Developer contracts in regard to this Agreement, bring any Hazardous Materials onto any Development Site, except to the extent reasonably necessary to perform assessment, remediation, development and construction activities and used in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, the following Hazardous Materials are prohibited from being brought onto the Development Site: (i) asbestos or asbestos containing material; (ii) polychlorinated biphenyl material; and (iii) soil containing volatile organic compounds regulated under applicable law. Additionally, in the event that the Developer encounters on such Development Site (i) asbestos or asbestos containing material, (ii) polychlorinated biphenyl material, (iii) soil containing volatile organic compounds, or (iv) any other subsurface, adverse condition, the Developer shall promptly notify the Public Parties in writing.

5.2.2 Except for Environmental Conditions caused solely by the Developer, an Owner Entity or an Affiliate of the Developer or an Owner Entity, or third parties with whom any of the foregoing contracts in regard to this Agreement, the City shall be responsible for all costs and expenses associated with the investigation and remediation of any Environmental Condition affecting a Development Site as described in this Article V. HHA shall indemnify the Developer and the Owner Entities for any and all damages, loss, claims and expenses (including reasonable attorneys' fees) imposed upon or actually incurred by them arising out of Environmental Conditions at the Development Site. In no event shall the Developer or its Affiliate be responsible for the remediation of Environmental Conditions except to the extent that such remediation is explicitly specified in the scope of services to be performed pursuant to an Additional Services Agreement and funded by the City accordingly. If any soil, debris, waste or Hazardous Material is required to be removed from the Development Site, neither Developer, an Owner Entity nor their respective Affiliates shall be required to execute any waste manifest or other document indicating it is the generator of the soil, debris, waste or Hazardous Materials. Rather, HHA shall be identified as the generator of the soil, debris, waste or Hazardous Materials.

ARTICLE VI
SITE ACTIVITIES.

6.1 Demolition Work.

6.1.1 "**Demolition Work**" consists of the demolition of all buildings and structures on each Development Site, including, without limitation the following activities:

- abatement prior to demolition;
- demolition of buildings and structures;
- removal and disposal of debris;
- demolition, capping and/or removal of utilities and subsurface improvements; and
- backfilling where subgrade structures have been removed.

Demolition Work expressly includes all design, engineering, funding, permitting and associated costs and actions arising in connection with the preceding activities.

6.1.2 The City is responsible for performing or contracting for the performance of all Demolition Work, and the City is responsible for funding the cost of all Demolition Work as part of the City Expenses. The Developer shall have the right to review all plans and specifications, reports, and other work product to confirm that Demolition Work is complete on a given Development Site in a manner consistent with delivery of a Clean and Buildable Site. The City acknowledges that such review rights of the Developer apply before demolition actions begin (including, where applicable, review of plans and specifications to be included in bid packages) as well as during and at the conclusion of the performance of Demolition Work (including, where applicable, inspection of Demolition Work, participation in job meetings, and review of deliverables from the contractor(s) and engineer(s) performing or overseeing the Demolition Work). The Parties acknowledge that HHA previously demolished the Butler Terrace Addition, provided that Developer reserves the right to review and confirm associated deliverables as established in this Section 6.1.2 (including, without limitation, to confirm that such Demolition Work included utilities and subsurface improvements).

6.2 Site Preparation Work.

6.2.1 "**Site Preparation Work**" consists of all activities relating to delivery of a Development Site in Clean and Buildable Condition other than Demolition Work. Site Preparation Work expressly includes environmental investigation and remediation and geotechnical investigation remediation as established pursuant to Article 5 as well as the following activities:

- Specification writing and associated engineering design;
- Rough survey to identify property lines and building footprints plus related site preparation;
- Excavation of unsuitable soils, replacement with appropriate fills and compaction to the standards defined in the geotechnical investigation report based on the proposed development location and use;
- General mass grading of all areas allows the Developer to permit the construction of building pads and other components for the New Improvements;
- Removal of above and/or below ground improvements such as retaining walls, and building structures and foundations;

- Removal and disposal of soils and materials unsuitable for use as competent fill for the structures anticipated;
- Relocation or abandonment of existing utilities to accomplish excavation of unsuitable or contaminated soils;
- Certified and documented geotechnical observation and oversight during unsuitable soils excavation and fill (provided, however, that substantial earthwork and fill associated with mitigation of the flood zone is included within the scope of Public Infrastructure Improvements Work);
- Observation and testing during excavation and replacement of existing fill and buried structures; and
- Obtaining all applicable governmental and utility approvals.

Site Preparation Work expressly includes all design, engineering, funding, permitting and associated costs and actions arising in connection with the preceding activities.

6.2.2 The City is responsible for performing or contracting for the performance of all Site Preparation Work as part of its obligations relating to delivery of each Development Site in Clean and Buildable Condition. The City is responsible for funding and performance of all Site Preparation Work as part of the City Expenses. The Parties anticipate that the City will directly perform or contract for Site Preparation Work, but the City may choose to engage the Developer or its Affiliate to perform Site Preparation Work pursuant to an Additional Services Agreement. Notwithstanding the foregoing, the Parties' present assumption is that the scope (and cost) for Site Preparation Work will not be material, which could allow the Site Preparation Work to be included within Part A of each Phase Development Budget. If during the term of this Agreement the Developer reasonably determines that there is a material amount of Site Preparation Work required to achieve Clean and Buildable Condition for one or more Development Sites, then the Developer shall notify the City within five (5) business days of discovering such issue. Unless the City reasonably determines that such additional Site Preparation Work is not necessary to achieve a Clean and Buildable Condition, the City will perform such Site Preparation work and may treat such Site Preparation Work as a Part B cost for such Development Site(s), funded by the City from City Expense Funds, and performed through an Additional Services Agreement for an Additional Services Fee.

6.3 Public Infrastructure Improvements Work.

6.3.1 "**Public Infrastructure Improvements Work**" consists of the construction of all new or improved infrastructure improvements necessary for the construction and occupancy of the Development as required on a Phase-by-Phase basis pursuant to the Housing Plan. Without limiting the generality of the foregoing or the specific elements established or to be established in the Housing Plan, Public Infrastructure Improvements Work expressly includes the following activities:

- underground utilities, sewers, drains, etc.;
- curbs, curb cuts, and sidewalks, landscaping and lighting to all sides of the Development Site;
- existing or new streets;
- earthwork associated with mitigation of the flood zone;
- construction, ownership, and long-term maintenance of public parks;
- sewers and drains whether on-site or off-site; and
- conveyance of Development Site property as required for rights-of-way (e.g., sidewalks, tree lawns, streets, bike paths) pursuant to the public infrastructure master plan and Phase-specific site designs.

Public Infrastructure Improvements Work expressly includes all design, engineering, funding, permitting and associated costs and actions arising in connection with the preceding activities. For purposes of this Agreement, Public Infrastructure Improvements Work does not include capping of and improvements to Mill Creek: those activities are anticipated to be carried-out and funded by the City as part of the Neighborhoods Strategy.

6.3.2 The City is responsible for performing or contracting for the performance of all Public Infrastructure Improvements Work in a timely fashion, consistent with the Master Housing Schedule. The City is responsible for funding all Public Infrastructure Improvements Work as part of City Expenses. The Parties anticipate that the City will directly perform or contract for the Public Improvements Work, but the City may choose to engage the Developer or its Affiliate to perform Public Infrastructure Improvements Work pursuant to an Additional Services Agreement (provided, however, that in no event will Developer or any Affiliate or Owner Entity be responsible for maintenance of roads, utilities, sidewalks or public parks – all of which are anticipated to be publicly owned and dedicated).

6.4 Parking Improvements.

6.4.1 The Housing Plan includes the creation of a substantial number of new parking spaces for residents of the Development and for nearby commercial uses (the "**Parking Improvements**"). The Parking Improvements are anticipated to be provided through both surface parking lots (the "**Developer Parking Improvements**") and structured parking garages (the "**City Parking Improvements**") that will be integrated within or wrapped by one or more buildings of the Development.

6.4.2 The City is responsible for funding all costs to construct the City Parking Improvements as well as all costs of long-term operation, maintenance, and repair of the City Parking Improvements sufficient to allow residents of each Phase to access parking at no expense to the residents or to the Owner Entities as part of City Expenses. The Developer will be responsible for the design, construction and maintenance of all Developer Parking and will allow residents of each Phase to access the Developer Parking Improvements at no expense to the residents or to the Owner Entities. The Developer will propose a structure for financing and ownership of the Parking Improvements for review and approval by the City as part of its update to the Development Budget or as part of a corresponding Phase Development Budget. City Parking Improvements construction costs may be structured as a Part A expense of an Owner Entity (in which case it may, among other options, be funded through a subordinate loan of City Expense Funds pursuant to Section 8.4), as a Part B expense (in which case it may, among other options, be performed by the City or through an Additional Services Agreement using City Expense Funds), and/or through an assumption or reimbursement structure as referenced in Section 2.10.3. City Parking Improvements operating expenses may be structured through long-term ownership by the City, through a shared ownership structure with an Owner Entity (such as a lease, easement, or condominium) and/or through financial commitments to an Owner Entity (such as cost reimbursements or funding a reserve account).

6.5 Coordination and Post-Closing Arrangements.

6.5.1 To the extent that the City (or any entity other than the Developer, its Affiliates or an Owner Entity) is designing or carrying out the Site Preparation Work, the Public Improvements Work or the City Parking Improvements, the Developer shall have the right to review all plans and specifications, reports, and other work product as well as the associated improvements themselves to ensure that they are completed in a manner consistent with the Housing Plan, the Master Housing Schedule, and the design documents for the New Improvements of each Phase. The responsibilities and approval rights of the City and the Developer relative to Public Infrastructure Improvements Work and all Parking Improvements shall be consistent with the responsibilities and approval rights of the Developer and the City for the New Improvements as established in Section 7.1. Without limiting the generality of the foregoing, the Developer's approval rights shall include the right to coordinate access, scheduling, and design elements

with the Master Housing Schedule and with the design of the New Improvements. After the start of construction on any Public Infrastructure Improvements Work or Parking Improvements subject to this Section 6.5.1 the Developer and the applicable Owner Entity will retain the right to participate in job meetings and to review and approve any material change orders (with "material" for such purpose being defined as any changes that have, or in Developer's reasonable determination are likely to have, a material adverse effect upon the Housing Plan or the New Improvements of any Phase).

6.5.2 If and to the extent that Demolition Work, Site Preparation Work, Public Infrastructure Improvements Work and/or City Parking Improvements (exclusive of Parking Improvements to be constructed by an Owner Entity, if any) for a Development Site or a portion thereof are not completed by the date of Closing with respect to the applicable Phase, the Developer may in its sole and absolute discretion proceed with such Closing provided that, at a minimum, the City causes the continuation, funding, and completion of such Demolition Work, Site Preparation Work, Public Infrastructure Improvements Work and/or City Parking Improvements work after Closing. The Owner Entity shall grant to the City (or to the Developer to the extent such work is to be completed by the Developer pursuant to an Additional Services Agreement) access rights to permit completion of the subject activities. The Parties will coordinate associated construction activities and document responsibilities as between the General Contractor constructing the New Improvements and the contractor(s) carrying out the subject activities for or on behalf of the City. In all events, the City shall provide reasonable assurances of such schedule and associated resources at Closing, and shall cause satisfactory completion of the Public Infrastructure Improvements Work prior to the scheduled completion of the New Improvements, in accordance with the Master Housing Schedule. The rights and responsibilities established by this Section 6.6 will be further detailed and affirmed for the benefit of the Parties and the Owner Entity, and in a manner reasonably satisfactory to the City, the Lenders and Investors, in Closing Documents.

ARTICLE VII
PRE-CLOSING DEVELOPMENT PHASE ACTIVITIES

7.1 Plans and Specifications.

7.1.1 The Developer shall coordinate the development of plans and specifications for the New Improvements for each Phase pursuant to building codes and regulations enacted by the City and the State and in accordance with the Housing Plan and the Development Program. The Developer shall cooperate with HHA and the City in obtaining the input of community residents including at community meetings.

7.1.2 All plans and specifications shall be submitted to the City for review and approval at the schematic, design development and construction documents stages. The Developer reserves the right to make final design decisions, subject to compliance with the Design Standards. The Developer acknowledges that the preceding reservation of rights applies solely for purposes of this Agreement, and does not purport to modify the legal authority or discretion of the City or its agencies as further recognized in Section 3.3.2.

7.2 Appraisal, Market Study, Financing Commitments. The Developer shall obtain an appraisal, market study and applicable title commitments respecting each Phase and shall timely apply for and make best efforts to obtain an allocation of LIHTC and/or tax-exempt bond volume cap, and other financial commitments as necessary to support construction and permanent financing of each Phase.

7.3 Relocation. HHA shall be exclusively responsible for all relocation activities, including without limitation all temporary or permanent relocation of residents necessitated by demolition of housing on Development Sites through return of residents to completed Replacement Housing Units. The City will make Choice Funds available to HHA to fund costs of relocation in accordance with the Development

Budget (presently budgeted at $852,000). HHA shall conduct relocation in a manner consistent with the Master Housing Schedule (e.g., ensuring buildings on the Target Sites are vacant in order to permit timely Demolition Work). HHA represents that all prior occupants of the Butler Terrace Addition have been relocated in accordance with applicable laws and the Butler Terrace Addition site is presently vacant. Certain residents of the Target Sites have return rights referenced in Section 8.8. HHA will work with USI to develop a relocation plan as part of the People Strategy, with input and assistance from the Developer and from MBM. The relocation plan will be subject to the approval of the Developer before it is submitted to HUD for review and before any changes are made in response to or otherwise after HUD review or approval. The Parties agree that, as provided in the Housing Plan, the goals of the relocation strategy are to ensure that residents of the Target Sites are successfully relocated, and to facilitate as many "single moves" as possible, i.e., residents move from their current home to their permanent residence without an intermediate step. The Parties further acknowledge that HHA previously made two commitments to Johnson Towers tenants: (1) they would be moved first in consideration of the condition of Johnson Towers and its substantial maintenance cost, and (2) they would be moved once for minimum disruption in their lives. All residents of the Target Sites will be offered housing options, including moving into other public housing units or moving out of Mill Creek with a Tenant Protection Voucher. HHA will request a total of 219 Tenant Protection Vouchers from HUD allowing all existing tenants the option to accept a voucher.

ARTICLE VIII
CLOSINGS, PHASE BUSINESS TERMS AND CLOSING DOCUMENTS

8.1 Closing Documents and Phase Business Terms. The terms and conditions of the Parties' continuing relationship for each Phase will be described and set forth in various documents executed between or among HHA, the City, and the applicable Owner Entity (or, in some cases, Affiliates of the Developer) at or around the time of Closing for each Phase ("**Closing Documents**"). Closing Documents will be in form and content satisfactory to the Parties, the Investors, the Lenders, HUD, and/or any other requisite funding source. The present understandings among the Parties about certain core terms as they relate to the Phases are summarized in the following provisions of this Article VIII and will be further detailed and memorialized in the Development Program and in the Closing Documents.

8.2 Ownership of Phases.

8.2.1 The Developer will cause each Owner Entity to be formed as a limited partnership or limited liability company in which an Affiliate of the Developer will be the sole General Partner. Neither HHA, the City, nor their respective Affiliates will hold any direct or indirect ownership interest in any Owner Entity or in a General Partner.

8.2.2 At Closing of each Phase, HHA and the Owner Entity shall enter into a "Right of First Refusal and Option Agreement" providing that following the end of the LIHTC compliance period, HHA (directly or through an Affiliate or instrumentality) shall have the right of first refusal to acquire the subject Phase and an option to acquire such Phase or all of the Investor's interests in the Owner Entity. The Right of First Refusal and Option Agreement will set the right of first refusal price equal to the sum of (a) mortgage debt on the property, (b) the amount of federal, state and local tax liability incurred due to the payment of amounts under the Right of First Refusal and Option Agreement (i.e., partner exit taxes), (c) amounts owed to any partner or member of the Owner Entity, and (d) reasonable legal and accounting fees of the Owner Entity and/or the partner or member in connection with the sale. The Right of First Refusal and Option Agreement shall provide an option price equal to the greater of the right of first refusal price or the fair market value of the interest transferred. The Right of First Refusal and Option Agreement will provide the longest period of time reasonably consistent with market practices from the expiration of the compliance period to exercise the Right of First Refusal and Option Agreement, and thereafter a similarly reasonable time enter into a purchase agreement. The Right of First Refusal and Option Agreement will

further provide that: (i) Developer will hold a secondary option to purchase the Phase (or the partners' or members' interests) upon the same terms and conditions granted to HHA if HHA declines to exercise its option (or right of first refusal) within a specified initial period, and (ii) if HHA intends to work with a private developer to preserve or redevelop the Phase following the exercise of its rights under such agreement(s), it will either (x) continue to treat the Developer as its development partner, or (y) provide the Developer with notice and an opportunity to compete for selection of a new development partner. The Developer will also hold a "put" right to exit the Owner Entity following the end of the LIHTC compliance period. The Developer agrees to cooperate with HHA and support HHA's efforts to establish favorable terms for the Right of First Refusal and Option Agreement in good faith, without causing any increase in the risks or responsibilities of the Developer or causing a reduction in the amount or other material terms of the equity available from any Investor.

8.3 Ground Leases. HHA will hold fee title to each Development Site but will convey site control through a long-term ground lease of each Development Site to an Owner Entity. The term of each ground lease will be for a period of no less than 75 years, or such longer period as may reasonably be required by a Lender or by the Investor or its tax counsel (not to exceed 99 years, and in all events subject to the requirements of Alabama law). Each ground lease shall be structured in such a way that it is financeable in a LIHTC transaction. The ground lease payment will be a nominal amount, unless otherwise proposed by the Developer on such terms as Developer may determine advisable for tax or financing purposes (in which case there may be deferred rent paid from HHA's portion of the fifty percent (50%) share cash flow as established pursuant to Section 8.5). Each ground lease will include allocation of environmental responsibilities consistent with the terms of this Agreement (expressly including Section 5). HHA shall not have any right to terminate the ground lease during the 15-year tax credit compliance period without the approval of the Investor and Lenders (but shall retain the right to pursue remedies short of termination, such as specific performance, to enforce regulatory obligations of the Owner Entity). HHA's fee interest in the land will not be subject to any financing; all financing will be secured only by the Owner Entity's leasehold interest.

8.4 Public Party Loans. All Public Party Funds to be provided to any Owner Entity pursuant to a Phase Development Budget will be in the form of loans. Such loans shall be subordinate to the loans provided by the first-position Construction Loan and Permanent Loan and shall be subordinate to loan(s) made by any other Lender to the extent required by such Lender. Public Party loans will be nonrecourse to the Owner Entity and the Developer (provided that the Public Parties shall remain entitled to receive a construction completion guaranty pursuant to Section 8.12) and will have a maturity date and such other terms as may reasonably be required by the Investor to ensure financial feasibility. Such loans will be payable prior to maturity only from a portion of cash flow pursuant to Section 8.5. The repayment of such loans will be further defined in the limited partnership agreement or operating agreement for each Owner Entity and in accordance with conditions required by both the Investor and Lender for the applicable Phase. The Public Parties will provide funds for Part B as direct payments and not as loans.

8.5 Cash Flow.

8.5.1 Each Owner Entity shall (subject to certain limits described below) pay fifty percent (50%) of Adjusted Annual Surplus Cash to the Public Parties. "Adjusted Annual Surplus Cash" shall mean "Surplus Cash" less "Priority Payments," where:

- "Surplus Cash" shall mean surplus cash as established under HUD reporting requirements for multifamily projects subject to HUD's Uniform Financial Reporting Standards for HUD Housing Programs (with the express understanding that such standards will be used whether or not there is a HUD-insured loan for a given Phase (and in the absence of HUD insurance, references in such requirements to HUD approvals shall be disregarded)); and

- "Priority Payments" shall mean payments of deferred developer fees (if any), investor asset management fees, a general partner asset management fee ($10,000/year increasing annually by 3%), tax credit adjuster payments, partner loans or advances, reserve replenishment, and other conditions as may be required by the Investor and by third-party Lenders.

8.5.2 All payments due to Public Parties from any Owner Entity, specifically including mortgage loan payments, ground lease payments and other seller financing payments, shall be included within and subject to the limitation on Adjusted Annual Surplus Cash payments described above. As between the Public Parties, their respective portions of the 50% share referenced above shall be determined on a pro-rata basis relative to the size of their respective loans or ground lease payment obligations, unless otherwise established by agreement of the Public Parties. If any other Lenders require repayment from cash flow of the Owner Entity, then such Lenders' payments will be included within and credited against the 50% share described above and the Public Parties will therefore be required to divide such amounts with such other Lenders. The remaining 50% share will be distributed by the Owner Entity to the General Partner or other Affiliate of the Developer as an incentive management fee (in an amount to be agreed upon between the Developer and the Investor (anticipated to be 90% of such 50% share)) and thereafter to the partners of such Owner Entity in accordance with their ownership interests in such Owner Entity. Distributions of Cash Flow shall be determined by the audit and distributed as further specified in the Owner Entity's limited partnership agreement or operating agreement.

8.6 Cost Savings. Each Owner Entity will calculate "**Cost Savings**" at the time of the stabilization of the applicable Phase. Cost Savings will be calculated as the amount by which final aggregate development sources exceed final aggregate development uses (including payment in full of the Base MBS Fee, full funding of all required reserve accounts and, if applicable, cost saving payments due to the General Contractor under the terms of its contract). No Cost Savings shall go to the Developer. The City shall have the right to approve the cost savings calculation. Cost Savings shall be applied to enhance reserve balances, fund betterments, and/or repay or reduce the amount of the City's loan to the applicable Phase, subject to the claims of other Lenders or gap-funding sources as applicable.

8.7 Property Management.

8.7.1 McCormack Baron Management, Inc. ("**MBM**"), an Affiliate of the Developer, will be the initial property management agent for each Phase. MBM shall remain as property management agent for such Phase unless it is terminated by the Owner Entity following a material default in its management obligations that is not cured prior to the expiration of all applicable notice and cure periods. The property management agreement between MBM and any Owner Entity is subject to the City's and HHA's review and approval. The City and HHA shall have the right, but not the obligation, to approve any replacement management agent. If the City, HHA and the General Partner are unable to agree on a replacement property manager, the Investor's decision shall be determinative as between the Public Parties' and the General Partner's positions. The property management agent shall be responsible to the Owner Entity for management of each Phase in accordance with the terms of the management agreement and in accordance with a management plan that is approved in writing by the Owner Entity and HHA prior to its implementation.

8.7.2 The property management fee for MBM will be the maximum amount permitted subject to approval and cost limits, as applicable, from HUD, AHFA, Lenders and Investors.

8.8 Admissions and Occupancy Policies.

8.8.1 The Choice program requires that each tenant who wishes to return to the Housing Development may return if the tenant was lease-compliant at the time of departure from the Target Site prior to relocation and continued to remain lease-compliant during the relocation period. A returning tenant shall be provided a preference for occupancy of any Replacement Housing Units before such units are made available to any other eligible households, or the tenant may choose to retain tenant-based voucher assistance, subject to appropriations and availability. These preferences are retained even if the resident has already received permanent relocation benefits. This preference applies to residents that were relocated from the Target Sites due to the redevelopment activity and remains available to former lease compliant residents, expressly including twenty-three (23) former residents of Butler Terrace Addition who have accepted a Tenant Protection Voucher, for the period of the Declaration of Restrictive Covenants. Admission to and continued occupancy of Replacement Housing Units shall be limited to persons or families eligible for such units under applicable HUD Requirements, as limited further, during the compliance period and any extended use period, by applicable restrictions under Section 42 of the Internal Revenue Code.

8.8.2 HHA will work with USI to develop a "Reoccupancy Plan" as part of the People Strategy providing for reoccupancy rights and priorities of eligible residents and former residents of the Target Sites. The Reoccupancy Plan will be subject to the approval of the Developer before it is submitted to HUD for review and before any changes are made in response to or otherwise after HUD review or approval. The Reoccupancy Plan must be complete and, as applicable, approved by HUD, not later than the first Closing. Prior to relocation from a Target Site and until such time of re-occupancy in each Phase, HHA shall administer and enforce the leases with each Target Site resident household (or, as applicable, shall monitor lease compliance for residents not living in other public housing units) in compliance with Choice Requirements and the Reoccupancy Plan until each such resident has moved to the Replacement Housing Units or has otherwise relocated from a Target Site and has declined or forfeited his or her right to move to the Replacement Housing Units. Subject to HUD Requirements if applicable, priority occupancy and return rights for Replacement Housing Units may be subject to limitation(s) based on the time that such rights are asserted by the eligible resident family; for example, a family that first asserts it priority occupancy and return rights following initial lease-up of Replacement Housing Units in a Phase may be subject to certain applicable timing, waiting list, or preference requirements or may be required to return to a Replacement Housing Unit in a subsequent Phase. HHA and the Developer shall work together to minimize and such limitation(s) applicable to returning tenants as much as reasonably possible. HHA will provide an updated list of current residents qualified for the returning resident priority pursuant to the Reoccupancy Plan, organized in priority order and including applicable family and bedroom sizes, no later than 180 days prior to the anticipated completion of each Phase. The Owner Entity, subject to delegation to the management agent, shall carry out all administrative functions in connection with admission of applicants to occupancy of the Replacement Housing Units, including pre-application and application intake, applicant interview and screening, verification procedures, determination of eligibility for admission and qualification for preference, record maintenance, waiting list maintenance, unit assignment and execution of leases.

8.9 Operating Subsidy for Replacement Housing Units. The Parties intend for all of the Replacement Housing Units to be PBV-Assisted Units. The source of subsidy for units within each Phase is or will be initially identified in the Phasing Plan and then confirmed and documented through the HUD Development Proposals and Closing Documents. The Developer and HHA will coordinate to determine available subsidy resources. Subject to funding availability from HUD and PBV Requirements, at each Closing HHA will enter into a series of PBV AHAP Contracts with each Owner Entity for the number of PBV-Assisted Units in the subject Phase as identified in the approved Phasing Plan. HHA will provide PBV payment standards of 110% of FMR (or such greater level as may be allowed by HUD) and shall conduct a rent comparability study in connection with consideration of the same. HHA shall, to the extent permitted by the PBV Requirements, authorize each Owner Entity (or the Owner Entities collectively) to maintain a site-based list for PBV-Assisted Units. HHA shall include a description of the site-based

waiting list and admission procedures and policies applicable to the Replacement Housing Units in each Phase in its annual plan and in its Section 8 Administrative Plan, to the extent applicable.

8.10 Reserves.

8.10.1 Each Owner Entity will have reserve accounts as may be required by the Investor and/or Lender including an operating deficit reserve, an insurance reserve, and a reserve for replacement and, with respect to any Phase in which there are Replacement Housing Units, a subsidy reserve to fund shortfalls in revenues relative to the Replacement Housing Units. An insurance reserve will be included at the Developer's discretion based on available resources and insurance costs. The Subsidy Reserve is currently not anticipated but may be required in the event necessary to attract the private investment.

8.10.2 The reserves will each constitute funds of the Owner Entity. The operating reserve and (as applicable) the insurance reserve and subsidy reserve will be initially capitalized out of the Phase Development Budget and, if necessary, will be further funded or replenished from operating income. The reserves shall be subject to the conditions outlined in the Owner Entity's limited partnership agreement or operating agreement. The replacement reserve will be funded in a per-unit/per-year amount subject to the conditions in the Owner Entity's limited partnership agreement or operating agreement and in accordance with investor and lender requirements. The replacement reserve will be funded from operating revenues of each Owner Entity. Releases from the operating deficit reserve and from the replacement reserve will be subject to the approval of the Investor and Lenders and will be subject to further conditions outlined in the Owner Entity's limited partnership agreement and loan documents. The City shall have the right to review all withdrawals from the replacement reserve of each Phase, provided however that such right to review shall not include a right to delay, approve, or disapprove of such withdrawals.

8.11 Construction. For each Phase, the Developer shall negotiate a fixed price or guaranteed maximum price contract ("**Construction Contract**") between the Owner Entity and the General Contractor. To encourage savings, the Developer may negotiate cost savings provisions in the Construction Contract to be applied as permitted by this Agreement. Each Phase will be constructed in conformance with the approved plans and specifications and corresponding Construction Contract, subject to budget line-item modifications and change orders. The City shall have the right to review and approve budget line-item modifications and change orders that individually exceed One Hundred Thousand Dollars ($100,000) or cumulatively exceeds Two Hundred and Fifty Thousand Dollars ($250,000), which approval shall not be unreasonably withheld, and only to the extent that change order(s) are not a result of necessary changes to achieve code or other regulatory compliance, or to address unforeseen construction conditions. The Developer will cause Construction Contracts entered into by Developer or an Owner Entity to contain all necessary provisions for compliance with applicable labor standards requirements under the Davis-Bacon Act and related prevailing wage requirements, and with Section 3 standards as set forth in this Agreement. The City and HHA will have the right to attend all monthly construction draw/progress meetings.

8.12 Guarantees at the Closing of each Phase. The Developer will execute a guaranty of construction completion for the benefit of HHA and the City at the Closing of each Phase, which guaranty will begin at the initial Closing of such Phase and terminate at issuance by the inspecting architect of a certificate of substantial completion for such Phase. The Developer shall cause the General Contractor of each Phase to name HHA and the City as a co-obligee under the payment and performance bonds applicable to the construction of such Phase. The Developer will execute such further guarantees as may reasonably be required by the Investors and Lenders, including, as applicable, development deficit guarantees, operating deficit guarantees, tax credit recapture guaranties, lease-up guaranties, stabilization guaranties and environmental indemnities. The Developer reserves the right to negotiate the terms of such guarantees with the Investors and such Lenders on a commercially reasonable basis. Neither the City nor HHA shall be required to provide guarantees to the Investor or to Lenders.

8.13 No Survival of Master Development Agreement. Once Closing has occurred for any Phase, Closing Documents will govern the rights and remedies of the Parties in regard to the subject Phase. This Agreement shall terminate with respect to such Phase and be of no further relevance to such Phase, nor shall it bind any Owner Entity. This Agreement shall remain applicable to elements of the Housing Plan other than the Phase that has achieved Closing.

ARTICLE IX
REPRESENTATIONS AND WARRANTIES, INDEMNIFICATION AND INSURANCE

9.1 Representations and Warranties of the Developer. The Developer hereby acknowledges and understands that the foregoing declarations and the truthfulness of such declarations are a material inducement to the City and HHA to enter into this Agreement and the transactions and agreements contemplated hereby. The Developer shall notify the City and HHA in writing within ten (10) days of the date that the Developer becomes aware of any that the below representations, warranties or certifications are not true. The Developer hereby represents, warrants and certifies that, as of the date hereof:

9.1.1 The Developer is a corporation, validly existing, and in good standing under the laws of the state in which it is formed. Each entity with a Controlling Interest in the Developer is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized. The Developer shall provide the City and HHA with certificates of good standing for such entities upon the City's or HHA's request in writing.

9.1.2 The Developer has all necessary corporate power and authority to enter into this Agreement and has all necessary corporate power and authority to enter into the other transaction documents contemplated herein to which the Developer is or shall be a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Developer of this Agreement and any other transaction documents to which the Developer is a party, the performance by the Developer of its obligations hereunder and thereunder and the consummation by the Developer of the transactions contemplated hereby and thereby have been or will be, as applicable, duly authorized by all requisite corporate action on the part of the Developer. This Agreement has been duly executed and delivered by the Developer, and (assuming due authorization, execution and delivery by the City and HHA) this Agreement constitutes a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). When each other transaction document to which the Developer is or will be a party has been duly executed and delivered by the Developer (assuming due authorization, execution and delivery by each other party thereto), such transaction document will constitute a legal and binding obligation of the Developer enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

9.1.3 The execution, delivery and performance by the Developer of this Agreement and the other transaction documents to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of the certificate of incorporation, articles of organization or by-laws of the Developer; or (b) result in a violation or breach of any provision of any law or governmental order applicable to the Developer. No consent, approval, permit, governmental order, declaration or filing with, or notice to, any governmental authority is required by or with respect to the Developer in connection with the execution and delivery of this Agreement or any of the other transaction documents.

9.1.4 There is no fact or condition relating to the Developer's financial condition, business or property that the Developer has failed to disclose (including, as applicable, through reports, financial statements, certificates or other information furnished by, or delivered on behalf of, the Developer) that could reasonably be expected to have a Material Adverse Effect. No report, financial statement, certificate or other information furnished by, or delivered on behalf of, the Developer, at the time furnished or delivered, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, taken as a whole, in the light of the circumstances under which they were made, not misleading.

9.1.5 Except as disclosed to the City and HHA in writing prior to execution of the Agreement, there are no actions pending or, to Developer's knowledge, threatened against or by Developer or any Affiliate of the Developer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred, or circumstances exist that may give rise or serve as a basis for any such action.

9.1.6 All tax returns of the Developer and each entity that holds a Controlling Interest in the Developer required to be filed have been timely filed (or extensions have been granted) and all taxes imposed upon the Developer that are due and payable have been paid before delinquency, other than taxes which are being contested in good faith by lawful proceedings diligently conducted, against which reserve or other provision required by generally accepted accounting principles has been made.

9.1.7 There have been no material defaults or noncompliance by the Developer or any of its Affiliates under any conventional construction contract or turnkey contract of sale in connection with a public housing project.

9.1.8 There are no known unresolved findings against the Developer or any of its Affiliates raised as a result of HUD audits, management reviews or other governmental investigations.

9.1.9 No member, manager, officer or executive of the Developer has been convicted of a felony or is presently the subject of a complaint or indictment charging a felony.

9.1.10 No member, manager, officer or executive of the Developer has been suspended, debarred or otherwise restricted by any department or agency of the federal government or of a state government from doing business with such department or agency.

9.1.11 Neither the Developer nor any of its Affiliates has defaulted on an obligation covered by a surety or performance bond, nor has been the subject of a claim under an employee fidelity bond.

9.1.12 No member, manager, officer or executive of the Developer or entity that controls Developer is a HUD employee, relative of a HUD employee, elected or appointed public official of the City, or a member of a HUD employee's or elected or appointed public official's immediate household, as defined by HUD's Standards of Conduct (24 CFR 0.735-205(c)).

9.1.13 No member, manager, officer or executive of the Developer or any entity that controls the Developer is a member of Congress, member of the Legislature of the State of Alabama, or elected or appointed official of the City or Madison County, Alabama.

9.1.14 The Developer has complied and will continue to comply with all applicable conflict of interest requirements described herein or required by law with respect to the selection of entities to assist in the development of the Target Site.

9.1.15 Neither the Developer nor any of its Affiliates has received any notices nor is there pending or, to the Developer's knowledge, threatened any notice, of any violation of any applicable laws, ordinances, regulations or decrees which would materially and adversely affect their ability to perform hereunder.

9.2 Representation and Warranties of the City. The City hereby represents, warrants and certifies that, as of the date hereof:

9.2.1 The City is a municipal corporation organized and existing under the laws of the State of Alabama.

9.2.2 The undersigned individuals executing this Agreement on behalf of the City are expressly and duly authorized by governing body of the City to execute this Agreement and to legally bind the City as set forth in this Agreement.

9.2.3 This Agreement will not violate any judgment, law or agreement to which the City is a party or is subject.

9.2.4 There is no action, suit or proceeding pending or, to the best of the City's knowledge, threatened before any court or government or administrative body or agency that would impede or limit its ability to perform its obligations hereunder.

9.2.5 The City is not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court or any governmental or administrative body or agency.

9.3 Representation and Warranties of HHA. HHA hereby represents, warrants and certifies that, as of the date hereof:

9.3.1 HHA is a public corporation organized and existing under the laws of the State of Alabama.

9.3.2 The undersigned individuals executing this Agreement on behalf of HHA are expressly and duly authorized by governing body of HHA to execute this Agreement and to legally bind HHA as set forth in this Agreement.

9.3.3 This Agreement will not violate any judgment, law or agreement to which HHA is a party or is subject.

9.3.4 There is no action, suit or proceeding pending or, to the best of HHA's knowledge, threatened before any court or government or administrative body or agency that would impede or limit its ability to perform its obligations hereunder.

9.3.5 HHA is not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court or any governmental or administrative body or agency.

9.4 Indemnification by the Developer. To the fullest extent permitted by law, the Developer shall indemnify, defend and hold harmless HHA, the City, their subsidiaries and their affiliates and their respective officers, directors, agents and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of the Developer's services hereunder during the term hereof, but only if and to the extent caused directly by any negligent acts or omissions of the Developer, an Owner Entity, or any Affiliate of the Developer. The indemnification obligation of the Developer hereunder shall not be limited in any way by any limitation

on the amount or type of damages, compensation or benefits payable by the Developer or any consultant of the Developer or any other person or entity under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. The agreements in this Article IX shall survive the expiration or early termination of this Agreement (but, pursuant to Section 8.13, shall not survive relative to any Phase that has achieved Closing and is the subject of Closing Documents).

9.5 Insurance. The Developer shall maintain and keep in full force and effect, or shall require each Owner Entity's General Contractors and subcontractors to maintain and keep in full force and effect, as applicable, during the term of this Agreement, such insurance as is set forth on **Exhibit H**. Each such policy shall name as additional named insureds and loss payees the City, HHA, and all other parties designated by the City or HHA as having an insurable interest in the Transformation. Each such policy shall be underwritten and issued by companies authorized to do business in the State reasonably satisfactory to the City, shall not be subject to cancellation without 30 days' prior written notice to the City and shall be primary to any insurance carried by HHA or the City.

ARTICLE X
TERM AND TERMINATION.

10.1 Term. Unless terminated earlier pursuant to this Article X, or extended by mutual written agreement of the Parties, this entire Agreement shall terminate on the tenth (10th) anniversary of the date of this Agreement.

10.2 Termination of the Developer's Rights. The Developer Rights are subject to termination for cause in the event of an Event of Default under this Agreement. In the event that any Event of Default occurs, the Developer Rights shall terminate after expiration of any applicable notice and cure period for such occurrence, as set forth in a written notice from the City to the Developer. No such termination of the Developer Rights shall be considered a "termination for convenience" under Section 10.6 of this Agreement, and accordingly, in the event of a termination under this Section 10.2, the Developer shall not be eligible to exercise any rights nor receive any payments contemplated by "termination for convenience" in Section 10.6 of this Agreement. Each of the following shall constitute an "**Event of Default**" by the Developer under this Agreement: (a) the Developer shall fail to pay or cause to be paid any amount required to be paid to the City or HHA under this Agreement, and such default shall continue for more than fifteen (15) days after notice from the City or HHA specifying such default, (b) the Developer shall default in the observance or performance of any material term, covenant or condition of this Agreement (other than the payment of any amount required to be paid by the Developer pursuant to this Agreement) or in any ancillary agreement described herein on the Developer's part to be observed or performed (other than the Events of Default expressly set forth below) and the Developer shall fail to remedy such default within thirty (30) days after notice by the City, or if such a default is of such a nature that it cannot reasonably be remedied within such thirty (30) day period (but is otherwise susceptible to cure), then the Developer shall have such additional period of time as may be reasonably necessary to cure such default, but in no event more than an additional ninety (90) days, provided that the Developer commences the cure within such original thirty (30) day period and thereafter diligently pursues and completes such cure, (c) the Developer or any Owner Entity shall admit in writing its inability to pay its debts as they mature or the Developer, any Owner Entity or any managing member or other controlling entity of the Developer or any Owner Entity shall file a voluntary petition in bankruptcy or a voluntary petition or answer seeking liquidation, reorganization, arrangement, readjustment of its debts, or for any other relief under Title 11 of the United States Code, as amended from time to time (the "**Bankruptcy Code**"), or under any other act or law pertaining to insolvency or debtor relief, shall enter into any agreement indicating its consent to, approval of, or acquiescence in, any such petition or proceeding, or apply for or permit the appointment by consent or acquiescence of a receiver, custodian or trustee of such

party for all or a substantial part of its property, (d) there shall have been filed against the Developer, any Owner Entity or the managing member or other controlling entity of the Developer or any Owner Entity an involuntary petition in bankruptcy or seeking liquidation, reorganization, arrangement, readjustment of its debts or for any other relief under the Bankruptcy Code, or under any other act or law pertaining to insolvency or debtor relief and either (x) such petition is not withdrawn or dismissed within ninety (90) days of the date of the service on such party, or (y) an "order for relief" is issued at any time in any such case under the Bankruptcy Code, or the Developer, any Owner Entity or the managing member or other controlling entity of the Developer or any Owner Entity shall suffer or permit the involuntary appointment of a receiver, custodian or trustee for all or a substantial part of its respective property and such appointment shall continue for a period of sixty (60) days, (e) there occurs any final (as opposed to preliminary, administrative) dissolution of the Developer or any sale, pledge, encumbrance, assignment, Change in Control, transfer or dissolution, voluntarily or involuntarily, whether by operation of law or otherwise of a controlling membership interest in the Developer or any Owner Entity without the prior written consent of the City, (f) the Developer or any Owner Entity shall be adjudicated bankrupt or insolvent by any court, (g) the Developer or any Owner Entity shall make an assignment for the benefit of creditors or the Developer or any Owner Entity shall petition for composition of debts under any law authorizing the composition of debts or reorganization of the Developer or any Owner Entity, (h) the Developer shall fail to obtain or maintain in effect any insurance required of it under this Agreement, or pay any insurance premiums, as and when the same become due and payable, or fails to reinstate, maintain and provide evidence to the City of the insurance required to be obtained or maintained by the Developer, and such failure shall continue for a period of ten (10) business days after notice of such failure, (i) the failure of the Developer to meet any outside date as outlined in the Master Housing Schedule that gives rise to a default under the Choice Grant Agreement, except for delays caused by Force Majeure, (j) the existence of an uncured default for which written notice has been given under any ground lease, promissory note, loan agreement, mortgage, or Declaration of Restrictive Covenants by the Developer or any Owner Entity with regard to any Phase that has reached financial closing, (k) if, after Closing of any Phase, work on such Phase fails to commence within one hundred twenty (120) days, or, if commenced, ceases for a period in excess of sixty (60) days, excluding any delays caused by Force Majeure or other events outside of the Developer's reasonable control which delay work on such Phase, including receipt of all necessary permits, completion of all Public Infrastructure Improvements Work necessary to commence work on such Phase, and completion of any other work to be performed by a third party which impacts the commencement of work by the Developer on such Phase, (l) the Developer shall be grossly negligent or shall engage in fraud, bad faith, or willful misconduct in connection with the Target Sites or transactions related to the Development in a manner that has a material adverse effect upon the Public Parties or the Development, and (m) a Change in Control has occurred without the prior consent of the City.

10.3 Material Breach by Any Party. In addition to the provisions of Section 10.2 above, in the event of a material breach by any Party of any representation, warranty, covenant, undertaking or restriction contained herein relating to the Development, the non-breaching party (the "**Non-Breaching Party**") shall notify the other party (the "**Breaching Party**") in writing of the alleged breach. Except as set forth to the contrary in Section 10.2 above, the Breaching Party shall have a period of thirty (30) days following receipt of such notice in which to cure such default, or in which to commence the cure of such default and proceed to pursue such cure with due diligence. If such default cannot reasonably be cured within such thirty (30) day period (but is otherwise susceptible to cure), then Breaching Party shall have such additional period of time as may be reasonably necessary to cure such default, but in no event more than an additional ninety (90) days, provided that the Breaching Party commences the cure within such original thirty (30) day period and thereafter diligently pursues and completes such cure. The Non-Breaching Party shall, upon failure by the Breaching Party to cure, have the right, but not the obligation, to commence the cure of a default within the period described above and proceed to such cure with due diligence. Except as set forth in Section 10.4 below, nothing in this Agreement shall prevent the Non-Breaching Party from terminating this Agreement and seeking a remedy at law or in equity in connection with any breach of this Agreement by the other party with respect to the Development.

10.4 Development Contingencies.

10.4.1 The Public Parties acknowledge that the Developer's ability to perform many responsibilities under this Agreement is substantially contingent upon actions by third parties over which Developer has limited or no control, or factual circumstances which could not reasonably have been determined as of the date of this Agreement ("**Development Contingencies**"). Such Development Contingencies include, but may not be limited to the following items as to which the Housing Plan reflects certain expectations of the Parties:

i. the delivery of the Development Site (or any applicable portion thereof) in Clean and Buildable Condition pursuant to Section 3.3;

ii. the performance of all Public Infrastructure Improvements Work and availability of all public infrastructure improvements on or available to the Development Site pursuant to Section 6.3;

iii. the availability of Public Party Funds in the amounts reflected in the Development Budget or a Phase Development Budget and on terms consistent with this Agreement and with the Housing Plan;

iv. the availability of all requisite permits from the City for the Development in a timely manner and subject only to reasonable and generally applicable conditions for development in the City;

v. the receipt of all necessary government approvals, including without limitation approval of all components of the Housing Plan, this Agreement, and any HUD Development Proposal;

vi. the availability of the Base MBS Fee for a given Phase or such other amount as Developer may approve in its sole but reasonable discretion after consultation with the City;

vii. the provision of additional assistance from public or private sources that may become necessary to close a financing gap not projected at the date of this Agreement or the date on which a Development Budget or Phase Budget is established that is created by changed debt or equity market conditions or unanticipated material increases in construction costs in the market area;

viii. the award of tax credits or tax-exempt bond financing allocations in the amount projected as necessary for any Phase in an approved Phase Development Budget;

ix. the investment of equity at rates projected as necessary for any Phase in an approved Phase Development Budget and consistent with industry standards and norms for affordable housing; and

x. the making of private loans under terms and conditions, and in amounts, projected to be necessary for any Phase in an approved Phase Development Budget, and

consistent with standards and norms for construction and permanent financing for affordable housing at the time of preparation of such budgets (e.g., non-recourse loans, reasonable debt service coverage and reserve requirements, and interest rates consistent with market terms at such time).

10.4.2 If a Development Contingency fails to occur after all reasonable efforts by the Developer to cause it to occur in a manner generally consistent with this Agreement, the Parties will consider, in good faith, a revision of the Development by extending deadlines, revising goals, or as otherwise agreed. If a Development Contingency fails to occur due to causes beyond the control of the Developer and the Parties cannot within 45 days agree to amend the Development despite good faith efforts to do so, or cannot secure required governmental approvals of any amendment so agreed to (expressly including, without limitation, approval of HUD as applicable) pursuant to the terms of the Choice Grant Agreement within an additional 45 days, then the Developer may opt to withdraw from this Agreement, by written notice delivered to the other Parties. If the Developer withdraws pursuant to this Section 10.4, the Parties shall have no further obligations to each other, except as provided in Section 10.4.3. If the Developer does not withdraw from this Agreement after the conclusion of process referenced in this Section 10.4 the Public Parties expressly reserve their rights to terminate this Agreement under then-applicable terms of Section 10.2, Section 10.3, and/or Section 10.6 as applicable.

10.4.3 If Developer's withdrawal is primarily or exclusively related to the failure of one or more of the Development Contingencies at Sections 10.4.1(i) through (iii) above, then such withdrawal shall be deemed a "termination for convenience" under Section 10.6.

10.5 HUD and Public Parties Consent; Limitation of Liability. The Parties acknowledge that the submissions of requests for approval to HUD, the financial closings of each Phase, the conveyances of any portion of the Target Sites to any Owner Entity by ground lease or deed, the payment of Public Party Funds and the consummation of any other transaction contemplated herein may be subject to HUD acknowledgments or approvals and are subject to the approval of the governing bodies of the City and HHA in their sole and absolute discretion. Notwithstanding any provisions herein, the Developer hereby acknowledges and agrees that any approval by the governing bodies of the City or HHA to enter into this Agreement does not constitute approval by such governing bodies to submit any requests for authorization to HUD, convey any interest in land to any Owner Entity, the Developer or its Affiliates, to provide any Public Party Funds to the Developer or its Affiliates or expend any Public Party Funds on the Development, or to consummate any financial closing with the Developer or its Affiliates; provided, however, the parties hereby agree to cooperate and work together in good faith to obtain all necessary HUD acknowledgments or approvals, and the City hereby agrees to be responsible for requesting and obtaining all necessary HUD acknowledgments or approvals for each Phase. Any failure by the City or HHA to make such requests and submissions shall be deemed a "termination for convenience" under Section 10.6 below unless such failure to make such requests and submissions is done in accordance with some other provision of this Agreement, including but not limited to Article X, or occurred for reasons not within the control of the City or HHA. If the governing body of the City or HHA denies any requests or issues any approvals that, in each case, materially deviate from the transactions contemplated herein, such denial or approval shall be deemed a "termination for convenience" under Section 10.6 below. Each party waives all claims against the other party upon such party's default of this Agreement for any special (including, without limitation, lost or unearned profits), consequential, unforeseeable, or punitive damages.

10.6 Termination by the City for Convenience. Subject to the foregoing limitations, the Developer acknowledges that the City may terminate this Agreement with respect to any Phase of the Development for which a financial closing has not yet occurred at any time for the City's convenience upon giving ninety (90) days' prior written notice to the Developer, and subject to consent from HUD as

applicable pursuant to the Choice Grant Agreement. In the event of a termination by the City for convenience pursuant to this Section 10.6, the Developer shall be entitled to receive from the City an amount equal to: (a) reimbursement of all actual third-party expenses then incurred (or contractually committed to prior to such termination), after execution this Agreement by the Developer including, without limitation penalties imposed as a result of such termination, for all Phases so terminated, that are reasonable and customary, except that the Developer shall not receive payment for expenses which have already been reimbursed by the City or funded through a predevelopment loan, (b) actual reasonable costs of terminating outstanding subcontracts (provided the subcontracts were executed before the Developer's receipt of the City's 90-day notice) and other similar wind-up costs that relate to the Phases for which a financial closing has not occurred, (c) the actual reasonable cost of preserving and protecting the work already performed relating to the Phases for which a financial closing has not occurred until the City or its assignee takes possession thereof or assumes responsibility therefor, and (d) fair compensation to Developer for all tasks performed to date, including reasonable profit, but with a setoff for any Developer overhead costs previously paid by the City. For purposes of the preceding sentence, "fair compensation" will be not less than the sum of: (a) the overhead expenses of Developer incurred for any activities relating to the Development not attributable to a specific Phase (such as master planning and site-wide evaluations), plus (b) an amount for each Phase of the Development that has not yet reached Closing equal to the greater of: (i) the overhead expenses of Developer (including staff time and out-of-pocket expenses) incurred for such Phase, or (ii) fifteen percent (15%) of the Base MBS Fee for any such Phase as reflected in the Development Budget. The Developer shall, within sixty (60) days after the effective date of termination, submit an invoice to the City for the items set forth in subsections (a) through (d) above (the "**Invoice**") for which the Developer believes payment is due to it as a result of the termination for convenience. The Developer's transmittal of the Invoice to the City shall include supporting receipts and financial, operating and expense statements, calculated on a cash basis and certified by the Developer's chief financial officer, chief development officer or president ("**Supporting Information**"). No later than thirty (30) days after receipt of the Invoice and the Supporting Information, the City will pay the Developer the amounts due pursuant to this Section 10.6. Section 10.8 shall apply to any dispute over such amount or the Supporting Information. Notwithstanding anything to the contrary contained in this Agreement, the City's obligations under this Section shall survive any termination of this Agreement.

10.7 Action Upon Notice; Work Product. Following termination of this Agreement (including upon receipt of notice of a termination for convenience or of a termination for an Event of Default which is not reasonably subject to adequate cure), the Developer shall: (a) immediately discontinue all services affected (unless the notice directs otherwise), (b) deliver to the City all information, reports, papers, and other materials accumulated or generated in performing under this Agreement, whether completed or in process, and (c) deliver to the City a status report of all work completed and all work in progress under this Agreement. Each contract or subcontract between the Developer or any Affiliate thereof and any non-related third party for work related to the Development (including, without limitation, any architect, engineer, or construction contractor or subcontractor) shall permit the Developer or such Affiliate, in the event of termination of this Agreement, to assign all work product thereunder to the City solely for purposes of completing, using and maintaining the Development and to terminate such contract without compensation except for work performed and unpaid; provided, however, that the Developer shall be under no obligation to deliver any work products in its possession unless and until the City shall have reimbursed it for the cost thereof or shall have agreed to offset the cost thereof against any indebtedness owing from the Developer to the City.

10.8 Contest. If the Parties are unable to resolve any dispute between themselves, each will in good faith consider (without obligation) the appropriateness of mediation, arbitration, or other alternative dispute resolution mechanism, prior to invoking unilateral remedies (except as necessary to avoid imminent loss or harm to self or others) or seeking judicial resolution. However, while the foregoing provision reflects merely the intention of both Parties, in no event will such provision be enforceable, nor will a breach of this provision be actionable. Notwithstanding the foregoing, each of the Parties hereby

submits to the jurisdiction of each state or federal court sitting in Madison County, Alabama over any suit, action or proceeding arising out of or relating to this Agreement. To the extent permitted by law, each Party hereby (i) covenants and agrees not to elect a trial by jury of any issue triable of right by a jury, and (ii) waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist.

ARTICLE XI

ARTICLE XI. HUD, NON-DISCRIMINATION AND OTHER FEDERAL REQUIREMENTS.

11.1 Transfer Not An Assignment. The Parties acknowledge that any transfer of HUD funds by the City or HHA to the Developer or an Affiliate thereof shall not be or be deemed to be an assignment of such funds, and neither Developer nor its Affiliates shall succeed to any rights or benefits of the City or HHA under the ACC or the Choice Grant Agreement, or attain any privileges, authorities, interests or rights in or under the ACC or the Choice Grant Agreement.

11.2 No Relationship Created. Nothing contained in the ACC or this Agreement nor any act of HUD or HHA, shall be deemed or construed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD, except between HUD and HHA as provided under the terms of the ACC. Nothing contained in this Agreement shall be deemed or construed to create a relationship of partners, co-venturers, or principal and agent among the City, HHA and the Developer.

11.3 Certain Requirements. The Developer will comply with all applicable requirements of the following, as the same may be amended from time to time:

11.3.1 The Fair Housing Act, 42 U.S.C. §§ 3601-19, and regulations issued thereunder, 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and regulations issued thereunder, 24 CFR Part 107; and the fair housing poster regulations, 24 CFR Part 110.

11.3.2 Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and regulations issued thereunder relating to nondiscrimination in housing, 24 CFR Part 1.

11.3.3 Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-07, and regulations issued thereunder, 24 CFR Part 146.

11.3.4 Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and regulations issued thereunder, 24 CFR Part 8; the Americans with Disabilities Act, 42 U.S.C. § 12101et seq., and regulations issued thereunder, 28 CFR Part 36, and the Architectural Barriers Act of 1968, as amended (42 U.S.C. § 4151) and regulations issued pursuant thereto, 24 CFR Part 40.

11.3.5 Section 102 of the Department of Housing and Urban Development Reform Act of 1989, as implemented at 24 CFR Part 12, which contains provisions designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD.

11.3.6 Section 3 and its implementing regulations at 24 CFR Part 135.

11.3.7 Title 24 of the Code of Federal Regulations, Part 24, which applies to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

11.3.8 Executive Order 11246 of September 24, 1965 entitled, "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in

Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by Federal grantees and their contractors or subcontractors.)

11.3.9 Copeland "Anti-Kickback" Act (18 U.S.C. § 874) as supplemented in Department of Labor regulations at 29 CFR part 3. (All contracts and subgrants for construction or repair.)

11.3.10 Davis-Bacon Act (40 U.S.C. §§ 276a-276a-7), as supplemented by Department of Labor regulations at 29 CFR part 5, and HUD regulations at 24 CFR 905.308(b)(3)(i) (or successor provisions).

11.3.11 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330), as supplemented by Department of Labor regulations at 29 CFR part 5.

11.3.12 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 (Pub. L. 94-163, 89 Stat. 871).

11.3.13 Section 1352 of Title 31 of the United States Code, which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence any 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 any of the following covered Federal actions: 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; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLQ) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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, in connection with a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds.

11.3.14 Section 306 of the Clean Air Act (42 U.S.C. § 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738 and Environmental Protection Agency regulations at 40 CFR Part 15, including all applicable standards, orders or requirements issued in connection with any of the foregoing authorities.

11.4 Subgrantee/Subcontractor Certification. Each of the Developer and each Owner Entity will execute, and will require its Contractors and subcontractors to execute where applicable, the Subgrantee and Contractor Certification and Assurances form included as an exhibit in the Choice Grant Agreement.

11.5 Access to Records. The Developer will give the City, HHA, HUD, or the Comptroller General of the United States, or any of their duly authorized representatives, access to and the right to examine documents which are related to this Agreement for a period extending three (3) years after termination.

11.5.1 The Developer agrees to include in first-tier subcontracts under this contract a clause substantially the same as Paragraph 11.5. The term "subcontract" as used in this clause excludes purchase orders not exceeding $10,000.

11.5.2 The period of access and examination under Sections 11.5 and 11.5.1 for records relating to (A) litigation or settlements of disputes arising from the performance of this Agreement, or (b) costs and expenses of this Agreement to which the City, HHA, HUD or Comptroller General or any of their

duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

11.6 Interest of Members of Congress. No Member of or delegate to the Congress of the United States or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

11.7 Interest of Member, Officer, or Employee and Former Member, Officer, or Employee of Public Parties. No member, officer, or employee of any Public Party, no member of the governing body of the locality in which the Development is situated, no member of the governing body by which either Public Party was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Development, shall, during his or her tenure, or for one year thereafter or such longer time as a Public Party's Code of Ethics may require, have any interest, direct or indirect, in this Agreement or the proceeds thereof, unless the conflict of interest is waived by such Public Party and by HUD.

11.8 Lobbying Activities. The Developer shall comply with 31 U.S.C. § 1352 which prohibits the use of Federal appropriated funds to pay 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 any of the following covered Federal actions: 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; or the modification of any Federal contract, loan, or cooperative agreement. The Developer further agrees to comply with the requirement of such legislation to furnish a disclosure (OMB Standard Form LLL) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 a Federal contract, grant, loan, or cooperative agreement, which payment would be prohibited if made from Federal appropriated funds.

ARTICLE XII
MISCELLANEOUS.

12.1 Term. Subject to earlier termination pursuant to Article X, the term of this Agreement and of the Developer's designation and status hereunder shall continue until the earlier to occur of the tenth (10th) anniversary of the date hereof or the completion of all activities to be performed under the Housing Plan and closeout of the Choice Grant Agreement.

12.2 Notices. Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be (i) delivered personally or by courier, (ii) telecopied, (iii) sent by overnight express delivery, or (iv) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party):

If to the City: City of Huntsville, Alabama
308 Fountain Circle SW
Huntsville, AL 35801
Attn: Mayor

With a copy to:

City of Huntsville, Alabama
308 Fountain Circle SW
Huntsville, AL 35801
Attn: City Attorney

If to HHA: Huntsville Housing Authority
200 Washington St. NE
Huntsville, AL 35801
Attn: Executive Director

If to Developer: McCormack Baron Salazar, Inc.
101 North Broadway, Suite 100
St. Louis, MO 63102
Attn: General Counsel

With a copy to:

Klein Hornig LLP
101 Arch St., Suite 1101
Boston, MA 02110
Attn: Daniel M. Rosen

All such notices and other communications shall be deemed given on the date of personal or local courier delivery, telecopy transmission, delivery to overnight courier or express delivery service, or deposit in the United States Mail, and shall be deemed to have been received (i) in the case of personal or local courier delivery, on the date of such delivery, (ii) in the case of delivery by overnight courier or express delivery service, on the business day following dispatch, and (iii) in the case of mailing, on the date specified in the return receipt therefor.

12.3 Further Assurances. Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement.

12.4 Assignment and Successors. Neither this Agreement nor any part or subpart of this Agreement shall be assignable by any Party, except upon written consent of each other Party. Subject to the foregoing, the terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

12.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

12.6 Interpretation and Governing Law. This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of Alabama.

12.7 Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

12.8 Final Agreement. Unless otherwise expressly provided herein, this Agreement constitutes the final understanding and agreement between and among the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between and among the Parties, whether written or oral (including, without limitation, the MOU). This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby.

12.9 Waivers. The failure of either party to insist in any one or more cases upon the strict performance of any of the other party's obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by either party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by that party.

12.10 Headings. The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

12.11 Construction. Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

12.12 Cumulative Rights. Except as expressly limited by the terms of this Agreement, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

[signatures appear on following page]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement by their duly authorized signatories on or as of the date first written above.

CITY:

By: _____

By: _____

HHA:

By: _____

DEVELOPER:

McCORMACK BARON SALAZAR, INC.

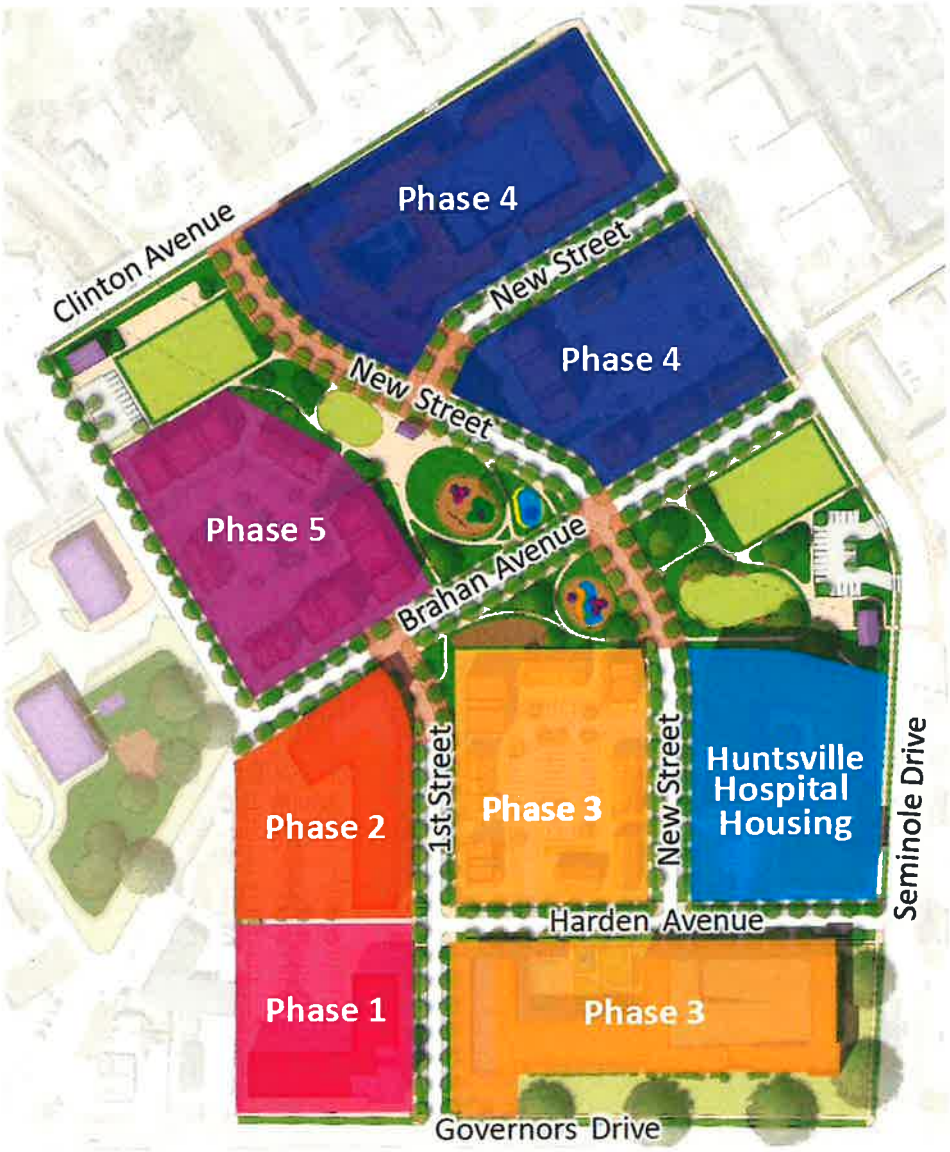
By: _____
Vincent R. Bennett, President

Exhibit A
Site Plan

- REPLACEMENT HOUSING
- RESIDENTIAL LAND
- PUBLIC OPEN SPACE
- PLAZAS AND COMMUNITY GATHERING SPACE
- COMMUNITY/AMENITY SPACE
- MIXED-USE/GROUND FLOOR RETAIL AND AMENITY
- MULTI-FAMILY ELEVATOR APARTMENT BUILDING
- SENIOR APARTMENT BUILDING
- UNIVERSAL DESIGN APARTMENT BUILDING
- WALK-UP APARTMENTS
- TOWNHOUSES
- 125-UNIT HUNTSVILLE HOSPITAL HOUSING

	UNIVERSAL DESIGN Phase 1	SENIOR BLDG Phase 2	MULTI-FAM Phase 3	MULTI-FAM Phase 4	MULTI-FAM Phase 5	ALL PHASES Total Units
Unit Mix	84 Total Units	100 Total Units	151 Total Units	172 Total Units	73 Total Units	580
Market	8	0	44	49	21	122
LIHTC	17	27	48	57	25	174
PBV	59	73	59	66	27	284
Total Gross SF	74,956	100,924	159,916	176,398	69,484	581,678
Mgt GSF	3,805	8,095	10,490	5,860	0	28,250
Resid GSF	71,151	92,829	149,426	170,538	69,484	553,428

Exhibit B
Phasing Plan



CNI PHASING BREAKDOWN

Phase	Unit Count
Phase 1 — UD/Disabled	84
Phase 2 — Senior	100
Phase 3 — Family	151
Phase 4 — Family	172
Phase 5 — Family	73
Total	**580**

OVERALL SITE

CNI Phases	580
Huntsville Hospital Housing	125
Total	**705**

Exhibit C

Preliminary Schedule and Sources of City Expense Funds

City of Huntsville
2014 Ten-Year Capital Improvement Plan
For the Fiscal Years beginning October 1, 2024

	Funding Code	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
PROJECT DETAILS (projects may appear in duplicate due to different funding sources)											
TOTAL ROAD FUNDING		$ 30,150,000	$ 22,000,000	$ 32,000,000	$ 34,500,000	$ 28,000,000	$ 54,000,000	$ 29,000,000	$ 59,000,000	$ 39,000,000	$ 39,000,000
STREET CONSTRUCTION		22,500,000	18,000,000	23,000,000	30,500,000	19,000,000	50,000,000	25,000,000	55,000,000	35,000,000	35,000,000
OTHER STREET PROJECTS		2,650,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000
STP 20% MATCH	Annual	650,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
REPAIR & RECONST 2-LN	Annual	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
COLLECTOR STREETS-RECONST/RESURFACE	Annual	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
TRAFFIC IMPROVEMENTS		500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
INTERSECTION IMPROVEMENTS	Annual	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
BRIDGES		4,500,000	-	5,000,000	-	5,000,000	-	-	-	-	-
HOBBS ISLAND ROAD REPLACEMENT	Annual			5,000,000							
CHURCH STREET BRIDGE	Annual					5,000,000					
SPARKMAN BRIDGE REPLACEMENT (MATCH FUNDS)	Annual	3,000,000									
WYNN DRIVE BRIDGE MODIFICATIONS	Annual	1,500,000									
DRAINAGE		15,650,000	5,000,000	-	-	-	-	-	-	-	-
BROGLAN BRANCH IMPROVEMENTS (CNI PROJECT)	**Annual**	10,000,000									
HUNTSVILLE SPRING BRANCH	Annual		5,000,000								
PINHOOK CREEK	Annual	5,000,000									
FIVE POINTS DRAINAGE	Annual	150,000									
WYNN DRIVE CULVERT	Annual	500,000									
MULTI-MODAL/TRANSIT SERVICES		10,500,000	10,000,000	5,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
GREENWAYS	Annual	1,500,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
PUBLIC LAND PRESERVATION	Annual	3,000,000	2,000,000	2,000,000							
NORTH BELTLINE	Annual	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
BUILD PROJECT (PARC)	Annual	5,000,000	5,000,000								
ECONOMIC DEVELOPMENT		5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000
ECONOMIC DEVELOPMENT PROJECTS	Annual	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000
REDEVELOPMENT EFFORTS		21,500,000	19,000,000	13,000,000	11,000,000	11,000,000	11,000,000	11,000,000	11,000,000	-	-
DITTO LANDING MASTER PLAN	Annual	2,500,000									
RESEARCH PARK M.P. IMPROVEMENTS	Annual	2,000,000	2,000,000	2,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000		
CRP EAST URBAN RENEWAL	Annual	1,000,000	1,000,000	1,000,000							
DOWNTOWN REDEVELOPMENT CORRIDOR	Annual	4,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000		
CHOICE NEIGHBORHOOD INITIATIVE (CNI)	**Annual**	7,000,000	8,000,000	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000		
HUNTSVILLE NORTH PARKWAY REDEVELOPMENT	Annual	5,000,000	5,000,000								
Grand Total All Projects		83,300,000	61,500,000	55,500,000	54,000,000	47,500,000	73,500,000	48,500,000	78,500,000	47,500,000	47,500,000

KH 1179930.2

Exhibit D
Master Housing Schedule

Mill Creek Choice Neighborhood

Grant Level Milestones		Finish
Grant Award		October-24
Grant Agreement Executed		November-24
Submission of Updated Budget and Program Schedule		January-25
Submission of Master Development Services Agreement		January-25
Expected Final Expenditure		September-32
Final Report Submission to HUD		April-33

HOUSING	Start	Finish
Phase 1 Site Preparation		
Site Preparation Construction	August-25	December-25
Phase 1 Universal Design Housing		
Submission of 4% tax credit application/Award	March-25	June-25
Initial financial closing and construction commencement	December-25	December-25
Construction	December-25	June-27
Relocate families from Johnson Towers to UD Building	June-27	August-27
Lease-up & Stabilization	June-27	March-28
Phase 2 Site Preparation and Public Infrastructure		
Site Preparation Construction	November-26	March-27
Public Infrastructure Construction	May-28	October-28
Phase 2 Senior Housing		
Submission of 4% tax credit application/Award	March-26	July-26
Initial financial closing and construction commencement	April-27	April-27
Construction	April-27	October-28
Relocate families from Johnson Towers to Senior Bldg and Offsite (if chosen)	October-28	November-28
Lease-up & Stabilization	October-28	July-29
Phase 3 Demolition, Site Preparation and Public Infrastructure		
Abatement and Demolition of Johnson Towers & Resident Services Bldg.	November-28	March-29
Public Infrastructure	September-30	January-31
Phase 3 Multi Family Housing		
Submission & Award of 4% tax credit application/Award	October-27	February-28
Initial financial closing and construction commencement	April-29	April-29
Construction	April-29	April-31
Relocate families from Butler Terrace to Phase 3	April-31	May-31
Lease-up & Stabilization	April-31	January-32
Relocation		
Relocate Butler Terrace	January-31	May-31
Phases 4 and 5 Demolition, Site Preparation and Public Infrastructure		
Abatement and Demolition of Butler Terrace & Maintenance Bldg	April-31	August-31
Site Prep	July-31	November-31
Public Infrastructure	July-31	November-31
Phase 4 Multi Family Housing		
Submission of 4% tax credit application/Award	March-30	July-30
Initial financial closing and construction commencement	November-31	November-31
Construction	November-31	November-33
Lease-up & Stabilization	November-33	August-34
Phase 5 Multi Family Housing		
Submission of 9% tax credit application	February-30	June-30
Initial financial closing and construction commencement	September-31	September-31
Construction	September-31	March-33
Lease-up & Stabilization	March-33	December-33

Exhibit D

Master Housing Schedule (continued)

PEOPLE	Start	Finish
Case Management – Household assessment & development plans	Oct-24	September 2032
Case Management - Outreach to Target Families	Within 60 days of grant award	September 2032
Case Management - Household assessment & development plans	Jan-25	September 2032
Case Management - Service Linkages to partners	Jul-25	September 2032
Service Coordination - Establish Partner MOUs	Mar-25	September 2032
Service Coordination - Establish and Convene Service Provider Networks	Mar-25	September 2032
Education - Coordination on school enrollment	Mar-25	September 2032
Education - Developmental screenings and connection to Early Learning Programs/Pre-K	Mar-25	September 2032
Health - Health education and wellness programs	Mar-25	September 2032
Economic Mobility - Job Fair and Job training	May-25	September 2032
NEIGHBORHOOD CCI'S	**Start**	**Finish**
Mill Creek Park		
Site Prep and Public Infrastructure	July-31	November-31
Park Construction	November-31	July-32
Placemaking and Public Art		
Neighborhood streetscape	September-28	November-31
Sidewalk public art installations	September-28	November-31
Artistic bike racks	September-28	November-31
Illuminated pillars with artist designed screens	September-28	July-32
Art installations in interior community spaces	October-28	September-32
Mill Creek Park enhancement	November-31	July-32
Screening and murals on parking garages	October-28	September-32
Infill Housing Program		
The City will partner with non-profit housing developers to build affordable SF homes	January-25	December-28
The City will help existing homeowners make repairs through the Deferred Maintenance and Rehab program		
The City's Community Development and and PW Departments will repair sidewalks and roads	January-24	September-32
Commercial Façade Renovation Program		
Program initialization with DHI	January-25	February-26
Application for the grant (10 available)	February-26	May-26
Application for supplemental match funding (up to 10 additional match funding grants)	February-26	May-26
Execution of work by property owners	May-26	December-27
Business Grant Program		
Program initialization with HHA and bank partners (include business recruitment)	January-25	February-26
Mill Creek businesses and non-profits will be able to apply for micro-grants for business operations (15 grants available)	March-26	March-31
The Catalyst Center for Business Entrepreneurship will offer small business workshops	March-26	March-31
Banks will offer small business credit/financial literacy courses	March-26	March-31

Exhibit E

Development Budget (including Phase Development Budgets)

MILL CREEK PROJECT	UNIVERSAL DESIGN	SENIOR BLDG	MULTI-FAM	MULTI-FAM	MULTI-FAM	ALL PHASES
Proposed LIHTC:	*4%*	*4%*	*4%*	*4%*	*9%*	
Project Budget and Funding Sources	**Phase 1**	**Phase 2**	**Phase 3**	**Phase 4**	**Phase 5**	**Total Units**
	84 Total Units	**100 Total Units**	**151 Total Units**	**172 Total Units**	**73 Total Units**	**580**
Project Phase Timeline:	*September 2024 - December 2025*	*October 2025 - April 2027*	*April 2027 - April 2029*	*September 2029 - November 2031*	*August 2029 - September 2031*	**TOTALS**
TOTAL HOUSING COSTS	**23,955,930**	**32,904,559**	**65,663,240**	**67,763,667**	**20,678,280**	**210,965,675**
Part A - Sources and Uses						
Funding Sources for Housing Costs						
PRIVATE SOURCES	11,756,000	16,574,000	25,872,000	27,555,000	15,967,000	97,724,000
HHA'S RECONTRIBUTED FEE	681,000	925,000	1,833,000	1,901,000	598,000	5,938,000
OTHER FEDERAL, STATE, LOCAL FUNDS	-	-	5,519,869	6,514,406	-	12,034,274
subtotal (non-City or HUD funds)	**12,437,000**	**17,499,000**	**33,224,869**	**35,970,406**	**16,565,000**	**115,696,274**
CHOICE NEIGHBORHOODS FUNDS (CNI)	4,807,375	6,567,934	12,200,634	13,140,744	1,526,313	38,243,000
CITY OF HUNTSVILLE - $40M HOUSING FUNDS COMMITMENT	**6,637,555**	**8,733,624**	**10,352,737**	**11,750,117**	**2,525,967**	**40,000,000**
CITY OF HUNTSVILLE - PARKING GARAGES *(CIP Funded)*	-	-	9,720,000	6,716,400	-	16,436,400
CITY WAIVING OF FEES *(INKIND)*	74,000	104,000	165,000	186,000	61,000	590,000
subtotal of COH and CNI funds (Housing Components)	**11,518,930**	**15,405,559**	**32,438,371**	**31,793,261**	**4,113,280**	**95,269,400**
TOTAL HOUSING FUNDS *(ALL SOURCES)*	**23,955,930**	**32,904,559**	**65,663,240**	**67,763,667**	**20,678,280**	**210,965,675**
Use Allocation for City of Huntsville Housing Funds						
PREDEVELOPMENT LOAN	*2,200,000*	*2,750,000*	*3,000,000*	*3,500,000*	*2,000,000*	*13,450,000*
REMAINING CITY FUNDS AVAILABLE AT FINANCIAL CLOSING FOR RESIDENTIAL CONSTRUCTION COSTS AND COMPLETION OF PHASE	4,437,555	5,983,624	7,352,737	8,250,117	525,967	26,550,000
TOTAL CITY "HOUSING FUNDS" COMMITMENT	**6,637,555**	**8,733,624**	**10,352,737**	**11,750,117**	**2,525,967**	**40,000,000**
Part B - Sources and Uses						
Additional CNI Project Costs	**UNIVERSAL DESIGN Phase 1**	**SENIOR BLDG Phase 2**	**MULTI-FAM Phase 3**	**MULTI-FAM Phase 4**	**MULTI-FAM Phase 5**	**ALL PHASES Total Units**
PEOPLE PROGRAM - *USI Services*	2,077,000	2,570,000	2,077,000	2,324,000	952,000	10,000,000
CCI	10,000	13,000	10,000	12,000	5,000	50,000
DEMOLITION, DWELLING UNITS	-	-	565,000	565,000	565,000	1,695,000
SITE PREPARATION / PUBLIC INFRASTRUCTURE	2,072,466	2,467,000	3,725,000	4,243,000	1,802,000	14,309,466
CULVERT/FLOODPLAIN CONSTRUCTION		15,000,000				
NEW PUBLIC PARK			5,000,000			
RELOCATION	123,000	147,000	222,000	253,000	107,000	852,000
PROFESSIONAL FEES - SITE PREP & PUBLIC IMPROVEMENTS	1,292,788	1,452,300	2,021,000	2,230,000	1,247,700	8,243,788
TOTAL ADDITIONAL CNI PROJECT COSTS	**5,575,253**	**21,649,300**	**13,620,000**	**9,627,000**	**4,678,700**	**35,150,253**
Funding Sources for Additional CNI Project Costs						
CHOICE NEIGHBORHOODS FUNDS (CNI) -	2,381,000	2,901,000	2,480,000	2,760,000	1,235,000	11,757,000
CITY OF HUNTSVILLE (2014 CIP)	3,194,253	18,748,300	11,140,000	6,867,000	3,443,700	23,393,253
TOTAL - ***Funding Sources for Additional CNI Project Costs***	**5,575,253**	**21,649,300**	**13,620,000**	**9,627,000**	**4,678,700**	**35,150,253**
Overall Project Funding Sources	**UNIVERSAL DESIGN Phase 1**	**SENIOR BLDG Phase 2**	**MULTI-FAM Phase 3**	**MULTI-FAM Phase 4**	**MULTI-FAM Phase 5**	**ALL PHASES**
PRIVATE, HHA, and Other Fund Sources	12,437,000	17,499,000	33,224,869	35,970,406	16,565,000	**115,696,274**
CHOICE NEIGHBORHOODS FUNDS (CNI)	7,188,375	9,468,934	14,680,634	15,900,744	2,761,313	**50,000,000**
CITY OF HUNTSVILLE FUNDS *(Housing & Infrastructure)*	9,905,808	27,585,924	31,377,737	25,519,517	6,030,667	**80,419,653**
Total Available Project Funds (all sources)	**29,531,183**	**54,553,859**	**79,283,240**	**77,390,667**	**25,356,980**	**246,115,928**
ESTIMATED GRAND TOTAL - ALL CNI PROJECT COSTS	**29,531,183**	**54,553,859**	**79,283,240**	**77,390,667**	**25,356,980**	**246,115,928**

KH 1179930.2

Exhibit F
Approved Architect, Engineer, General Contractor

Master Planning & Housing Mix	Urban Design and Associates
Geotechnical/Environmental	OMI Inc.
Civil Engineering	Garver Engineering
Architect	TBD
General Contractor	TBD

[Pursuant to Section 4.4, selection requirements of the MDA relate only to the selection of architectural and engineering consultants and any General Contractor. Additional consultants noted above are for informational purposes only and this does not reflect a complete list.]

Exhibit G
Environmental Documentation

Environmental Reports

- Phase I – Environmental Site Assessment Mill Creek Development by OMI, Inc. dated Dec. 29, 2023
- Phase I – Environmental Site Assessment (Revised) Mill Creek Development by OMI, Inc. dated Jan. 30, 2024
- Limited Phase II Environmental Testing – Former UST Site Mill Creek Development by OMI, Inc. dated Feb. 1, 2024
- Expanded Phase I Environmental Site Assessment – Mill Creek Phase 1 for Mill Creek Phase I, LP c/o McCormack Baron Salazar, Inc. by OMI, Inc. dated Oct. 8, 2024
- Limited Phase II Environmental Testing – Mill Creek Phase 1 for Mill Creek Phase I, LP c/o McCormack Baron Salazar, Inc. by OMI, Inc. dated Oct. 8, 2024

Exhibit H
Insurance Requirements

Design Stage

1. Worker's Compensation Insurance for all employees of the Developer for $1,000,000.

2. Commercial General Liability Insurance on a comprehensive basis in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage, as well as $2,000,000 aggregate and $5,000,000 umbrella. Authority to be shown as an additional insured.

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

4. Professional Liability Insurance by the Architect of Record in an amount not less than $1,000,000.

Construction Stage

In addition to the coverage required in the Design Stage and any coverage that may be required as a part of Closing documents, the following will be provided prior to occupation of the site:

Completed Value Builder's Risk Insurance on an "All Risk" basis in an amount not less than 100% of the replacement cost of the structures, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made. The policy shall be in the name of the Developer or the Owner Entity, and the City of Huntsville and Huntsville Housing Authority shall be shown as an additional insured. Coverage shall remain in place until substantial completion of the construction.

Operational Stage

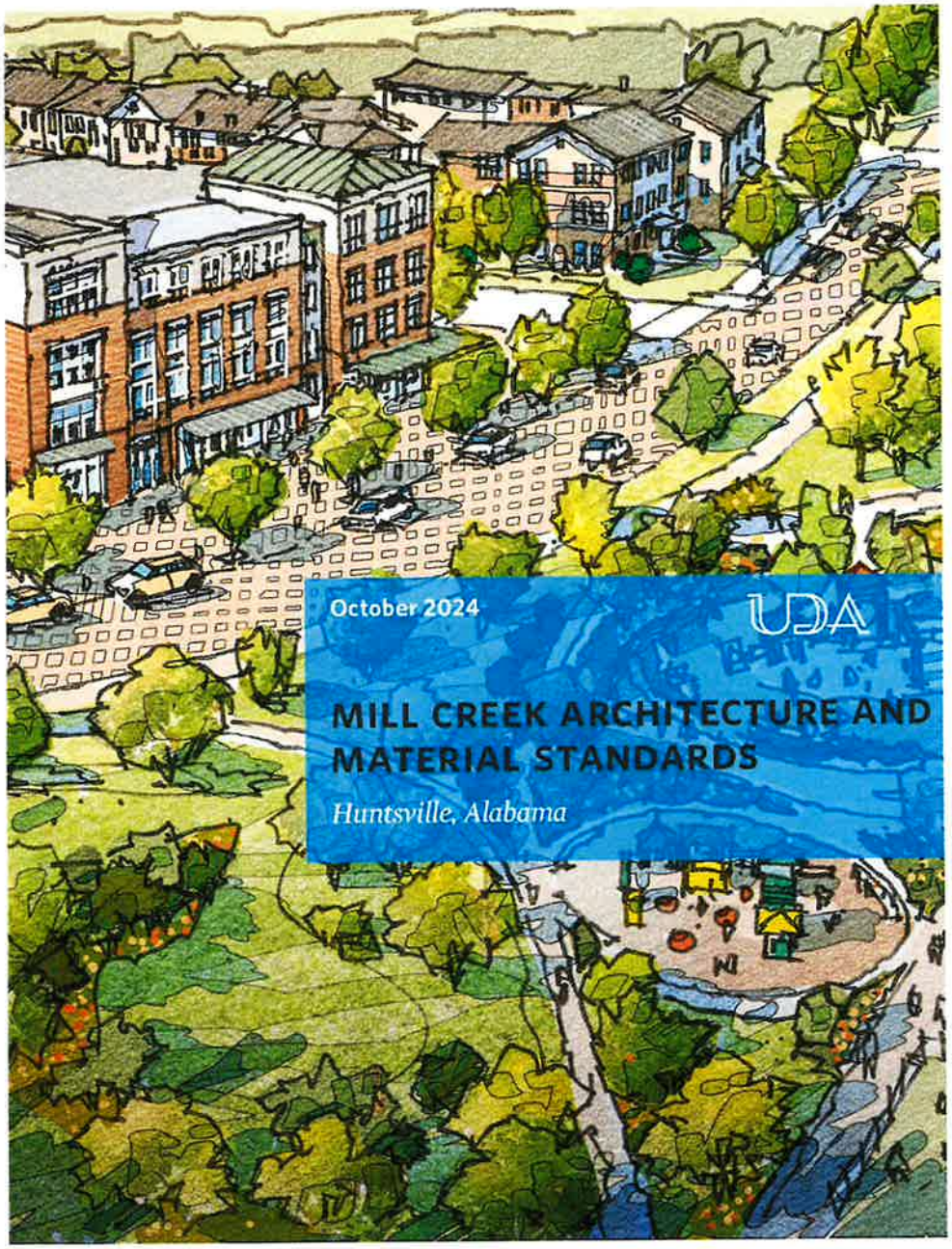
In addition to coverage required in the Design Stage Nos 1, 2 & 3 and as may be later determined in Closing documents, the following will be provided:

Property Insurance on an "All Risk" basis for 100% the replacement cost of the structures where Huntsville Housing Authority (HHA) owns title to the land. HHA shall be named as a loss payee on this policy.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Alabama with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent.

Exhibit I
Housing Plan Design Standards



Best Practices: Design of Choice Neighborhoods Housing Projects

Recognizing the important impact Choice Neighborhoods housing projects can have on defining the physical form of a community and the quality of life of residents, grantees should carefully consider the design of the housing projects included in their Choice Neighborhoods Transformation Plan. A key goal of the Choice Neighborhoods program is to provide high-quality housing for all residents. This housing should be well located, well designed and blend seamlessly with the neighborhood. Buildings should be energy-efficient and environmentally friendly, and incorporate principles of healthy design, including livability, furnishability, visitability, and accessibility. The following discussion of best practices is provided to help grantees achieve these important goals. Grantees should carefully consider how these goals can be incorporated into their housing development plans. Note that the accessibility requirements discussed below are required and not optional.

Architectural Review Process

All Choice Neighborhoods housing construction or rehabilitation must meet or exceed local building codes, as determined through the local permitting process. However, HUD will also undertake an architectural review to ensure plans are consistent with Choice Neighborhoods design goals and that plans comply with Federal accessibility requirements. Each Choice Neighborhoods Implementation Grant is assigned a HUD Architect. The HUD Architect will work in partnership with the grantee and the grantee's architect to assure the best possible design for each individual Choice Neighborhoods project.

To assist in this review, the HUD Architect must receive the following information from the grantee as early as possible in the design process to allow for input to be easily incorporated in the plans.

a) Site Plan: should show the layout of proposed buildings; should consider orientation to the sidewalk to provide 'eyes on the street'; sidewalks should be buffered from adjacent streets using shade trees and greenways providing connections to public recreational areas; parking areas should have appropriate lighting; public and private spaces should be clearly defined.
b) Building Plans: must show the location, type and mix of accessible and visitable units.
c) Sections and Elevations: must identify wall and roof materials.
d) Unit Plans: must show the livability of the spaces within the dwelling unit by providing adequate floor area for the number of residents, furniture, and circulation spaces.

Accessibility

Housing constructed under the Choice Neighborhoods program must address the needs of persons with disabilities to assure that all residents benefit from the program. The HUD architect will review plans to ensure that all new construction and rehabilitation of existing buildings is done in compliance with federal accessibility requirements, including the following:

a) Section 504 of the Rehabilitation Act of 1973
b) The Fair Housing Act and its implementing regulations at 24 CFR part 100
c) Title II of the Americans with Disabilities Act and its implementing regulations at 28 CFR part 35
d) The Architectural Barriers Act of 1968 and its implementing regulations at 24 CFR part 40, as applicable.
e) Uniform Federal Accessibility Standards (UFAS) (through HUD regulations under part 8), 1988.
f) Fair Housing Act Design Manual, 1996, revised 1998.
g) Americans With Disabilities Act Accessibility Guidelines, 2010.

For additional information, Grantees should consult FR-5784-N-01: Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities: http://www.gpo.gov/fdsys/pkg/FR-2014-05-23/pdf/2014- 11844.pdf.

High Rise Buildings

Generally, Choice Neighborhoods replacement units for families with children should not be located in high-rise elevator structures, unless it is demonstrated to HUD that there is no practical alternative (24 CFR 905.312(b)(5)). The best practice is to locate families in low or mid-rise buildings which provide amenities and services which relate to families with children. However, if HUD determines that family units may be located in a high-rise, the best practice is to locate larger family units, e.g., three or four bedroom units, on the first three floors of residential space, with smaller family units on higher floors. This will allow large families easier access to amenities like playgrounds, parks, community space, food markets, etc., which should be available within the building footprint or be located nearby. Note also that accessible units in high-rise, as well as mid-rise buildings, should be clustered around elevators and/or other community facilities.

Livability and Furnishability

The long-term marketability of housing developments, whether apartments, townhomes or single-family homes, is affected not only by their size, but also by the livability of their units. The following guidance is provided to help ensure that housing units provide adequate space in each room; that units can comfortably accommodate the anticipated number of occupants; that units provide basic amenities for daily activities; and that units meet basic furnishability principles. However, HUD understands that each project is different and therefore project design must take into consideration such factors as the local market, financial feasibility, unit mix, income mix, location, comparability with other units in the area, etc.

The furnishability principles listed below are intended to ensure the livability of rooms within a dwelling unit by providing adequate floor area for furniture, adequate circulation space for convenient access to furniture or appliances, adequate storage space, and adequate allowances for doors opening and closing. HUD architects will use these principles when reviewing projects. Grantees should work in partnership with their HUD architect starting early in the process to produce the best possible design for the project and its residents. Note that projects must also meet applicable building codes in their locality.

Living Areas

Living and dining areas should be sufficient to provide adequate space based on the number of people that will be residing in the unit. Units with more bedrooms, and thus more people, should have larger living areas that accommodate furnishings that will serve the number of residents in the units. The living area should also include adequate space for a dining room table that will accommodate residents.

Living Areas	Suggested Minimum Width	Comments
Living Room	12 feet	Minimum width in all living rooms or spaces.
Dining Area		
a) 1 & 2 bedroom units	9 feet	
b) 3 & 4 bedroom units	12 feet	Allow a rising space of 48 Inches to wall or furniture behind the edge of the table.

Bedrooms

Bedrooms should be of adequate size to accommodate bedroom furnishings, such as a bed and dresser, as well as night stands next to the bed. While bed sizes will vary among residents, master bedrooms should be able to accommodate larger beds than smaller bedrooms that will most likely be for children. Thought should also be given to the size and layout of bedrooms in accessible units.

For accessible units, there shall be a minimum of 36 inches for an accessible route on three sides of a queen, double or single size bed for disabled residents to maneuver. There shall also be 48" between the foot of the bed and dresser in accessible units. Windows shall be operable from a wheelchair. Review UFAS A4.2.4 and Fig. A3 for Dimensions of an Adult-Sized Wheelchair.

Bedrooms	Suggested Minimum Width	Comments
Master Bedroom a) Queen size bed b) 18" x 60" large dresser c) 2 nightstands	12 feet	Clearance: a) 30" for circulation b) 30" between bed & wall c) 42" in front of dresser or closet.
Secondary Bedrooms a) Double bed (queen preferred) b) 18" x 60" large dresser c) 2 Nightstands	11 feet	Clearance: a) 30" for circulation b) 24" between bed & wall c) 42" in front of dresser or closet.

Kitchens

Kitchens should be designed to serve the number of residents in the unit. For example, kitchens in units with three bedrooms must provide more base cabinet workspace than kitchens in a one-bedroom unit. Counter space and cabinets should be sufficient for cooking and storage. Major appliances, including dishwashers and washer/dryers, should be provided and should be in line with the unit size. All units should include a utility closet for mops, brooms, buckets, vacuum cleaner and other cleaning supplies.

Accessible units must provide sufficient space for maneuvering within the kitchen. All base cabinet and pantry shelving shall be on rollers with touch release hardware in accessible units. Hearing and visually impaired units shall have task lighting mounted under wall cabinets in kitchens. Provide rocker switches in all accessible and senior units. Provide 24" deep shelves over front loaded washers and dryers within the reach range of a person in a wheelchair. Shelves can also be placed on the side walls of the washer-dryer closet. Kitchens islands in accessible units shall have an adjustable or fixed eating or dining counter set at a maximum height of 30" above the finished floor and a minimum depth of 20" for plates, bowls, eating utensils, condiments, etc. Add a minimum of 36" of circulation space behind the wheelchair behind the island. For all types of units, provide lighting over the island in kitchen and for accessible units include an adjustable lighting control for the visually impaired.

Kitchen	Suggested Minimum Size	Comments/ Notes
a) Counter space	18 inches of clear counter space on each side of each appliance and fixture; 24	Provide an island for extra cabinet storage in all L-shaped kitchens. Kitchen islands shall be

	to 36 inches required for 3, 4 and 5 bedroom units.	a minimum of 36" x 60". Accessible units shall show the eating section of the island at a height of 30". Show lighting above the island.
b) Width	48 inches between base cabinets or appliances opposite each other in galley kitchen or 60 inches or more between all U-shaped kitchens.	
c) Appliances	Refrigerators shall be sized according to unit size. Provide cubic size in specs and drawings.	New construction and rehab units shall include dishwashers; garbage disposals; washer/dryers in all senior and family units.
Accessible Kitchens		Provide side by side refrigerators and ADA compliant dishwashers in all accessible units.

Closets

Thought should be given to providing adequate closet space throughout the unit to allow residents the ability to store clothes, cleaning products and other items outside of living/sleeping areas. Clothes closets should be provided in all bedrooms and be large enough to accommodate a normal amount of clothing for two residents. A storage place or mud room for coats/shoes/boots should be considered at the front or rear of units, particularly in cold climates. A closet for brooms/mops, cleaning supplies, etc. and a pantry for food storage canned goods, etc. should be provided. In addition, consideration should be given to providing bulk storage closets or space to store outdoor items, such as bikes, sleds, lawn chairs, holiday decorations, etc., so items are not left outdoors or on balconies. Exterior lockable storage at grade or on porches and balconies could be considered.

Closets	Suggested Minimum Size	Comments
		In general, all storage closets should increase in square footage or area as the number of bedrooms increases.
Entry Closets		
a) 1 & 2 bedroom units	2 feet by 3 feet	
b) 3 & 4 bedroom units	2 feet by 6 feet	
Bedroom Closets		Shall be located in or adjacent to the bedroom, not in the hall or bathroom.
a) Master bedroom	2 feet by 8 feet	
b) Secondary bedrooms	2 feet by 6 feet	
Linen Closets with doors and sliding shelves in deep closets in accessible units.		Shall be provided in the bathrooms of all senior & accessible units. Linen closet

		shelving can also be located in a bedroom closet.
a) 1 & 2 bedroom units	1 ½ feet by 2 feet	
b) 3 & 4 bedroom units	3 feet by 2 feet	
Pantry, Utility and Bulk Storage Closets.		Shall be located in or adjacent to the kitchen, hall, etc.
Exterior Bulk Storage Closets.	Minimum depth of 30" x width of balcony or patio.	Provide tenant exterior storage on patios and balconies or in a parking garage.

Bathrooms

The number of bathrooms provided must be directly related to the number of bedrooms. Bathrooms should not open onto kitchens, dining and living areas. Accessible units must comply with UFAS and Fair Housing Act Design Manual and other federal requirements. Provide visitable bathrooms on the first floor of all townhouse units. Guests should not need to enter a resident's bedroom to use their private bathroom. If a bathroom is entered from a resident's bedroom, the bathroom should have a separate entry from the hall or non-bedroom space of the unit. This design is especially important for a one or two bedroom accessible unit.

Bathrooms		Semi-public bathrooms shall be accessible without going through the bedroom in all units; Shall not be adjacent to or opening onto living, dining or kitchen spaces in all units; no medicine cabinets located above the toilet. All accessible units shall have a minimum clear space of 60" inches diameter to make a 180-degree turn without turning under a lavatory. Bathroom doors opening out shall have a handle located 6" from the hinge side of the door. Provide a lavatory in all bathrooms; no single hospital type sinks in residential bathrooms.
a) 1 & 2 Bedroom Units		Provide 1 bathroom in one bedroom units and 1 ½ bath or 2 bathrooms in two bedroom units.
b) 3 Bedroom Units		Provide 2 bathrooms. Bathrooms shall be designed as compartmentalized space, with additional fixtures allowing for use by more than one resident at a time; accessible units with 2 bathrooms shall have one

		bathroom with a tub and the second bathroom with a bath/ shower, as a minimum requirement. Add a built-in soap dish adjacent to all shower controls.
c) 4 & 5 Bedroom and Two-Story Apartment Units		Provide 2 ½ or 3 bathrooms. Bathrooms shall be designed as compartmentalized space, if there are 2 or 3 bedrooms on the second floor. Additional fixtures allow for more than one resident to use the bathroom at the same time.
d) 1, 2 & 3 Story Townhouses	Accessible bedroom on the first floor shall be large enough to contain a queen size bed, an 18" x 60" dresser and two nightstands.	2 bedroom or larger units shall have a visitable ½ bath on the entry level or an accessible bathroom if a bedroom is on the first floor. Each floor, in a 3-story unit, shall have a bathroom.

Site and Exterior Improvements

Consideration should be given to the appropriate site plan. Walkways, parking lots, and other common areas should be accessible to allow residents and visitors to easily traverse the site and to enter units. Defensible space principals, including placement of buildings and "private" space should be considered. Landscaping should be attractive and appropriate for the local climate. Thought should be given to the placement of facilities such as trash, mailboxes, HVAC, etc. There should be safe and accessible areas for children to play. Optimally, exterior play spaces at grade or on the roof of mid- and high-rise buildings should have a southern exposure to maximized sunlight. Grantees are encouraged to consider the principles of New Urbanism in their site design.

Site and Exterior Improvements		
a) Accessible path		Provide an accessible path to the primary entry of all ground floor units for disabled visitors
b) Common area facilities on an accessible path		Show walkways, slope and landing dimensions at ramps, accessible parking spaces, van stall locations, mailboxes, play lots, trash enclosures shall be accessible to wheelchair residents.
c) Landscape plans		Use drought resistant plants & water conservation techniques
d) Screening		Screen unsightly items, such as transformers, with appropriate

		landscaping or architectural screens
e) Quick couplers/hose bibs		Locate near trash enclosure or front and rear of ground floor units.
f) Private space		New units should have private exterior space in the form of a patio, balcony, deck, etc.
a) Playlots, Recreational Space for Senior and Family Housing		Thought should be given to where young children can play or where older children congregate. Areas should be accessible, safe and integrated into the site, not isolated. All play and community exterior spaces in family and senior housing shall have southern exposure.

Energy Efficiency and Sustainability

Per the applicable Choice Neighborhoods Notice of Funding Opportunity (NOFO) for Planning and Implementation Grants, grantees must comply with requirements related to energy efficiency and green building standards, including meeting ENERGY STAR requirements and achieving certification by one of the recognized green rating programs for new construction or substantial rehabilitation.

In addition, grantees are encouraged to consider climate resiliency in development of their housing projects and to design so as to mitigate the impact of natural hazards on both the project and its residents and to prepare for the longer-term impacts of climate change. Grantees should consult their applicable NOFO for more detailed information and requirements.

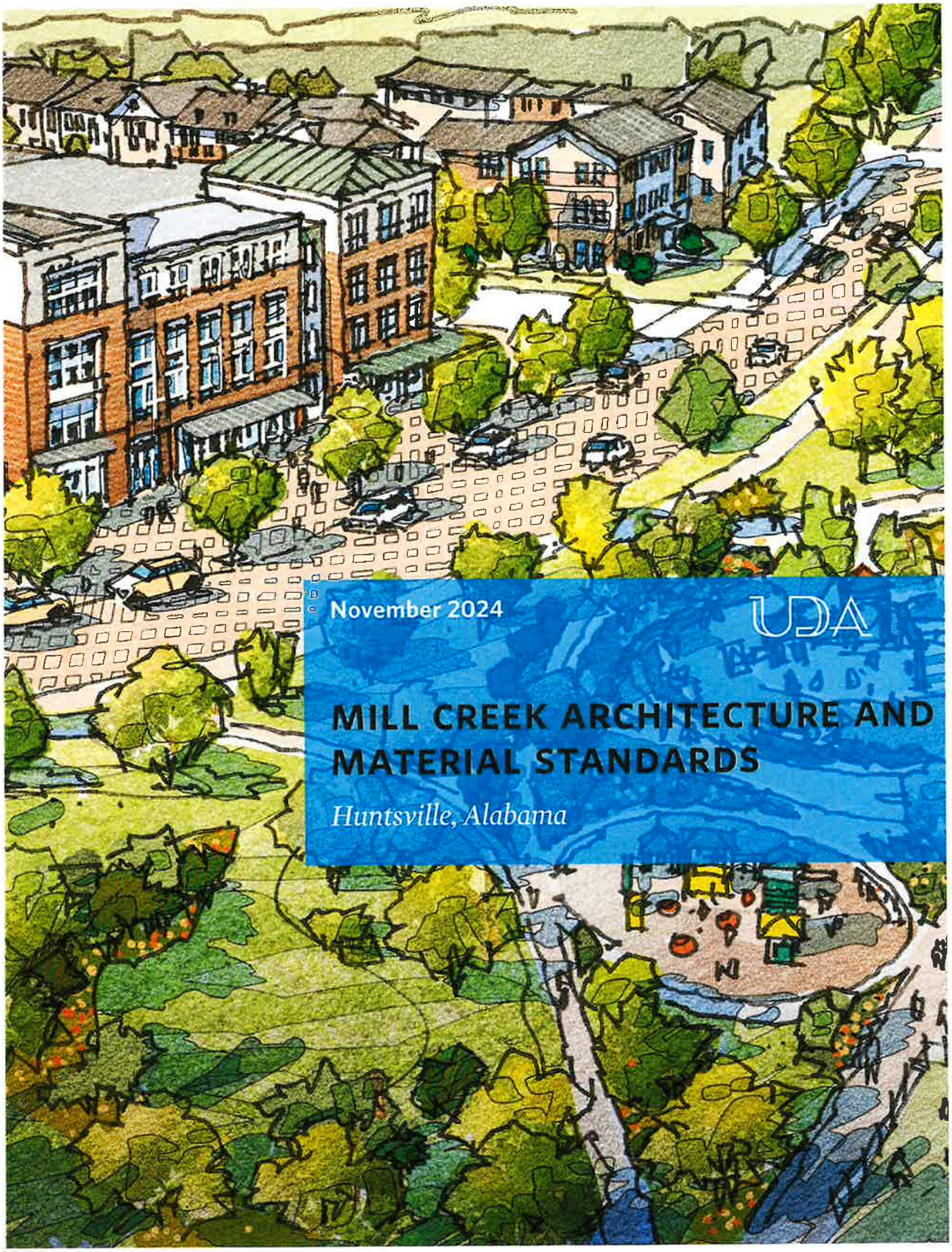
Further Information

For further information on design and the design process, contact your Choice Neighborhoods Team Housing Specialist. In addition, the following provides related information:

1) "Principles for Inner City Neighborhood Design"
https://www.huduser.gov/Publications/pdf/principles.pdf

2) Congress for New Urbanism www.cnu.org

3) "The Ne Face of Public Housing"
https://www.cnu.org/sites/default/files/NewFaceOfAmericanPublicHousing_1.pdf



November 2024

UDA

MILL CREEK ARCHITECTURE AND MATERIAL STANDARDS

Huntsville, Alabama

ARCHITECTURE STANDARDS

OVERVIEW

The residential architecture of Mill Creek draws inspiration from Huntsville's local and regional architectural traditions. Multi-family residential buildings shall have simple basic massing with vertically articulated bays of window and door openings.

Principal building entrances shall be located along the primary or street-facing facade. Additional entries and exits may be located along side or rear elevations.

Example of composite siding and brick materials on attached townhouses

BUILDING MASSING

Massing shall be composed of simple forms. Buildings will be vertically organized with apparent structural bays.

Simple awnings against brick with metal railings

Massing and Height

Buildings will range between 2 and 5 stories. Special roof elements or rooftop signage may project beyond the roofline of the building.

Horizontal Articulation

Horizontal articulation should define a base, middle, and top for each facade for buildings 3-5 stories tall. This can be accomplished through changes in window composition, changes in materials, cornice/roof details, or string courses.

Vertical Articulation

All facades shall have vertical articulation that creates a series of vertical masses and bays that organize windows and entrances. These divisions should be defined by changes in plane, architectural detailing, height, fenestration types, or facade composition. Material and color changes shall be used judiciously to distinguish special elements or articulate significant changes in massing.

Storefront openings with active ground floor uses

Example combination of brick with alternate materials

Clear articulation of a building base with color and material highlighting entries

Combination of flat and pitched roof forms for smaller buildings

Mill Creek Master Plan

MATERIAL STANDARDS

The materials used shall be of high quality and reflect an emphasis on regional materials and construction. While each building may have an individual, specific design, the intent is to establish a consistent vocabulary of materials.

MATERIAL APPLICATION

Materials shall be applied with a higher emphasis on elevations facing public streets and parks. Brick shall be used as a primary material at public facing elevations. Other materials may serve as secondary materials or accents.

Cladding and Trim

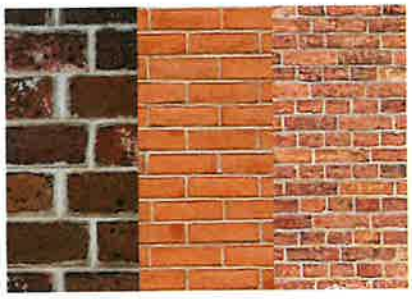
- Brick, painted brick
- Concrete masonry units (painted, integral color, or split-face)
- Three-coat cementitious stucco, smooth sand finish
  - Stucco shall have another material (i.e. brick, stone, tile) as a transitional material at the ground
- Cast stone
- Precast concrete/concrete
- Natural stone
- Glass fiber reinforced concrete panels
- Metal panels and metal cladding
- Painted or stained wood
- Fiber cement classing (smooth finish) in clapboard, lap, board and batten, or panel with appropriate corresponding trim for openings

Roofing

- Flat roofing systems
- Standing seam metal, corrugated or 5V crimp galvanized or galvalume metal
- Metal shingle
- Asphalt composite shingle (sloped-roof townhouse buildings only)

Curtain Walls

- Aluminum framing system with:
  - Clear glazing
  - Spandrel glass
  - Metal panels



Brick

Metal roofing

Curtain wall systems

Stucco and cut stone

Metal window systems

Windows

- Wood or vinyl
- Metal window systems
- Clear glazing with an E coating (low-e glass)
  - Tinted and colored glazing are not permitted

Columns and Piers

- Precast or poured in place concrete
- Metal
- Brick
- Wood

Soffits

- Stucco
- Metal
- Fiber Cement
- Concrete

Awnings

- Canvas/tensile fabric
- Metal
- Glass

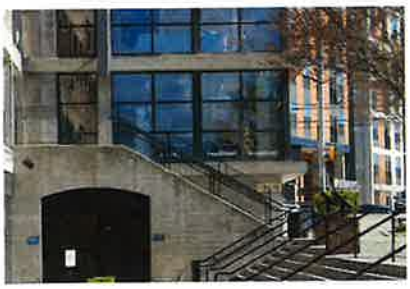
Transition from brick to stucco on upper stories

Wood/composite cladding

Metal balcony

Metal panel

Glass curtain wall



Concrete