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**AFFORDABLE HOUSING AGREEMENT**

**among**

**THE CITY OF HOUSTON, TEXAS,**

**REINVESTMENT ZONE NUMBER EIGHTEEN, CITY OF HOUSTON, TEXAS  
(FIFTH WARD ZONE),**

**and**

**FIFTH WARD REDEVELOPMENT AUTHORITY**

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**AFFORDABLE HOUSING AGREEMENT  
AMONG THE CITY OF HOUSTON, TEXAS,  
REINVESTMENT ZONE NUMBER EIGHTEEN, CITY OF HOUSTON, TEXAS, AND  
THE FIFTH WARD REDEVELOPMENT AUTHORITY**

This agreement for the provision of affordable housing (the "Agreement") is made between the City of Houston, Texas (the "City"), a municipal corporation and home-rule city of the State of Texas, located in Harris County, Texas, acting by and through its governing body, the City Council; Reinvestment Zone Number Eighteen, City of Houston, Texas, a tax increment reinvestment zone created by the City pursuant to Chapter 311 of the Texas Tax Code acting by and through its Board of Directors (the "Zone" or "Fifth Ward Zone"); and the Fifth Ward Redevelopment Authority, a not-for-profit local government corporation organized and existing under the laws of the State of Texas acting by and through its Board of Directors (the "Authority"). For the purposes of this Agreement, the City, the Zone, and the Authority are referred to singularly as "Party" and collectively as "the Parties." It is the intention of the Parties to this Agreement to set forth, in writing, the terms and conditions of their understanding and agreement regarding the payment of costs to provide affordable housing in or out of the Zone.

**I. RECITALS**

**WHEREAS**, pursuant to Chapter 311 of the Texas Tax Code, as amended, the City created the Zone by Ordinance No. 1999-766 on July 21, 1999; and

**WHEREAS**, on July 28, 1999, by Ordinance No. 1999-795, the City approved a Project Plan and Reinvestment Zone Financing Plan for the Zone, and amended these plans on September 3, 2008 by Ordinance No. 2008-766 ("the Plans"). The Plans provide that, as a Project Cost, one-third of one hundred percent (100%) of the City tax increment revenue will be set aside for the provision of affordable housing; and

**WHEREAS**, pursuant to the Agreement between the City, the Zone, and the Authority approved by Ordinance No. 2007-849 on July 18, 2007 (the "Tri-Party Agreement"), the City is obligated to pay annually to the Authority all monies in the Tax Increment Fund of the Zone for the implementation of the Plans; and

**WHEREAS**, Section 311.010(b) of the Texas Tax Code allows the City to enter into an agreement with the Zone and the Authority to dedicate revenue from the tax increment fund to pay the costs of providing affordable housing in or out of the Zone; and

**WHEREAS**, the City, the Zone, and the Authority desire to enter into this Agreement to provide for the payment of funds for the provision of affordable housing by the City pursuant to its affordable housing programs;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the Parties contract and agree as follows:

## **II. OBLIGATIONS OF THE PARTIES**

### **(1) Obligations of the Zone and the Authority**

For Fiscal Year 2009 and each subsequent fiscal year until December 31, 2030, the Zone and the Authority agree to transmit to the City one-third of one hundred

percent (100%) of the City tax increment paid to the Authority. The City shall use these funds only for the provision of affordable housing. The Zone and the Authority shall transmit the funds to the City no later than June 30<sup>th</sup> of each fiscal year; except that the Zone and the Authority shall not be required to make this transfer if the City has not made the payment of tax increments as required by the Tri-Party Agreement. If the Zone and the Authority are not able to make the required payment due to the City's delay in making transfers of tax increment revenue pursuant to the Tri-Party Agreement, the Zone and the Authority shall make the required payment within thirty (30) days of receiving transfers from the City. The obligation of the Zone and the Authority to make this payment is expressly subordinate to all other obligations of the Zone and Authority that are payable from revenues received pursuant to the Tri-Party Agreement and that were incurred prior to the effective date of this Agreement. Any amounts due under this Agreement that are not paid in the fiscal year when due shall accrue to the subsequent fiscal year(s) until paid. The City foregoes interest on any unpaid balance.

**(2) Obligations of the City**

The City shall dedicate all revenues received from the Authority to the provision of affordable housing pursuant to the Plans and Ordinance No. 99-488, adopted on May 19, 1999, which approved the designation of funds in Fund 2409 (formerly Fund 872) to be used by the Housing and Community Development Department ("HCDD") for low-income housing purposes. In accordance with the Plans, HCDD will give preference to down-payment assistance for single-family homes purchased at prices less than the median price in the region, reflecting the desire to attract residents with a mix of incomes in the area. HCDD will also give preference to houses in the Fifth Ward area,

including those neighborhoods near but outside the Zone, such as those areas served by the Fifth Ward Community Redevelopment Corporation.

### **III. NOTICES**

All notices and communications required or permitted by this Agreement shall be in writing and mailed by Certified Mail, Return Receipt Requested, to:

The City:                    Director, Finance Department  
                                  City of Houston  
                                  P. O. Box 1562  
                                  Houston, TX 77251

The Zone:                   Administrator  
                                  Reinvestment Zone Number Eighteen (Fifth Ward Zone)  
                                  c/o Hawes Hill Associates  
                                  P. O. Box 22167  
                                  Houston, TX 77227-2167

The Authority:            Administrator  
                                  Fifth Ward Redevelopment Authority  
                                  Reinvestment Zone Number Eighteen (Fifth Ward Zone)  
                                  c/o Hawes Hill Associates  
                                  P. O. Box 22167  
                                  Houston, TX 77227-2167

### **IV. GENERAL PROVISIONS**

#### **(1) Entire Agreement**

This Agreement comprises the entire agreement among the Parties relating to funding affordable housing costs. Accordingly, this Agreement merges all prior negotiations and understandings of the Parties hereto and supersedes and nullifies all prior agreements, negotiations, assurances, conditions, covenants (expressed or implied), or other understandings of the Parties, whether written, verbal, antecedent, or contemporaneous with the execution of this Agreement.

**(2) Term of Agreement**

This Agreement is effective on the Countersignature Date as shown on the signature page of this Agreement and remains in effect until December 31, 2030. The obligation of the Authority to pay the amounts due hereunder shall survive the termination of this Agreement.

**(3) Severability**

If one or more of the provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalidity, illegality, or unenforceable provision had never been included, provided that such invalidity, illegality, or unenforceability does not materially prejudice the City or the Zone in their respective rights and obligations contained in the Agreement.

**(4) Headings**

The headings throughout this Agreement are merely guides and shall not be interpreted to construe or restrict any part of this Agreement.

**(5) Interpretation**

Each Party to this Agreement acknowledges that such Party has reviewed this Agreement and participated in its drafting and agrees that no provision of this Agreement shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have drafted, structured, or dictated such provision(s).

**(6) Assignment**

This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent may be given on behalf of the City by the Director of the Housing and Community Development Department. Consent shall be given on behalf of the Zone and the Authority acting through each of their respective boards of directors or governing bodies.

**(7) Counterparts**

This Agreement may be executed in counterparts, in a single original, or in duplicate originals. As applicable, each counterpart or duplicate shall be deemed an original copy of this Agreement signed by each Party, for all purposes.

**IN WITNESS HEREOF**, the City, the Zone, and the Authority have made and executed this Agreement.

**CITY OF HOUSTON:**

Annise D. Parker Date: April 20, 2010  
Mayor Martha L. Stein

**ATTEST/SEAL:**

Ann Russell Date: 4-20, 2010  
City Secretary

**COUNTERSIGNED:**

Ronald C. King Date: 4-20, 2010  
City Controller ChB King



**APPROVED:**

*Michelle Mitchell* Date: 4-1, 2010  
Director, Finance Department

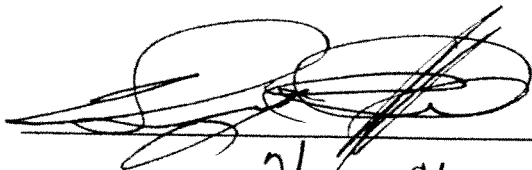
**APPROVED:**

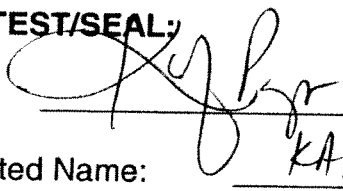
*Kedron* Date: 4-10, 2010  
Director, Housing and Community Development Department

**APPROVED AS TO FORM:**

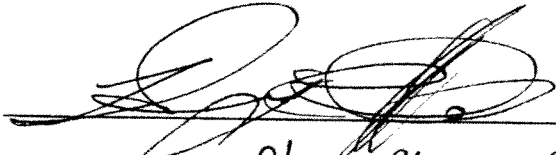
*Donna Capps* Date: 4-1, 2010  
Assistant City Attorney  
L.D. File No. 0619900061023

**REINVESTMENT ZONE NUMBER EIGHTEEN, CITY OF HOUSTON,  
TEXAS (FIFTH WARD ZONE):**

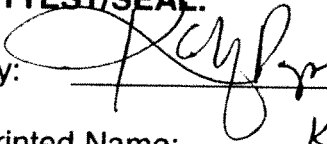
By:  Date: 3/31, 2010  
Printed Name: Harry Clemens Jr  
Printed Title: Chair

**ATTEST/SEAL:**  
By:  Date: 3/31, 2010  
Printed Name: KATY A. PAYNE

**FIFTH WARD REDEVELOPMENT AUTHORITY:**

By:  Date: 3/31, 2010  
Printed Name: Harry Clemons Jr  
Printed Title: Chairman

**ATTEST/SEAL:**

By:  Date: 3/31, 2010  
Printed Name: KATHY F. PAYNE

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