

Z.C. Case #05-18
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STRUCTURING, DEVELOPMENT AND ASSIGNMENT AGREEMENT

This **STRUCTURING, DEVELOPMENT AND ASSIGNMENT AGREEMENT** (this "Agreement") is entered into as of the ____ day of March, 2004, by and between **1020 MONROE STREET 2003 TENANT ASSOCIATION, INC.**, a District of Columbia non-profit corporation (the "Association") and **HOPE 7 MONROE STREET LIMITED PARTNERSHIP**, a District of Columbia non-profit corporation ("Hope 7").

RECITALS:

A. Pursuant to an Agreement of Sale dated November 14, 2003 (the "Agreement of Sale"), between Lenan Cappel and Pauline Cappel, as seller (collectively, the "Seller"), and the Association, as purchaser, as said Agreement of Sale is affected by the D.C. Tenant Opportunity to Purchase Act ("TOPA"), the Association is the contract purchaser of land, improvements and other property located at and collectively known as 1020 Monroe Street, N.W., Washington, D.C. 20010, the legal description of which is set forth on **Exhibit A**, which is attached hereto and incorporated herein by reference (the "Project").

B. The parties wish to provide for the assignment of the Agreement of Sale by the Association to Hope 7, for the acquisition, renovation, conversion and redevelopment of the Project by Hope 7, and for the sale by Hope 7 of condominium units in the Project to purchasers including qualifying members of the Association.

C. The parties further wish to set forth certain of the business and legal terms related to such acquisition, renovation, conversion and redevelopment, and to such sales.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, certifications, covenants, promises and agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. The Association hereby assigns, sells, conveys, sets over, transfers and delivers to Hope 7 all right, title, interest and obligations of the Association to and regarding the Project, including but not limited to all right, title and interest as purchaser or transferee of the Project, such as, but not limited to, all rights as purchaser in, to, under and in connection with the Agreement of Sale and any and all deposit(s) thereunder. Hope 7 hereby accepts such assignment and expressly assumes all such obligations of the Association, including without limitation all such obligations under the Agreement of Sale. The Association hereby agrees to indemnify, defend and hold Hope 7 harmless from and against all costs, expenses, liabilities and causes of action which may be incurred by or asserted against Hope 7 as a result of the Association's failure to perform any obligations under the Agreement of Sale arising or accruing prior to the date hereof, and Hope 7 hereby agrees to indemnify, defend and hold the Association harmless from and against all costs, expenses, liabilities and causes of action which may be incurred by or asserted against the Association as a result of Hope 7's failure to perform any obligations under the Agreement of Sale arising or accruing on or after the date hereof.

In furtherance but not in limitation of such assignment, the Association shall execute and cause to be delivered to the Seller under the Agreement of Sale a notice of assignment and seller consent substantially in form and substance as that set forth on **Exhibit B**, which is

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attached hereto and incorporated herein by reference (the "**Notice of Assignment and Seller Consent**"), and shall cause said Seller to countersign and return the Notice of Assignment and Seller Consent as directed therein.

2. Acquisition and Interim Operation. Hope 7 shall acquire the Project pursuant to the Agreement of Sale and this Agreement. Hope 7 may negotiate and sign amendments to the Agreement of Sale and other documents and agreements which it deems necessary or desirable in connection with the Project. Hope 7 shall operate the Project at all times following acquisition in a commercially reasonable manner. During the period after acquisition and prior to conversion to a condominium and recording of the condominium documents, Hope 7 shall operate and manage the Project as a rental property, and after recording of the condominium documents but prior to the sale of all condominium units, Hope 7 shall own and manage unsold condominium units of the Project as rental units (including without limitation rental of any such units to existing tenants who are elderly or otherwise entitled under law to continue to occupy the same following conversion). Prior written approval of the Association, in its sole discretion, must be obtained before any material alteration of the transaction structure from that contemplated herein (i.e., purchase of the Project in fee simple absolute, creation of a condominium and sale of units therein).

3. Redevelopment. Promptly following acquisition the Project, Hope 7 shall begin to renovate, convert and redevelop the Project to include, among other things, the following items, all of which shall be subject to the reasonable approval of the Association:

- (1) Reconfiguration of the Project to consist of 28 condominium units, comprised of 22 residential condominium units and six retail/commercial condominium units;
- (2) Renovation of the interior finishes and systems within the condominium units; and
- (3) Renovation of certain common area, exterior and base building features of the Project.

4. Redevelopment Financing. Hope 7 shall provide or cause to be provided one or more bona fide commitment(s) for debt financing for the acquisition, renovation, conversion and redevelopment of the Project and for other Project-related purposes (pursuant to the approved Budget (defined below)), and for equity funding, all in such amounts and pursuant to such terms and conditions as Hope 7 deems necessary or desirable. Hope 7 shall complete the design, obtain necessary studies and analyses including appraisals, environmental and other survey materials, title documents, and other services and materials necessary to obtain contemplated financing for the acquisition and redevelopment of the Project. The sources of debt financing may include conventional financing as well as financing designed to assist the production and/or renovation of affordable housing.

Promptly upon execution hereof, in connection with extending the closing date pursuant to TOPA, Hope 7 shall arrange for a lending institution to provide a written estimate that a decision with respect to a commitment for such debt financing will be made within 240 days after the date of execution of the Agreement of Sale.

5. Condominium Conversion. Hope 7 will promptly take all steps necessary to convert the Project to a condominium, and the Association and its members will cooperate in and will facilitate the conversion (including without limitation the prompt and mutual agreement of the parties regarding all policies and procedures to be reflected in the condominium documents), it being the desire of the parties to convert the Project into a condominium as soon

as practicable after the acquisition date. The Association will use reasonable efforts to ensure that the requisite number of tenants of the Project vote in favor of conversion of the Project to condominium after acquisition of the Project by Hope 7. Any and all obligations of Hope 7 hereunder and under all other applicable documents and agreements, to the extent arising or accruing or to be performed following acquisition of the Project by Hope 7, are contingent upon, among other things, consummation of an election approving conversion of the Project to a condominium in accordance with this Agreement.

6. **Condominium Unit Financing.** Hope 7 shall use good faith diligent efforts to arrange for condominium unit financing, at competitive rates, for each member of the Association that wishes to purchase his/her unit following conversion. Following the execution hereof, the parties shall cooperate to educate all members of the Association on the Project on the benefits of purchasing units in the Project and the financing assistance for such purchase available to them under this Agreement. The sources of such financing may include the Home Purchase Assistance Program ("HPAP") administered by the D.C. Department of Housing and Community Development ("DHCD") for the purpose of financing purchase of condominium units by targeted members of the Association and other targeted purchasers.

7. **Subsidy Contract.** Hope 7 shall be entitled, on behalf of the Association, the Project and its residents, to negotiate, compromise and agree with DCHD, the U.S. Department of Housing and Urban Development ("HUD"), the District of Columbia Housing Authority ("DCHA") and/or any other person with respect to any subsidy available to the Project or the residents thereof.

8. **Sale or Disposition of the Project.** Notwithstanding anything to the contrary in this Agreement, the sale or disposition of the Project in its entirety shall require the concurrence of the Association. The provisions of this Paragraph shall survive settlement under the Agreement of Sale and any subsequent conveyance prior to the sale of all of the individual condominium units in accordance with this Agreement.

9. **Certain Project Fees, Costs and Expenses.** In addition to the other provisions of this Agreement, the parties agree as follows with respect to certain fees, costs and expenses associated with acquisition, renovation, conversion and redevelopment of the Project:

- (1) Any and all developer fees and/or development services fees and/or similar fees paid or accrued in connection with the acquisition, renovation, conversion and redevelopment of the Project (collectively, "**Development Fees**") shall be in such amounts as are established in the approved final Budget. A portion of the Development Fees actually paid to and received by the Developer, in an amount equal to 20% thereof, but not, in any event, to exceed \$100,000, shall be paid to the condominium unit owner's association for the Project established pursuant to the condominium documents (the "**Condo Association**") for use as working capital and/or reserves. Notwithstanding the foregoing, if any portion of the Development Fees which are initially budgeted to be paid during the development (as opposed to the portion initially projected to be deferred and paid over time) are ultimately deferred until after completion due to cost or financing related reasons, Hope 7's portion of such deferred fees shall be paid prior to the payment of any part of the Association's portion of such deferred fees.
- (2) Hope 7 shall pay to the Condo Association, for use as working capital and/or reserves, **five percent (5%)** of aggregate net proceeds from the sale of each residential condominium unit not sold to a member of the Association at the preferred price established in

the Budget in accordance with this Agreement (collectively, "**Market Rate Residential Units**"). As used herein, "**aggregate net proceeds**" means the sum of all cash actually received by Hope 7 from the sale of Market Rate Residential Units, **reduced by** (i) any and all hard costs and soft costs associated with the acquisition, renovation, conversion and redevelopment of the Project, not otherwise paid; and (ii) any and all closing costs, real estate commissions and other similar costs paid in connection with the sale of Market Rate Residential Units; and (iii) any and all payments required to be made to or for the benefit of any lenders in connection with releasing said lenders' liens from Market Rate Residential Units; and (iv) return of all equity investment actually made in cash or property by Hope 7 or any affiliate thereof, plus a cumulative annual return of 20%; and (v) any Development Fees not otherwise paid; and (vi) any and all buyout payments and/or other transitional assistance paid in connection with Market Rate Residential Units; **provided, however**, that, in determining aggregate net proceeds, no item shall be debited or credited or otherwise accounted for more than once.

- (3) Hope 7 or one or more affiliates of Hope 7 may serve one or more marketing and/or sales functions with respect to those units in the Project which are not sold to members of the Association, in which case the applicable affiliate(s) shall be entitled to compensation equivalent to what would be payable in an arms-length situation, which compensation shall be the obligation of Hope 7 payable from the proceeds of such sale.
- (4) Hope 7 or one or more affiliates of Hope 7 may serve as management agent for the Project and/or Condo Association, provided that any such management arrangement shall provide for payment to Hope 7 (or affiliate) compensation equivalent to what would be payable in an arms-length situation. Any such management arrangement shall be contracted for separately from this Agreement, and no fees for such services shall be included in the Budget or payable under this Agreement.

The provisions of this Section shall survive settlement under the Agreement of Sale and any subsequent conveyance prior to the sale of all of the individual residential condominium units in accordance with this Agreement.

10. Budget and Other Information. The budget for the Project is set forth on **Exhibit C**, which is attached hereto and incorporated herein by reference (the "**Budget**"). The parties acknowledge that the Budget attached as of the date hereof is a preliminary Budget, which will be replaced with a final Budget once the same has been agreed upon by the parties in their reasonable discretion, whereupon the final Budget shall be attached hereto and shall thereafter be the Budget for all purposes hereunder. The Budget shall provide all costs for the acquisition, renovation, conversion and redevelopment of the Project, including without limitation (i) hard costs and soft costs; (ii) currently expected market prices for condominium units; (iii) preferred prices for condominium units to be sold to members of the Association; (iv) transitional assistance currently expected to be available to tenants of the Property who do not purchase condominium units; and (v) Development Fees. Any material revisions to the Budget will require approval of the Association, in its reasonable discretion; provided, that "**material revisions**" to the Budget, shall be any increase in the cost of any single line item of more than twenty percent (20%), an increase in the total project costs of more than ten percent (10%), and/or any change whatsoever in the price of the condominium units for sale to members of the Association. Transitional assistance pursuant to **clause (iv)** above for tenants of the Property who do not purchase condominium units is expected to be **\$21,000** for each applicable two-bedroom unit and **\$19,500** for each applicable one-bedroom unit.

11. Tenant Opportunity to Purchase Act. The Association has complied with TOPA by notifying all of the tenants of its intent to assign its rights regarding the Project to Hope 7. The Association is authorized under TOPA to contract with the Seller for the Project and is entitled to assign to Hope 7 the Association's rights as provided in **Section 1** above, having obtained, among other things, all necessary authority from the tenants of the Project, under the Association's organizational documents, and otherwise. The Association will use reasonable efforts to facilitate conveyance of the Project from the Seller to Hope 7 in accordance with the terms and conditions of the Agreement of Sale and this Agreement. Any and all obligations of Hope 7 hereunder and under all other applicable documents and agreements, to the extent arising or accruing or to be performed following acquisition of the Project by Hope 7, are contingent upon, among other things, closing on the Property under the Agreement of Sale and this Agreement, and conveyance to Hope 7 of good title to the Project.

12. Prior Dealings. Neither Hope 7 nor the Project shall be responsible for any fees, costs and/or expenses incurred or agreed to by or on behalf of the Association or the Project prior to the date hereof, nor for any brokerage or similar commissions or fees for management, marketing or financing of the Project, except as set forth herein or otherwise expressly approved in writing by Hope 7 in each and every instance. The Association shall and hereby agrees to indemnify, defend and hold harmless Hope 7 and all of its affiliates, and their officers, directors, agents, and employees, from and against any and all loss, cost, damage, expense, claim and liability, described in the preceding sentence, asserted or imposed against any and all of such indemnified parties. Each party represents and warrants that no agent, broker or other person is entitled to any commission or finder's fee in connection with the transactions contemplated by this Agreement or will entitled to make any claim therefor against any party hereto.

13. Cooperation and Commitment. Hope 7 and the Association agree to co-operate freely with each other and to work diligently together toward the goal of acquisition, renovation, conversion and redevelopment of the Project as envisioned in this Agreement. To that end, the Association shall make freely available to Hope 7 and its designee(s) all studies, analyses, reports, calculations and other information pertaining to the Association or the Project which may be in the possession, custody or control of the Association, at any reasonable time or times, from time to time; and Hope 7 shall do the same. Hope 7 and the Association shall establish and nurture regular and open lines of communication, including but not limited to regular periodic meetings involving representatives of both parties.

14. Indemnification. Hope 7 shall and does hereby indemnify, defend, and hold harmless the Association and its members, officers, directors, agents, and employees from and against any and all losses, costs, claims, damages, liabilities and causes of action (including reasonable attorney's fees and court costs) which arise out of this Agreement and/or are in any way connected with the death of or injury to any person or damage to any property, and are directly or indirectly caused by any acts or omissions of Hope 7, its affiliates, agents, employees or contractors, except to the extent due solely to the gross negligence or willful misconduct of the Association. The Association shall and does hereby indemnify, defend, and hold harmless Hope 7 and its members, officers, directors, agents, and employees from and against any and all losses, costs, claims, damages, liabilities and causes of action (including reasonable attorney's fees and court costs) which arise out of this Agreement and/or are in any way connected with the death of or injury to any person or damage to any property, and are directly or indirectly caused by any acts or omissions of the Association, its affiliates, agents, employees or contractors, except to the extent due solely to the gross negligence or willful misconduct of the Hope 7.

15. Notice. All notices and other communications under or in connection with this Agreement or the subject matter hereof shall be in writing and shall be delivered by hand, via Federal Express or Express Mail, or by certified U.S. mail, in each case with postage or delivery charges prepaid and written confirmation of receipt, and addressed in each case, as follows:

Association: 1020 Monroe Street 2003 Tenant Association, Inc.
1020 Monroe Street, N.W., #26
Washington, D.C. 20010
Attn: Thaia Grace, President

copy to: Reed Smith LLP
1301 K Street, NW
Suite 1100 -- East Tower
Washington, DC 20005
Attn: Olivia Shay-Byrne

Hope 7: Hope 7 Monroe Street Limited Partnership
240 Parker Street, N.E.
Washington, D.C. 20002
Attn: Mr. Robert L. Hall, Jr.

copy to: Holland & Knight LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006
Attn: Henry J. Brothers II

16. General & Miscellaneous. Every word herein importing the singular number shall also be construed to extend to and include the plural number also and vice versa. In the event that any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances then those to which it is held invalid or unenforceable, shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be binding upon the parties hereto and their successors and assigns. The parties acknowledge that each party and its respective counsel have reviewed and revised this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. Time is of the essence with respect to the payment, performance and observance of each of the covenants of each of the parties to this Agreement. Each party hereto acknowledges that to the extent that no adequate remedy at law exists for breach of its obligations under this Agreement, in the event any party fails to comply with its obligations hereunder, the affected other party shall have the right to obtain specific performance of the obligations of such defaulting party, injunctive relief or such other equitable relief as may be available. If the day for performance of any matter set forth in this Agreement shall fall on a day other than a business day (i.e., Monday through Friday, excluding national recognized holidays), the date for performance of the subject matter shall be the next business day. No provision of this Agreement may be amended, changed or waived, discharged or terminated orally or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought. This Agreement shall be governed by the laws of the District of Columbia (excluding principles and rules concerning choice of law and conflict of laws), regardless of the jurisdiction in which this Agreement has been entered into

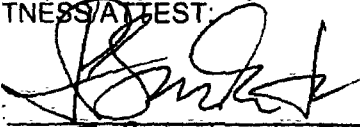
and/or is intended to be performed. Any headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof. This Agreement may be executed in any number of counterparts and/or via multiple counterpart signature pages, all of which counterparts and signature pages taken together shall constitute one and the same Agreement. To the extent permitted by law, any controversy or claim arising from or relating to this Agreement or the breach thereof, or any transaction contemplated herein shall be settled by binding arbitration administered by the American Arbitration Association under its Arbitration Rules for the Real Estate Industry and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

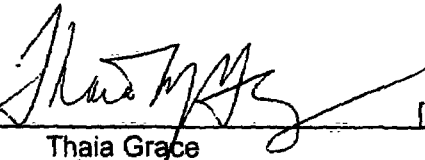
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IN TESTIMONY WHEREOF, as of the date first set forth above, **1020 MONROE STREET 2003 TENANT ASSOCIATION, INC.**, has caused this Agreement to be executed under seal by **Thaia Grace**, its President, and witnessed/attested, and said party does hereby appoint said **Thaia Grace** to be its duly authorized attorney-in-fact for it and in its name to execute and deliver these presents as its act and deed; and **HOPE 7 MONROE STREET LIMITED PARTNERSHIP** has caused this Agreement to be executed under seal by **Hope 7, Inc.**, its General Partner, and said corporation and partnership have cause this Agreement to be executed under seal by **Robert L. Hall, Jr.**, as President of said corporation, and to be witnessed/attested, and said corporation and partnership do hereby appoint said **Robert L. Hall, Jr.**, to be their duly authorized attorney-in-fact for them and in their names to execute and deliver these presents as their act and deed.

**1020 MONROE STREET 2003
TENANT ASSOCIATION, INC.**

WITNESS/ATTEST:

By: 
Print: J. P. LONDON, JR.
Title: COUNSEL

By:  [SEAL]
Thaia Grace
President

**HOPE 7 MONROE STREET
LIMITED PARTNERSHIP**

By: Hope 7, Inc.,
its general partner

WITNESS/ATTEST:

By: _____
Print: _____
Title: _____

By: _____ [SEAL]
Robert L. Hall, Jr.
President

I, Dawn Kincaid, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Thalia Mace, who is personally well known to me (or satisfactorily proven) to be the person who signed as attorney-in-fact for **1020 MONROE STREET 2003 TENANT ASSOCIATION, INC.**, a party to the foregoing instrument bearing date as of the 26 day of March, 2004, personally appeared before me in my jurisdiction, and as said attorney-in-fact and by virtue of the authority vested in him/her by said instrument, acknowledged said instrument to be the act and deed of said party, and that he/she executed and delivered the same as such.

Commission
expires: Sept 30, 2007

[SEAL]

I, _____, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that _____, who is personally well known to me (or satisfactorily proven) to be the person who signed as attorney-in-fact for **HOPE 7 MONROE STREET LIMITED PARTNERSHIP**, a party to the foregoing instrument bearing date as of the _____ day of March, 2004, personally appeared before me in my jurisdiction, and as said attorney-in-fact and by virtue of the authority vested in him/her by said instrument, acknowledged said instrument to be the act and deed of said party, and that he/she executed and delivered the same as such.

Commission
expires:

[SEAL]

Exhibit A

LEGAL DESCRIPTION

1020 Monroe Street, N.W.

Exhibit B
NOTICE OF ASSIGNMENT OF AGREEMENT OF SALE
AND
SELLER CONSENT
1020 Monroe Street, N.W.

_____, 2004

To: Lenan Cappel and Pauline Cappel
3718 Lydia Estates Dr. N.
Jacksonville, FL 32218

Hope 7 Monroe Street Limited Partnership
240 Parker Street, N.E.
Washington, D.C. 20002
Attn: Mr. Robert L. Hall, Jr.

Reed Smith LLP
1301 K Street, N.W.
Suite 1100, East Tower
Washington, D.C. 20005
Attn: Ms. Olivia Shay-Byrne, Esq.

Ladies and Gentlemen:

Pursuant to an Agreement of Sale dated November 14, 2003, between Lenan and Pauline Cappel, as seller, and 1020 Monroe Street 2003 Tenants Association, Inc. ("the **Association**"), as purchaser (the "**Agreement of Sale**"), as affected by the D.C. Tenant Opportunity to Purchase Act ("**TOPA**"), the Association is the contract purchaser of land, improvements and other property located at and collectively known as 1020 Monroe Street, N.W., Washington, D.C. (the "**Project**").

PLEASE TAKE NOTICE THAT, pursuant to a Structuring, Development and Assignment Agreement (the "Development Agreement") dated _____, 2004, between the Association and Hope 7 Monroe Street Limited Partnership ("**Hope 7**"), the Association has assigned, sold, conveyed, set over, transferred and delivered all right, title and interest of the Association in, to and regarding the Project, including but not limited to all right, title and interest as purchaser in, to, under and in connection with the Agreement of Sale and any and all deposit(s) thereunder, to Hope 7, which has assumed all corresponding obligations of the Association, including without limitation all such obligations under the Agreement of Sale.

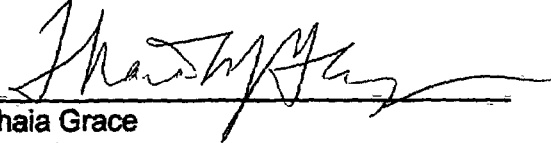
PLEASE TAKE NOTICE THAT, from and after the date hereof, only Hope 7, and not the Association, is the contract purchaser under the Agreement of Sale; and only Hope 7, and not the Association, may acquire the Project pursuant to the Agreement of Sale and negotiate and

sign amendments thereto and other documents and agreements which are or may be necessary or desirable in connection with acquisition of the Project.

Please acknowledge and consent to the foregoing by signing where indicated below and returning your countersigned original to the undersigned. Thank you.

Very truly yours,

**1020 MONROE STREET 2003
TENANT ASSOCIATION, INC.**

By: 
Thaia Grace
President

The undersigned Lenan Cappel and Pauline Cappel, as seller under the Agreement of Sale, hereby consent to the assignment of the Agreement of Sale described above and, notwithstanding any contrary provision of the Agreement of Sale or any other document or agreement, agree that, from and after the date hereof, Hope 7 shall be substituted as the purchaser under the Agreement of Sale.

Date: _____

Lenan Cappel

Date: _____

Pauline Cappel

Exhibit C

PRELIMINARY BUDGET

1020 Monroe Street, N.W.

Project Budget

Contract Price	\$(1,000,000)
Cosmetic and Mechanical Renovations	\$ (700,000)
Condominium Association Contribution	\$ (100,000)
Development Fees and Soft Costs	\$ (721,000)
Total	\$(2,521,000)

Project Funding

Eleven 2 Bedroom Units @ \$83,500.00	\$918,500
Eleven 1 Bedroom Units @ \$77,500.00	\$852,500
Six Commercial Units @ \$125,000.00	\$750,000
Total	\$2,521,000