

**CITY OF GARDEN GROVE
and GARDEN GROVE HOUSING AUTHORITY**

INTER-DEPARTMENT MEMORANDUM

To: Allan Roeder
From: Susan Emery
Dept: Interim City Manager and Interim Authority Director
Dept: Community Development
Subject: Preliminary Award of Funding Letter for Jamboree Housing Corporation
Date: March 10, 2015

OBJECTIVE

The purpose of this report is to request that the City Council and Garden Grove Housing Authority (Authority) consider the attached Preliminary Award of Funding Letter (Preliminary Award Letter) to reserve certain funding for Jamboree Housing Corporation (JHC or Developer), for the construction and operation of the proposed 47-unit affordable housing, mixed-use senior and family apartment project located at 10882 Stanford Avenue and 12741 Main Street, Garden Grove.

BACKGROUND

Under the HOME Program regulations (24 CFR Part 92), the City, as a participating jurisdiction, is required to commit and to spend HOME Program funds in a timely fashion, which includes funds statutorily reserved for Community Housing Development Organizations (CHDOs) to develop, sponsor or own housing.

On May 22, 2012, Council approved a CHDO Reservation Agreement with JHC, which conditionally committed up to \$2.01 million in HOME Program monies for the development of long-term affordable housing units. The CHDO Reservation Agreement has since expired and the HOME Program was substantively amended by a new "Final Rule" effective in July 2013. The Final Rule added strict conditions precedent to the City's authority to "reserve" or "commit" HOME Program funds; however, the HOME Program, as amended by the Final Rule, does authorize the City or Authority to make a preliminary award of HOME Program funds and the Preliminary Award Letter provides such preliminary award.

Jamboree Housing Corporation, a California nonprofit 501(c)(3) housing development corporation, develops, acquires, renovates, operates and manages affordable rental properties for low, very low, and extremely low income individual, family and senior households throughout Southern California. Currently, JHC owns and operates affordable housing developments in the Buena Clinton and Stuart Drive neighborhoods of Garden Grove. JHC is an experienced and qualified developer with a reputation for top oversight and management of their affordable housing portfolio, which is estimated at over \$1 billion in valuation.

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JHC submitted a proposal to the City to construct a mixed-use project (Project); the Project will have a residential component of 47 units of affordable housing for qualified senior and family very low- and low- income households, along with a preschool facility and ancillary commercial/retail space (initial use as the leasing office), on two parcels of land currently owned by the United Methodist Church and located at 10882 Stanford Avenue and 12741 Main Street, Garden Grove (Site). On December 4, 2014, the Planning Commission recommended approval of the land use entitlement for the Project; on January 13, 2015, the City Council adopted Resolution No. 9268-15 approving General Plan Amendment No. GPA-001-2014 changing the General Plan Use Designation from Medium Density Residential to Civic Center Mixed Use; and on January 27, 2015, the City Council approved Development Agreement No. DA-001-2014 by adoption of Garden Grove Ordinance No. 2853, with construction of the Project subject to the development standards of the Civic Center-Core (CC-3) zone.

After analyzing the feasibility of the Project, JHC submitted an updated Proforma to staff on February 20, 2015 confirming their request to the City and Authority for certain gap financing through two loans (HOME Loan and Additional Subsidy Loan) and a fee deferral with payment over time of the impact fee due under Development Agreement (DA Impact Fee Note), to subsidize the Developer's ground lease, construction and long-term operation of the Project. The mixed-use project includes 47-units of very low- and low-income affordable housing, with ancillary preschool and commercial space. The two loans to be provided by Garden Grove include: (1) a "HOME Loan" sourced from HOME Program funds, and (2) an Additional Subsidy Loan sourced from a combination of (i) the Successor Agency's deposit of a repayment of SERAF monies allocable to FY 2016-2017 to be transferred upon receipt to the Authority's Low to Moderate Income Housing Asset Fund (LMIHAF) under the Dissolution Law (approximately \$600,000), and (ii) other Authority funds (non-federal monies) on account with the Authority as of December 31, 2016 (estimated at approximately \$1,000,000), which amount may be necessary to be advanced and loaned by the City to the Authority as explained in this report.

DISCUSSION

By the Preliminary Award Letter the City and Authority will provide to JHC (1) a preliminary award of the HOME Loan of \$2,010,561, and (2) a commitment to make the Additional Subsidy Loan of \$1,600,000, and (3) the City's acceptance of the DA Impact Fee Note of \$90,052 in lieu of Developer's payment of such impact fee at issuance of building permits, all for the proposed Project. This Preliminary Award Letter will allow JHC to apply for: (a) an allocation of 4% Tax Credits from the California Tax Credit Allocation Committee (TCAC), and (b) a bond allocation from the California Debt Limit Allocation Committee (CDLAC) in the March 2015 application cycle. After JHC receives an award of 4% Tax Credits from TCAC and a bond allocation from CDLAC, the parties will negotiate the terms of a HOME Loan and Affordable Housing Agreement (Affordable Housing Agreement) between and among the City, Authority and JHC (or a JHC-controlled entity that is a certified CHDO and developer of the Project) that more specifically describes and authorizes the terms of the loans and disbursement of the proceeds of the HOME Loan and Additional Subsidy Loan for construction and operation of the Project and the terms for the DA Impact Fee Note.

The Affordable Housing Agreement will be brought before City Council and Authority Board for consideration and action.

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Summarized below are the salient provisions of the proposed Project:

- The Project and Site are located on parcels owned by United Methodist Church (UMC) at 10882 Stanford Avenue and 12741 Main Street, Garden Grove.
- Developer has entered into a long-term ground lease with UMC, contingent upon Garden Grove providing assistance and JHC securing an award of 4% Tax Credits and a bond allocation from CDLAC for the Project.
- Based upon a layering analysis performed by City economic consultant, Keyser Marston Associates, that will be submitted to TCAC, the HOME Loan and Additional Subsidy Loan are warranted assistance to the Project totaling approximately \$3.6 million and the total cost of development is \$14.5 million:

<i>Acquisition Costs/Ground Lease</i>	<i>\$500,000</i>
<i>Direct Costs</i>	<i>\$8,917,500</i>
<i>Indirect Costs</i>	<i>\$4,275,000</i>
<i>Financing Costs</i>	<i>\$898,559</i>
<i>Total</i>	<i>\$14,591,059</i>
<i>Sources of Financing</i>	<i>\$10,980,498</i>
<i>"Gap" funded by CHDO/HOME Program Funds and LMIHAF and other Authority monies</i>	<i>\$3,610,561</i>

- The loan amounts total \$3,610,561 (\$2.01 million in City HOME Program funds (HOME Loan) and \$1.6 million in LMIHAF and other Authority funds (Additional Subsidy Loan), along with the DA Impact Fee Note.

The Additional Subsidy Loan will have the following terms:

- \$1,600,000 initial principal amount to be disbursed on the *later* to occur of the following dates: (i) December 31, 2016, or (ii) conversion after completion of construction of the Project;
- 3% simple interest per annum commencing on disbursement;
- Repayment from 50% of Residual Receipts (after payment of operating expenses, debt service, any deferred developer fee, and partnership fees to be described in the Agreement);
- Remaining principal and accrued interest due upon the 55th anniversary of the Closing or earlier upon sale, non-permitted refinancing or default; and
- Cost savings from the Project, if any, will be applied first to pay down the Additional Subsidy Loan, then the HOME Loan, subject to compliance with the TCAC Regulations; and
- Additional Subsidy Loan will have second lien position and be subordinate only to the Primary Loan for construction and permanent financing.

The HOME Loan will have the following terms:

- \$2,010,561 initial principal amount, or as much thereof as is disbursed for hard and soft costs of constructing the Project;
- Disbursement procedures for release of HOME Loan proceeds;
- 3% simple interest per annum;
- Repayment from 50% of Residual Receipts after full repayment of the Additional Subsidy Loan (and subject and after payment of operating expenses, debt service, any deferred developer fee, and partnership related fees to be described in the Agreement);
- Remaining principal and accrued interest due upon the 55th anniversary of the Closing or earlier upon sale, non-permitted refinancing or default;
- Cost savings from the Project, if any, will be applied first to pay down the Additional Subsidy Loan, subject to compliance with the TCAC Regulations; and
- HOME Loan will have third lien position and be subordinate only to the Primary Loan and the Additional Subsidy Loan.

Further, it is noted that the source of the Additional Subsidy Loan relies, in part, on future a deposit to the Authority's Low to Moderate Income Housing Asset Fund (LMIHAF) in 2016 when monies are allocated and available to the Successor Agency under the Dissolution Law, in particular Section 34191.4(b)(2)(B) as part of the repayment of borrowings made by the former Agency to pay Supplemental Educational Revenue Augmentation Fund (SERAF) obligations. The SERAF borrowings are authorized for repayment under the Dissolution Law, but will be received over a series of future years through the ROPS and RPTTF process subject to the requirements of the Dissolution Law. JHC acknowledges in the Preliminary Award Letter that approximately \$600,000 of the Additional Subsidy Loan will be sourced and committed from the LMIHAF when the initial SERAF repayment is anticipated to be paid through the ROPS process; and, the remaining amount of the Additional Subsidy Loan (approximately \$1M) is committed under the Preliminary Award Letter to be disbursed from other funds on account with the Authority, excluding federal monies. It is noted that if the Authority account does not have adequate funds to pay the Additional Subsidy Loan when disbursement is required, then it will be necessary for the City to advance and make a bridge loan to the Authority pursuant to a cooperation and funding agreement. If such bridge loan is necessary and made, then repayment by the Authority to the City will occur from funds anticipated and expected to be on account with the Authority in the several years immediately following the disbursement of the Additional Subsidy Loan.

In addition, under the Preliminary Award Letter the City authorizes the deferral and payment over time of up to \$90,052 due under Development Agreement No. DA-001-2014 and for Developer's execution of a promissory note in-lieu of full payment at Closing of the impact fee due under the Development Agreement ("DA Impact Fee Note"), which note shall be repaid from Developer's 50% share of the residual receipts.

The State's Qualified Residential Rental Project program (QRRP) facilitates state and local governmental agencies and joint powers authorities to issue tax-exempt housing revenue bonds, which bond financing assists developers of multifamily rental housing units to acquire land and construct new units or purchase and rehabilitate existing units. These are tax-exempt bonds that lower the interest rate paid by the developer; and, the developer in turn produces affordable rental housing for low- and very low-income households by reducing rental rates to qualified individuals, families and seniors. The issuing governmental entity generally does not pledge local revenues to the bonds, and the security is solely from the Project revenues. Projects that receive an award of bond authority have the right to apply for non-competitive 4% Tax Credits; this is the bond allocation that JHC will apply to CDLAC for the Project. The bonds may be issued by the local jurisdiction, here the Authority, or by a joint powers authority that pools issuance of these housing bonds; and, if the issuer is the Authority, there will be no financial liability to the City or Authority for repayment of the bonds. The issuing entity for the bonds for this Project will be decided at a later date by the City and Authority and further described in the Affordable Housing Agreement.

Once the Project is completed, the residential unit and affordability mix will include:

- (a) 15 units at affordable rent for households at or below 50% of Orange County area median income (AMI); and
- (b) 31 units at affordable rent for households at less than 60% AMI (i.e., at or below 59% AMI), all in an objective to meet income-targeting obligations under the Dissolution Law, Section 34176.1.

There will be one (1) on-site property manager's unit that is not rent-restricted, and 18 one-bedroom units, 14 two-2-bedroom units and 15 three-bedroom units. Further, 11 of the 46 affordable units will be designated as "HOME" units in compliance with the HOME Program and Final Rule for a period of 20 years.

The Project will be restricted by a regulatory agreement with an affordability and covenant term of not less than 55 years with conditions, covenants and restrictions limiting restricting the Developer's and successors' use, ownership, operation, management, maintenance, transfer and financing of the Project, which regulatory agreement will be recorded against the Site in the Official Records, County of Orange, California.

RECOMMENDATION

Staff recommends that the City Council and Authority Board take the following three (3) actions:

- Approve and authorize the Interim City Manager/Interim Authority Director to sign and provide to JHC the Preliminary Award Letter outlining the terms and conditions of the City's and Authority's provision of financial and other assistance to the JHC Developer entity for the Project; and

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- Authorize the Interim City Manager/Interim Authority Director to prepare a cooperation and funding agreement between the City and Authority for transfer of the HOME Program funds for the HOME Loan, and, if necessary, to include in that cooperation agreement the advance of monies by the City to Authority to make the bridge loan for the Additional Subsidy Loan; and
- Authorize the Interim City Manager/Interim Authority Director to execute the cooperation and funding agreement on behalf of the City and the Authority.



SUSAN EMERY
Assistant City Manager



By: Allison Mills
Neighborhood Improvement Manager

Attachment: Preliminary Award of Funding Letter

Recommended for Approval



Allan L. Roeder
Interim City Manager

[on City of GG and GG Housing At

March 10, 2015

Laura Archuleta
Jamboree Housing Corporation
17471 Cowan Ave, Suite 200
Irvine, CA 92614

SUBJECT: Preliminary Award of Funding by the City of Garden Grove and the Garden Grove Housing Authority of a HOME Loan Sourced from HOME Program Funds and an Additional Subsidy Loan Sourced from LMIHAF and Other Authority Non-Federal Funds for the Proposed 47-Unit Garden Grove UMC Apartments Affordable Housing Project in Garden Grove, California

Dear Ms. Archuleta:

Jamboree Housing Corporation, a California nonprofit 501(c)(3) housing development corporation, ("JHC" or "Developer") has received a Land Use Entitlement (defined below) and submitted a financial subsidy application to the City of Garden Grove, a California municipal corporation ("City"), and the Garden Grove Housing Authority("Authority")¹, a public body corporate and politic organized and existing pursuant to the California Housing Authorities Law, Health and Safety Code Section 34200, *et seq.* ("HAL") and the housing successor pursuant to Health and Safety Code Sections 34176 and 34176.1² relating to the proposed new construction of an mixed-use affordable housing project on two parcels located on the west side of Main Street, north of Acacia Parkway, south of Stanford Avenue, at 12741 Main Street and 10882 Stanford Avenue, Garden Grove, California (Assessor's Parcel Nos. 089-202-54 and 089-202-28) ("Site").

The Site includes a 0.51-acre vacant lot and a 4.7-acre parcel currently improved with the Garden Grove United Methodist Church and associated facilities. The proposed "Project" will be a 47-unit mixed use affordable housing complex with commercial retail space in two, 3-story buildings, and a 3,485 square foot 1-story pre-school building. Building A will consist of 31 apartments with one- two-, and three-bedroom units that range in size from 755 square feet to 1,211 square feet. Building A also includes: 917 square foot club house with an adjoining 600 square foot courtyard; 917 square foot exercise room; 2,975 square foot retail commercial tenant space (initial use as leasing office for the Project); 4,765 square foot roof terrace; and an enclosed ground-level parking garage. Building B will consist of 16 apartments with one- and two-bedroom units that range in size from 752 square feet and 1,065 square feet. Building B also includes: 647 square foot club house, 647 square foot fitness room, 1,623 square foot roof top terrace, and ten (10) enclosed single-car garages. A single-story, 3,485 square foot building will be constructed to replace the existing Head Start preschool program building at the Site.

The "Land Use Entitlement" for the Project was approved by City, including: Site Plan No. SP 014-2014, Variance No. V-008-2014, Lot Line Adjustment No. LLA 006 2014,

¹ In this letter, the City and Housing Authority are referred to together as "Garden Grove".

² Statutory references to California state law in this letter are to the Health and Safety Code unless otherwise stated.

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and Development Agreement No. DA-001-2014 adopted by Garden Grove Ordinance No. 2853 ("Development Agreement"), with all construction subject to the development standards of the City's Civic Center-Core (CC-3) zone; further, the Project was granted three waivers from the CC-3 zone development standards: (1) to reconfigure the active recreation area by deviating from the required minimum 20-foot width dimension; (2) to allow 14 of the residential units to have a private patio area of less than 90 square feet; and (3) to allow the Project to deviate from the required 0.50 commercial Floor Area Ratio (FAR) by providing a 0.21 FAR for the commercial/retail component.

In connection with the Project implementation, JHC has requested that Garden Grove provide its developer entity two loans and a development agreement impact fee deferral with promissory note (respectively, HOME Loan, Additional Subsidy Loan, and DA Impact Fee Note), including:

1. \$2,010,561 in HOME Program funds ("HOME Loan") to be sourced from moneys received by the City as a participating jurisdiction ("PJ") under the federal HOME Investment Partnerships Act and the HOME Investment Partnerships Program, in accordance with Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12471 12839) and the HOME Program regulations codified at 24 CFR Part 92, as amended by the "2013 HOME Final Rule" at 24 CFR Part 92 <http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title24/24cfr92main02.tpl> (the "Complete Rule" and together, the "HOME Program"). The HOME Loan will be a residual receipts loan in third lien position and subordinate to the Developer's Primary Loan (as herein defined) and the Additional Subsidy Loan (described below).
2. \$1,600,000 ("Additional Subsidy Loan") to be disbursed by the Authority to Developer on or before December 31, 2016, which loan proceeds are hereby committed and will be sourced from:
 - a. Authority's Low to Moderate Income Housing Asset Fund ("LMIHAF") when monies are allocated and available to the Authority through the Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") pursuant to Division 24, Part 1.85 of the Health and Safety Code ("Dissolution Law"), in particular Section 34191.4(b)(2)(B) as part of the repayment of funds borrowed from the former Low to Moderate Income Housing Fund by the now dissolved Garden Grove Agency for Community Development ("Former Agency"), which borrowing occurred to pay the Former Agency's obligation to make Supplemental Educational Revenue Augmentation Fund ("SERAF") payments. The SERAF repayments are authorized by the Dissolution Law and are to be repaid over a series of years through the Recognized Obligation Payment Schedule ("ROPS") and Redevelopment Property Tax Trust Fund ("RPTTF") process subject to the requirements of the Dissolution Law. Developer acknowledges and agrees that this source of funding from the LMIHAF will be available only when SERAF repayments are received by the Successor Agency and transferred to and deposited

with the Authority subject and pursuant to the Dissolution Law. Developer acknowledges that it has received and reviewed a preliminary estimate of timing and amounts of SERAF repayments to the Successor Agency prepared by an independent property tax consultant to Garden Grove that project approximately \$600,000 to be received between July 1 to December 31, 2016 applicable to the 2016-2017 fiscal year; and

- b. The balance of non-SERAF repayment funds (estimated at about \$1,000,000) will be paid from the Authority's general funds on account; provided however, none of such additional funding shall include any monies sourced from federal programs or projects, such as CDBG, federal program income, etc., because the HOME Program for the HOME Loan will be directed to eleven (11) of the 47-units in the Project and will remain the sole federal funds made by this preliminary award for the Project.

The Additional Subsidy Loan shall not be disbursed by the Authority to Developer prior to the *later* to occur of the following dates: (i) December 31, 2016, or (ii) conversion after completion of construction of the Project. The Additional Subsidy Loan, when made and loan proceeds disbursed, will be a residual receipts loan in second lien position and subordinate only to the Primary Loan.

3. \$90,052 for the City's deferral and Developer's execution of a promissory note in-lieu of full payment at issuance of building permits of the impact fee due under the Development Agreement ("DA Impact Fee Note"), which note shall be repaid from Developer's 50% share of the residual receipts.

Jointly, the City Council and Authority Board have reviewed JHC's requests for the (i) HOME Loan, (ii) Additional Subsidy Loan, and (iii) DA Impact Fee Note, and on March 10, 2015 at a duly noticed joint public meeting of the City Council and Authority, Garden Grove authorized and approved issuance of this preliminary award as to the federal funds and letter of commitment as to the non-federal funds (together, "Letter") to evidence the preliminary award of the HOME Loan and the commitment of the Additional Subsidy Loan to the Developer and to authorize the DA Impact Fee Note for the Project.

As to the HOME Loan, Garden Grove intends to make a preliminary award to Developer pursuant to 24 CFR 92.504(c)(3) of the HOME Program, and commits to make the Additional Subsidy Loan and authorize the DA Impact Fee Note in lieu of full payment of the impact fee due under the Development Agreement, all subject and pursuant to the Dissolution Law, the HAL, and other applicable federal, state and local laws and regulations. Together, the HOME Loan, the Additional Subsidy Loan, and the DA Impact Fee Note are referred to herein as the "Garden Grove Assistance". Garden Grove has made JHC aware of the 2013 HOME Final Rule, specifically including the amendments to the definition of "commitment" in 24 CFR 92.2 that prohibits the City as a PJ from providing a commitment (as the term is defined therein) of HOME Program funds to any specific local project until "the [City] and project owner [Developer] have executed a written legally binding agreement under which HOME assistance will be provided to the

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owner for an identifiable project *for which all necessary financing has been secured*, a budget and schedule have been established, and underwriting has been completed and under which construction is scheduled to start within twelve months of the agreement date." (Italics added.) Notwithstanding the definition of "commitment" in 24 CFR 92.2 as amended by the 2013 HOME Final Rule, 24 CFR 92.504(c)(3) authorizes the City to *"preliminarily award HOME funds for a proposed project, contingent on conditions such as obtaining other financing for the project"* [italics added]; however, this section goes on to clearly confirm that "[t]his preliminary award is not a commitment to a project. The written agreement committing the HOME funds to the Project must meet the requirements of 'commitment to a specific local project' in the definition of 'commitment' in §24 CFR 92.2".

Thus, while as to the HOME Loan this Letter is not a "commitment" of the HOME Program federal funds as defined under the HOME Program, Garden Grove intends that this Letter evidence the City's and Authority's *preliminary award* of the HOME Loan and commitment to provide the Additional Subsidy Loan and the DA Impact Fee Note to the Developer for the Project, expressly subject to the conditions set forth in this Letter.

Further, Garden Grove states its objective for the Developer to satisfy the provisions of the California Tax Credit Allocation Committee Regulations Implementing the Federal and State Low Income Housing Tax Credit Laws, California Code of Regulations, Title 4, Division 17, Chapter 1, Section 10300, *et seq.* ("TCAC Regulations"), in particular Section 10325, albeit there is no intention to violate HOME Program requirements, in particular 24 CFR 92.2. If the Developer receives an award of Tax Credits, then Developer and Garden Grove will negotiate and enter into a HOME Loan and Affordable Housing Agreement ("Agreement") in implementation of the award of Tax Credits and the Garden Grove Assistance. Developer plans to make application to TCAC for 4% Tax Credits and to the California Debt Limit Allocation Committee ("CDLAC") for a bond allocation in the March 2015 application cycle. The issuing entity for the bonds (either the Authority or a joint powers authority such as California Municipal Financing Authority (CMFA)) will be determined and elected by Garden Grove at a later date and will be described further in the Agreement.

The amounts of the HOME Loan and Additional Subsidy Loan for the Project, and the authorization of the DA Impact Fee Note, have been determined and this Letter is provided, in material reliance, and based on Garden Grove's review of the Developer's application for the HOME Loan, Additional Subsidy Loan, and DA Impact Fee Note and its development proforma and projected cash flows for the Project submitted by JHC to Garden Grove as of February 20, 2015 ("Proforma").

The Additional Subsidy Loan will have the following terms:

- \$1,600,000 initial principal amount to be disbursed on the *later* to occur of the following dates: (i) December 31, 2016, or (ii) conversion after completion of construction of the Project;
- 3% simple interest per annum commencing on disbursement;

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- Second lien position subordinate only to the Primary Loan;
- Repayment from 50% of Residual Receipts (after payment of operating expenses, debt service, any deferred developer fee, and partnership fees to be described in the Agreement);
- Remaining principal and accrued interest due upon the 55th anniversary of the Closing or earlier upon sale, non-permitted refinancing, or default; and
- Cost savings from the Project, if any, will be applied first to pay down the Additional Subsidy Loan and then the HOME Loan, subject to compliance with the TCAC Regulations.

The HOME Loan will have the following terms:

- \$2,010,561 initial principal amount, or as much thereof as is disbursed for hard and soft costs of constructing the Project;
- Disbursement procedures for release of HOME Loan proceeds;
- 3% simple interest per annum;
- Third lien position subordinate only to the Primary Loan and the Additional Subsidy Loan;
- Repayment from 50% of Residual Receipts after full repayment of the Additional Subsidy Loan (and subject to and after payment of operating expenses, debt service, any deferred developer fee, and partnership related fees to be described in the Agreement);
- Remaining principal and accrued interest due upon the 55th anniversary of the Closing or earlier upon sale, non-permitted refinancing or default.
- Cost savings from the Project, if any, will be applied first to pay down the Additional Subsidy Loan and then the HOME Loan, subject to compliance with the TCAC Regulations.

The DA Impact Fee Note is a promissory note to be executed and delivered by Developer to the City in lieu of full payment at Closing of the impact fee due from Developer to the City under the Development Agreement; paragraph 11 thereof authorizes payment over time. The DA Impact Fee Note will have the following terms:

- \$90,052 initial principal amount due under the Development Agreement;
- 3% simple interest per annum;
- Payment over time by Developer's sourced from Developer's 50% share of Residual Receipts; and
- Remaining principal and accrued interest due upon the 55th anniversary of the Closing or earlier upon sale, non-permitted refinancing or default.

Garden Grove's obligations to provide the HOME Loan, and the Additional Subsidy Loan, and authorize the DA Impact Fee Note for the Project are subject to each and all of the following conditions:

1. Approval by the City Council and Governing Board of the Garden Grove Housing Authority of the HOME Loan and Affordable Housing Agreement by and between Garden Grove and Developer that more specifically describes and authorizes the terms of and disbursement of proceeds for the HOME Loan and Additional

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Subsidy Loan to the Developer for construction and operation of the Project, in particular the 46 affordable housing units.

2. The JHC entity that is the “developer” party under the Agreement with Garden Grove shall be certified by the City as a qualified Community Housing Development Organization (“CHDO”) for development and sponsorship of the Project in compliance with the HOME Program and Final Rule, and a certified CHDO entity shall develop, own and operate the Project for the 20-year term required by the HOME Program.
3. The unit and affordability mix of the Project shall be not less than the following: (a) one (1) on-site property manager’s unit that will not be rent-restricted, (b) 18 one-bedroom units, (c) 14 two-2-bedroom units, and (d) 15 three-bedroom units, with not less than the following affordability mix: (i) fifteen (15) housing units at affordable rent as defined by Sections 50052.5 and 50053 to qualified households with annual gross income of at or below 50% of Orange County area median income (“AMI”), and (ii) thirty-one (31) housing units at affordable rent as defined by Sections 50052.5 and 50053 to qualified households with annual gross income of less than 60% AMI (i.e., at or below 59% AMI). Eleven (11) of the 46 housing units shall be covenanted as designated HOME Program units with affordable rent charged to the tenant household at not less than the low HOME rent under the HOME Program. Further, all housing units at the Project shall be restricted as set forth herein and in the Agreement for a minimum of 55 years pursuant to a regulatory agreement with conditions, covenants and restrictions restricting the Developer’s and successors’ use, ownership, operation, management, maintenance, transfer and financing of the Project, and such 55-year regulatory agreement shall be recorded against the Project and Site in the Official Records, County of Orange, California.
4. Execution of the Agreement shall be in a form to be reviewed and approved by Garden Grove’s City Attorney or special counsel.
5. The City’s HOME Program funds for the HOME Loan will be transferred to the Authority pursuant to a cooperation agreement to be considered and action taken by and between the City and Authority pursuant to the HOME Program.
6. The Successor Agency’s repayment monies from SERAF, when received through the ROPS and RPTTF process during 2016, will be transferred by the Successor Agency to the Authority and deposited immediately into the LMIHAF all pursuant to the Dissolution Law and applicable provisions of the HAL and be disbursed pursuant to the Agreement. Other necessary non-federal funds in the Authority’s account(s) will be earmarked for the Additional Subsidy Loan.
7. Compliance with the HOME Program and applicable federal regulations set forth in 24 CFR Part 92 (as amended by the 2013 HOME Final Rule) and 24 CFR Part 983; and compliance with the HAL and Dissolution Law and other applicable federal, state and local laws and regulations.

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8. Compliance with and completion of environmental review of the Project pursuant to all applicable federal and state laws and regulations, including the California Environmental Quality Act ("CEQA") and the National Environmental Protection Act ("NEPA") and approval thereof (the NEPA clearance for the Project is currently under review by U.S. Department of Housing and Urban Development ("HUD").)
9. Receipt of Subsidy Layering Review approval from the Tax Credit Allocation Committee ("TCAC"). (Pursuant to July 2010 HUD Notice, TCAC may, and is now, performing Subsidy Layering Review for and on behalf of HUD.)
10. For the 20-year term required by the HOME Program, all Housing Units at the Project must pass HOME Program construction, occupancy, and physical condition requirements as well as federal Housing Quality Standards annual inspections, (and other standards, as applicable) at the completion of construction and thereafter, as required by HOME Program regulations as amended by the 2013 HOME Final Rule, and meet federal program limitations and other applicable federal, state and local laws and regulations as to be set forth in the Agreement.
11. The Agreement shall provide that each of the following conditions precedent shall be met prior to the disbursement of any portion of the HOME Loan:
 - a. All grading permits shall have been issued and the City shall have issued a letter stating that building permits are ready to issue, subject only to the execution and delivery by Developer of the DA Impact Fee Note and the completion of grading of the Project Site.
 - b. Developer shall have secured all necessary institutional financing and funding for the construction and operation of the Project. Such financing and funding shall be sufficient to pay all Project development costs, through lease-up, as set forth in a final budget (to be defined in the Agreement) and consistent with the approved Proforma (or as otherwise approved by Garden Grove).
 - c. Developer shall have provided evidence to Garden Grove that Developer has obtained insurance policies and certificates or endorsements therefor acceptable to Garden Grove, as described in the Agreement.
 - d. Developer shall have provided construction security in favor of Garden Grove, which may include a completion guarantee from Jamboree Housing Corporation, and/or a letter of credit, and/or payment and performance bonds from the general contractor and subcontractors for the Project (or some combination of any or all these), in an amount sufficient to ensure the Project will be completed, all invoices paid, and all workers paid in conformity with applicable federal and state labor laws, and otherwise in compliance with applicable federal and state laws, and

placed in service within the time set forth in the Project schedule approved by Garden Grove.

- e. Developer shall submit and obtain Authority approval of (i) the construction contract with its general contractor and the subcontracts therefor, (ii) the limited partnership agreement for the limited partnership entity to be formed to own and operate the Project, (iii) management, scope and funding for all required supportive services, and (iv) the marketing and tenant selection plans for the Project.

12. The Agreement shall provide that each of the following conditions precedent shall be met prior to the disbursement of any portion of the Additional Subsidy Loan:

- a. The Project shall have been issued the final certificate of occupancy for by the City's building official.
- b. Developer shall have secured all necessary institutional permanent financing and funding for the Project. Such financing and funding shall be consistent with the approved Proforma (or as otherwise approved by Garden Grove).
- c. The Project is ready for conversion pursuant the TCAC regulations.
- d. Developer shall have maintained and have on file with Garden Grove up-to-date insurance policies and certificates or endorsements therefor acceptable to Garden Grove, as described in the Agreement.

13. Developer shall submit and obtain Authority approval of (i) the construction contract with its general contractor and the subcontracts therefor, (ii) the limited partnership agreement for the limited partnership entity to be formed to own and operate the Project, (iii) management, scope and funding for all required supportive services (in particular for seniors and preschoolers), and (iv) the marketing and tenant selection plans for the Project.

14. Garden Grove's preliminary award of the HOME Loan and commitment to provide the Additional Subsidy Loan and accept the DA Impact Fee Note are and shall remain subject to all covenants, conditions, and restrictions set forth in the Agreement, and in particular Garden Grove's analysis of all the available funding sources and development and operating costs of the Project and the overall economic feasibility of the Project, including without limitation all funding sources and terms therefor including the supportable debt (construction and permanent financing), market value of Tax Credits and tax credit investor equity, Deferred Developer Fee, if any, and other subordinate debt, if any.

In addition to the foregoing, notwithstanding any statement set forth in this Letter or provisions of the Agreement, when negotiated between or among the parties, Developer, City and Authority agree and acknowledge that the Agreement will not constitute a commitment of federal funds, and that such commitment of funds may occur only upon

Laura Archuleta
Jamboree Housing Corporation

March 10, 2015

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satisfactory completion of environmental review and receipt by Authority and/or City, as applicable, of a release of funds from and by HUD under 24 CFR Part 58. Developer and Garden Grove will further agree in the Agreement that the provision of any federal funds to the Project is and shall be conditioned on Garden Grove's determination to proceed with, modify or cancel the Garden Grove Assistance based on the results of a subsequent NEPA environmental review and the outcome of the Subsidy Layering Review.

Developer and Garden Grove are further prohibited from undertaking or committing any federal funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance; Developer and Garden Grove understand that the violation of this provision may result in the denial of any federal funds under the Agreement.

Should you have any questions or require additional information, please contact Allison Mills, Neighborhood Improvement Manager, at (714) 741-5139 or by email at allisonj@ci.garden-grove.ca.us.

Sincerely,

City of Garden Grove and Garden Grove Housing Authority
By: Allan L. Roeder, Interim City Manager and Interim Authority Director

cc: Susan Emery, Community Development Director/Assistant City Manager
Kingsley Okereke, Finance Director/Assistant City Manager