



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		7/23/12		
Department:		Planning		
Department Head		P. Jarrell		
Agenda Coordinator (include phone #): Tammy Stuckey - 7156				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a development agreement by and between the City of Plano, Texas and Green Extreme Homes for providing funding for project costs associated with development of workforce housing on 1.5 acres of land located at the southwest corner of G Avenue and 14th Street; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	10,874,547	0	10,874,5470
Encumbered/Expended Amount	0	-3,050,961	0	-3,050,961
This Item	0	-150,000	0	-150,000
BALANCE	0	7,673,586	0	7,673,586
FUND(S): TIF - EAST SIDE				
<p>COMMENTS: : Funds are included in the FY 2011-12 TIF East Side Fund Balance. This item, in the amount of \$150,000, will leave a FY 2011-12 ending fund balance of \$7,673,586 in the TIF East Side fund.</p> <p>STRATEGIC PLAN GOAL: Passage of the resolution relates to the City's Goal of Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>At its June 25, 2012 meeting, the City Council directed that up to \$150,000 be provided from TIF #2 funds for demolition and remediation costs associated with redevelopment of the former Plano Housing Authority property at the southwest corner of G Avenue and 14th Street. The existing units are substandard and it is not feasible to rehabilitate and re-occupy them. Green Extreme Homes requests reimbursement of the cost of demolition and clearance of the structures to make the site economically feasible for the development of 40 or more units of workforce housing. This development agreement formalizes the terms and conditions of the reimbursement.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution Development Agreement Exhibits				

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a development agreement by and between the City of Plano, Texas and Green Extreme Homes for providing funding for project costs associated with development of workforce housing on 1.5 acres of land located at the southwest corner of G Avenue and 14th Street; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City is authorized pursuant to the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to enter into agreements with a developer of real property in a Tax Increment Finance District for the purposes of providing funding for project costs associated with the development including demolition of buildings and environmental remediation on the real property; and

WHEREAS, the City Council has been presented a proposed development agreement by and between the City of Plano, Texas and Green Extreme Homes, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and the City Manager or his authorized designee, should be authorized to execute the Agreement on behalf of the City of Plano.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED THIS THE 23RD DAY OF JULY, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

n/ord/res/Res-Park Blvd&15.doc

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS AND
GREEN EXTREME HOMES**

This Development Agreement (“Agreement”) is entered into by and between the City of Plano, a Texas home rule municipal corporation of Collin County, Texas (the “City”), acting by and through its duly authorized officers, and Green Extreme Homes, a Texas non-profit corporation (“Green Extreme”).

RECITALS:

WHEREAS, the City is authorized pursuant to the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to enter into agreements with a developer of real property in a Tax Increment Financing District for the purposes of providing funding for project costs associated with the development including demolition of buildings and environmental remediation on the real property; and

WHEREAS, Green Extreme shall redevelop approximately 1.5 acres located at the southwest corner of G Avenue and 14th Street as shown in Exhibit “A” attached hereto (“the Property”) to provide workforce housing which will require demolition of existing buildings and environmental remediation on the Property; and

WHEREAS, Green Extreme’s redevelopment of the Property shall be in substantial compliance with a memorandum of understanding between the Texas State Affordable Housing Corporation and Green Extreme, attached hereto as Exhibit “B” and a draft site plan prepared by Green Extreme and attached hereto as Exhibit “C” (which memorandum of understanding and draft site plan, together with all additions, changes and amendments thereto approved by and between the parties, is referred to in this Agreement as the “Development”); and

WHEREAS, the proposed Development is located in Tax Increment Financing District No. 2 (TIF 2) and funding the demolition of existing buildings and environmental remediation at the Property through the revenue derived by TIF 2 in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, will promote redevelopment in the area; and

WHEREAS, the Development is consistent with the goals and objectives as set forth in *Downtown Plano, A Vision and Strategy for Creating a Transit Village* which was adopted by the City Council by Resolution No. 99-5-14, dated May 10, 1999 and the *Consolidated Housing and Community Development Plan for 2010-2014* which was adopted by the City Council by Resolution No. 2010-3-6, dated March 8, 2010; and

WHEREAS, the Development will contribute important direct and indirect economic and social benefits to the City including, but not limited to, the creation of workforce housing in close proximity to the DART railway station; and

WHEREAS, the City has determined that reimbursing Green Extreme for the costs of demolition of existing buildings and environmental remediation at the Property will incentivize redevelopment of the Property for workforce housing in accordance with the terms and conditions set forth in this Agreement and will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and address a need for affordable housing in the City.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

**SECTION 1.
GREEN EXTREME'S OBLIGATIONS**

A. Green Extreme shall perform the following obligations:

1. Maintain the memorandum of understanding with the Texas State Affordable Housing Corporation attached hereto as Exhibit "B" (the "memorandum of understanding") for the duration of this Agreement. Green Extreme shall notify the City immediately upon any termination of the memorandum of understanding during the Term of this Agreement.

2. Maintain the ground lease for the Property with the Texas State Affordable Housing Corporation for the purpose of construction and development of affordable housing (the "ground lease") for the duration of this Agreement. A copy of the ground lease has been provided to the City of Plano and is kept on record in the City's Planning Department. Green Extreme shall notify the City immediately upon any termination of the ground lease during the Term of this Agreement.

3. Apply and obtain approval for rezoning of the property pursuant to the City's Zoning Ordinance to allow residential zoning which will accommodate the Development.

4. Complete and obtain approval of a preliminary site plan as required by the City's Zoning Ordinance.

5. Obtain all necessary permits from the City, which shall not be unreasonably withheld, conditioned or delayed by the City to begin construction of the Development no later than August 31, 2012. Construction shall be deemed to have begun when Green Extreme actually commences site work (i.e., demolition, grading or clearing) on the Property.

6. On or before, December 31, 2012, complete the surface and subsurface demolition of the existing buildings and improvements on the Property, at its sole cost and expense, including but not limited to environmental remediation, grading, and clearing in preparation for construction of the Development at the Property.

7. On or before December 31, 2014, complete the design, construction and installation of all improvements for the new Development at the Property, at its sole cost and expense, and which when completed shall have at least forty (40) new units of housing (the "new

housing units”) for which eighty percent (80%) of the new housing units shall be offered for rent, lease or sale as housing according to the affordability threshold requirements pursuant to Section 7 of the memorandum of understanding between the Texas State Affordable Housing Corporation and Green Extreme, attached hereto as Exhibit “B”. The completion date shall be determined by the date of the Final Building Inspection, as delineated in the City’s Building Inspections Department records, for the building at the Property containing the 40th new housing unit (the “Completion Date”).

**SECTION 2.
CITY’S OBLIGATIONS AND REIMBURSEMENT**

A. Subject to Section 2(B) below, the City shall reimburse Green Extreme for “Project Costs” (as defined hereafter) in an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) provided, however, that such reimbursement shall exclude “Overhead Costs” (as defined hereafter).

1. “Project Costs” means:
 - i. actual costs for surface and subsurface demolition of the existing buildings and improvements on the Property, including but not limited to environmental remediation and grading in preparation for construction of the project; and
 - ii. relocation of electrical and communication lines and facilities on the property or adjacent public rights of way, including without limitation, any payments made to entities affiliated with or related to Green Extreme, to the extent that such payments do not exceed what is reasonable and customary for such services.
2. “Overhead Costs” means:
 - i. overhead and management fees,
 - ii. financing charges,
 - iii. marketing costs,
 - iv. legal fees, and
 - v. payments made to entities affiliated with or related to Green Extreme to the extent such payments made to entities affiliated with or related to Green Extreme exceed what is reasonable and customary for such services.

B. Upon completion of the demolition and environmental remediation at the Property pursuant to Section 1(A)(6) herein, Green Extreme shall notify the City in writing of the completion and submit proof of payment, including receipts or invoices, for the Project Costs to the City Manager or his designee. If the City agrees that the demolition and

environmental remediation is complete and that the project costs are reasonable and customary for such services, payment shall be made to Green Extreme within thirty (30) days of the notice from Green Extreme to the City required herein. The City shall not make payment to any contractors or subcontractors of Green Extreme directly but shall only reimburse Green Extreme subsequent to their payment of the Project Costs and completion of the demolition and environmental remediation.

C. All payments for Project Cost reimbursement to Green Extreme under this subsection shall be payable solely from Tax Increment Financing District No. 2 funds as provided by law and shall not be obligated for payment from the City's general fund or any other City fund unrelated to the Tax Increment Financing District No. 2 fund.

SECTION 3. FORCE MAJEURE

It is expressly understood and agreed by the parties to this Agreement that if the substantial completion of the construction of any the Development and Public Improvements contemplated hereunder is delayed by reason by war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, delays caused by the franchise utilities, fire or other casualty, court injunction, necessary condemnation proceedings, or acts of the other party, its affiliates/related entities and/or their contractors, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

SECTION 4. TERM

The term of this Agreement shall begin on the date of execution by the last signatory hereto as indicated on the signature page of this Agreement and end upon the complete performance of all obligations by parties to this Agreement unless sooner terminated herein (the "Term").

SECTION 5. EVENTS OF DEFAULT

A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement. A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default. The defaulting party shall have thirty (30) days to cure after receiving written notice of default from a party.

**SECTION 6.
REMEDIES**

If a default shall continue, after thirty (30) days' notice to cure the default, the non-defaulting party may, at its option, terminate the Agreement and/or pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, without the necessity of further notice to or demand upon the defaulting party.

The non-defaulting party may, at its option, provide written extension for additional time to cure if the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that the defaulting party has commenced to cure such default within 30 days following notice.

**SECTION 7.
ASSIGNMENT**

This Agreement may not be assigned without the express written consent of the non-assigning party, except that Green Extreme may assign this Agreement without obtaining the City's consent (a) to one of its wholly owned affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety (90) percent of the assets of Green Extreme as long as the Company gives sixty (60) days prior written notice to the City and the assignee executes an agreement with the City to be bound to all the terms and conditions of this Agreement and be responsible for any default(s) that occurred prior to or after the assignment.

For any assignment not covered by (a) or (b) in the preceding paragraph, Green Extreme must obtain the prior approval of the City through its City Manager and the assignee must agree to be bound to all the terms and conditions of this Agreement and to accept all liability for any default that occurred prior to and/or after the assignment.

Any assignment agreement must be furnished in a form acceptable to the City and be provided at least thirty (30) days prior to the effective assignment date. City agrees to notify the potential assignee of any known default, but such notification shall not excuse defaults that are not yet known to the City.

**SECTION 8.
NOTICES**

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mails by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for the City:

City of Plano, Texas
Attention: Mr. Bruce D. Glasscock
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

With a copy to:

City of Plano, Texas
Attention: Ms. Diane C. Wetherbee
City Attorney
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

If intended for Green Extreme:

Green Extreme Homes
Jean Brown, Executive Director
2320 King Arthur Blvd
Lewisville, TX 75056

SECTION 9. NO JOINT VENTURE

It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

SECTION 10. APPLICABLE LAWS

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas.

SECTION 11. VENUE AND GOVERNING LAW

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

**SECTION 12.
SEVERABILITY**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

**SECTION 13.
COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**SECTION 14.
ENTIRE AGREEMENT.**

This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement

**SECTION 15.
AMENDMENT**

This Agreement may only be amended by the mutual written agreement of the parties.

**SECTION 16.
CAPTIONS**

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

**SECTION 17
RECITALS**

The recitals to this Agreement are incorporated herein.

**SECTION 18.
AUTHORIZATION**

Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this agreement.

**SECTION 19.
AUTHORIZED TO BIND**

The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

This Agreement shall be effective upon the last date on which all parties have executed this agreement.

ATTEST:

CITY OF PLANO, TEXAS, a
home-rule municipal corporation

Diane Zucco, CITY SECRETARY

Bruce D. Glasscock, CITY MANAGER
Date: _____

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ATTEST:

GREEN EXTREME HOMES, a Texas non-profit
corporation

Name: _____
Title: _____

By: _____
Name: _____
Title: _____
Date: _____

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____ day of _____, 2012, by Bruce D. Glasscock, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation.

Notary Public, State of Texas

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____ day of _____, 2012, by _____, _____, of **GREEN EXTREME HOMES**, a Texas non-profit corporation..

Notary Public, State of Texas

EXHIBIT "A"

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Joseph Klepper Survey, Abstract No. 213, being all of Lot 9 and part of Lot 10 of J. F. Kendricks 1st Addition, an addition to the City of Plano as recorded in Volume 23, Page 494 of the Collin County Map Records, said lots further described in Volume 563, Page 425, Volume 564, Page 219, Volume 582, Page 565, Volume 3174, Page 777 and Volume 3174, Page 780 of the Collin County Land Records with said premises being more particularly described as follows:

BEGINNING at a Roomè ½" capped iron rod found marking the northeast corner of Lot 10C of said Addition as recorded under County Clerk No. 2008-1118001340140 of the Collin County Land Records and being an interior corner of the herein described premises;

THENCE with the north line of Lot 10C and a south line of said premises, North 89°34'04" West, 86.38 feet to a Roomè ½" capped iron rod found in the west line of Lot 10, the east right-of-way line of "F" Avenue and marking the northwest corner of Lot 10C and the most westerly southwest corner of the herein described premises;

THENCE with the east right-of-way line of "F" Avenue, the west line of Lot 10 and the most westerly west line of said premises, North 01°11'02" East, 66.04 feet to an "X" found in concrete marking the intersection of the east right-of-way of "F" Avenue with the south right-of-way of 14th Street, the northwest corner of Lot 10 and the most northerly northwest corner of the herein described premises;

THENCE with the south right-of-way line of 14th Street, the north line of said premises and the north line of Lots 9 & 10, South 89°00'50" East, 424.05 feet to an "X" found in concrete marking the intersection of the south right-of-way of 14th Street with the west right-of-way of "G" Avenue, the northeast corner of Lot 9 and the northeast corner of the herein described premises;

THENCE with the west right-of-way line of "G" Avenue, the east line of Lot 9 and said premises, South 01°07'33" West, 191.72 feet to an "X" found marking the southeast corner of Lot 9, said premises and the northeast corner of Lot 12D of said Addition as recorded under County Clerk No. 2008-0819001007820 of the Collin County Land Records;

THENCE departing said west right-of-way line, along the north line of Lot 12D, the south line of Lot 9 and a south line of said premises, West, passing at 206.13 feet a 1" iron rod found marking the northwest corner of Lot 12D and the northeast corner of a 1.926 acre tract as recorded in Volume 4169, Page 2737 of the Collin County Land Records and continuing for a total distance of 276.16 feet to a Roomè ½" capped iron rod found marking the most southerly southwest corner of said premises, a corner of said 1.926 acre tract and the southeast corner of Lot 10D as recorded under County Clerk No. 2008-1118001340140 of the Collin County Land Records;

THENCE with a west line of said premises and the east line of Lot 10D, North, 67.57 feet to a ½" iron rod found marking an interior corner of said premises and the northeast corner of Lot 10D;

THENCE with the a south line of said premises and the north line of Lot 10D, South 89°29'36" West, 58.47 feet to a Roomè ½" capped iron rod found marking a southwest corner of said premises and the southeast corner of the aforementioned Lot 10C;

THENCE with a west line of said premises and the east line of Lot 10C, North 00°30'24" West, 65.25 feet to the point of beginning and containing 67,234 square feet or 1.54 acres of land.

Note: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

EXHIBIT B

MEMORANDUM OF UNDERSTANDING PURSUANT TO THE AFFORDABLE
COMMUNITIES OF TEXAS PROGRAM BETWEEN

TEXAS STATE AFFORDABLE HOUSING CORPORATION
AND
Green Extreme Homes

Dated: May 11, 2012

WHEREAS, Texas State Affordable Housing Corporation is a public non-profit corporation organized and created under the laws of the State of Texas (hereinafter referred to as the "**Corporation**") organized for purposes that have been determined by the Internal Revenue Service to be exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, The Corporation's purpose in awarding all goods, resources and/or funds governed by this agreement is generally to promote the public health, safety and welfare through the provision of adequate, safe and sanitary housing primarily for individuals and families of low, very low and extremely low income in the State of Texas, and to perform activities and services related to this purpose and for other purposes as set forth in §2306 subchapter Y of the Texas Government Code (the "**Act**"); and

WHEREAS, **Green Extreme Homes** is a non-profit corporation established pursuant to the laws of the State of Texas (hereinafter referred to as the "**Local Partner**");

WHEREAS, the parties wish to enter into this Memorandum of Understanding (the "**Agreement**") whereby they will cooperate in achieving common charitable and humanitarian objectives in accordance with the terms herein and pursuant to the policies of the Corporation (the "**Policies**") under its Affordable Communities of Texas Program (the "**ACT Program**"); and

NOW THEREFORE, in consideration of the covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereby agree as follows:

1. **Purpose.** The purpose of the Agreement is to acquire the Development, as defined in Attachment A, to create affordable housing for low and moderate income households. All real property associated with the Development will be owned by the Corporation for the term of any ground lease or land trust agreement, in either case to be defined hereinafter as the "Ground Lease", associated with this Agreement, or any future agreements between the Corporation and Local Partner, or any other qualified household or entity acceptable to the Corporation.
2. **Agreement.** This Agreement provides the basic terms and conditions of the relationship between the Corporation and Local Partner for the purpose of acquiring, rehabilitating, constructing and/or developing the Development. This Agreement shall be subject to any and all federal and state statutory limitations placed on the Corporation, including, but not limited to the Act and the Policies as approved, revised and ratified by the Corporation's Board of Directors from time to time. This Agreement is subject to termination and amendment according to the provisions listed herein, and does not represent a commitment

of funds to the Local Partner on behalf of the Corporation, unless otherwise noted in this Agreement.

3. **Term of Agreement.** Subject to Section 18 hereof, the term of this Agreement shall be five (5) years. This Agreement shall automatically renew for an additional five (5) years, and continue to renew every five years of as long as both parties agree, or until the Ground Lease between both parties is terminated.
4. **Responsibilities of Parties.** Under this Agreement, the Local Partner has agreed to participate in the Affordable Communities of Texas land trust program (the "**ACT Land Trust**"). The ACT Land Trust requires that both parties carry out their respective duties and responsibilities in order to fulfill the charitable purpose of this Agreement:
 - a. Corporation's Responsibilities.
 - i. Approve and publish to the Corporation's website, with assistance from Local Partner, a plan for redevelopment and revitalization of the Development;
 - ii. Negotiate option agreements, sales contracts or other forms of real property contracts, to acquire the Development;
 - iii. Assist Local Partner with the collection of due diligence materials necessary to complete acquisition and redevelopment planning for the Development;
 - iv. Commit, from the Corporation's own financial resources, an amount not to exceed \$600,000 for the acquisition of the Development site;
 - v. Hold title to the Development for the term of any ground lease that is executed by both parties upon acquisition of the Development;
 - vi. The Corporation shall manage audit and performance measurement reviews required under any contract, grants or other financial agreements used in conjunction with the acquisition and redevelopment of the Development under which the Corporation is the lead applicant or awardee; and
 - vii. Provide technical assistance to the Local Partner regarding planning, financing and redevelopment of the Development.
 - b. Local Partner's Responsibilities:
 - i. Conduct or cause to be completed and pay for all activities necessary for the review and due diligence of the Development prior to the acquisition of the Development;
 - ii. Research, apply for and manage any and all financial resources to be used by the Local Partner during the redevelopment of the Development;
 - iii. Commit the necessary financial resources to complete all due diligence and acquisition activities as may be needed;
 - iv. Prepare a plan for redevelopment of the Development with the assistance of the Corporation;
 - v. Conduct a feasibility analysis, apply for financing to renovate or redevelop, and manage the process of redevelopment of the Development;
 - vi. Provide written notification to the Corporation prior to the commencement of any work completed by the Local Partner or its contractors, to maintain acquired properties, repair major mechanical systems, correct structural deficiencies, or any other repairs and construction activity. All work, repairs, renovations or other construction activities commenced by the Local Partner or its contractors must

adhere to the Corporation's Construction Thresholds, as defined by the Policies;

- vii. Manage the marketing, listing, and sale or rental of the Development in accordance with the Policies and any additional restrictions required by the funding sources used to redevelop the Development;
- viii. Retain and make available for review by the Corporation all documents, letters or records regarding the review, inspection or redevelopment of the Development the Development under this Agreement, and transfer copies of all such documents, letters or records to the Corporation upon termination or expiration of this Agreement, as provided for herein;
- ix. Track and report to the Corporation, demographic, economic and other statistical data on homebuyers or renters as necessary and in accordance with the Policies and the funding sources used to redevelop the Development under this Agreement; and
- x. Execute any documentation necessary to complete the Development in a timely manner, including, but not limited to the Ground Lease, shared appreciation documents, land use restriction agreements, and any other applicable documentation pertaining to the acquisition, rehabilitation and sale of the property as needed by the Corporation.

5. **Exclusive Right to Redevelop.** The Corporation, acting in the role of Land Trust Administrator, shall execute a Ground Lease agreement with Local Partner. The Ground Lease shall grant the Local Partner access to the Development to complete stabilization, demolition, construction and other necessary functions to redevelop the property as provided for in this Agreement. The Ground Lease Agreement shall grant the Local Partner an exclusive right to redevelop the Development, in accordance with this Agreement and the Corporation's Policies, for a reasonable period as determined by the Corporation and the Local Partner. In the event the Local Partner ceases to exist in its current form, loses its nonprofit certification, chooses to terminate this Agreement, or fails to complete the redevelopment of the Development in a timely manner, the Corporation shall be authorized to redevelop the Development itself and without the involvement of the Local Partner.
6. **Redevelopment Standards.** Local Partner shall redevelop the Development in accordance with the Corporation's Construction Standards as defined in the Policies in addition to the following criteria:
- a. The redevelopment of the Development must advance the charitable mission of the Corporation, in the sole and absolute determination of the Corporation;
 - b. The redevelopment of the Development must be financially feasible, in the sole and absolute determination of the Corporation;
 - c. The redevelopment of the Development must be located in an area that provides access to good education, employment, transportation and other community services, in the sole and absolute determination of the Corporation; and
 - d. The redevelopment of the Development must have a plan that guarantees access to safe, decent and affordable housing for low-income, very low income or extremely low-income Texans, in the sole and absolute determination of the Corporation.

7. **Affordability Threshold.** The redevelopment and use of the Development through this Agreement must meet the Corporation's statutory requirements for affordability (the "Affordability Threshold"). At a minimum, the Affordability Threshold requires the following:
 - a. At least 80% of all units to be rented or leased are affordable to households earning 80% or less than the area median income for County where the Development is located.
 - b. At least 80% of all units to be sold, shall be sold to qualified low-income households earning 80% or less than the area median income for the County where the Development is located.
 - c. The area median income shall be determined by family size based on figures produced annually by the United States Department of Housing and Urban Development.
 - d. All households that meet the Affordability Threshold of (a) or (b) above, as applicable, above shall be considered qualified households ("**Qualified Households**").
8. **Recorded Enforcement Documents.** To insure the fulfillment of the Affordability Threshold the Corporation will file a deed restriction or land use restriction agreement (each a "LURA") in the real property record that defines limitations on resale, occupancy and other concerns of the Development. Deed restrictions and LURAs will be filed as non-foreclosable instruments.
9. **Recapture Provisions.** The Local Partner understands that funding provided by the Corporation to acquire or hold properties will be subject to recapture provisions the Corporation shall provide the Local Partner with a recapture agreement (the "**Recapture Agreement**") detailing the requirements and terms of any recapture provisions. The Corporation shall have an exclusive right to set the terms and conditions of the Recapture Agreement for the Development under this Agreement.
10. **Insurance During Construction.** Prior to commencement of any work on the Development, the Local Partner shall submit appropriate written evidence from itself, or from any contractors hired by the Local Partner, of appropriate builder's risk insurance, liability and property insurance and worker's compensation insurance. The Corporation shall be listed as an "Additional Insured" on any relevant insurance policies carried by the Local Partner or any contractors hired by the Local Partner on the Development including, but not limited to, any general liability or property insurance, builders risk insurance and other types of insurance benefitting the Development, but not worker's compensation insurance.
11. **Discrimination.** Each party subject to this Agreement shall not permit discrimination against members of Qualified Households on the basis of their gender, race, religion, color, familial status, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability.
12. **Release of Individual Units.** The release of any individual unit from the Development to a household, whether a Qualified Household or not, shall require submission of the appropriate income certification documents and approval by the Corporation, and as further defined in the Ground Lease.

13. **Project Monitoring.** The Corporation requires that the Development undergo a regular review to determine that the project continues to meet the threshold criteria and goals of the ACT Program. The Corporation may require an asset management or asset oversight review be completed on an annual, semi-annual or other periodic length of time, on all properties rented, leased or otherwise managed by the Local Partner but not sold to a Qualified Household, as determined by the Corporation. The Corporation shall set its fee for annual asset oversight and compliance activities in the Ground Lease agreement.
14. **Disposition Restrictions.** The Corporation may require the Local Partner and/or a Qualified Household, as applicable, through a Recorded Enforcement Document, Ground Lease or other appropriate documentation, to covenant and agree not to sell, transfer or otherwise dispose of an acquired property prior to the expiration of the Recorded Enforcement Document or other period required in writing by the Corporation (other than pursuant to the lease of rental units to Qualified Households) without (i) complying with any applicable provisions of any Recorded Enforcement Document or any other relevant documents of the Corporation (which may allow a sale of a Qualified Project to another Qualified Household possibly subject to a ground lease agreement or otherwise) and (ii) obtaining the prior written consent of the Corporation. Such consent of the Corporation shall be granted or withheld in its sole and absolute discretion. Any such sale, transfer or other disposition of a Qualified Project in violation of this Section 17 shall be null and void and of no force and effect.
15. **Additional Financing.** This Agreement does not represent an intent or commitment by the Corporation to provide any other financing or other funds to the Local Partner for rehabilitation, construction or other purpose not explicitly identified in this Agreement.
16. **Transfer and Assignment.** This Agreement may not be transferred or assigned to any other entity by the Local Partner without the prior written consent of the Corporation, which consent may be withheld in the Corporation's sole and absolute discretion.
17. **Waiver of Trial by Jury.** The Corporation and Local Partner each (a) agrees not to elect a trial by jury with respect to any issue arising out of this Agreement or the relationship between the parties, as Corporation and the Local Partner, that is triable of right by a jury and (b) waives any right to trial by jury with respect to such issue to the extent that any such right exists now or in the future. This waiver of right to trial by jury is separately given by each party, knowingly and voluntarily with the benefit of competent legal counsel.
18. **Termination.** This Agreement may be terminated at the Corporation's option upon thirty (30) days within notice to the Local Partner upon the occurrence of any of the following events:
 - a. The Local Partner makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition of bankruptcy or is adjudicated as bankrupt or insolvent, or files a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation;
 - b. If any material statement or representation made by or on behalf of the Local Partner to the Corporation shall prove to be untrue, or if the Local Partner or any Guarantor shall have withheld any material information incident thereto;

- c. If there shall be a material adverse change, as determined by the Corporation, in the financial condition or business operations of Local Partner;
 - d. If Local Partner fails to comply with any obligation hereunder or to satisfy all of the conditions of this Agreement and the Policies in a timely manner;
 - e. The Local Partner fails to maintain its existence as a non-profit corporation in the same or similar form it was when it executed this Agreement; or
 - f. The Local Partner uses any funds provided by or through the Corporation in any manner inconsistent with the charitable mission of the Corporation or the purposes of this Agreement and the Policies. In the event that termination of the contract occurs, the Local Partner shall either buy out any existing ground leases, or the Corporation will buy out the improvements to any properties on which an existing ground lease stands, at an amount deemed reasonable by both the Local Partner and Corporation.
19. **Entire Agreement.** This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written agreements.
20. **USA Patriot ACT Compliance.** As a condition of this Agreement, Local Partner shall certify that (i) it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation.
21. **Amendments.** This Agreement may be changed or amended only by a written agreement, signed by both parties.
22. **Liability.** ALTHOUGH THE LOCAL PARTNER UNDERSTANDS AND HEREBY ACKNOWLEDGES THAT THE ACTS AND ACTIVITIES TO BE ENGAGED IN AND PERFORMED BY THE LOCAL PARTNER UNDER THIS AGREEMENT MAY POTENTIALLY SUBJECT RECIPIENT, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS TO THE RISK OF SERIOUS INJURY, ILLNESS OR EVEN LIFE-THREATENING CONDITIONS, THE LOCAL PARTNER HEREBY INDEMNIFIES THE CORPORATION FOR ANY DAMAGES OR INJURY THAT MAY BE SUSTAINED IN CONNECTION WITH OR AS A RESULT OF THE PERFORMANCE BY THE LOCAL PARTNER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS OF THE LOCAL PARTNER'S DUTIES AND RESPONSIBILITIES UNDER THIS AGREEMENT AND AGREES AND UNDERSTANDS THAT THE CORPORATION SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY SUCH DAMAGE OR INJURY, INCLUDING, BUT NOT LIMITED TO, THE GROSS NEGLIGENCE OF THE CORPORATION.
23. **Not a Partnership.** No person performing any of the work or services described hereunder on behalf of the Local Partner shall be considered an officer, agent, servant or employee of the Corporation, nor shall any such person be entitled to any benefits available or granted to employees of the Corporation.

24. **Notices.** Any notice given under this Agreement shall be in writing and shall for all purposes be deemed to be fully given by a party if sent, by first class mail with proper postage prepaid or by overnight courier, to the other party at its address indicated below. The date of the mailing or pick up by the overnight courier shall be deemed to be the date on which such notice was given. Either party may change its address for the purpose of this Agreement by giving the other party written notice of its new address. The parties' current addresses appear below.

If too Corporation:
Texas State Affordable Housing Corporation
2200 East Martin Luther King Jr. Blvd.
Austin, Texas 78702
Phone #: (512) 477-3555
Fax #: (512) 477-3557

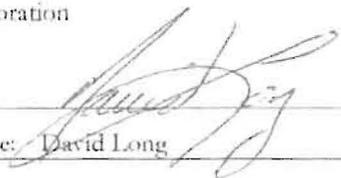
If to Local Partner:
Green Extreme Homes
2320 King Arthur Blvd
Lewisville, TX 75056
Phone: 972-899-4246
Fax: 972-899-4247

25. **Governing Law.** The rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Texas, and any dispute arising hereunder shall be subject to the jurisdiction of the courts of the United States of America or the State of Texas sitting in Travis County, Texas.
26. **Headings.** The section and paragraph headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
27. **Severability.** If any term or provision of this Agreement or the application thereof to any party hereto or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to any party hereto or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
28. **Counterparts.** This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.
29. **Addendums.** All addendums attached hereto are incorporated herein and made a part of this Agreement in all respects.

Signature Page Follows

IN WITNESS WHEREOF, the undersigned parties have caused their duly authorized representatives to execute this Agreement effective as of the date first above written

TEXAS STATE AFFORDABLE HOUSING CORPORATION, a Texas non-profit corporation

By: 
Name: David Long
Title: President

Green Extreme Homes, a Texas non-profit corporation

By: 
Name: Jean Brown
Title: Executive Director

Attachment A

Property Description

The Development consists of two legal lots as described below.

Lot 1: Being 1.23 +/- acres of land and improvements located in the Southwest Quadrant of 14th Street and Avenue G

Lot 2: Being 0.31 +/- acres of land and improvements located at the Southeast Corner of 14th Street and Avenue F

