

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT



MEMORANDUM OF UNDERSTANDING

Between THE GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT And

A&R/THC II, LLC

RECEIVED

D.C. OFFICE OF ZONING

2005 JUL - 5 PM 4:28

#05-24

A&R/THC II, LLC (collectively, the "Developer"), in accordance with D.C. Law 16-33; D.C. Official Code § 2-218.01 *et seq.* (2005 Ed), the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (the "Act"), and in consideration of the District of Columbia Government's approval of a Planned Unit Development ("PUD") and related Map Amendments known as D.C. Zoning Commission (Case No. 05-24) on behalf of A&R/THC II, LLC, to construct one hundred and eighty six-units (186) family housing component of Capitol Gateway development known as Eastgate Family Housing in the Marshall Heights Urban renewal Area, bounded by Fitch Street, 51st and F Street, Queen's Stroll Place and Benning Road, in Square 5318, Lots 9-20, Square 5319, Lots 20-36 and in Square 53-20, Lots 29-36 in Washington, D.C. (the "PUD Site"), does hereby commit to utilize local, small and disadvantaged business enterprises certified by the D.C. Small and Local Business Opportunity Commission (collectively, "LSDBEs") to achieve an LSDBE participation goal in the A&R/THC II, LLC's, \$44.75 million adjusted development budget. The 35% goal in an amount equal to \$15.66 million (the "35% Goal"), is to be achieved in the contracted development costs in connection with the design, development and construction of the new family housing project and other infrastructure improvements (the "Facility"), including but not limited to, pre and post-construction procurements of maintenance and supplies, security, site improvements, janitorial, refuse collection, procurements of food services, travel arrangements; and all other procurement items, in accordance with the following provisions.

A. The Developer shall utilize the resources of the Department of Small and Local Business Development ("DSLBD"), including the Small and Local Business Opportunity Commission's Directory of Certified Small, Local and Disadvantaged Business Enterprises ("LSDBEs"), and periodic updates, as the primary referral sources for LSDBEs. The primary contact for such referrals shall be the Director of the Department of Small and Local Business Development (the "Director") or such other DSLBD staff person as the Director may designate.

ZONING COMMISSION
District of Columbia

CASE NO. 05-24
ZONING COMMISSION
District of Columbia
EXHIBIT NO. 41
EXHIBIT NO.41

B. The **Developer** agrees that the appropriate senior level officers who negotiate, sign and are responsible for the implementation of the Memorandum of Understanding, will meet with **DSLBD** officials within thirty (30) days of the execution of this Memorandum of Understanding to explore and develop ways for achieving the 35% Goal.

C. The **Developer** will use reasonable best efforts to utilize LSDBEs for goods and services as may be required by the **Developer** to conduct its daily operations and understands that amounts paid to such LSDBEs for such goods and services will accrue toward the 35% Goal.

D. Not later than thirty (30) days after the issuance date of the Zoning Order, the **Developer** will submit an LSDBE utilization plan (**Attachment A**) to **DSLBD** for review, which plan once approved by **DSLBD** shall be automatically incorporated in and made a part of this Memorandum of Understanding.

E. Not later than sixty (60) days following the issuance date of the Zoning Order, the **Developer** will submit to **DSLBD** a more extensive plan listing all of the projected procurement items, quantities and estimated costs, bid opening and closing dates, and start-up and completion dates. This plan should indicate whether any items will be bid without restriction in the open market, or limited to LSDBEs.

F. The parties hereto understand and agree that the means of achieving the 35% Goal may vary according to the types of goods and services contracted for and the current or future availability of LSDBE vendors. However, the **Developer** will use reasonable best efforts to achieve, at a minimum, the 35% Goal.

G. The **Developer** further agrees to submit quarterly LSDBE contracting and subcontracting reports to **DSLBD** no later than fifteen (15) days after the end of each calendar quarter; the quarterly report periods shall begin on **January 1, April 1, July 1, & October 1**. The **Quarterly** report shall be submitted on a form provided by **DSLBD** (**Attachment B**) and shall continue until such time as the 35% Goal has been accomplished. The reports should include detailed documentation of outreach efforts to LSDBEs in order to determine reasonable best efforts taken by the **Developer**.

K. For purposes of this agreement, it is agreed that reasonable best efforts means that the **Developer** will obtain the following commitments from its General Contractor ("GC"):

1. The GC will publish a public notice in a newspaper of general circulation in the District of Columbia and in one or more other

newspapers (e.g. Afro American , Washington Informer, El Tiempo Latino, Asian Fortune), serving the District of Columbia local and disadvantaged business community, designed to inform the business community about the **Developer's** procurement opportunities being created by the new family housing project.

2. The GC will publish public notices in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local and disadvantaged business community, for the purpose of soliciting bids for products or services being sought for the construction and renovation projects, and will allow a reasonable time (not less than 30 business days) for all bidders to respond to invitations/requests for bids.

3. The GC will contact **DSLBD** to obtain a current listing of all LSDBEs qualified to bid on major procurement opportunities as they arise and will make full use of the LSDBE Business Center found at <http://dslbd.dc.gov> for listing opportunities and for subcontracting compliance monitoring.

4. The GC will negotiate with all bidders pre-qualified by the **Developer** and the GC, including LSDBEs, to obtain each bidder's best and final price as understood in the marketplace.

5. The GC will not require that LSDBEs provide bonding on contracts with a dollar value less than \$100,000, provided that in lieu of bonding, the GC may accept a job specific certificate of insurance.

6. The GC will include in all contracts and subcontracts to LSDBEs, a process for alternative dispute resolution. This process shall afford an opportunity for documentation of work performed and invoices by LSDBE, regarding requests for payments. Included in the contract shall be a mutually agreed upon provisions for mediation (to be conducted by **DSLBD** in conjunction with the **D.C. Office of Human Rights**), or arbitration in accordance with the rules of the **American Arbitration Association**.

7. The GC and subcontractors shall strictly adhere to their contractual obligations to pay all subcontractors in accordance with the contractually agreed upon schedule for payments. In the event that there is a delay in payment to the general contractor, the GC is to immediately notify the subcontractor and advise as to the date on which payment can be expected.

8. The GC commits to pay all subcontractors, including LSDBEs, within fifteen (15) days following the GC's receipt of a payment, which includes funds for such subcontractors, from the **Developer**. The **Developer** also agrees to require the GC or Construction Manager for the

project, to establish a procedure for giving notice to the subcontractors of the **Developer** payments to GC.

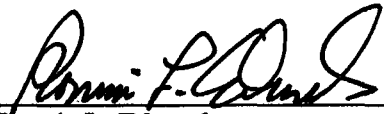
M. If at the end of the fourth calendar quarter following the issuance date of the Zoning Order, the **Developer** is unable to comply with the proposed LSDBE participation plan in an amount equal to **\$15,661,589** the representatives of the **Developer** and the Director of **DSLBD** shall confer with a view toward adjusting goals and strategies to extend the time of performance based on facts and circumstances.

A&R/THC II, LLC
a District of Columbia Limited Liability Company

By: 
Daniel P. Henson, III
Partner

ACKNOWLEDGED AND AGREED TO
This 5th day of July, 2006

DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

By: 
Ronnie L. Edwards
Acting Director

Contact Information:

Department of Small and Local Business Development
441 4TH Street, N.W., Suite 970N
Washington, DC 20001
Attn: Moses A. Animashaun – Office of Certification, Compliance & Enforcement
Ph. 202-727-3900
Fax: 202-724-3786

Department of Housing and Community Development
810 North Capitol Street, N.E., Suite 2000
Washington, DC 20002
Attn: DHCD Compliance Division
Ph. 202-442-7200
Fax: 202-442-7078

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT



ATTACHMENT A
CONTRACTING AND SUB-CONTRACTING PLAN

IRB CLIENT/PRIVATE DEVELOPER: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

TOTAL ESTIMATED CONTRACT AMOUNT: \$ _____

TOTAL ESTIMATED AMOUNT TO BE SUB-CONTRACTED \$ _____

TOTAL ESTIMATED LSDBE PARTICIPATION \$ _____

PERCENTAGE OF LSDBE CONTRACT AMOUNT (%) _____

NAME OF LSDBE LIAISON: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

NAME OF GENERAL/PRIME CONTRACTOR
AND/OR CONSTRUCTION MANAGER: _____

ADDRESS: _____

TELEPHONE: _____ FAX: _____

██████████

██████████

██████████

**INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECT
QUARTERLY LOCAL, SMALL AND DISADVANTAGE BUSINESS ENTERPRISES EXPENDITURE
REPORT FORM**

ANTICIPATED PROJECT COMPLETION DATE: _____

QUARTER	TOTAL AMT. EXPENDED TO DATE	TOTAL AMOUNT EXPENDED WITH LSDBES TO DATE	LSDBES (%) OF EXPENDED AMT. TO DATE	TOTAL AMOUNT EXPENDED THIS QUARTER	TOTAL AMOUNT EXP. W/LSDBES THIS QUARTER	LSDBES (%) PERCENTAGE THIS QUARETR
1						
2						
3						
4						
TOTAL						

[illegible]

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

LSDBE CONTACT DOCUMENTATION FORM

Project Name: _____

Name and Title _____

LSDBE Name/Certification Number	Person Contacted/Date	Telephone/Fax Number and/or E-mail Address	Type of Work	Response

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

LSDBE PRIME/SUBCONTRACT REPORTING FORM

Project Name: _____

Name _____ **Title** _____ **Phone Number** _____

Name of LSDBE and Certification Number	Type of Service/Work	Contract Award Amount And Contract Number	Date of Award	Payment Amount	Payment Date

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT**



ATTACHMENT C

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECTS

**AREAS OF PROCUREMENT IN WHICH LSDBE UTILIZATION
GOAL CAN BE ACHIEVED**

**Accounting Services
Advertising and Graphic Design
Antenna Systems
Architectural and Engineering Services
Audio/Visual Equipment
Bank/Financial Institutional Depository
Boiler Maintenance & Supplies
Bond/Computer Paper
Bottled Water Service
Building Supplies
Building/Facility Management Services
Cable Television Systems Technician
Carpentry
Carpet Cleaning
Carpet Leasing
Caterer
Catering and Food Service Equipment
Computer Equipment/Maintenance
Computer Software Development
Computer Supplies
Copiers
Courier/Messenger Services
Electrical Supplies
Electrician
Energy Management
Environmental Impact Studies**

Cont. 2 – Attachment C

Fencing
Fire Supply/Equipment
Floral Arrangements Decorator
Food Service Equipment Repair
Fuel Oil Company
General Construction
General Maintenance
Generator Repairs & Supplies
Grounds Maintenance
HVAC Service/Maintenance
Insurance Agent
Interior Design
Janitorial Services and Supplies
Landscaping
Legal Services
Lighting
Locksmith
Motor Parts & Repairs
Moving Company
Office Equipment Lease/Purchase Maintenance
Office Furniture Lease/Purchase
Office Supplies
Paint Supplies
Paper Products (Janitorial)
Parking Management
Pest Control Firm
Plant Maintenance
Plumber
Pre-Construction and Post Construction Activities
Preventative Maintenance
Printing
Printing Services, Blueprints, Brochures, etc.
Public Relations Services
Recycling Programs
Roofing Repairs
Security Guard Company
Security Services/Systems
Signage
Site Improvements/preparation
Snow Removal Firm
Sound Systems Technician
Sprinkler Systems
Telecommunications Support Service
Cont. 3 – Attachment C

Telephone System Technician
Temp Staffing Agency
Tools/Purchases & Rentals
Towing Company
Trash Removal
Uniform Rental Firm
Vending Equipment and Supplies
Water Removal
Water Treatment
Window Repairs & Supplies
Window Washing

FORM LBOC - 003C

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT



A&R/THC II, LLC

THE EASTGATE FAMILY HOUSING PROJECT

D.C. ZONING COMMISSION – (CASE NO. 05-24)

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (DHCD) AND
DISTRICT OF COLUMBIA HOUSING FINANCE AGENCY (DCHFA) PROJECT**

REVITALIZATION OF MARSHALL HEIGHTS NEIGHBORHOOD

**186-UNITS FAMILY HOUSING PROJECT
BOUNDED BY FITCH STREET, 51ST STREET, F STREET, QUEEN'S STROLL PLACE AND
BENNING ROAD, S.E.
WASHINGTON, D.C., WARD 7
SQUARE 5318, LOTS 9-2; SQUARE 5319, LOTS 29-36; SQUARE 5320, LOTS 29-36**

PROJECT OVERVIEW

Applicant/ Developer:	A&R Development and Henson Company
Architect:	Grimm and Parker
Landscape Architect:	The Edgecombe Group
Engineer:	Bowman Consulting
Traffic Engineer:	OR George and Associates
General Contractor:	Harkins Construction Company
Financing Attorney:	Bryant, Miller and Olive
Land Use Attorney:	Arnold & Porter

PRELIMINARY BUDGET ESTIMATE OF DEVELOPMENT COSTS

SOURCES OF FUNDS

Sales Proceeds (Ownership)	\$35,502,187	
4% Tax Credits (Rental)	8,840,050	
HPOE VI (Ownership & Rental)	13,837,838	
CIP (Ownership)	1,344,086	
DHCD-CDBG (Ownership)	<u>1,133,149</u>	
Total -Sources of Funds (Ownership & Rental):		\$60,657,310

I. DEVELOPER FEE

Developer Fee & Overhead	<u>\$2,982,110</u>	
Total -Developer Fee:		\$2,982,110

II. ARCHITECTURAL & ENGINEERING FEES (SOFT COSTS)

Model Builder	\$ 20,000	
G + P	239,109	
G + P Construction Monitoring	40,891	
Civil Engineering	328,300	
Consultants	55,750	
Civil Engineering – Construction Admin.	40,000	
ALTA Survey	15,000	
Third Party Permit Review	20,000	
Geotechnical	<u>8,170</u>	
Total Architectural & Engineering:		\$767,067

III. DWELLING UNIT CONSTRUCTION

Dwelling Structures	\$33,955,422	
Inflator	2,139,509	
Construction Contingency	3,609,493	
Electric Utility Change	<u>125,000</u>	
Total DU Construction Costs:		\$39,829,424

IV. SITE IMPROVEMENTS

Site Construction	\$9,079,263
Site Contingency	<u>635,548</u>

Total Site Improvements: \$9,714,811

V. LEGAL FEES

DCHFA Outside Counsel	\$ 80,000
Project Attorney	205,000
Zoning	87,045
In-house Legal	<u>60,000</u>

Total Legal: \$432,045

VI. ADMINISTRATIVE COSTS

Audiovisual/Photographs	\$ 8,400
Messenger Services	8,400
Printing – Blueprints	8,400
Printing- Documents	19,950
Training/Conference	6,536
Community Outreach	<u>28,717</u>

Total Administrative Costs: \$80,403

VII. PROPERTY MANAGEMENT

Lease-up Costs	<u>\$250,000</u>
----------------	------------------

Total Property Management: \$250,000

VIII. RESERVE ESCROW

Operating Reserves	\$150,000
Capital Reserve/Res. Association Dues	38,894
Replacement Reserve	<u>61,000</u>

Total Reserve: \$249,894

IX. OTHER FEES

Phase I Environmental	\$ 3,500
Traffic Engineer	<u>6,500</u>

Total Consultant Services:	\$10,000
----------------------------	----------

X. INSURANCE COSTS

Environmental Liability Insurance	\$ 84,363
General Liability Insurance	46,447
Builder's Risk Insurance	<u>152,066</u>

Total Insurance Costs:	\$282,876
------------------------	-----------

XI PERMIT FEES

Building Permits	\$204,600
Availability Slips	186,000
Inspection Fees	558,000
Permit Expeditors	40,000
C & O	4,725
Public Space Permits	<u>27,488</u>

Total Permit Fees:	\$1,020,813
--------------------	-------------

XII. SETTLEMENT COSTS

Marketing Costs	\$225,000
Recordation Tax	605,403
Recordation Fees	17,000
Settlement Fees	14,000
Title Report & Insurance	87,497
Low Income Commissions	290,715
Commissions	<u>561,975</u>

Total Settlement Costs:	\$1,801,590
-------------------------	-------------

XIII. BANK FINANCING AND TAX CREDIT COSTS AND FEES

Lenders Application Fee	\$175,000
Lender Legal	120,000
Appraisal	20,000
Market Study	25,500
Architectural and Costs Review	14,000
Construction/Bond Interest	940,000
Negative Arbitrage	80,000
Tax Credit Costs	<u>20,000</u>

Total Bank Financing and Tax Credit Fees: \$1,394,500

XIV DCHFA FEES – RELOCATION & REOCCUPANCY

Application Fee	\$ 11,500
Bond Issuer Fee	146,850
Issuers Counsel Fees	25,000
LIHTC Allocation Fees	80,000
Construction Monitoring Fee	151,684
Underwriting Fee	40,000
Rating Agency Fee	8,500
Trustee Fee	6,000
Trustee Counsel Fee	4,000
Move-in Costs	<u>79,500</u>

Total DCHFA Fees: \$553,034

Total Development Budget: \$60,532,779

XV. ESTIMATED CERTIFIED LOCAL, SMALL AND DISADVANTAGED-BUSINESS ENTERPRISE PARTICIPATION IN THE DEVELOPMENT PROJECT

Total Development Budget: \$60,532,779

Less:

Developer Fee (@ 10%)	\$2,982,110
Civil Engineering – Construction Admin.	40,000
Third Party Permit	20,000
Inflator	2,139,509
Construction Contingency	3,609,493
Electric Utility Charge	125,000
Site Contingency	635,548

DCHFA Outside Counsel	80,000
Zoning	87,045
In-house Legal	60,000
Training/Conference	6,536
Community Outreach	28,717
Lease-up Costs	250,000
Operating Reserves	150,000
Capital Reserve/Res. Association Dues	38,894
Replacement Reserve	61,000
Builder's Risk Insurance	152,066
Building Permits	204,600
Availability Slips	186,000
Inspection Fees	558,000
Permit Expeditors	40,000
C & O	4,725
Public Space Permits	27,488
Recordation Tax	605,403
Recordation Fees	17,000
Settlement Fees	14,000
Title Report & Insurance	87,497
Low Income Commissions	290,715
Commissions	561,975
Lenders Application Fee	175,000
Construction/Bond Interest	940,000
Negative Arbitrage	80,000
Tax Credit Costs	20,000
Application Fee	11,500
Bond Issuer Fee	146,850
Issuers Counsel Fees	25,000
LIHTC Allocation Fees	80,000
Move-in Costs	79,500
Soft Cost Contingency	1,164,212

Total Adjustments: **(\$15,785,383)**

Adjusted Development Budget: **\$44,747,396**

**Projected Development Budget available for LSDBEs
Participation in the Eastgate Housing Project:** **\$44,747,396**

**Certified LSDBEs Participation in the Eastgate
Housing Project's Adjusted Development Budget:** **\$15,661,589**

**Certified LSDBEs Percentage of the Adjusted
Development Budget:** **35%**

Contact Information:

Department of Small and Local Business Development

441 4TH Street, N.W., Suite 970N

Washington, DC 20001

Attn: Moses A. Animashaun – Office of Certification, Compliance & Enforcement

Ph. 202-727-3900

Fax: 202-724-3786

Department of Housing and Community Development

810 North Capitol Street, N.E, Suite 2000

Washington, DC 20002

Attn: DHCD Compliance Division

Ph. 202-442-7200

Fax: 202-442-7078

Maa/A&R-THCCIL,LLC/DHCD/DCHFA/Zoning/0703'06*****