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Horizon Hill Ventures, LLC
Squares 5914, Lot 1 and 5915 Lots 1 and 2
Development

COMMUNITY BENEFITS AGREEMENT

ARTICLE

Purpose

The purpose of this Community Benefits Agreement for the Advisory Neighborhood Commission 8E (ANC), Congress Heights Community Association (CHCA), Congress Heights Community Training and Development Corporation (CHCTDC), Lead the Way Foundation (LTWF), Ward Eight Council Against Domestic Violence (WECADV) and Square 5914, LLC, (Developer) is to provide for a concerted and coordinated effort on the part of Developer and A Community Coalition for Responsible Development (ACCORD) to maximize the benefits of the Development to the community

1.2 With this Community Benefits Agreement, Developer and the Development will generate quality jobs for workers; will create affordable housing for working families and for residents in surrounding communities; will provide for environmentally-sensitive construction and design, will complete a beautification project for residents of the affected communities, will enhance job training targeted to community residents in need of employment.

1.3 This Community Benefits Agreement is agreed upon this _____ day of May 2014, by and between the parties hereto

ARTICLE II

Definitions

As used in this Agreement, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form

"ACCORD" shall mean an unincorporated association composed only of the organizations signatory to this Agreement under the ACCORD Member Organization Signature Pages. These organizations are referred to individually as "Member Organizations." Obligations of a Member

Square 5914 Lot 1 and 5915 Lots 1 and 2 Development1

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18731

EXHIBIT NO. 42

Board of Zoning Adjustment
District of Columbia
CASE NO.18731
EXHIBIT NO.42

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Organization shall be obligations only of the organization itself, as distinct from its associated organizations, constituent organizations, or any natural persons

"Agencies" shall mean the District of Columbia Housing and Community Development, the District of Columbia Housing Finance Agency and any other District governmental authorities with rights for the selection of the Developer, the approval of financing, design, and construction or management of the Development.

"Agreement" shall mean this Community Benefits Agreement, including all attachments

"DHCD" shall mean the District of Columbia Housing and Community Development.

"Developer" shall mean Squares 5914 Lot 1 and 5915 Lots 1 and 2, LLC.

"Development" shall mean the mixed-use community to be constructed on the Site, consisting of approximately 110 residential units

"Development Approvals" shall mean (1) approval by the Office of Planning and the Agencies (if applicable) of permit for the Development and all plans, drawings, and other items submitted in connection therewith, at the Zoning Commission level, and (2) any other government approvals or permits requested by Developer for construction, development, and operation of the Development, including without limitation, issuance by the District of Columbia of holding permits to construct the Development.

"Implementation Committee" A sub group of ACCORD consisting of the Developer and ACCORD shall work together to develop strategies for implementation of the policies and programs set forth in this Agreement.

"Member Organization" shall have the meaning set forth in the definition of "ACCORD "

"Ward Eight Community" shall mean Ward 8 as defined by the 2013 political redistricting map

"OPA" shall mean that certain Owner Participation Agreement by and between Developer and the Agencies regarding the Development

"Site" Square 5914 Lot 1 and Square 5914 Lots 1 and 2

ARTICLE III

Environmental Commitments

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3.1 Green Certifications. Developer shall comply with the Enterprise Guidelines

3.3 Hazardous Substance Remediation. Developer shall comply with all applicable local and federal laws in regard to the remediation of hazardous substances

ARTICLE IV

Construction Practices

4.1 Construction Noise and Traffic. Developer shall consult with the Implementation Committee to assure that all reasonable steps are taken to minimize noise, pollution and traffic congestion during construction, including but not limited to hosing down adjacent neighborhood streets to the site daily to keep streets clear of dirt and debris from the site

4.2 Security of Site During Construction. Developer shall use commercially reasonable efforts to secure and control access to the Site, or the portions thereof, upon which construction is occurring

4.3 Public Complaint Process. Developer shall establish a public complaint process, and shall maintain written records of complaints, investigations, and responsive actions taken, all of which shall be made available to ACCORD upon request

ARTICLE V

Design Review

5.1 Consultation. Developer shall hold periodic meetings with the Implementation Committee to review, and to receive input, on proposed land uses, site layout, traffic circulation patterns, and the exterior appearance of units

ARTICLE VI

Affordable Housing

6.1 Relocation of Current Tenants During Development. Developer shall pay for all moving expenses necessary to relocate tenants to similar accommodations. Developer shall pay all moving expenses for the tenants to return to the Development

6.2 Existing Tenants Opportunity to Return. Developer shall provide all current tenants the

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opportunity to return within ten months of the issuance of a certificate of occupancy for the residential building in the Development to the residential units of similar size in the Development. Current tenants shall return to the new residential units of similar size at the current rent with future rent increases limited to no more than 4% annual increases, unless larger increases are approved by the DC Department of Housing and Community Development.

6.3 Affordable Residential Units. Developer shall set aside 20% of the total amount of the residential square footage in the Development for households earning up to 100% of the Area Median Income (AMI) and 80% of the units will be below 60% (AMI).

ARTICLE VII

Employment Opportunities

7.1 Access to Employment Opportunities. The Developer and ACCORD shall take steps to promote employment of local residents within Ward 8 by employers within the Development Project. The Developer shall endeavor to have Thirty Percent (30%) of participation in the construction jobs be with residents located in Ward 8.

7.2 Employment Retrieval System. The Developer shall provide an easily accessible First Source Job Referral System. With the input of ACCORD, The Developer will implement the system used by the District.

7.3 Employment Goals: Construction. The positions expected to be available during the course of construction will be incorporated in action plans submitted by the general contractors prior to their selection by the Developer for each phase of development. The Implementation Committee, prior to the final selection of the general contractor by the Developer for each phase, shall review such action. The selection of the general contractor is entirely at the option of the Developer. Any contractor selected will comply with DC employment goals.

7.4 Internships. The Developer shall employ at least one intern in a paid position throughout the course of the design and construction of the Development that is from the Ward 8 community.

7.5 Training Programs. The Developer works with many professionals with specialized areas of expertise. For example, the Developer works with firms that specialize in environmental planning, analysis and remediation, soils testing and analysis, affordable housing management and tax credit compliance, etc. The Developer will work with the Implementation Committee to identify professional services such as environmental and geotechnical services for which training for Ward 8 residents is not currently provided. With its additional professional partners, the Developer will endeavor to develop at to start a training program in such areas. ACCORD recognizes that many of the required professionals have already been hired and completed their work.

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ARTICLE VIII

Contracting Opportunities

8.1 Developer shall require the General Contractor have a minimum of Forty Percent (40%) of the contract value spent with CBEs, and on a best-efforts basis Twenty Percent (20%) of that CBE spending requirement shall be located within Ward 8

ARTICLE IX

Community Support

9.1 Beautification Project: The developers (E&G and Horizon Hill) will pledge \$50,000 from the development toward off-site (in the neighborhood) beautification

9.2 Office Space: Developer will provide an office for a community organization of the ACCORD's choice in Building 1 under terms of a lease to be signed before the completion of construction at no annual cost to the organization for 15 years

9.3 Support: Developer shall work with Members of ACCORD to identify supportive service and other needs in the community, identify potential funding sources, and assist in the preparation of applications for funding. Developer committed to a minimum of \$10,000 annual financial support to Friends of Douglass Community Center for the term of this agreement and the general contractor will contribute an additional \$10,000. The developer will also contribute 1,000 annually toward the costs of the Congress Heights Parade each May

9.4 Sale of Development. If Developer sells property before the end of commitment period outlined herein, Developer shall contribute to ACCORD the remaining amount of the unpaid commitment

ARTICLE X

Implementation Committee

10.1 To assist with implementation of this Agreement, Developer shall meet with ACCORD in a good faith, reasonable effort to develop strategies for implementation of the policies and programs set forth in this Agreement

10.2 The Developer and ACCORD shall establish a working group of representatives for this purpose, to be known as the Implementation Committee. The Implementation Committee shall

meet at least quarterly. At such meetings, any Member Organization or the Developer may raise issues related to implementation of this Agreement, in an effort to facilitate open dialogue, resolve implementation challenges, and advance the goals of both ACCORD and the Developer regarding this Development. All parties shall ensure that representatives attending Implementation Committee meetings are appropriate individuals for issues to be discussed, possessing relevant technical and policy expertise. Prior to requesting governmental approvals of design of buildings or components of the Development, Developer will provide such designs to ACCORD at an Implementation Committee meeting, to facilitate the ACCORD's ability to make suggestions to Developer and/or at public hearings regarding such designs. Responsibility to participate in implementation committee meetings shall run only against entities that have current responsibilities under this Agreement or contracts referencing it.

10.3 The implementation committee shall establish an annual selection process for distribution of the annual contributions by Developer. Developer shall participate and be a voting member of the majority vote process.

ARTICLE XI

Accord Support Obligations

11.1 In light of Developer's commitments set forth in this Agreement, ACCORD strongly supports the concept plan for the development of the Site by Developer. Therefore, ACCORD will make the support efforts set forth in this Article 11.

11.2 Letters of Support: Each Member Organization shall send a letter in unqualified support of the Development to the appropriate Agency, including but not limited to 8E and the District of Columbia Zoning Commission, prior to the consideration of all approvals for the Development. Thereafter, if requested by Developer during the term of this Agreement, each Member Organization shall send a letter in support of other Development Approvals to the City Council and any other governmental entity specified by Developer.

11.3 Media Availability. ACCORD shall work with the Developer to prepare a collaborative media strategy regarding shared support for the Development. ACCORD will, upon request, present testimony in support of the Development and shall help Developer gain support of the Ward 8 community for the Development.

11.4 Covenant Not To Sue or Testify. Each Member Organization and ACCORD covenant not to sue, challenge, or contest, administratively, judicially or publicly, any of the Project Approvals. Furthermore, each Member Organization and ACCORD agrees not to pursue judicial challenges to, or testify in opposition at any public hearings (or any continuations of hearings) concerning any of the Project Approvals.

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11.5 Permissible Public Comments. Notwithstanding the above requirements, ACCORD and each Member Organization retain the right to make public comments regarding Project Approvals suggesting changes in aspects of the documents and approval terms being considered, so long as such comments are consistent with the letter and spirit of the provisions of this Agreement. ACCORD and each Member Organization agree that before making such public comments, they shall use its best efforts to address the issues in question with Developer at Implementation Committee meetings.

ARTICLE XII

Miscellaneous

12.1 Compliance With Law. This Agreement shall be enforced only to the extent that it is consistent with the laws of the District of Columbia and the United States. If any provision of this Agreement is held by a court of law to be in conflict with law, the applicable law shall prevail over the terms of this Agreement, and the conflicting provisions of this Agreement shall not be enforceable.

12.2 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 the provisions shall continue in full force and effect.

12.3 Remedies, Default. Failure by any party to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement.

12.4 Sixty-Day Right to Cure. If either party believes that the other party is in default of this Agreement, it shall provide written notice to the allegedly defaulting party of the alleged default, offer to meet and confer in a good-faith effort to resolve the issue; and, except where a delay may cause irreparable injury, provide sixty (60) days to cure the alleged default, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged default, and, where appropriate, the manner in which the alleged default may be cured.

12.5 Implementation Meetings and Mediation. Before or during the sixty-day right-to-cure period described above, the parties may attempt to resolve any alleged default at the regularly scheduled implementation meetings, or in mediation requested by either party.

12.6 Remedies. In the event that another party is allegedly in default under this Agreement, then a party alleging default may elect, in its sole and absolute discretion, to waive the default or to pursue remedies as described in this section. Such remedies may be pursued only after exhaustion of the sixty-day right to cure period described above, except where an alleged default

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may result in irreparable injury, in which case the non-defaulting party may immediately pursue the remedies described in this section.

12.7 Binding on Successors. This Agreement shall be binding upon and inure to the benefit of ACCORD, Member Organizations, ACCORD's Successors, and Successors to any Successors of ACCORD. This Agreement shall be binding upon and inure to the benefit of Developer, Developer's Successors, and Successors to any Successors of Developer. Developer's Successors include, but are not limited to, any party who obtains an Interest, vertical developers, retail developers, contractors, management companies, and owners' or retail merchants, and associations participating in the Project. Upon conveyance of an Interest to an entity in compliance with this Section, ACCORD may enforce the obligations under this Agreement with respect to that Interest only against such entity, and neither Developer nor any owner of a different Interest shall be liable for any breach of such obligations by such entity or its Successors. Except as otherwise indicated in this Section, references in this Agreement to a party shall be deemed to apply to any successor in interest, transferee, assign, agent, representative, of that party.

12.8 Binding Arbitration. Only after mediation, a party can only pursue binding arbitration to enforce any term of this Agreement that has allegedly been breached. A party may seek arbitration relief ordering, and the arbitrator shall have the power to order, affirmative equitable and/or affirmative injunctive relief, temporary or permanent, requiring a defaulting party to comply with this Agreement. The parties hereto agree that monetary damages would be an inadequate remedy for any breach of this Agreement. With the exception of an order by the arbitrator to a party to pay sums it has agreed to pay under this Agreement, monetary damages shall in no circumstances be available as a remedy for default of this Agreement. Arbitration shall be conducted in Washington, D.C. under the rules of the American Arbitration Association (the "Rules"). Each party shall bear its own fees and other costs, except where a party is found by final judgment of the arbitrator to have been in default of this Agreement, in which case the prevailing party shall be entitled to attorneys' fees and arbitration costs from the defaulting party.

12.10 Term. This Agreement shall become effective on the date of mutual execution of this Agreement and shall terminate seventeen (17) years from the award of funding for the Development by the District or such date that the OPA is terminated, whichever occurs earlier. All commitments of the parties described herein are effective upon the effective date of this Agreement, unless otherwise specified. Notwithstanding the foregoing or anything to the contrary in this Agreement, if, the Agencies: (1) do not enter into an OPA with the Developer or (2) materially increase Developer's obligations or materially decreases Developer's rights as set forth in the OPA, this Agreement shall terminate, at Developer's election given by written notice to ACCORD, on the date that is five (5) days after the date of Developer's notice. If during such consideration, the Agency attempts or proposes any action that would materially increase Developer's obligations or materially decrease Developer's rights as set forth in the OPA, the Master Plan, or any documents contemplated.

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thereby, Members of ACCORD, at the request of the Developer, shall object to such attempt or proposal and inform the Agency that this Agreement shall terminate if any such action is taken

12.11 Implementation Through Relevant Contracts. Where this Agreement requires the Developer to impose responsibilities on entities that are not parties to this Agreement, the Developer shall ensure that relevant contracts: (1) impose such responsibilities on such parties, (2) require such parties to impose such responsibilities on subcontractors or other parties involved in the Development through the contract in question, (3) require all parties with such responsibilities to provide to ACCORD upon request any information reasonably necessary to determine compliance with such responsibilities, provided that ACCORD shall not request the same or similar records or information more often than once per quarter; (4) state with regard to such responsibilities imposed on any party that ACCORD is an intended third party beneficiary with enforcement rights, and (5) include any other provisions necessary to ensure application and enforceability by ACCORD. Any party that imposes an obligation required by this Agreement on another party shall, in event of failure by that other party to comply with such obligation, enforce that obligation against that other party or terminate the contract in question

12.12 Compliance Information. Upon request from a party, another party hereto shall provide any records or information reasonably necessary to monitor compliance with the terms of this Agreement. No party shall request the same or similar records or information more often than once per quarter, except to the extent that the nature of the obligation being monitored requires more frequent reporting, as reasonably agreed upon by the parties

12.13 Rights and Responsibilities of ACCORD Member Organizations. Notwithstanding anything to the contrary if this Agreement sets out a responsibility of a "Member Organization" then each Member Organization must satisfy that responsibility, and that responsibility may be enforced by Developer against each Member Organization individually, and when this Agreement sets out a responsibility solely of "ACCORD," then that responsibility is satisfied for all Member Organizations when any Member Organization satisfies that responsibility. Notwithstanding the foregoing, if any individual Member Organization directly receives funds from Developer under this Agreement, Developer may enforce the obligations within this Agreement related to such funding directly against such Member Organization. Any Member Organization may enforce the responsibilities of Developer under this Agreement, and each Member Organization possesses the rights of ACCORD under this Agreement

12.14 Waiver. The waiver by any party of any provision or term of this Agreement shall not be deemed a waiver of any other provision or term of this Agreement. The mere passage of time, or failure to act upon a breach, shall not be deemed a waiver of any provision or term of this Agreement

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12.15 Construction. Each of the parties has had the opportunity to be advised by counsel with regard to this Agreement. Accordingly, this Agreement shall not be construed against any party and any rule of construction that any ambiguities be resolved against the drafting party shall not apply to this Agreement.

12.16 Entire Agreement. The Agreement contains the entire agreement between the parties and supersedes any prior agreements, whether written or oral, except those executed concurrently with this Agreement. Concurrent execution is defined as execution within five business days. This Agreement may not be altered, amended or modified except by an instrument in writing signed by the parties hereto.

12.17 ACCORD hereby appoints Anthony Muhammad as its Agent to speak and correspond with Developer on ACCORD's behalf. Developer may rely on statements made and approvals or comments given by Anthony Muhammad pursuant to this Agreement as constituting the agreement of ACCORD regarding such issue. ACCORD may appoint another representative by written notice to Developer.

12.18 Authority of Signatories. The individuals executing this Agreement represent and warrant that they have the authority to sign on behalf of their respective parties.

12.19 Counterparts. This Agreement may be executed in two or more counterparts, each of which may be deemed an original, but all of which shall constitute one and the same document.

12.20 Further Assurances. The parties hereto agree to take such actions and execute such additional documents as are reasonably necessary to carry out the provisions of this Agreement.

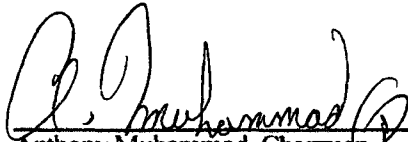
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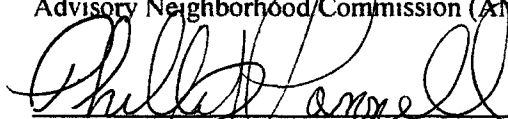
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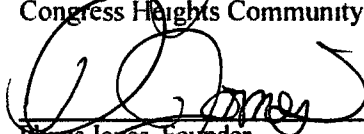
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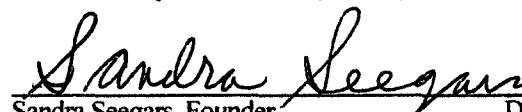
ACCORD MEMBERS


Anthony Muhammad, Chairman Date May 5, 2014
Advisory Neighborhood Commission (ANC) 8E


Phillip Pannell, President Date
Congress Heights Community Association (CHCA)


Pharris Jones, Founder Date
Congress Heights Community Training & Development (CHDTD)


Isha Lee, Executive Director Date May 5, 2014
Lead the Way Foundation (LTWF)


Sandra Seegars, Founder Date May 5 2014
Ward 8 Council Against Domestic Violence (WECADV)

In Witness Whereof, the parties hereto have duly executed and delivered this agreement as of the date first above written.

Square 5914 Lot 1 and 5915 Lots 1 and 2, LLC


DEVELOPER

Name

Title

Date

James H. Edmondson Member

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In Witness Whereof, the parties hereto have duly executed and delivered this agreement as of the date first above written.

Square 5914 Lot 1 and 5915 Lots 1 and 2, LLC

DEVELOPER



**Josh Dworken
Horizon Hill Ventures, LLC**

President

5/5/2014
Date

Square 5914 Lot 1 and 5915 Lots 1 and 2 Development II