

feasibility of the project. The due diligence includes property valuation and financial analyses, environmental testing, construction estimates, site work estimates and relocation estimates.

Staff is proposing Council approve a Predevelopment Loan Agreement, which will extend HOME funding to the CHDO for eligible predevelopment expenses. Permitted costs include consulting fees, costs of preliminary financial applications, legal fees, architectural and engineering fees, engagement of a development team, option to acquire property, site control and title clearance. When Jamboree Housing Corporation has successfully obtained site control, an Affordable Housing Agreement will be presented to Council for consideration. The City's predevelopment loan will be incorporated into the Affordable Housing Agreement.

ANALYSIS/FISCAL IMPACT

The Predevelopment Loan Agreement will fund the cost of due diligence, which is critical in determining the total cost of development and the amount of warranted governmental assistance.

The terms of the attached CHDO Predevelopment Loan Agreement include:

- Eligible predevelopment expenses include costs for technical assistance and site control. Examples of allowable costs include consulting fees, costs of preliminary financial applications, legal fees, architectural and engineering fees, engagement of a development team, option to acquire property, site control and title clearance.
- Specific eligible predevelopment expenses and the amount budgeted for each item are set forth in the Predevelopment Budget (Exhibit "C" of the Predevelopment Loan Agreement).
- The Schedule of Performance describes milestones for performance, culminating in an Affordable Housing Agreement (Exhibit "D" of the Predevelopment Loan Agreement).

The City and Jamboree Housing Corporation agree to the following repayment terms:

- The City may waive repayment if it determines that there are impediments to the project proceedings that are reasonably beyond the control of the CHDO or that project development is infeasible. In this instance, the City absorbs all costs.
- If/when the City and CHDO enter into an Affordable Housing Agreement for the Project, the Predevelopment Loan costs will be incorporated into the City's permanent loan on the property.

- The Predevelopment Loan shall be repaid, should the developer commit a material default and fails to enter into an affordable Housing Agreement. The CHDO is obligated to repay all funds expended under the Predevelopment Loan Agreement, even though the project does not proceed.

COMMUNITY VISION

Entering into the Predevelopment Loan Agreement with Jamboree Housing Corporation will further the strategic plan goal for the preservation and enhancement of neighborhoods.

RECOMMENDATION

Staff recommends that the City Council:

- Approve the attached CHDO Predevelopment Loan Agreement for \$170,000 between the City and Jamboree Housing
- Authorize the City Manager and City Clerk to execute the Agreement and all other documents necessary to implement the agreement.


SUSAN EMERY
Community Development Director


By: Allison Mills
Senior Project Manager

Recommended for Approval


Matthew Fertal
City Manager

Attachment 1: CHDO Predevelopment Loan Agreement

**COMMUNITY HOUSING DEVELOPMENT ORGANIZATION
PREDEVELOPMENT LOAN AGREEMENT**

This COMMUNITY HOUSING DEVELOPMENT ORGANIZATION PREDEVELOPMENT LOAN AGREEMENT (Agreement) is entered into by and between the CITY OF GARDEN GROVE, a public body, corporate and politic ("City"), and the JAMBOREE HOUSING CORPORATION (Participant), a California nonprofit public benefit corporation ("Participant"), to be effective as of August 26, 2008.

RECITALS

A. The City of Garden Grove ("City") has received HOME Investment Partnerships Program (HOME) funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. §12701, *et seq*), and the implementing regulations (24 CFR § 92, *et seq*) (collectively "HOME Requirements"). The HOME Requirements require the City to reserve not less than fifteen percent (15%) of its allocation of HOME funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations (CHDOs) (24 CFR § 92.300). The City has reserved One Million and Seven Hundred Nineteen Thousand Seven Hundred Eleven Dollars (\$1,719,711) in HOME set-aside funds for distribution to a CHDO. The HOME Requirements allow the City to commit up to ten percent (10%) of the total amount of HOME funds reserved by the City for a CHDO to provide a project-specific predevelopment and site control loan in the early stages of site development for an eligible project [24 CFR. § 92.301 (a)].

B. The Participant is a nonprofit housing development organization that has among its purposes the provision of decent housing that is affordable to low- and moderate-income people, as more fully described in the Participant's Articles of Incorporation.

C. The Participant has proposed to acquire, rehabilitate and manage an affordable housing project for the Site (the "Project").

D. The City Council has authorized the Contract Officer to oversee and implement the loan of HOME CHDO funds to Participant.

E. The City Loan of HOME CHDO funds ("City Loan") is to be used by the Participant for expenses related to the Participant's housing activities, more particularly described herein as the "Eligible Predevelopment Expenses."

F. The City's provision of the City Loan to the Participant pursuant to this Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of the City and the welfare of its residents, and in accordance with the purpose and provisions of the HOME Program.

AGREEMENT

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, the City and Participant hereby agree as follows:

1. DEFINITIONS

The following terms as used in this Agreement shall have the meanings given below unless expressly provided to the contrary:

“Agreement” shall mean this Community Housing Development Organization Predevelopment Loan Agreement between the City and the Participant, including all exhibits and other documents attached hereto. The Agreement constitutes the written agreement required under 24 CFR § 92.504 (b) and 92.504(c) (3) to be entered into by the City as a recipient of HOME Funds and a nonprofit Participant.

“CHDO” shall mean a private nonprofit organization that meets the requirements of the HOME Investment Partnerships Program under 24 CFR § 92.2.

“City” shall mean the City of Garden Grove, a public body, corporate and politic, organized under the laws of the State of California and having its offices at 11222 Acacia Parkway, Garden Grove, California 92840.

“City Loan” shall mean the loan of HOME Funds referred to in Recital E of this Agreement to be provided by the City to the Participant for the Eligible Predevelopment Expenses, as more fully explained in Section 3 of this Agreement.

“City Loan Documents” shall mean this Agreement, the Promissory Note, and any other documents and instruments required to be executed and delivered by Participant.

“Contract Officer” shall mean the Director of Community Development or such other person as may be designated by the Director of Community Development.

“Eligible Predevelopment Expenses” shall mean the expenses for which the City Loan may be used for technical assistance and site control. Eligible Predevelopment Expenses constitute allowable costs for a CHDO to determine project feasibility for the Site and exclude general operational expenses of the CHDO pursuant to 24 CFR § 92.301 (a) (2). Eligible Predevelopment Expenses shall include consulting fees, costs of preliminary financial applications, legal fees, architectural and engineering fees, engagement of a development team, option to acquire property, site control and title clearance. The line item categories of Eligible Predevelopment Expenses and the amount budgeted for each item are set forth in the Predevelopment Budget attached hereto as Exhibit “C”.

“HOME Funds” shall mean the funds allocated annually to the City by HUD under the HOME Investment Partnerships Program (42 U.S.C. §12701, *et seq*) and may include more than one year of allocations.

“HOME Requirements” shall mean the requirements of the HOME Investment Partnerships Program (42 U.S.C. §12701, *et seq*) and the HOME Regulations (24 CFR § 92 *et seq*).

“Performance Schedule” shall mean that certain Performance Schedule attached hereto as Exhibit “D” and incorporated herein by reference, setting out the dates and/or time periods by which certain obligations and tasks must be performed and completed.

“Participant” shall have the meaning set forth in the preamble to this Agreement. Participant is a CHDO under the HOME Investment Partnership Program.

“Promissory Note” means the promissory note to be executed by Participant regarding repayment of the City Loan, in the form attached hereto as Exhibit “A” and incorporated herein by this reference.

“Participant Representative” shall mean Laura Archuleta, President of the Jamboree Housing Corporation or Mary Jo Goelzer, Chief Operating Officer, who are designated by the Participant to represent the Participant in the administration of this Agreement.

“Predevelopment Activities” shall mean HOME eligible tasks, activities and operations set forth in the Performance Schedule, all activities assisted with the City Loan, and all other obligations under this Agreement that the Participant is required to perform.

“Predevelopment Budget” shall mean that certain Predevelopment Budget attached hereto as Exhibit “C”, setting out the line item categories of Eligible Predevelopment Expenses and the amount of City Loan proceeds allocated to each category.

“Project” shall mean the residential use project generally described in Recital C.

“Site” shall mean the property commonly known as the Grove Park Project. At 12612-12682 Keel Avenue, 12661-12612 Morningside Avenue. The site is depicted on the Site map attached hereto as Exhibit “B”.

2. **TERM AND TERMINATION**

2.1 **Term.** This Agreement shall be deemed effective and the term shall be deemed to have commenced on the date set forth in the preamble to this Agreement and, unless terminated earlier pursuant to Section 2.2, shall continue thereafter until an Affordable Housing Agreement is executed, or no later than December 31, 2008. Thereafter, the

Contract Officer is authorized, in his or her sole discretion, to renew the Agreement for an additional period not to exceed 180 days, upon the written request of the Participant Representative. Notwithstanding the expiration or earlier termination of this Agreement, the Participant's obligations to the City shall not terminate until all HOME/CHDO closeout requirements are completed. In addition, the following obligations of the Participant shall survive the termination of this Agreement: (a) the Participant's indemnity obligations; (b) the obligation to cause audits to be performed relating to the Participant's activities and costs under this Agreement; (c) the obligation to repay to the City any proceeds improperly disbursed to the Participant or disbursed or used for ineligible expenditures as determined by the City or HUD and which have not been previously been repaid to the City; and (d) any other obligations which cannot by their nature be performed until after the expiration of the Agreement.

2.2 Termination.

2.2.1 **Termination for Cause.** This Agreement may be terminated by the City for cause as follows:

(a) **Lack of Funding.** If, for any reason, the HOME Funds required by the City to fund the Eligible Predevelopment Expenses are not received by the City or are withdrawn from the City, the City may terminate this Agreement. Alternatively, if a reduction in funding is required, the City may unilaterally reduce the amount of the City Loan. In that event, the City will provide the Participant with a modified Predevelopment Budget.

(b) **Failure to Comply with Agreement.** If the Participant fails to comply with the terms and conditions of this Agreement and fails to cure the default after notice from the City as set forth in Section 7.1 of this Agreement, the City may terminate this Agreement.

2.2.2 **Termination for Convenience.** This Agreement may be terminated for convenience as provided in 24 CFR § 85.44.

3. CITY LOAN

3.1 **General.** Subject to the terms and conditions set forth herein and provided the Participant is not in default of this Agreement, the City shall provide the City Loan to the Participant in an amount not to exceed One Hundred Seventy Thousand Dollars (\$170,000). The proceeds of the City Loan shall be applied towards the costs of the Eligible Predevelopment Expenses as set forth in the Predevelopment Budget attached herewith as Exhibit "C" and incorporated herein by reference. The Predevelopment Budget may be amended, upon the mutual agreement of the parties. The Contract Officer is hereby authorized to approve or deny any request by Participant to amend the Predevelopment Budget, which approval will not be unreasonably withheld.

3.1.1 Repayment of City Loan. The Participant's obligation to repay the City Loan shall be set forth in the Promissory Note. Repayment of the City Loan shall be deferred until one of the following conditions occurs:

(a) **Development of the Site is Infeasible.** The Contract Officer will waive repayment if the Borrower provides evidence reasonably satisfactory to the Contract Officer that there are impediments to the Project that are reasonably beyond the control of the Participant or Site development is infeasible pursuant to 24 CFR § 92.301 (a) (3).

(b) **Default.** There is a default of Participant's obligations under this Agreement, and Participant fails to cure the default within the time periods provided in Section 7.1.

(c) **City Loan Repayment Incorporated into Development Financing.** The City Loan shall be incorporated into any additional City assistance necessary to develop the Site as set forth in an Affordable Housing Agreement to be entered into between City and Participant.

3.2 Permissible Use of City Loan: Eligible Project Expenses. Subject to all of the terms and conditions of this Agreement, the Participant shall be permitted to use the City Loan proceeds only for the Eligible Predevelopment Expenses described in the Predevelopment Budget that are actually and reasonably incurred by the Participant during the term of this Agreement and approved by the Contract Officer, which approval will not unreasonably withheld, and for no other purpose. Eligible Predevelopment Expenses constitute allowable costs for a CHDO to determine project feasibility for the Site and exclude general operational expenses of the CHDO pursuant to 24 CFR § 92.301 (a) (2). Eligible Predevelopment Expenses shall include consulting fees, costs of preliminary financial applications, legal fees, architectural and engineering fees, engagement of a development team, option to acquire property, site control and title clearance.

3.2.1 Selection of Consultants. The Participant shall provide the Contract Office with a copy of the Participant's procurement procedures. Procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

3.3 Disbursement of City Loan.

3.3.1 Reimbursement Payment Method. Provided that the Participant is not in default of this Agreement, the City Loan shall be disbursed by the City to the Participant on a reimbursement basis, as Eligible Project Expenses are incurred by the Participant, as set forth in this Section 3.3. The City Loan proceeds shall be disbursed to the Participant in the form of a reimbursement payment for Eligible Project Expenses incurred by the Participant and the Participant shall not be entitled to advance

disbursements of City Loan proceeds for Eligible Predevelopment Expenses not yet incurred.

3.3.2 Submittal of Payment Request. No later than the fifteenth (15th) day of each Month, the Participant shall submit to the Contract Officer a request for payment of the City Loan proceeds to reimburse the Participant for Eligible Predevelopment Expenses incurred by the Participant for the previous month. The payment request shall itemize the Eligible Predevelopment Expenses by listing each budget line item category from the Predevelopment Budget and including the following information for each category: (a) a description and the amount of each Eligible Expense included within that category for which reimbursement is sought; (b) the total amount budgeted in the Predevelopment Budget to the budget line item category; and (c) the total amount reimbursed to the Participant for the budget line item category to date.

3.3.3 City's Review of Payment Request and Disbursement of Funds. The Contract Officer shall have the authority on behalf of the City to calculate and approve the amount of Participant's Eligible Predevelopment Expenses. To the extent the City has received sufficient HOME Funds from the HUD, payment of the City Loan amount determined by the City to be owing to the Participant pursuant to this Agreement for each Month during the term of this Agreement shall be made by the City within thirty (30) days after the Participant's submission of its completed payment request. If the City disapproves a payment request, the City shall notify the Participant in writing of the reasons for disapproval within fifteen (15) days of receipt of the Participant's payment request.

3.3.4 Conditions Precedent to Disbursement of City Loan. The City Loan shall be disbursed to or on behalf of the Participant upon the satisfaction of the following conditions:

(a) **Execution and Delivery of Documents.** Participant shall have executed and delivered to the City the Promissory Note in the form attached hereto as Exhibit "A" and incorporated herein by reference, and any other documents and instruments required to be executed and delivered by Participant (collectively, the "Loan Documents").

(b) **Continuing Qualification as a Community Housing Development Organization.** The Participant shall provide the City with all documents required to recertify the Participant in accordance with the minimum eligibility criteria set forth under the HOME Requirements at 24 CFR 92.2.

(c) **Payment Request.** The Participant shall have provided a complete payment request in accordance with Section 3.3.2.

(d) **Insurance.** The Participant shall have presented a certificate to the City of the insurance policies, which are required pursuant to Section 6.1 hereof and shall have in full force and affect such policies.

(e) **No Default.** There shall exist no condition, event or act which would constitute an Event of Default (as hereinafter defined) hereunder or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(f) **Representations and Warranties.** All representations and warranties of Participant herein contained shall be true and correct.

3.4 **Return of City Loan Proceeds.** If it is determined, as a result of an audit or otherwise, that any of the disbursements of the City Loan proceeds were improper or made for expenditures not eligible for reimbursement, the Participant shall immediately repay to the City the amounts of such disbursements.

3.5 **Excess City Loan Proceeds.** If the amount of Eligible Predevelopment Expenses incurred by the Participant during the term of this Agreement is less than the City Loan, the excess City Loan proceeds shall revert to the City and shall not be encumbered by this Agreement. In addition, the City Loan funds for Eligible Predevelopment Expenses for which Participant has not submitted a complete payment request to the City within fifteen (15) days following the termination of this Agreement shall revert to the City and be allocated for other activities.

4. **PERFORMANCE OF PREDEVELOPMENT ACTIVITIES**

4.1 **Predevelopment Activities.** The Participant shall perform and complete all Predevelopment Activities diligently and in a timely manner. If any Predevelopment Activity constitutes a specific task or activity that is required under this Agreement to be commenced or completed by a certain date or time period, the Participant shall commence, complete and perform the task or activity within the specified time period. In connection therewith, the Participant shall perform all Predevelopment Activities included in the Performance Schedule attached herewith as Exhibit "D" within the time period set forth therein.

4.2 **Standard of Performance.** The Participant shall perform all Predevelopment Activities in a competent manner to the satisfaction of the City and in accordance with this Agreement. In addition, the Participant shall perform the Predevelopment Activities in compliance with the HOME Requirements and in a manner that meets the CHDO guidelines under which the City Loan was awarded to the Participant. The Participant represents to the City that the Predevelopment Activities will be performed by the Participant under its direct supervision, and that all personnel engaged in the Predevelopment Activities shall be fully qualified, authorized, and permitted under applicable law to perform such Predevelopment Activities.

4.3 **Monitoring.** The City shall monitor and evaluate the Participant's performance under this Agreement to determine compliance with this Agreement and HOME Requirements. The Participant shall cooperate with the City and shall make available to the City all information, documents and records reasonably requested by the City and shall provide the City the reasonable right of access to the Site during normal business

hours for the purpose of assuring compliance with this agreement and evaluating the Participant's performance hereunder.

4.4 Compliance with Laws and Regulations and HOME Requirements. The Participant shall observe and comply with all applicable laws, regulations and rules of governmental agencies having jurisdiction, including the HOME Requirements and the statutes referenced therein. Because the source of the City Loan is funds received from HUD pursuant to the federal government's HOME Program, the Participant is required to comply with all applicable HOME Requirements. In the case of any conflict between the HOME Requirements and this Agreement, the HOME Requirements shall control; it being understood, however, that in order to be in compliance with this Agreement and the HOME Requirements, the Participant shall, to the extent possible, comply with the most restrictive provisions in this Agreement and the HOME Requirements.

4.5 Licenses, Approvals and Permits. The Participant shall secure, at its sole cost and expense, any and all licenses, permits and approvals that may be required by law for the performance of the Predevelopment Activities.

4.6 Program Costs. Except to the extent the City has specifically agreed to provide the City Loan pursuant to Section 3, the Participant shall be responsible for all costs related to the Predevelopment Activities.

5. **RECORDS AND REPORTS**

5.1 **Records**

5.1.1 Records to be Maintained. The Participant shall keep and maintain records providing a full description of the Predevelopment Activities undertaken, records demonstrating that the Predevelopment Activities meet the HOME Program's CHDO requirements, records demonstrating the eligibility of the activities constituting the Eligible Predevelopment Expenses and such other records as may be reasonably required by the City to enable the City to evaluate the Participant's compliance with the HOME Requirements, and to identify and account for the use of the City Loan proceeds and expenditures of Eligible Project Expenses and all costs pertaining to this Agreement, and to enable the City to comply with the City's record keeping and reporting requirements under the HOME Requirements. Books and records pertaining to the Eligible Predevelopment Expenses shall be kept and prepared in accordance with generally accepted accounting principles.

5.1.2 Retention. The books and records required to be maintained by the Participant under this Agreement shall be retained for a period of five (5) years following the termination of this Agreement; provided, however, in the event any litigation, audit, negotiation or other action involving the books and records is commenced prior to the expiration of the five (5) year retention period, the Participant shall retain the books and records until completion of the action and resolution of all issues which arise from it.

5.1.3 **Location of Records.** The books and records required to be maintained by the Participant shall be kept at the Site or at the Participant's Corporate Offices.

5.1.4 **Access to Records.** The City and HUD and/or their representatives shall have full and free access to and the right to examine, inspect and audit all books and records of the Participant pertaining to this Agreement at all times during normal business hours.

5.1.5 **Audits.** The Participant shall perform all audits of its books and records required by the HOME Requirements of the City or HUD and a copy of such audits shall be forwarded to the City within thirty (30) days after completion. Such audits shall be conducted in accordance to the "Standards for Financial Management Systems" (24 CFR 84.21). The Participant shall be subject to all audit and review requirements imposed on the City in connection with this Agreement and shall, at its sole cost and expense, because such audits and reviews to be timely performed.

6. **INSURANCE AND INDEMNITY**

6.1 **Commencement Of Work.** Participant shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.

6.2 **Workers Compensation Insurance.** For the duration of this Agreement, Participant and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.

6.3 **Insurance Amounts.** Participant shall maintain the following insurance for the duration of this Agreement:

(a) Commercial general liability in the amount of \$1,000,000 per occurrence; (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by the City.

(b) Automobile liability in the amount of \$1,000,000 combined single limit; Insurance companies must be acceptable to City and have a Best's Guide Rating of A-Class VII or better, as approved by the City.

An Additional Insured Endorsement, for the policy under section 4.3 (a) shall designate City, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the Participant. Participant shall provide to City proof of insurance and endorsement forms that conform to city's requirements, as approved by the City.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate City, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles owned, leased, hired, or borrowed by the Participant. Participant shall provide to City proof of insurance and endorsement forms that conform to City's requirements, as approved by the City.

For any claims related to this Agreement, Participant's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be in excess of the Participant's insurance and shall not contribute with it.

The City Manager, with the consent of the City's Risk Manager, is hereby authorized to reduce the requirements set forth above in the event the City Manager determines that such reduction is in City's best interest.

7. DEFAULTS AND REMEDIES

7.1 Defaults-General.

7.1.1 Subject to any extensions of time pursuant to Section 8.4, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence and during any period of curing shall not be in default.

7.1.2 The nondefaulting party shall give written notice of default to the party in default, specifying: (a) the nature of the event or deficiency giving rise to the event of default, (b) the action required to cure the event or deficiency, if an action to cure is possible and can be ascertained, and (c) a date by which such action to cure must be taken, if applicable. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

7.1.3 Neither party may exercise any rights or remedies upon a default by the other Party, unless and until such default continues for a period of thirty (30) days after written notice thereof from the non-defaulting party unless otherwise provided. If the nature of the default is such that more than thirty (30) days are reasonably required for its cure, then the defaulting party shall not be deemed to be in default if it has commenced a cure within the 30-day period and thereafter diligently prosecutes such cure to completion within ninety (90) days after receipt of written notice thereof.

7.1.4 Any failures or delays by any party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive any party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect assert or enforce any such rights or remedies.

7.2 Remedies. In addition to any other rights or remedies available at law or in equity, upon a default of the Participant, the City may:

(a) Temporarily withhold disbursement of the City Loan proceeds pending correction of the default by the Participant.

(b) Refuse to disburse all or any part of the City Loan and reallocate the funds to another activity.

(c) Wholly or partially suspend or terminate the award of the City Loan.

(d) Wholly or partially suspend or terminate this Agreement.

(e) Require the Participant to repay any City Loan funds that the City determines were not expended in compliance with the requirements of this Agreement or the HOME Requirements.

(f) Institute legal action to cure, correct or remedy any default, to recover damages for any default or to obtain any other remedy consistent with the purposes of this Agreement.

Except as otherwise expressly provided in this Agreement, any failure or delay by the City in asserting any of its rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7.3 Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement or the City Loan Documents is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise.

8. GENERAL PROVISIONS

8.1 Notices. Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice:

CHDO: Jamboree Housing Corporation
17701 Cowan Ave., Suite 200
Irvine, CA 92614
Attention: Laura Archuletta, President

City: City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Susan Emery, Director of Community Development

8.2 **Non-Liability of City Officials and Employees.** No member, official, employee or agent of the City shall be personally liable to the CHDO, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the CHDO or its successors, or on any obligations under the terms of this Agreement.

8.3 **Contract Administration.** The Contract Officer shall be the person designated by the City to administer this Agreement on behalf of the City, and the Participant Representative shall be the person designated by the Participant to administer this Agreement on behalf of the Participant.

8.4 **Force Majeure.** Subject to the party's compliance with the notice requirements, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to causes beyond the control and without the fault of the party claiming an extension of time to perform, which may include the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, acts or omissions of the other party, or acts or failures to act of any public or governmental entity (except that the acts or failure to act of the City shall not excuse performance of the City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause.

8.5 **Entire Agreement, Waivers and Amendments.** This Agreement including its Exhibits integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the City and the Participant.

8.6 **Applicable Law: Venue.** The internal laws of the State of California shall govern the interpretation of this Agreement. All legal actions must be instituted and

maintained in the Superior Court of the County of Orange, State of California, or in any other appropriate court in that County.

8.7 Litigation Expenses. In addition to any other remedies provided hereunder or available pursuant to law, if either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party shall be entitled to recover from the other party its costs of suit and reasonable attorneys' fees.

8.8 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

8.9 Prohibition Against Assignment and Transfer. The qualifications and identity of the Participant are of particular concern to the City. It is because of those qualifications and identity that the City has provided financial assistance to the Participant and entered into this agreement with the Participant. Accordingly, the Participant shall not, whether voluntarily, involuntarily or by operation of law, undergo any significant change in ownership or assign all or any part of this Agreement or any rights hereunder associated with the Predevelopment Activities, or in the Site without the City's prior written approval, which the City may grant or withhold in its sole and absolute discretion.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

PARTICIPANT:

JAMBOREE HOUSING CORPORATION, a
California nonprofit corporation

By: Jama Archuleta
Its: President
Date: 8/14/08

CITY:

CITY OF GARDEN GROVE, a California municipal
corporation

By: _____
City Manager
Date: _____

ATTEST:

City Clerk

Approved as to Form:

By: Oliver Sandoval, Jr.
City Attorney

EXHIBIT A
PROMISSORY NOTE
(Deferred Note)

\$170,000

August 26, 2008

Garden Grove, California

FOR VALUE RECEIVED, JAMBOREE HOUSING CORPORATION, a California nonprofit corporation (“Participant”), promises to pay to the **CITY OF GARDEN GROVE**, a public body, corporate and politic (the “City”), or order, at the City’s office at 11222 Acacia Parkway, Garden Grove, California, 92840, or such other place as the City may designate in writing, the principal sum of One Hundred Seventy Thousand Dollars (\$170,000), or so much of such amount which has been disbursed by the City to or on behalf of the Participant (the “City Loan”), in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. Agreement. This Promissory Note (the “Note”) is given in accordance with that certain Predevelopment Loan Agreement executed by the City and the Participant, dated August 26, 2008 (the “Agreement”). The rights and obligations of the Participant and the City under this Note shall be governed by the Agreement and by the additional terms set forth in this Note.

2. Interest. No interest shall accrue on the City Loan.

3. Repayment of City Loan.

(a) The Contract Officer will waive repayment if the Borrower provides evidence reasonably satisfactory to the Contract Officer that there are impediments to the Project that are reasonably beyond the control of the Participant, or that Site development is infeasible pursuant to 24 CFR § 92.301 (a) (3).

(b) If the City and the Participant enter into an Affordable Housing Agreement for the Project, any such agreement shall set forth repayment terms of the City Loan.

(c) The City Loan shall be immediately due and payable in the event that Participant commits a material default of the Agreement and fails to cure the default within the time period(s) provided in the Agreement.

(d) The City Loan shall be immediately due and payable in the event that Participant assigns or attempts to assign any portion of the Agreement.

(e) The City Loan shall be immediately due and payable in the event that the City and Participant fail to enter into an Affordable Housing Agreement for the

Project within six-months after expiration of the term set forth in Section 2.1 of the Agreement.

Failure to declare such amounts due shall not constitute a waiver on the part of the City to declare them due subsequently.

4. [RESERVED]

5. **Waivers**

(a) Participant expressly agrees that this Note or any payment hereunder may be extended from time to time at the City's sole discretion and that the City may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Participant.

(b) No extension of time for payment of this Note made by agreement by the City with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Participant under this Note, either in whole or in part.

(c) The obligations of Participant under this Note shall be absolute and Participant waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

6. **Attorneys' Fees and Costs.** Participant agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

7. **Amendments and Modifications.** This Note may not be changed orally, but only by an amendment in writing signed by Participant and by the City.

8. **Participant Assignment Prohibited.** In no event shall Participant assign or transfer any portion of this Note without the prior express written consent of the City, which consent may be given or withheld in the City's sole discretion.

9. **Terms.** Any terms not separately defined herein shall have the same meanings as set forth in the Agreement.

JAMBOREE HOUSING CORPORATION, a
California nonprofit corporation


By: 

EXHIBIT B

SITE MAP



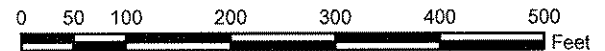
GROVE PARK SITE MAP

GARDEN GROVE



 PROJECT SITE

NUMBER	ADDRESS	APN
1	12612 Keel Ave.	19811308
2	12632 Keel Ave.	19811310
3	12652 Keel Ave.	19811311
4	12662 Keel Ave.	19811312
5	12682 Keel Ave.	19811313
6	12631 Morningside Ave.	19812221
7	12651 Morningside Ave.	19812220
8	12661 Morningside Ave.	19812219
9	12572 Morningside Ave.	19812305
10	12602 Morningside Ave.	19812307
11	12612 Morningside Ave.	19812308
12	12682 Morningside Ave.	19812313
13	12692 Morningside Ave.	19812314



**CITY OF GARDEN GROVE
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
GIS SYSTEM
AUGUST 2008**

EXHIBIT C

PREDEVELOPMENT BUDGET

Eligible Expenses	Scope of Services	Budget
1. Consultants Services		
<input type="checkbox"/> Construction Management	Services will include during predevelopment phase the following: conduct a preliminary inspection and prepare an inspection report, assist project manager with developing a preliminary budget and prepare work write-up and replacement reserve analysis. Inspection Report is to be provided by third party.	\$15,000
<input type="checkbox"/> Landscape Architectural Services	<p>Preliminary Design. Consultant to prepare a preliminary landscape design for the sites including layout of the new walkways, patio plantings, locations, types of plants (based upon a preferred plant list) to be used and plans and specifications for the irrigation system.</p> <p>Construction Documents. Consultant to prepare hardscape layout and dimensioning plan, irrigation and plan plans.</p>	\$20,000
<input type="checkbox"/> Environmental Testing	<p>Lead-Based Paint (LBP) Inspection and Risk Assessment. Conduct LBP inspection and testing in accordance with 24 CFR Part 35, which mandates both a Risk Assessment and lead inspection for rehabilitation exceeding \$25,000 per unit.</p> <p>Asbestos Inspection and Testing. Materials that will be disturbed during rehabilitation will be tested pursuant to the Asbestos Hazard Emergency Response Act (AHERA) 40 CFR Ch. I Section 763.86. Samples will be taken of friable surfaces and bulk sample analyses performed.</p>	\$23,000
<input type="checkbox"/> Physical Needs Assmt.	Prepare a PNA for review of the physical plant and needs over the tax credit compliance period	\$20,000
<input type="checkbox"/> Appraisal Services	Prepare appraisal report to determine fair market value	\$12,000
<input type="checkbox"/> Architectural Services	Prepare site plan, existing unit plan, and proposed unit plan- perform applicable code due diligence and project information.	\$15,000
2. Earnest Money Deposit	Good Faith Deposit	\$25,000
3. Contingency		\$40,000
Total Eligible Expenses		\$170,000

EXHIBIT D

PERFORMANCE SCHEDULE

Action	Date
1. Participant executes Purchase Agreement with Owner of Site and opens escrow.	Not later than August 31, 2008
2. Participant engages its own environmental consultant(s) to make such investigations as Participant deems necessary, including a Lead-Based Paint and Asbestos investigations of the Property and shall promptly provide the City with a copy of all reports and test results provided by the Participant's Environmental Consultant (the "Participant's Environmental Report").	Within 45 days of this Agreement but not later than September 15, 2008
3. Participant provides City with tenant relocation budget, Relocation Plan and Replacement Plan.	Not later than August 31, 2008
4. Participant provides City with copy of Appraisal Report and Voluntary Transaction Letter.	Not later than September 15, 2008
5. The Participant submits to the City for review and approval a Site/Landscape Plan, Scope of Work, Cost Estimate and related information containing the overall plan for development of the Site	Not later than September 30, 2008
6. Execution and Delivery of an Affordable Housing Agreement by Participant in a form and concept acceptable to the City and the Participant. The Participant shall execute and deliver this Agreement to City.	Within 90 days of this Agreement but not later than October 31, 2008