
Managing Neighborhood Change: Selected Anti- Displacement Strategies in Practice

Preliminary Findings

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Introduction

In January 2011, MAPC produced a matrix of case studies-based anti-displacement strategies to inform Medford and Somerville's interests in undertaking strategies to manage neighborhood change related to the potential Green Line Route 16 extension. The matrix was based upon a literature review of academic and non-academic reports released over the last ten years, which outlined anti-displacement policies and strategies grounded in successful case study examples of their application in neighborhood, city/town, or regional contexts. A memo of the matrix's strategies is included in Appendix A.

At a February 2011 meeting of stakeholders from the communities of Somerville and Medford, attendees expressed interested in learning about specific strategies as well as the present-day outcomes of those strategies in action. This report provides an overview of those strategies and includes highlights from conversations conducted by MAPC to elicit insight on the outcomes and/or current results of the profiled strategies in action.

This preliminary report examines the following strategies – selected by Somerville and Medford – for managing neighborhood change:

- Development Without Displacement Policies
- Community Benefits Agreements
- Condominium Conversion Ordinances in Massachusetts
- One for One Affordable Housing Replacement Ordinances
- Workforce Development Strategies

The report was updated in October 2011 to profile innovative strategies like the City of Berkeley's Affordable Housing Mitigation Fee and the District of Columbia's Tenant Opportunity to Purchase Act (TOPA).

MAPC is continuing to research a sixth topic of interest to stakeholders – local, state, and federal funding sources for affordable housing. MAPC is in the process of requesting more funds to conduct deeper research into this and other strategies. The next iteration of this research may result in an online resource guide on strategies for managing neighborhood change.

I. Development Without Displacement Policies

PolicyLink and the Chicago Rehab Network have published online resources that promote the adoption of “development without displacement” (D w/o D) policies in order to equitable manage neighborhood change. These policies, also referred as anti-displacement policies, intend to find ways to include the costs of displacement in redevelopment.

PolicyLink’s Development Without Displacement Toolkit proposes a suite of policy strategies that can help communities facing rapid housing market appreciating protect current residents and promote development without displacement (PolicyLink, 2011). The policies are organized into four topic areas: affordable housing, economic opportunity, land use and environment, and health and place. An overview of the D w/o D policies under each topic area is listed below. Visit the PolicyLink Equitable Development Toolkit website for detailed content on each strategy¹.

Topic	Policies and Strategies
Affordable Housing	<p>Values: protect tenants and rental housing, stabilize and improve neighborhoods, promote community and resident ownership, leverage market activity, generate capital, expand affordable housing stock</p> <ul style="list-style-type: none"> • Rent Controls • Expiring Use Properties • Just Cause Eviction Controls • Code Enforcement • Foreclosed Properties • Transit Oriented Development • Healthy Food Retailing • Commercial Stabilization • Employer Assisted Housing • CDCs with Resident Shareholders • Community Land Trusts • Cooperative Ownership Models • Limited Equity Housing Cooperatives • Infill Incentives • Commercial Linkage Strategies • Resident-owned CDFIs • Community Reinvestment Act • Housing Trust Funds • Inclusionary Zoning • Community Mapping • Transit-Oriented Development
Economic Opportunity	<p>Values: link residents to opportunities, create good jobs, improve transportation access, build assets</p> <ul style="list-style-type: none"> • Local Hiring

¹ PolicyLink Equitable Development Toolkit: <http://tinyurl.com/5wo5aag>

Topic	Policies and Strategies
	<ul style="list-style-type: none"> • Minority Contracting • Living Wage Provisions • Healthy Food Retailing • Transit-Oriented Development • Community Mapping • Resident-Owned CFIs • CDCs with Resident Shareholders • Employer-Assisted Housing
Land Use and Environment	<p>Values: revitalize commercial districts, build walkable neighborhoods, preserve and create neighborhood assets, ensure equitable public investment, expand equitable development opportunities</p> <ul style="list-style-type: none"> • Healthy Food Retailing • Brownfields • Infill Incentives • Commercial Stabilization • Community Mapping • Transit-Oriented Development • Infill Incentives • Community Land Trusts • Inclusionary Zoning • Developer Exactions • Real Estate Transfer Taxes • Commercial Linkage Strategies
Health and Place	<p>Values: increase access to healthy food, encourage active living, improve environmental quality</p> <ul style="list-style-type: none"> • Healthy Food Retailing • Transit-Oriented Development • Community Strategies to Prevent Asthma • Code Enforcement • Brownfields

MAPC has spoken with two organizations that have implemented development without displacement policies to learn more about Development without Displacement policies has been integrated into government practice.

<p>Case Studies: Integration of Development Without Displacement Policies into Municipal Planning and Policy</p>
<p>The Chicago Rehab Network, staffed by the Voorhees Center at the University of Illinois at Chicago, has compiled case studies of anti-displacement strategies that have been pursued in Chicago neighborhoods. Visit the Chicago Rehab Network website for case studies of specific strategies pursued in Chicago neighborhoods (Chicago Rehab Network, 1995). The Network has also advocated for the City’s adoption of development without displacement policies through its</p>

leadership on various city task forces.

MAPC spoke with Janet Smith, co-director of the Voorhees Center to determine whether the recommended policies have been adopted by the City. As of spring 2011, the Center reports that none of the development without displacement policy recommendations put forward to the Chicago affordable housing committee regarding development associated with the 2016 Olympics (in Feb 2009) have been adopted yet. Recommended policies included a one-for-one replacement policy and a system of circuit breakers to alert the city of impending loss of housing units with special concern toward multiunit rental properties in danger of foreclosure.²

The **Association of Bay Area Governments (ABAG)** has administered a Development without Displacement (D w/o D) grant program and a website of D w/o D resources. ABAG defines D w/o D policies as including policies that:

- Encourage infill and the efficient use of land capacity within existing communities
- Provide for compact, complete, resource-efficient communities near existing or planned transit and other infrastructure
- Provide opportunities for people to live near their jobs and work near their homes
- Encourage a mix of land uses with jobs, housing, retail, schools, parks, recreation, and services in proximity
- Locate development in areas served and likely to be served by frequent passenger rail, bus, and/or ferry service
- Support community revitalization without displacing current residents
- Ensure that all socio-economic groups benefit from regional change
- Use existing infrastructure capacity and maximize return on new infrastructure investments
- Reduce the number and length of auto trips and facilitate walking and biking
- Maintain goods movement corridors and retain land uses that support related distribution and industrial uses
- Direct development so as to promote and protect public health and safety, avoid hazards, and/or mitigate development impacts
- Reserve land to accommodate future growth at appropriate densities

MAPC spoke with Marisa Raya, ABAG regional planner and contact for ABAG's Development Without Displacement Program to learn more about how the program was conceived and how it has been integrated into regional planning practice. Marisa shared that in 2008, the California Transportation Commission (Caltrans) issued a request for proposals for regional councils of government to apply for grants aimed at supporting transit-oriented development planning initiatives with environmental justice components. ABAG received a \$200,000 grant for 2008-2009 and used \$100,000 to support internal work and regranted the remaining \$100,000 through a competitive grant program for cities and counties in its region, which it named the Development Without Displacement program. The program provided civic engagement grants to fund community-based anti-displacement efforts.

² Personal communication with Janet Smith, co-director of the Nathalie P. Voorhees Center for Neighborhood and Community Improvement (VC) at the College of Urban Planning and Public Affairs at the University of Illinois at Chicago, April 2011.

The criteria for these competitive grants were as follows:

- A city and community-based organization should apply in partnership
- The area should be a regional Priority Development Area identified through the FOCUS program
- The partnership work with local residents or employers to identify an anti-displacement strategy that could be implemented through a current planning process (ABAG, 2009)

A specific focus of the program was to address market-driven displacement due to rising rents. ABAG adopted a “Development without Displacement” frame (which it coined with the support of PolicyLink, a subcontractor to ABAG through the Caltrans grant) because of an intent to move away from academic language and discourses on gentrification, which it found to be contentious terminology. ABAG also worked with PolicyLink to tailor its Transit-Oriented Development (TOD) toolkit to include a focus on Development without Displacement.

ABAG awarded 18-month grants to 22 cities to support the implementation of neighborhood-specific civic engagement plans. The communities funded to do the work included Richmond, Oakland, and San Francisco – communities with very diverse environmental justice populations. ABAG reports that many communities struggled to reach community-based organizations and communities of color³. ABAG issued a report that outlines some results from the planning grants. Highlights:

- **San Francisco’s Mission District.** The ABAG grant resulted in changes in municipal zoning and economic development policy through the participation of city and county government and the Mission Economic Development Agency. The partners helped preserve the Latino business district through a reevaluation of zoning in that area. The city shifted pressure to meet height and density requirements from the Latino business corridor by lowering height requirements in the business district and shifting height requirements elsewhere, and it provided assistance to businesses to help them secure better lease agreements. This is a good example that not development leads to displacement. The growth policy did not concentrate on the downtown but put it next door to the downtown. It valued the Latino business district and culture.
- **Oakland’s Lake Merritt BART Station.** “Asian Health Services, the City of Oakland, and the Oakland Chinatown Chamber of Commerce partnered to develop a Lake Merritt BART Station Area Community Engagement Plan that would include anti-displacement measures and affordable housing protections while supporting continued growth of neighborhood businesses, residences, recreation opportunities, and cultural institutions.” The goal of the process included increasing transit use and pedestrian and bicycle connectivity, encouraging mixed-use development, and providing greater connections between neighborhoods within the station area. ABAG funding has enabled food at meetings and simultaneous translation into several languages, drawing a large representation from Chinatown and other neighborhoods that surround the area (ABAG, 2009). The planning is still underway and details can be found online⁴. The following broad goals have been identified thus far:
 - Increase the housing supply, especially affordable housing for low-income residents. Specifically increase the amount of housing around the BART station.
 - Increase jobs and improve access to jobs along the transit corridor.

³ Personal communication with Marisa Raya, regional planner at the Association of Bay Area Governments, April 2011.

⁴ City of Oakland webpage on Lake Merritt Station Area Plan:
<http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Plans/DOWD008198>

- Provide services and retail options in the station area.
- Identify additional recreation and open space opportunities.
- **Richmond's Equitable Development Initiative.** The Richmond Equitable Development Initiative (REDI) is a collaborative of community-based organizations working to address environmental justice and economic development issues. The funding enabled REDI “to engage residents around housing solutions, including the development of a community land trust (CLT) and new housing development on congregation-owned land.” REDI also worked closely with the City’s Redevelopment Agency to develop a strategy to address housing needs and foreclosures. Results thus far:
 - The City Council has passed an ordinance supporting the creation of a CLT and a strategy is being developed around how a CLT can be created given the current economic environment. REDI and the City of Richmond have a history of collaboration; in 2006, REDI partnered with the City to expand the City’s local employment program, which provided residents with more opportunities to work on local development projects.
 - In 2009 the Richmond City Council unanimously passed an ordinance to enact a “Just Cause” ordinance protecting tenants from unfair evictions when homes are foreclosed.
 - Learn more about REDI here: <http://www.workingeastbay.org/section.php?id=50>

As of April 2011, ABAG is focused on creating a regional plan and will not be applying for another Caltrans grant. It is working to include anti-displacement policy in the regional plan. It is also conducting a Regional Housing Needs Allocation (RHNA)⁵ and identifying annual housing targets to meet needs. An identified goal is that new housing growth should occur without displacement.

Through its engagement with ABAG on the D w/o D program, PolicyLink has generated recommendations for how regional agencies can promote development without displacement in transit-rich areas. MAPC will consider how these strategies can be integrated into our Sustainable Communities-funded activities and our general housing work.

- 1) Develop an online Equitable Development Indicators System to track, monitor and evaluate equity outcomes in Priority Development Areas (PDAs)⁶ and other geographies in the region over time.
- 2) Establish specific equity-focused performance measures for Priority Development Areas and include these measures as criteria for the receipt of capital infrastructure investments and station area planning grants.
- 3) Continue to fund station area plans and strengthen community engagement as a condition for receiving funds.
- 4) Promote a regional affordable housing strategy that emphasizes the retention and expansion of affordable housing and the prevention of displacement near transit.
- 5) Include an Equity Innovations Forum where practitioners can exchange best practices and resources as a part of its new web platform.
- 6) Convene an Equity Caucus to engage elected officials representing the PDAs to discuss how to meet equitable development goals.

⁵ The Regional Housing Needs Allocation (RHNA) is a state-mandated process for determining how many housing units, including affordable units, each community must plan to accommodate over a seven year period. (ABAG, 2009)

⁶ Priority Development Areas are a designation that local governments in the nine-county San Francisco Bay Area can apply for through ABAG’s FOCUS grant program. PDAs are locally-identified, infill development opportunity areas located near transit. For more information, visit: <http://www.bayareavisoin.org/pdaapplication/>

- 7) Evaluate current regional investment policies and make recommendations for how to ensure equitable development and prevent displacement.
- 8) Modify parking fee structures and policies to benefit existing communities, e.g., creating “parking benefits districts”) that recirculate the revenues generated by parking fees in the community to fund neighborhood improvements.
- 9) Incorporate affordability, transit access, walkability and displacement prevention in regional sustainable communities planning.

(ABAG, 2009)

II. Community Benefits Agreements

Community Benefits Agreements (CBAs) are contracts executed between community-based organizations and one or more developers. They are intended to outline the developers' commitment to provide a range of benefits to the community to offset the potential impacts associated with the proposed development. "CBAs are legally binding and are commonly incorporated into the City's developer agreements." (The Partnership for Working Families (PWF), 2011)

The Partnership for Working Families argues that CBAs work because:

- Community benefits help generate public support for economic development projects.
- CBAs hold developers accountable for their promises to local governments and residents.
- Community benefits programs can transform regions through stronger, more equitable economies.
- Public input results in better projects that benefit the whole community and attract local customers.
- Time is money, and projects with CBAs often enjoy a faster, smoother entitlement process.

One of the biggest challenges of community benefits agreements is enforcement. A hard-won agreement can be nullified if the developer pulls out of developing the property.

Two landmark community benefits agreements have been profiled in reports as successes: the LA Land Area Company Community Benefits Agreement and the Longfellow Station Community Benefits Agreement. MAPC spoke with the organizations involved with the development of both agreements to learn more about where these agreements now stand and to obtain practical guidance on elements to consider when crafting agreements.

Case Studies: Community Benefit Agreements (CBAs) in Practice

Community Benefits Agreement with LA Land Area Company. In May 2001, the Los Angeles Figueroa Corridor Coalition for Economic Justice (FCCEJ) negotiated an historic CBA with the LA Arena Land Company. The agreement requires the developers to include living wage and union jobs, affordable housing, local hiring, and parks to the Center's four million square foot addition. The CBA provides a model for ensuring low-income residents are considered when major developments are built in their communities. (PWF, 2011) Visit Appendix C to view the full CBA.

Longfellow Station Community Benefits Agreement. In 2008, the Longfellow Community Council (LCC) in Minneapolis, Minnesota succeeded in creating a community benefits agreement with a developer that requires at least 30 percent of the Longfellow Station housing units to be affordable, which exceeds the city's 20 percent requirement. A mix of unit sizes was to be provided, with family-size units having access to green space. (Pollack, Bluestone, and Billingham, 2010) Please visit Appendix D to view the full CBA.

MAPC spoke with Kim Jakus of LCC in March 2011 to learn more about how the CBA elements have

been implemented since the document's signing. The CBA was developed over a period of two years. Its development was supported in part (through facilitation and advice) by planning staff from the area regional planning council. Unfortunately, the developer who had signed on to the agreement had to pull out of the project during the economic downturn because it went bankrupt. The property was to be financed with affordable housing tax credits and HUD financing, but it fell through during the economic downturn. The CBA became null and void because it was tied to the developer and not the land. The City of Minneapolis then transferred development rights to a new developer. The new developer has made it clear to LCC that he has no intent in signing a formal CBA, but that he will take as many elements as are reasonable for integration into the developer's redeveloper agreement with the City. LCC feels that the CBA was not a total loss, however, because stakeholders in the community became engaged and familiar with the process of creating a CBA. LCC's advice to other communities looking to create CBAs is not to tie the agreement to the developer but to the land.⁷

⁷ Personal communication with Kim Jakus, Longfellow Community Council, March 2011.

III. Condominium Conversion Ordinances

Massachusetts state condominium law allows cities and towns to adopt local ordinances and bylaws that regulate condominium conversion more strongly than the statewide law. MAPC contacted several communities that have passed local condo conversion ordinances to learn more about how local ordinances have been enforced and/or modified over time.

While we were not able to reach all communities to discuss the ordinances, please see Appendices E through H for a sample of condo conversion ordinances containing language that strengthens tenant protections beyond those articulated in the state law. Please visit the MassLegalHelp Resource webpage on local condo conversion ordinances for a summary and analysis of each⁸.

- Appendix E: Analysis of City of Boston Condo Conversion Ordinance
- Appendix F: Analysis of Town of Lexington Condo Conversion Ordinance
- Appendix G: Analysis of Town of Marlborough Condo Conversion Ordinance
- Appendix H: Analysis of City of New Bedford Condo Conversion Ordinance
- Appendix I: Summary of City of Berkeley Condo Conversion Ordinance Housing Mitigation Fee

Case Study: Massachusetts Condo Conversion Ordinances in Practice

City of Marlborough. Marlborough's condo conversion ordinance, passed in 1985, differs from the state condo law by specifying that no more than 25% of units in any building or structure may be converted in one calendar year and requires extended five years' notice of conversion for handicapped, elderly, or low- or moderate-income tenants. However, in 2005 the City allowed an owner to obtain a waiver from the law if specific provisions were met.

MAPC spoke with Steve Reid, code enforcement officer for the City of Marlborough to learn more about how the ordinance has been enforced. Steve shared that limited municipal staffing challenges enforcement of condo conversion ordinance elements. The Town of Marlborough's Condo Conversion Ordinance (please see Appendix G for an analysis of the ordinance) was passed in 1985 with good intentions. However, zoning in Marlborough is developer driven (and there is no municipal planner) the ordinance was later modified with an opt-out loop that says if the developer pays \$1,250 per unit to be converted to the City, they do not need to abide by the more stringent conditions. That 2005 modification was brought about because a developer wanted to convert to condos. Right now there is no interest in revisiting the provision because so much new development is happening and a lot of the older stock has already been converted to condos. One of the problems with the converted property (which triggered the change in the ordinance) is the fact that most of the low income residents actually ended up buying the condos but with the foreclosure and mortgage crisis there has been a 30% foreclosure rate. There was also conflict over how high the condo fee would be and because when it was kept low, it created a bad situation – the property, though condos, is ill-kept.⁹

⁸ McCreight, Mac. July 2008. Local Protections for Tenants Facing Condo Conversion. Source: <http://www.masslegalhelp.org/housing/private-housing/ch20/local-protections-for-tenants-facing-condo-conversion>

⁹ Personal communication with Steve Reid, City of Marlborough Building Inspector, March 2011.

In contrast, the state of California regulates condominium conversions under the California Subdivision Map Act and the Subdivided Lands Act. The State law allows local government to impose additional requirements. The City of Berkeley passed an innovative Condo Conversion Ordinance in 1992 (Berkeley Municipal Code Chapter 21.28 et seq.) that imposes a housing mitigation fee. Accrued revenues from the fee help finance construction and rehabilitation of permanently affordable housing, which has helped to discourage conversions and recapture affordability resulting from conversions.

Case Study: City of Berkeley, California Condo Conversion Ordinance

The City of Berkeley established the housing mitigation fee in part to promote conversions of rental to condominiums versus conversions of rental to Tenancy in Common (TIC), as it was found that difficulties arise for people who invest in TICs. Owners providing additional tenant protections specified in the Condo Conversion Ordinance receive a substantial decrease in the amount of the affordable housing mitigation fee. Revenues from the fee accrue to the Berkeley Housing Trust Fund to help finance construction and rehabilitation of permanently affordable housing in Berkeley.

The fee is calculated in two ways:

- The Nexus-Based Affordable Housing Mitigation Fee is calculated by dividing the difference between the cost of owning the unit as a condominium less the rental costs by the current fixed mortgage rate. If the unit is an owner-occupied TIC unit, the CCO specifies how rental costs are to be calculated.
- The Affordable Housing Mitigation Fee Cap is a reduction to converters who agree to limit future rent increases for the life of the property to any tenant at the time of conversion to no more than 65% of the increase in Consumer Price Index for all Bay Area Consumers. The Mitigation Fee is capped at 8% of the sale price or 4% for 2-unit properties.

The fee is calculated only at the time of sale, unless owners elect to pay the fee up front. Estimated fees prepared by the City are based on either prorated value of each unit based on the price paid when the property was originally purchased – as reported by the County Assessor’s office, on an analysis of the sales prices of comparable units, or some other mutually agreed upon basis for estimating the fee. Please see Appendix I for more information.

IV. One-for-One Affordable Housing Replacement Ordinances

In researching one for one affordable housing replacement ordinances, MAPC came across a number of instances in which the legality of the ordinances has been contested. We found one case – highlighted below – as well as others that are currently being debated at the local level, which have not yet made it to court.

We also found that several states have passed enabling legislation and/or policies that support these ordinances. The state of California has enabling legislation that allows for the creation of one-for-one affordable housing replacement ordinances. The City of Portland, Oregon has passed a “No Net Loss” Policy¹⁰.

Case Example: Affordable Housing Replacement Ordinances and Policies

Portland, Oregon’s Central City No Net Loss Policy. “On August 29, 2001 City Council adopted Resolution No. 36021 calling for a No Net Loss policy for affordable housing in the Central City. This Resolution stated the Council’s intention to seek financial resources and/or regulatory tools adequate for the creation, preservation and rehabilitation of affordable housing in the Central City.” The Portland City Council passed another ordinance requested that the Housing Authority of Portland, the Oregon Department of Housing and Community Services, Multnomah County, and the Association of Portland Progress to join in a five year collaboration with the City of Portland to develop and implement a No Net Loss Funding Plan¹¹.

The City’s goal in implementing the policy was to “cost effectively gain control of affordable housing assets, and stabilize market value of residential real estate (avoiding commercial reuse value speculation) to facilitate the acquisition/development of additional affordable housing assets...A successful preservation intervention at an individual project level will be a clearly defined track toward stabilizing rents and achieving housing quality standards in a specific building in accordance with the City’s 60-year affordability policy.” (Portland Development Commission, 2001)

San Telmo Associates et al v City of Seattle (Appellant), 1987. City enacted a code that attempted to stem the conversion of low-income housing to non-residential uses. Trial court invalidated the ordinance and the appellate court affirmed, holding that the ordinance was a tax the city had no right to impose. The city was shifting its burden of providing low income housing to the property owners. The cost of providing low-income housing could have been constitutionally passed on to the property owners, but was to have been shared by the whole city (Lexis Nexis, 2011).

¹⁰ City of Portland 2001 Resolution no. 36021 creating the No Net Loss Policy: http://www.pdc.us/pdf/housing_services/resolution36021_10-01.pdf

¹¹ City of Portland 2001 Resolution on No Net Loss Funding: http://www.pdc.us/pdf/housing_services/resolution-cc-no-net-loss-funding.pdf

V. Workforce Development Strategies

At the February 2011 meeting, stakeholders expressed an interest in workforce development strategies used to support neighborhood revitalization and the retention of small and local businesses. A summary of two organizations' track records in fostering and retaining local businesses is outlined below.

Case Studies of Combined Housing and Workforce Development Strategies

California's Fruitvale Transit Village. Fruitvale is one of a dozen neighborhoods in Oakland, California. It is a predominantly low-income Latino and Chicano community. The Unity Council created the Fruitvale Development Corporation to develop the local economy around the BART station in Fruitvale, which was anticipating the construction of a new parking garage to service the station. The Unity Council is a community development corporation with close ties to the city of Oakland. Today it serves as a delegate agency that manages many city programs, such as HeadStart and senior centers. It has built up a reputation as a housing and community developer. Its overall orientation is to promote high density mixed uses, housing, jobs, and retail but with a focus on distributing jobs centers. The community sought to develop proactively implement solutions for managing traffic, pollution, and impacts on local business that the traffic from the garage might bring (Grady and Leroy, 2006). In addition to building mixed-use infill development around the BART, the Unity Council started a Public Market small business incubator program in Fruitvale that supports small business programs and local artisans.

MAPC spoke with Jeff Pace, Vice President of Finance and Business Operations at the Unity Council to learn more about the Council's workforce development strategies particularly pertaining to local/small business retention. He noted that Oakland as a city has an anti-big box store culture so the city has not had to manage any real interest from big box stores. In addition, he noted, current available sites are not accommodating because they are not big lots. The Unity Council's focus on small business retention grows out of its holistic approach to servicing the community. The Public Market builds on its prior work in starting a Main Streets program in the 1990s that largely served immigrant-owned businesses. Activities included litter and graffiti reduction programs, education and assistance on business signage and overall beautification, and negotiating with the city to implement tax assessments that provided funding for cleaning. As of 2011, Fruitvale has seen a 10-20% increase in businesses by microentrepreneurs.

Jeff also advised to other communities considering a workforce and housing strategy near transit to consider a healthy dose of affordable housing at 15-40% of units in a structure and that concentrating too much subsidized section 8 housing near transit can create dead zones. He advised mixing in affordable housing to ensure that amenities look and feel good enough for market rate housing in order to meet the area's tax revenue needs.¹²

Seattle's Urban Enterprise Center. The Seattle Chamber of Commerce established the Urban Enterprise Center (UEC), a nonprofit affiliate with ties to the business community, which focuses on

¹² Personal communication with Jeff Pace, Vice President of Finance and Business Operations, The Unity Council, April 2011.

the Central Area. UEC held a retreat with Central Area leaders to discuss community needs. The primary issue identified was the lack of jobs. To work with the program, businesses have to offer a yearly salary of at least \$20,000 along with benefits. UEC works with the Employment Security Office to identify potential employees and get them job-ready before matching them with employers. With financial support from the Ford Foundation and private businesses, UEC has funded community-based organizations to help develop businesses. New businesses are required to hire 50 percent of their workforce from the local community. Graduate students from the University of Washington provide businesses with marketing and accounting assistance so that they might remain competitive as larger chains locate nearby (Greater Seattle Chamber of Commerce, 2011).

VI. District of Columbia Tenant Opportunity to Purchase Act (TOPA)

According to Sam Zimbabwe of the Center for Transit-Oriented Development, the District of Columbia's Tenant Opportunity to Purchase Act (TOPA), which was enacted in 1980, has perhaps been most helpful policy for preventing displacement by converting larger properties, rather than smaller buildings or townhouses. Zimbabwe speculates that it has had the impact of holding down housing sales prices or slowing down transactions.¹³

The Georgetown University Law Center's Harrison Institute of Public Law (the "Institute") was commissioned by the Fannie Mae Foundation to study the strengths and deficiencies of the TOPA. The following is a summary of its findings.

TOPA stipulates that owners of residential properties must "give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale" before they may transfer the property to a third party. Benefits to residents include:

- the option to purchase
- the right to assign their right-to-purchase to a third party
- the option co-develop the property
- the right to obtain cash payments or other considerations if they choose not to co-develop the property

The Act requires an owner to provide each tenant and the District of Columbia mayor with a written offer of sale. If the tenants wish to respond to the notice, they must incorporate a tenants association and express their interest in purchasing the building with the owner and District of Columbia Redevelopment Authority through an application for registration. Once the tenant organization has registered its application, the owner must give the organization a reasonable amount of time (not less than 120 days) to negotiate a contract of sale. This period may be extended for up to an additional 120 days (for a total of 240 days) if a lending institution provides a written notice that the association has applied for financing and the institution needs additional time to make a decision. In addition to the minimum periods required under the Act, the owner may also give the organization "reasonable" extensions without incurring liability to any third party with which it has a contract.

Tenant Protections

The following protections are included in the Act:

- right of first refusal for a 15-day period following receipt of a copy of a third-party contract
- good faith bargaining between owners and tenants: the Act outlines specific circumstances as examples of absence of good faith; ensuring compliance with good faith bargaining presumably rests on the tenant and/or third party
- demonstration of financial ability is not a required prerequisite for entering into a contract
- cap on maximum deposit at time of contract: the maximum deposit required of tenants is 5 percent of the contract price

¹³ Personal communication with Sam Zimbabwe, Director, Center for Transit-Oriented Development at Reconnecting America in October 2011.

- explicit permission for tenants to exercise purchase rights in conjunction with third parties either by assigning or selling their rights to such parties
- prohibited waiving of tenant rights as specified in TOPA to receive an offer from owners; owners are also prohibited from requesting such waiver

The process of acquiring a property from a developer can take at least a year from start to end and involves the following steps:

- Tenant organizing, e.g., forming a cooperative to purchase the property. Housing counseling agencies like the Harrison Institute provided specific services in this area.
- Purchase and sale negotiation and agreements.
- Due diligence.
- Closing.
- Refundable nominal deposit.

Case Study: National Housing Trust/Enterprise Preservation Corporation's Work with Residents under TOPA

The Institute's study also identified implementation barriers of a financial, technical, and educational nature. These involve residents, technical assistance providers, and lenders. MAPC spoke with Scott Kline, Vice President of the National Housing Trust (NHT)/Enterprise Preservation Corporation, which is one of the DC-area development consultants that has worked with DC residents under TOPA, to learn more about the successes and challenges of TOPA implementation.

Scott shared that the Act has facilitated the creation of tenant cooperatives and it is a great tool for housing preservation. However, a challenge that has emerged with the housing crisis is that the District of Columbia's Housing Trust Fund, which is funded through recording fees and has historically supported the redevelopment of properties purchased by tenants under TOPA, has dwindled. In the booming housing market, 100% of properties purchased by tenants under the TOPA were financed by the Housing Trust Fund. The Fund was big and tenants used these funds from the District to engage developers and do property rehabilitation and development plans. When funds diminished, tenant cooperatives got stuck with buildings needing serious repairs but without the capital needed to fix them. NHT has personally represented two cooperatives. The tenants were able to negotiate the purchase of the buildings, but encountered serious difficulty in refinancing them due to the lack of Housing Trust Fund money. One property was able to secure Neighborhood Stabilization Program funds to refinance it; the other has not had that success and has not been redeveloped. What NHT has learned is that there needs to be more options for gap financing: an availability of bonds and tax credits to allow tenants to refinance properties so that tenants are not reliant on one main source of funding to facilitate the purchase of property.¹⁴

¹⁴ Personal communication with Scott Kline, Vice President at the National Housing Trust/Enterprise Preservation Corporation in October 2011.

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Appendix A: Anti-Displacement Strategies Literature Review Memo, February 3, 2011

To: Lauren DiLorenzo, Monica Lamboy, Danny LeBlanc, Meridith Levy, Stephanie Pollack, and Clodagh Stoker-Long
From: Jennifer Chin, Eric Halvorsen, and Jennifer Raitt
On: February 3, 2011
Re: Overview of Anti-Displacement Strategies

The following is a synthesis of findings from a literature review of reports outlining anti-displacement policies and strategies. The reports were sourced from academic journals and nonprofit organizations and were released over the last two decades. Most of the proposed policies and strategies are grounded in successful case study examples of their application in neighborhood, city/town, or regional contexts.

Please see Attachment A for a matrix that summarizes proposed policies and strategies by source.

Anti-Displacement Strategies by Intervention Type

Interventions are targeted to different actors with power in the process of ensuring development without displacement: municipalities, developers, community development corporations, advocacy nonprofits, foundations, banks, realtors, and state and federal government.

1. Conducting early assessments of housing need
2. Increasing stability in neighborhoods by conducting early assessments of neighborhood revitalization opportunities
3. Addressing existing housing stock deficiencies
4. Promoting homeowner and tenant access to housing programs
5. Offering a range of asset building and finance assistance options
6. Proactively acquiring and preserving privately owned properties and land for affordable housing
7. Making changes in local government policies
8. Utilizing government-administered financing sources for affordable housing
9. Addressing socio-economic impacts and affordable housing concerns in transit and corridor planning
10. Advocating for federal funding increases

Conducting Early Assessments of Housing Need

- Data and mapping: Regularly monitoring available socioeconomic and demographic data at the Census tract-level to better track the changing nature of neighborhoods
- Documenting housing need for vulnerable populations: one city has set up a registration of all homeless people so that
- Assessing the current and projected senior population to ensure that senior housing is built near transit and that measures are taken to increase the elderly's knowledge of and access

to transit and to make it safe and accessible to the elderly if redevelopment is linked to transit improvements

Increasing Stability in Neighborhoods by Conducting Early Assessments of Neighborhood Revitalization Opportunities

- Being ahead of the curve of demographic change and creating forums for old and new residents to meet on common ground
- Building awareness: advocacy for anti-displacement policy starts with grassroots community leaders who have influence over planning and development in their neighborhood
- Boosting the local economy by supporting job training of local residents and building new housing in smaller developments or scattered throughout the neighborhood designed to meet target-market demand
- Providing equity protection insurance for properties in neighborhoods that are not appreciating or losing value
- Carrying out neighborhood target-marketing and undertaking neighborhood promotional activities to increase the effectiveness of real-estate brokerage activities among tenants and low income homeowners in the neighborhood
- Considering the quality of streetscape and identifying opportunities to upgrade the appearance of commercial areas (facades, parking areas, sidewalks)
- Assessing the quantity, utility, safety, and programming taking place in open spaces
- Considering the quality of transportation service and current residents' journeys to work and access to transit in relation to the current population's demographics and projected future needs
- Considering the price and quality of current merchandise, the variety and nature of shopping options, and current access to shopping, dining, and entertainment in relation to the current population's demographics and projected future needs
- Identifying opportunities to maintain and/or reconfigure physical spaces to reduce crime and facilitate community use of and investment in public spaces
- Reclaiming hazardous industrial sites to promote environmental and social justice and to hold them for future residential development
- Considering the needs of the current small business community and the number and quality of current and prospective jobs
- Assessing safe routes to schools and the condition and needs of school facilities
- Engaging in early land banking of abandoned and vacant properties and parcels for future rehabilitation

Addressing Existing Housing Stock Deficiencies

- Priority redevelopment of vacant lots and housing and renovation of affordable housing
- Creating a Heat Receivership Program that allows court-appointed receivers to make needed improvements and restore heat to insufficiently heated multi-family homes; cost of improvements are reimbursed by the City and taken by the City as a lien in the full amount
- Creating a Housing Abandonment Prevention Program that allows court-appointed receivers to make emergency repairs to a number of code violations and deteriorating conditions until

permanent improvements can be made; cost of improvements are reimbursed by the City and taken by the City as a lien in the full amount

- Creating a Tenant Modernization Program, with the support of building owners, which enables tenants to assessment needed apartment improvements and to then make their own improvements and deduct the cost of repairs from their rent
- Creating volunteer-driven and/or municipal programs for home repair, which might mobilize volunteers to do things like roof repair, yard work, and painting for elderly or disabled residents
- Taking measures to ensure that housing stock meets projected future demands through adaptive reuse of nonresidential structures, such as industrial loft buildings

Promoting Homeowner and Tenant Access to Housing Programs

- Ensuring that housing programs are communicated appropriately to diverse groups
- Providing homeowners with knowledge about: educational and informational programs to combat predatory lending and unscrupulous contracts; foreclosure-prevention assistance and other activities to reduce the risk of foreclosure; property-tax circuit-breakers or other forms of tax adjustment to limit property taxes or rate of tax increases; assistance in creating accessory apartments or boarder programs to reduce the financial burden of homeownership

Offering a Range of Asset Building and Financing Assistance Options

- Making affordable lease-purchase arrangements using the federal low income housing tax credit
- Nonprofit provision of lease-purchase agreements under which housing needing rehabilitation (or new construction) is purchased and repaired by a non-profit organization or other organization, leased to low-income families or individuals who are then offered the first option to buy the home after an arranged period
- Offering Individual Development Accounts (IDA) programs – created through partnerships between nonprofits and philanthropies – which provide homeownership education and counseling and matching funds for residents’ savings, which can be used for downpayment or closing costs
- Offering municipal first-time homebuyer programs that provide support that is similar to IDA programs
- Creating employer-assisted housing programs through partnerships between community development corporations (CDCs) and business alliances
- Creating municipal and nonprofit partnerships to offer innovative workforce programs that encourage local hiring practices and offer business development to ensure local businesses remain competitive to larger chains

Proactively Acquiring and Preserving Privately Owned Properties and Land for Affordable Housing

- Creating an Abandoned Property Program where tax delinquent, abandoned buildings can be acquired and transferred to individuals, private and non-profit developers interested in rehabilitation for affordable housing
- Creating a nonprofit- or government-administered early warning system to prevent abandonment of properties at risk of loss due to expiring federal subsidies

- Creating Land Trusts, Land Associations, or Limited-Equity Housing/Leasehold Cooperatives which can buy and renovate homes, preserve affordability, and restrict speculation by holding deeds to land and maintaining first options to buy back homes from owners holding long-term leases
- Supporting land trusts' designation with eminent domain powers over vacant building and land – similar to the Dudley Street Neighborhood Initiative experience
- Requiring tenant right of first refusal in all condominium conversions; housing developed by nonprofits can also require that homeowners grant the corporation the right of first refusal
- Using land-banking to purchase absentee homes at risk of eminent domain and rehabbing and selling the homes outright or offering lease-purchase arrangements
- Fostering the conversion of multifamily rental housing to cooperative or condominium ownership for low income families (through government and nonprofit partnerships)
- Fostering the conversion of 1- to 4-unit rental housing to homeownership for low income families (government and nonprofit partnerships)
- CDC's building of affordable housing in direct partnership with for-profit developers

Making Changes in Local Government Policies

- Providing rehab grants/loans to landlords in return for maintaining affordability and keeping properties in decent shape
- Offering tax relief assistance/incentives for multi-unit resident properties, e.g., creating new tax classification classes that reduce assessments on the following: properties with seven or more units; rehabbed or newly built properties with units that target low- and moderate-income households; and properties with expiring Section 8 units as an incentive to renew their contracts with HUD
- Adopting a Development without Displacement Policy, which requires that each in every redevelopment proposal in the city include a plan for addressing displacement; elements of the plan may include any of the above mentioned strategies
- Establishing a code enforcement program, administered by the Housing Department, which would be responsible for inspecting all multifamily residential rental properties for housing code compliance and then providing tenants living in noncompliant homes with access to other programs, such as: a rent escrow account program, which allows tenants to pay rent into a city-administered escrow until code noncompliance citations are resolved; and a rent reduction program, which can reduce tenants' rent based on the Housing Department's evaluation of the value of the missing service
- Enacting an affordable-housing replacement ordinance, requiring one-to-one replacement of affordable units lost through demolition, condominium conversion or conversion to non-residential use – whenever affordable housing located in a certain area is lost, it must be replaced one-for-one within a certain vicinity, e.g., 3 miles or the developer must make housing trust fund contributions in lieu of providing replacement units
- Enacting an inclusionary zoning ordinance requiring that a percentage of units in future market-rate developments be affordable-housing units and ensuring that units created remain affordable on a long-term basis; alternatively, establishing a voluntary inclusionary zoning program where the percentage of affordable housing set asides might be negotiated (e.g., between 10 and 20 percent) and the city, in return, may assist with a developer's site improvement budget, e.g., landscaping, on a case-by-case basis

- Adopting local and regional zoning practices that encourage compact, mixed-income, mixed-use development and adopting inclusionary zoning near transit
- Creating a land bank of vacant publicly owned land to be held in reserve for future construction of affordable housing
- Using vacant property receivership to restore properties held vacant for speculative purposes, and engaging in any of the following:
 - establishing vacant property or vacant lot redeveloper programs, which award fees to developers who participate by developing or rehabbing residential property that will be sold to income-qualified households
 - promoting residential and mixed use infill development in partnership with nonprofit and private developers
- Amending tenant relocation laws to provide that they are triggered by private displacement and ensuring adequate levels of relocation assistance
- Strengthening landlord-tenant laws including penalties for landlord harassment of tenants
- Providing sanctions and incentives to realtors and bankers to encourage more accountable behavior and engagement with low- and moderate-income neighborhoods.
- Enacting rent control legislation that addresses the area's affordable housing needs and specifies the amount of permissible annual rent increases annually; permitted rent increases might be tied to the Consumer Price Index, and a municipal entity must monitor that landlords properly register their property and rents.
- Outlining just cause reasons for eviction and passing a just cause ordinance along with rent control legislation to ensure that renters can only be evicted with proper just cause, such as failure to pay rent or destruction of property
- Establishing a municipal rent board that is responsible for regulating residential rent increases and mediating between tenants and landlords; funds for a Rent Board can come from new developments and impact fees

Utilizing Government-Administered Financing Sources for Affordable Housing

- Adopting a Real Estate Transfer Taxes/anti-flipping policy for residential, commercial, and/or retail properties, which discourages investors from buying and re-selling property at huge profits without making any improvements
- Creating a citywide Housing Trust Fund that could be funded by mechanisms including:
 - levying a jobs/housing linkage fee on commercial developments, which essentially links new economic development to the construction and maintenance of affordable housing or other community needs; a certain percent of fees paid by the development per square foot would be allocated to an affordable housing trust fund
 - allocating a portion of funds from developer impact fees
 - issuing property tax assessments via housing levies, and finding ways to frame and message the levies so that voter support can be gained over time, e.g., a levy for senior citizen housing
- Creating a tax increment financing district around redevelopment areas in the community and setting aside a larger portion of tax increment financing (TIF) revenue from redevelopment funds towards affordable housing (state redevelopment law requires at least 20 percent of bond capacity generated by TIF be devoted to affordable housing)
- Levying a stabilization fund impact fee on developers that will generate funds for a variety of community benefits, such as affordable housing

- Establishing a revolving loan fund that holds dedicated sources of public funding to support the preservation and production of affordable housing
- Combining financing streams like HOME financing, Low Income Housing Tax Credits, and Section 8 in order to finance affordable housing

Addressing Socio-Economic Impact and Affordable Housing Concerns in Transit and Corridor Planning

- Including socio-economic impact assessment in environmental reviews
- Adopting joint development and transit-oriented development policies
- Allocating tax credit funding to preserve affordable housing in transit-rich areas
- Ensuring that a Comprehensive Transit-Oriented Development Strategy includes consideration of affordable housing preservation
- Employing targeted financial tools to preserve and create affordable housing near transit, such as the creation of Transit Oriented Development Funds, TOD Tax Increment Financing Districts, and affordable housing acquisition funds, especially for properties near transit
- Encourage planning bodies to make land use and housing decisions that optimize transit investments and support TOD and ensuring coordinated planning by local governments, housing organizations, and transit agencies
- Negotiating community benefits agreements that secure greater developer commitments to building affordable housing that exceed standard municipal minimum affordable housing requirements and which may include other characteristics, such as a mix of unit sizes to accommodate current family size diversity and access to green space

Advocating for Federal Funding Increases

- Increasing federal, state, and local funding for affordable housing, including funding for the project-based Section 8 and Section 202 housing programs

Appendix B: FOCUS Equitable Development Planning Brief

The following content is directly excerpted from the “Equitable Development Planning Brief” a document prepared by FOCUS, a regional development and conservation strategy that promotes a more compact land use pattern for the Bay Area of California¹⁵. FOCUS is led by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), with support from the Bay Area Air Quality Management District (BAAQMD) and the Bay Conservation and Development Commission (BCDC)—in partnership with congestion management agencies, transit providers, and local governments throughout the Bay Area.

Equitable development provides benefits for existing communities, including improvements to housing, job opportunities, environment, and quality of life. Considering potential displacement is one strategy to increasing equity. Indirect and involuntary displacement occurs when rising property values and real estate speculation lead landlords and property owners to raise rents or redevelop buildings where lower-cost homes or jobs are located. While not widespread across the region, displacement does take place in gentrifying transit-oriented areas, particularly where the housing market is constricted and neighborhoods offer attractive amenities.

By engaging low income residents and communities of color in the planning process, and explicitly recognizing their homes, community spaces and job opportunities as important assets, inclusive planning is more likely to lead to stable, integrated mixed-income neighborhoods and to include successful local economic development. In addition, securing affordable housing sites prior to the property value rise that accompanies higher densities helps to ensure a steady supply of affordable homes. Local efforts to invest in lower-income neighborhoods, address diversity, and minimize displacement benefit sustainability in the following ways:

1. Equity—An investment in low-income areas decreases regional inequities and concentrations of poverty while unlocking neighborhood development potential.
2. Environment—Increasing and safeguarding the amount of affordable housing near transit reduces sprawl.
3. Economy—Improving access to jobs in areas where opportunities are limited supports the neighborhood, municipal, and regional economies.

For planners in areas where substantial new transit and real estate investment is forthcoming, the strategies for preventing displacement can be summarized as follows:

11. Use demographic data and community surveys to establish who lives and works in the area and how it has changed over time, i.e. between decennial Census years.
12. Conduct an inclusive community engagement process and ensure that the character and vitality of the neighborhood informs the development vision.

¹⁵ FOCUS. 2011. Equitable Development Planning Brief. Source: <http://www.bayareavisoin.org/initiatives/PDFs/PlannersEquity.pdf>

- a. Meetings can provide translation services, food, and childcare, and be held in transit-accessible and culturally relevant locations.
 - b. Local culture, including important neighborhood assets, history, and unique architecture, can become the basis for a planning vision
13. When planning affordable housing, secure sites in the area as soon as possible. Identify where the existing affordable homes are and how they may be impacted by market shifts.
14. Design zoning to direct the highest densities, and therefore largest redevelopment incentives, to areas where it will have minimal disruptive impact. For example, San Francisco and San Carlos have moved highest heights (and therefore maximum redevelopment incentives) away from local commercial corridors to adjacent streets in order to preserve functioning local retail environments. For more information, visit
- <http://www.bayareavision.org/initiatives/equitabledevelopment.html> and view the San Francisco-Eastern Neighborhoods Case Study.
15. Enhance housing and business retention programs to help residents stay in their current homes and to maintain existing levels of affordability.
- a. Housing programs can include homeownership and rehabilitation assistance as well as strategies to preserve more affordable rental properties. The Mixed Income TOD Housing Guide, below, provides several options.
 - b. Business programs can include small business assistance, local hire, and commercial corridor/ “Main Street” revitalization For more information, visit the PolicyLink tool on commercial corridors or the Local Initiatives Support Corporation (<http://www.bayarealisc.org/>)
16. Identify how important asset-building job bases, including small commercial districts and manufacturing centers, will fit within the proposed new vision and zoning.
17. Direct resources to cultural and community centers, including schools, parks and small businesses, that provide social seams for diverse neighborhoods.
18. Consider the use of development agreements and in lieu fees to provide community benefits.

For reference, there are three online Toolkits that provide analysis of specific policies:

19. PolicyLink Equitable Development Toolkit

http://www.policylink.org/site/c.lkIXLbMNJrE/b.5136575/k.39A1/Equitable_Development_Toolkit.htm

20. Great Communities Collaborative Preventing Displacement Tool

<http://greatcommunities.org/intranet/library/sites-tools/great-communitiestoolkit/PreventingDisplacement.pdf>

21. Reconnecting America/Center for Transit-Oriented Development Mixed- Income TOD Action Guide

http://www.reconnectingamerica.org/public/display_asset/090304mitodag0109

Appendix C: Community Benefits Agreement with LA Land Area Company

*The following CBA was negotiated in 2001 by the Figueroa Corridor Coalition for Economic Justice. The CBA text is provided below in its entirety.*¹⁶

ATTACHMENT A

COMMUNITY BENEFITS PROGRAM

I. PURPOSE

The purpose of this Community Benefits Program for the Los Angeles Sports and Entertainment District Project is to provide for a coordinated effort between the Coalition and the Developer to maximize the benefits of the Project to the Figueroa Corridor community. This Community Benefits Program is agreed to by the Parties in connection with, and as a result of, the Cooperation Agreement to which it is attached. This Community Benefits Program will provide publicly accessible park space, open space, and recreational facilities; target employment opportunities to residents in the vicinity of the Figueroa Corridor; provide permanent affordable housing; provide basic services needed by the Figueroa Corridor community; and address issues of traffic, parking, and public safety.

II. DEFINITIONS

As used in this Community Benefits Program, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form. Any capitalized terms not specifically defined in this Attachment A shall have the meanings as set forth in the Settlement Agreement.

“Agency” shall mean the Community Redevelopment Agency of the City of Los Angeles.

“City” shall mean the City of Los Angeles.

“Coalition” shall have the meaning set forth in the Cooperation Agreement.

“Contractor” shall mean a prime contractor, a subcontractor, or any other business entering into a contract with the Developer related to the use, maintenance, or operation of the Project or part thereof. The term Contractor shall not include Tenants.

“Cooperation Agreement” shall mean the Cooperation Agreement entered into between the Developer and the Coalition on May 29, 2001.

“Developer” shall mean the corporations entitled the L.A. Arena Land Company and Flower Holdings, LLC.

“Needs Assessment” shall have the meaning set forth in Section III.C.1.

¹⁶ Strategic Actions for a Just Economy. 2011. Benefits Agreement with LA Land Area Company Community. Source: <http://www.saje.net/atf/cf/%7B493B2790-DD4E-4ED0-8F4E-C78E8F3A7561%7D/communitybenefits.pdf>

“Project” shall have the meaning set forth in the Cooperation Agreement.

“Tenant” shall mean a person or entity that conducts any portion of its operations within the Project, such as a tenant leasing commercial space within the Project, or an entity that has acquired a fee simple interest from the Developer for the purpose of developing a portion of the Project. “Tenant” does not include Contractors and agents of the Developer.

Tenant shall exclude any tenant of a residential dwelling unit, any guest or other client of any hotel and any governmental entity.

III. PARKS AND RECREATION

A. PURPOSE. The purpose of this Section is to help address the deficit of park space in the Figueroa Corridor community. The Figueroa Corridor contains less than a quarter of the park space acreage required by the City. The park construction efforts under this Section will help address this deficit, providing a measurable and lasting benefit to the Figueroa Corridor community.

B. QUIMBY FEES. Developer agrees to pay all fees required by the Los Angeles Municipal Code, Chapter I, Article 7, Section 17.12, “park and recreation site acquisition and development provisions,” subject to offsetting credits as allowed by that section and/or state law and approved by the city. The Coalition shall support Developer’s application for Quimby credit under this section, provided that Developer’s applications for credits are based on publicly accessible space and facilities.

C. PARKS AND OPEN SPACE NEEDS ASSESSMENT.

1. Needs Assessment. The Developer will fund an assessment of the need for parks, open space, and recreational facilities in the area bounded by the following streets: Beverly Boulevard and the 101 freeway (north boundary); Western Avenue (west boundary); Vernon Avenue (south boundary); and Alameda Street (east boundary). Developer will commence fulfillment of its responsibilities under this section III.C within 90 days after enactment by the Los Angeles City Council of a development agreement ordinance for the Project.

2. Funding. Developer will fund the Needs Assessment in an amount between \$50,000 and \$75,000, unless the Coalition consents to the Developer funding the Needs Assessment in an amount less than \$50,000.

3. Selection of organization conducting needs assessment. The Needs Assessment will be conducted by a qualified organization agreed upon by both the Developer and the Coalition, and paid an amount consistent with Section III.C.2, above. The Developer and the Coalition may enlist other mutually agreed upon organizations to assist in conducting the Needs Assessment.

D. PARK AND RECREATION FACILITY CREATION BY DEVELOPER.

1. Park and recreation facility creation. Following the completion of the needs assessment, the Developer shall fund or cause to be privately funded at least one million dollars (\$1,000,000) for the creation or improvement of one or more parks and recreation facilities, including but not limited to land acquisition, park design, and construction, within a one-mile radius of the Project, in a manner consistent with the results of the Needs Assessment. By mutual agreement of the Coalition and the

Developer, this one-mile radius may be increased. Each park or recreation facility created pursuant to this agreement shall be open to the public and free of charge. Developer shall have no responsibility for operation or maintenance of any park and recreation facility created or improved pursuant to this agreement. Developer after consultation with the Coalition shall select the location of park and recreation facilities to be created or improved. Park and recreation facilities shall be created or improved in a manner such that a responsible entity shall own, operate, and maintain such facilities. Each park created or improved pursuant to this agreement shall include active recreation components such as playgrounds and playing fields, and shall also include permanent improvements and features recommended by the Needs Assessment, such as restroom facilities, drinking fountains, park benches, patio structures, barbecue facilities, and picnic tables. Recreation facilities created pursuant to this Section should to the extent appropriate provide opportunities for physical recreation appropriate for all ages and physical ability levels.

2. Timeline. The park and recreation facilities created or improved pursuant to this agreement shall be completed within five years of completion of the Needs Assessment. At least \$800,000 of the funds described in Section III.D.1, above, shall be spent within four years of completion of the Needs Assessment.

E. OPEN SPACE COMPONENTS OF DEVELOPMENT.

1. Street-level plaza. The Project will include a street-level plaza of approximately one-acre in size and open to the public.

2. Other public spaces. The Project will include several publicly-accessible open spaces, such as plazas, paseos, walkways, terraces, and lawns.

IV. COMMUNITY PROTECTION

A. PARKING PROGRAM. The Developer shall assist the Coalition with the establishment of a residential permit parking program as set forth below.

1. Permit Area. The area initially designated as part of the Parking Program is generally bounded by James Wood Drive on the north, Byram and Georgia Streets on the west, Olympic Boulevard on the south and Francisco on the east. The permit area may be adjusted from time to time by mutual agreement of the Developer and the Coalition or upon action by the City determining the actual boundaries of a residential parking district in the vicinity of the Project.

2. Developer Support. The Developer shall support the Coalition's efforts to establish the parking program in the permit area by requesting the City to establish a residential permit parking district through a letter to City Council members and City staff, testimony before the City Council or appropriate Boards of Commissioners, and through technical assistance which reasonably may be provided by Developer's consultants.

To defray the parking program's costs to residents of the permit area, the Developer shall provide funding of up to \$25,000 per year for five years toward the cost of developing and implementing the parking program within the permit area. Such funding shall be provided to the City.

3. Limitations. The Coalition understands, acknowledges and hereby agrees that the City's determination of whether to establish a residential permit parking district and the boundaries

thereof are within the City's sole discretion. The Developer is not liable for any action or inaction on the part of the City as to establishment of a residential permit parking district or for the boundaries thereof. The Coalition understands, acknowledges and hereby agrees that the total annual aggregate cost of a residential permit parking district may exceed \$25,000 per year and that in such event, the Developer shall have no liability for any amounts in excess of \$25,000 per year for five years.

B. TRAFFIC. The Developer in consultation with the Coalition shall establish a traffic liaison to assist the Figueroa Corridor community with traffic issues related to the Project.

C. SECURITY. The Developer shall encourage the South Park Western Gateway Business Improvement District to address issues of trash disposal and community safety in the residential areas surrounding the Project. The Developer shall request the BID to provide additional trash receptacles in the vicinity of the Project, including receptacles located in nearby residential areas.

V. LIVING WAGE PROGRAM

A. DEVELOPER RESPONSIBILITIES REGARDING LIVING WAGES.

1. Compliance With Living Wage Ordinance. The Developer, Tenants, and Contractors shall comply with the City's Living Wage Ordinance, set forth in the Los Angeles Administrative Code, Section 10.37, to the extent such ordinance is applicable.

2. Seventy Percent Living Wage Goal. The Developer shall make all reasonable efforts to maximize the number of living wage jobs in the Project. The Developer and the Coalition agree to a Living Wage Goal of maintaining 70% of the jobs in the Project as living wage jobs. The Developer and the Coalition agree that this is a reasonable goal in light of all of the circumstances. Achievement of the Living Wage Goal shall be measured five years and ten years from the date of this Agreement. In the event that actual performance is less than 80% of the goal for two consecutive years, Developer shall meet and confer with the Coalition at the end of such two year period to determine mutually agreeable additional steps which can and will be taken to meet the Living Wage Goal.

3. Achievement of Living Wage Goal. For purposes of determining the percentage of living wage jobs in the Project, the following jobs shall be considered living wage jobs:

- jobs covered by the City's Living Wage Ordinance;
- jobs for which the employee is paid on a salaried basis at least \$16,057.60 per year if the employee is provided with employer-sponsored health insurance, or \$18,657.60 per year otherwise (these amounts will be adjusted in concert with cost-of-living adjustments to wages required under the City's Living Wage Ordinance);
- jobs for which the employee is paid at least \$7.72 per hour if the worker is provided with employer-sponsored health insurance, or \$8.97 per hour otherwise (these amounts will be adjusted in concert with cost-of-living adjustments to wages required under the City's Living Wage Ordinance); and
- jobs covered by a collective bargaining agreement.

The percentage of living wage jobs in the Project will be calculated as the number of on-site jobs falling into any of the above four categories, divided by the total number of on-site jobs. The resulting number will be compared to the Living Wage Goal to determine whether the Living Wage Goal has been achieved.

4. Developer Compliance If Goal Not Met. Whether or not the Living Wage Goal is being met at the five- and ten-year points, the Developer shall be considered to be in compliance with this Section if it is in compliance with the remaining provisions of this Section.

5. Reporting Requirements. The Developer will provide an annual report to the City Council's Community and Economic Development Committee on the percentage of jobs in the Project that are living wage jobs. The report will contain project-wide data as well as data regarding each employer in the Project. Data regarding particular employers will not include precise salaries; rather, such data will only include the number of jobs and the percentage of these jobs that are living wage jobs, as defined in Section V.A.3, above. If the report indicates that the Living Wage Goal is not being met, the Developer will include as part of the report a discussion of the reasons why that is the case. In compiling this report, Developer shall be entitled to rely on information provided by Tenants and Contractors, without responsibility to perform independent investigation. This report shall be filed for any given year or partial year by April 30th of the succeeding year.

6. Selection of Tenants.

a. Developer Notifies Coalition Before Selecting Tenants. At least 45 days before signing any lease agreement or other contract for space within the Project, the Developer shall notify the Coalition that the Developer is considering entering into such lease or contract, shall notify the Coalition of the identity of the prospective Tenant, and shall, if the Coalition so requests, meet with the Coalition regarding the prospective Tenant's impact on the 70% living wage goal. If exigent circumstances so require, notice may be given less than 45 days prior to signing such a lease agreement or other contract; however, in such cases the Developer shall at the earliest possible date give the Coalition notice of the identity of the prospective Tenant, and, if the Coalition requests a meeting, the meeting shall occur on the earliest possible date and shall in any event occur prior to the signing of the lease agreement or other contract.

b. Coalition Meeting with Prospective Tenants. At least 30 days before signing a lease agreement or other contract for space within the Proposed Development, the Developer will arrange and attend a meeting between the Coalition and the prospective Tenant, if the Coalition so requests. At such a meeting, the Coalition and the Developer will discuss with the prospective Tenant the Living Wage Incentive Program and the Health Insurance Trust Fund, and will assist the Coalition in encouraging participation in these programs. If exigent circumstances so require, such a meeting may occur less than 30 days prior to the signing of a lease agreement; however, in such cases the meeting shall be scheduled to occur on the earliest possible date and shall in any event occur prior to the signing of the lease agreement or other contract. The Developer will not enter into a lease agreement with any prospective Tenant that has not offered to meet with the Coalition and the Developer regarding these issues prior to signing of the lease.

c. Consideration of Impact on Living Wage Goal. When choosing between prospective Tenants for a particular space within the Project, the Developer will, within commercially reasonable limits, take into account as a substantial factor each prospective Tenant's potential impact on achievement of the Living Wage Goal.

d. **Tenants Agree to Reporting Requirements.** Tenants are not required to participate in the Living Wage Incentive Program or the Health Insurance Trust Fund. However, all Tenants in the Project shall make annual reports as set forth in Section V.B.3, below. The Developer will include these reporting requirements as a material term of all lease agreements or other contracts for space within the Project.

B. TENANTS' OPPORTUNITIES AND RESPONSIBILITIES.

1. **Living Wage Incentive Program.** All Tenants will be offered the opportunity to participate in a Living Wage Incentive Program. Tenants are not required to participate in this program, but may choose to participate. Under the Living Wage Incentive Program, Tenants providing living wage jobs may receive various benefits of substantial economic value. The Coalition, the Developer, and the City will collaborate to structure a set of incentives, at no cost to the Developer, to assist the Project in meeting the Living Wage Goal. The Living Wage Incentive Program shall be described in a simple and accessible written format suitable for presentation to prospective Tenants. The Coalition, working collaboratively with the Developer, shall seek funding from governmental and private sources to support the incentives and benefits provided in the Living Wage Incentive Program.

2. **Health Insurance Trust Fund.** All Tenants will be offered the opportunity to participate in the Health Insurance Trust Fund. Tenants are not required to participate in this program, but may choose to participate. The Health Insurance Trust Fund, still being established by the City, will provide Tenants with a low-cost method of providing employees with basic health insurance.

3. **Reporting Requirements.** Each Tenant in the Project must annually report to the Developer its number of on-site jobs, the percentage of these jobs that are living wage jobs, and the percentage of these jobs for which employees are provided health insurance by the Tenant. Tenants need not include precise salaries in such reports; rather, with regard to wages, Tenants need only include the number of jobs and the percentage of these jobs that are living wage jobs, as defined in Section V.A.3, above. Such reports shall be filed for any given year or partial year by January 31st of the succeeding year.

C. TERM. All provisions and requirements of this Section shall terminate and become ineffective for each Tenant ten years from the date of that Tenant's first annual report submitted pursuant to Section V.B.3, above.

VI. LOCAL HIRING AND JOB TRAINING

A. PURPOSE. The purpose of this Section is to facilitate the customized training and employment of targeted job applicants in the Project. Targeted job applicants include, among others, individuals whose residence or place of employment has been displaced by the STAPLES Center project, low-income individuals living within a three-mile radius of the Project, and individuals living in low-income areas throughout the City. This Section (1) establishes a mechanism whereby targeted job applicants will receive job training in the precise skills requested by employers in the Project, and (2) establishes a non-exclusive system for referral of targeted job applicants to employers in the Project as jobs become available.

B. CUSTOMIZED JOB TRAINING PROGRAM. The First Source Referral System, described below, will coordinate job training programs with appropriate community-based job training organizations. Prior to hiring for living wage jobs within the Project, employers may request specialized job training for applicants they intend to hire, tailored to the employers' particular needs, by contacting the First Source Referral System. The First Source Referral System will then work with

appropriate community-based job training organizations to ensure that these applicants are provided with the requested training.

C. FIRST SOURCE HIRING POLICY. Through the First Source Hiring Policy, attached hereto as attachment No. 1, qualified individuals who are targeted for employment opportunities as set forth in Section IV.D of the First Source Hiring Policy will have the opportunity to interview for job openings in the Project. The Developer, Contractors, and Tenants shall participate in the First Source Hiring Policy, attached hereto as Attachment No. 1. Under the First Source Hiring Policy, the First Source Referral System will promptly refer qualified, trained applicants to employers for available jobs. The Developer, Contractors, and Tenants shall have no responsibility to provide notice of job openings to the First Source Referral System if the First Source Referral System is not fulfilling its obligations under the First Source Hiring Policy. The terms of the First Source Hiring Policy shall be part of any deed, lease, or contract with any prospective Tenant or Contractor.

D. FIRST SOURCE REFERRAL SYSTEM. The First Source Referral System, to be established through a joint effort of the Developer and the Coalition, will work with employers and with appropriate community-based job training organizations to provide the referrals described in this Section. The Coalition and the Developer will select a mutually agreeable nonprofit organization to staff and operate the First Source Referral System, as described in the First Source Hiring Policy. The Developer will provide \$100,000 in seed funding to this organization. The Developer will meet and confer with the Coalition regarding the possibility of providing space on site for the First Source Referral System, for the convenience of Tenants and job applicants; provided, however, the Developer may in its sole and absolute discretion determine whether or on what terms it would be willing to provide space for the First Source Referral System. If the First Source Referral System becomes defunct, Employers shall have no responsibility to contact it with regard to job opportunities.

VII. SERVICE WORKER RETENTION

A. SERVICE CONTRACTOR WORKER RETENTION. The Developer and its Contractors shall follow the City's Worker Retention Policy as set forth in the Los Angeles Administrative Code, Section 10.36. The City's Worker Retention Policy does not cover individuals who are managerial or supervisory employees, or who are required to possess an occupational license.

B. WORKER RETENTION FOR HOTEL AND THEATER EMPLOYEES. The Developer agrees that Tenants in hotel and theater components of the Project will follow the City's Worker Retention Policy with regard to all employees, and will require contractors to do the same. The Developer will include these requirements as material terms of all lease agreements or other contracts regarding hotel and/or theater components of the Project.

C. INCLUSION IN CONTRACTS. The Developer shall include the requirements of this section as material terms of all contracts with Contractors and with Tenants in hotel and theater components of the Project, with a statement that such inclusion is for the benefit of the Coalition.

VIII. RESPONSIBLE CONTRACTING

A. DEVELOPER SELECTION OF CONTRACTORS. The Developer agrees not to retain as a Contractor any business that has been declared not to be a responsible contractor under the City's Contractor Responsibility Program (Los Angeles Administrative Code, Section 10.40.)

B. DEVELOPER SELECTION OF TENANTS. The Developer agrees that before entering into or renewing a lease agreement regarding any space over fifteen thousand (15,000) square feet, the Developer shall obtain from any prospective Tenant a written account of whether the prospective Tenant has within the past three years been found by a court, an arbitrator, or an administrative agency to be in violation of labor relations, workplace safety, employment discrimination, or other workplace-related laws. When choosing between prospective Tenants for a particular space within the Project, the Developer will, within commercially reasonable limits, take into account as a substantial factor weighing against a prospective Tenant any findings of violations of workplace-related laws. In complying with this Section, the Developer shall be entitled to rely on information provided by Tenants, without responsibility to perform independent investigation.

C. REPORTING REQUIREMENTS. The Developer will provide an annual report to the Coalition and to the City Council's Community and Economic Development Committee on the percentage of new lease agreements or other contracts regarding use of space within the Project that were entered into with entities reporting violations of workplace-related laws. In compiling this report, Developer shall be entitled to rely on information provided by Tenants and Contractors, without responsibility to perform independent investigation. The report may aggregate information from various End Users, so as not to identify any particular Tenant. This report shall be filed for any given year or partial year by April 30th of the succeeding year, and may be combined with the report regarding living wages, required to be filed by Section V.B.3.

IX. AFFORDABLE HOUSING

A. PURPOSE. Developer has included between 500 and 800 housing units as part of the Project. The goal is create an “inclusionary” development; *i.e.* the project will include an affordable housing component (the “Affordable Housing Program”) as set forth in this Section.

B. DEVELOPER AFFORDABLE HOUSING PROGRAM. This Developer Affordable Housing Program exceeds requirements of state law and the Agency. To further its connection to the surrounding neighborhoods, the Developer proposes to work with community-based housing developers to implement much of the plan.

1. Percentage Affordable Units. The Developer shall develop or cause to be developed affordable housing equal to 20% of the units constructed within the Project, as may be adjusted under Section IX.D., below, through joint efforts with community-based organizations to create additional affordable units as provided in Section IX.C, below. The Developer intends to include between 500 and 800 units in the Project; therefore, the Developer’s affordable housing commitment would be between 100 and 160 units, as may be adjusted under Section IX.D below.

2. Income Targeting The distribution of affordable units shall be as follows:

- a. 30% affordable to families earning zero to 50% of Area Median Income (“AMI”);
- b. 35% affordable to families earning 51% to 60% of AMI;
- c. 35% affordable to families earning 61% to 80% of AMI.

3. Term of Affordability. Affordable units will remain affordable for a minimum of 30 years.

4. Location. Affordable units may be built within the Project or off-site. Units built off site will be located in redevelopment areas within a three-mile radius from the intersection of 11th and Figueroa

Streets. To the extent the Agency provides direct financial assistance in the creation of affordable units, 50% of the affordable units shall be constructed within the Project if required by the Agency.

5. Unit and Project Type. Given the high density of the proposed on-site high-rise housing, any inclusionary units within the Project will be two-bedroom units. Three- and four-bedroom units may be developed at offsite locations that are more appropriate to accommodate larger units and families. In connection with any off-site affordable units, Developer shall give priority consideration to creation of projects suitable for families in terms of unit size, location, and proximity to family-serving uses and services.

6. Relocated Persons. To the extent allowed by law, priority shall be given to selecting persons relocated in connection with the development of the STAPLES Center to be tenants in any affordable units created under this Section IX. Notice of availability of affordable units shall be given to such relocated persons as set forth in Section X.D.

7. Public Participation and Assistance. Nothing herein shall limit the right of the Developer to seek or obtain funding or assistance from any federal, state or local governmental entity or any non-profit organization in connection with the creation or rehabilitation of affordable units.

C. COOPERATIVE DEVELOPMENT WITH COMMUNITY BASED ORGANIZATIONS

1. Purpose. In addition to development of affordable housing on-site or off-site, Developer shall work cooperatively with community based organizations to in an effort to provide additional affordable housing units. The goal of this program is to identify affordable housing infill development opportunities within a 1.5-mile radius of Figueroa and 11th Street and to affiliate with well-established non-profit affordable housing development corporations in the area.

2. Interest Free Loans. As “seed money” for affordable housing development, within 2 years after receiving final entitlement approvals for the Project, Developer will provide interest-free loans in the aggregate amount not to exceed \$650,000 to one or more non-profit housing developers that are active in the Figueroa Corridor area and are identified in the Section VI.D.3, below, or are mutually agreed upon by the Developer and the Coalition. Repayment of principal repayment shall be due in full within three (3) years from the date the loan is made. Provided that the loan or loans have been timely repaid, such repaid amounts may be loaned again to one or more non-profit housing developers; however, it is understood that all loans will be repaid within six (6) years from the date the first loan was made. In addition, the loans shall be on such other commercially reasonable terms consistent with the purposes of this Section IX.C.

3. Prequalified Non-Profit Development Corporations. The following non-profit community based organizations are eligible to seek to participate in this cooperative program:

- b. Esperanza Development Corporation - Sister Diane Donoghue
- c. 1010 Hope Development Corporation - DarEll Weist
- d. Pueblo Development Corporation- Carmela Lacayo
- e. Pico Union Development Corporation - Gloria Farias

4. Use of Program Funds. The interest free loans may be used by the selected organizations for the following purposes:

- a. Land acquisition/option/due diligence.
- b. To focus on existing buildings to substantially rehabilitate or to acquire small infill sites capable of supporting approximately 40 or more units.
- c. Entitlement and design feasibility studies.
- d. Financial analysis and predevelopment studies.
- e. Funding applications and initial legal expenses.
- f. Other expenses reasonably approved by Developer to secure full funding agreements

5. Project Selection Process

a. Within 90 days following Project approvals, Developer will meet and confer with principals of each non-profit listed in Section IX.C.3, above to gain a comprehensive understanding of the capabilities and capacity of each organization and ability to obtain financing support.

b. Within 6 months following Project approvals, Developer will request proposals from each non-profit organization, which may include one or more prospective sites and use best efforts to identify one or more projects to pursue.

c. Developer shall consult with and seek the input of the Coalition in the selection of the nonprofit housing developer or developers. Developer shall enter into a loan agreement with any selected nonprofit housing developer to provide the interest free loan as set forth in this Section IX.C.

D. ADJUSTMENTS TO AFFORDABLE HOUSING UNITS. The assistance provided by Developer under Section IX.C may result in production of affordable units substantially in excess of 20%. Further, the Coalition has a goal of at least 25% affordable units. Therefore, for every two units of affordable housing (including both rehabilitation or new construction) created by the non-profit developer or developers with the assistance of Developer under Section IX.C in excess of 25%, Developer shall receive a credit of one unit toward Developer's obligation to create affordable housing units; provided, however, that Developer's overall obligation for affordable housing units shall not be less than 15% due to any such reduction.

In the event that no affordable units are created under the cooperative program established in Section IX.C, above, through no fault of the Developer and the Developer is unable to recoup all or a portion of the loan or loans, the Developer's obligation to create affordable units shall be reduced by one unit for each \$10,000 of unrecouped loans; provided, however that Developer's overall obligation for affordable housing units shall not be less than 15% of the housing due to any such reduction.

X. RELOCATED FAMILIES

A. PURPOSE. The purpose of this Section is to address problems that may be faced by families that were relocated by the Agency in connection with the development of the STAPLES Center. Many such

families can no longer afford their current housing due to the expiration of the relocation assistance provided by the Agency.

B. MEET AND CONFER. The Developer agrees to meet and confer with the Coalition, City Councilmembers, Agency board and staff, and other City staff in effort to seek and obtain permanent affordable housing for families relocated in connection with the development of the STAPLES Center. Meetings with the Coalition shall be held quarterly, or less frequently if mutually agreed by the Coalition and the Developer. Meetings with City Councilmembers, Agency board and staff, and other City staff will be held as necessary. The Developer's responsibilities under this section will terminate five years from the effective date of the Cooperation Agreement.

C. ASSISTANCE. The Developer will generally assist the Coalition to seek and obtain permanent affordable housing for relocated families. Developer will speak in favor of such efforts at least two appropriate public meetings and hearings when requested to do so by the Coalition. The Developer will use commercially reasonable efforts to provide technical assistance to the Coalition.

D. NOTICE OF AVAILABILITY. For a period of three years, Developer shall use good faith efforts to cause the Agency to give, to the fullest extent allowed by law, 30 days notice of availability of affordable units created by the Project to persons relocated in connection with construction of STAPLES Center and to provide such relocated persons the first opportunity to apply as potential tenants. Persons eligible for such notice shall be relocated persons who are not tenants in a permanent affordable housing project and who otherwise meet income and other requirements for affordable housing.

E. TIMING. Permanent affordable housing for relocated families is an urgent matter and, therefore, time is of the essence. Consequently, Developer's obligations under this Section X, shall begin within five days following execution of the Settlement Agreement.

XI. COALITION ADVISORY COMMITTEE

To assist with implementation of this Community Benefits Program, address environmental concerns and facilitate an ongoing dialogue between the Coalition and the Developer, the Coalition and the Developer shall establish a working group of representatives of the Coalition and the Developer, known as the Advisory Committee. This Advisory Committee shall meet quarterly, unless it is mutually agreed that less frequent meetings are appropriate. Among other issues, the Developer shall seek the input of the Advisory Committee in the Developer's preparation of the construction management plan, the traffic management plan, the waste management plan and the neighborhood traffic protection plan. In addition, the Developer shall seek the input of the Advisory Committee in a effort to develop and implement potential solutions to other environmental concerns, including without limitation, pedestrian safety, air quality and green building principles.

XII. GENERAL PROVISIONS

A. SEVERABILITY CLAUSE. If any term, provision, covenant, or condition of this Community Benefits Program 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.

B. Material Terms. All provisions and attachments of this Community Benefits Program are material terms of this Community Benefits Program.

FIRST SOURCE HIRING POLICY

SECTION I. PURPOSE.

The purpose of this First Source Hiring Policy is to facilitate the employment of targeted job applicants by employers in the Los Angeles Sports and Entertainment District. It is a goal of this First Source Hiring Policy that the First Source Referral System contemplated herein will benefit employers in the project by providing a pool of qualified job applicants whose job training has been specifically tailored to the needs of employers in the project through a non-exclusive referral system.

SECTION II. DEFINITIONS.

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

“City” shall mean the City of Los Angeles and any of its departments and/or agencies.

“Developer” shall mean the L.A. Arena Land Company and Flower Holdings, LLC. and their Transferees.

“Project” shall mean the Los Angeles Sports and Entertainment District.

“Employer” shall mean a business or nonprofit corporation that conducts any portion of its operations within the Project; provided, however, this First Source Hiring Policy shall only apply to any such portion of operations within the Project.. Employer includes but is not limited to lessees, landowners, and businesses performing contracts on location at the Project. All “Employers” are “Covered Entities,” as defined above.

“First Source Referral System” shall mean the system developed and operated to implement this First Source Hiring Policy, and the nonprofit organization operating it.

“Low-Income Individual” shall mean an individual whose household income is no greater than 80% of the median income for the Standard Metropolitan Statistical Area.

“Targeted Job Applicants” shall mean job applicants described in Section IV.D, below.

“Transferee” shall mean a person or entity that acquires a fee simple interest or a ground lease from the Developer for the purpose of developing all or any portion of the Proposed Development.

SECTION III. EMPLOYER RESPONSIBILITIES

A. Coverage. This First Source Hiring Policy shall apply to hiring by Employers for all jobs for which the work site is located within the Project, except for jobs for which hiring procedures are governed by a collective bargaining agreement which conflicts with this First Source Hiring Policy.

B. Long-Range Planning. Within a reasonable time after the information is available following execution by of a lease by Developer and Employer for space within the Project, the Employer shall provide to the First Source Referral System regarding the approximate number and type of jobs that will need to be filled and the basic qualifications necessary.

C. Hiring process.

(1) Notification of job opportunities. Prior to hiring for any job for which the job site will be in the Project, the Employer will notify the First Source Referral System of available job openings and provide a description of job responsibilities and qualifications, including expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements (e.g. language skills, drivers' license, etc.). Job qualifications shall be limited to skills directly related to performance of job duties, in the reasonable discretion of the Employer.

(2) Referrals. The First Source Referral System will, as quickly as possible, refer to the Employer Targeted Job Applicants who meet the Employer's qualifications. The First Source Referral System will also, as quickly as possible, provide to the Employer an estimate of the number of qualified applicants it will refer.

(3) Hiring. The Employer may at all times consider applicants referred or recruited through any source. When making initial hires for the commencement of the Employer's operations in the Project, the Employer will hire only Targeted Job Applicants for a three-week period following the notification of job opportunities described in subparagraph III.C.1, above. When making hires after the commencement of operations in the Project, the Employer will hire only Targeted Job Applicants for a five-day period following the notification of job opportunities. During such periods Employers may hire Targeted Job Applicants recruited or referred through any source. During such periods Employers will use normal hiring practices, including interviews, to consider all applicants referred by the First Source Referral System. After such periods Employers shall make good-faith efforts to hire Targeted Job Applicants, but may hire any applicant recruited or referred through any source.

E. Goal. Any Employer who has filled more than 50% of jobs available either during a particular six-month period with Targeted Job Applicants (whether referred by the First Source Referral System or not), shall be deemed to be in compliance with this First Source Hiring Policy for all hiring during that six-month period. Any Employer who has complied with remaining provisions of this First Source Hiring Policy is in compliance with this First Source Hiring Policy even it has not met this 50% goal during a particular six-month period.

F. No Referral Fees. Employers shall not be required to pay any fee, cost or expense of the First Source Referral System or any potential employees referred to the Employer by the First Source Referral System in connection with such referral.

SECTION IV. RESPONSIBILITIES OF FIRST SOURCE REFERRAL SYSTEM.

The First Source Referral System will perform the following functions related to this First Source Hiring Policy:

A. Receive Employer notification of job openings, immediately initiate recruitment and pre-screening activities, and provide an estimate to Employers of the number of qualified applicants it is likely to refer, as described above.

B. Recruit Targeted Job Applicants to create a pool of applicants for jobs who match Employer job specifications.

C. Coordinate with various job-training centers.

D. Screen and refer Targeted Job Applicants according to qualifications and specific selection criteria submitted by Employers. Targeted Job Applicants shall be referred in the following order:

(1) First Priority: individuals whose residence or place of employment has been displaced by the STAPLES Center project or by the initial construction of the project and Low-Income Individuals living within a one-half-mile radius of the Project.

(2) Second Priority: Low-Income Individuals living within a three-mile radius of the Project.

(3) Third Priority: Low-Income Individuals living in census tracts or zip codes throughout the City for which more than 80% of the households, household income is no greater than 80% of the median household income for the Standard Metropolitan Statistical Area.

E. Maintain contact with Employers with respect to Employers' hiring decisions regarding applicants referred by the First Source Referral System.

F. Assist Employers with reporting responsibilities as set forth in Section V of this First Source Hiring Policy, below, including but not limited to supplying reporting forms and recognizing Targeted Job Applicants.

G. Prepare and submit compliance reports to the City as set forth in Section V of this First Source Hiring Policy, below.

SECTION V. REPORTING REQUIREMENTS.

A. Reporting Requirements and Recordkeeping.

(1) Reports. During the time that this First Source Hiring Policy is applicable to any Employer, that Employer shall, on a quarterly basis, notify the First Source Referral System of the number, by job classification, of Targeted Job Applicants hired by the Employer during that, quarter and the total number of employees hired by the Employer during that quarter. The First Source Referral System shall submit annual aggregate reports for all Employers to the City, with a copy to the Coalition, detailing the employment of Targeted Job Applicants in the Project.

(2) Recordkeeping. During the time that this First Source Hiring Policy is applicable to any Employer, that Employer shall retain records sufficient to report compliance with this First Source Hiring Policy, including records of referrals from the First Source Referral System, job applications, and number of Targeted Job Applicants hired. To the extent allowed by law, and upon reasonable notice, these records shall be made available to the City for inspection upon request. Records may be redacted so that individuals are not identified by name and so that other confidential information is excluded.

(3) Failure to Meet Goal. In the event an Employer has not met the 50% goal during a particular six-month period, the City may require the Employer to provide reasons it has not met the goal and the City may determine whether the Employer has nonetheless adhered to this Policy.

SECTION VI. GENERAL PROVISIONS.

A. Term. This First Source Hiring Policy shall be effective with regard to any particular Employer until five years from the date that Employer commenced operations within the Project.

B. Meet & Confer, Enforcement. If the Coalition, the First Source Referral System, or the City believes that an Employer is not complying with this First Source Hiring Policy, then the Coalition, the First Source Referral System, the City, and the Employer shall meet and confer in a good faith attempt to resolve the issue. If the issue is not resolved through the meet and confer process within

a reasonable period of time, the City may enforce the First Source Hiring Policy against the Developer as a term of any agreement between the City and the Developer into which the First Source Hiring Policy has been incorporated.

B. Miscellaneous.

(1) Compliance with State and Federal Law. This First Source Hiring Policy shall only be enforced to the extent that it is consistent with the laws of the State of California and the United States. If any provision of this First Source Hiring Policy is held by a court of law to be in conflict with state or federal law, the applicable law shall prevail over the terms of this First Source Hiring Policy, and the conflicting provisions of this First Source Hiring Policy shall not be enforceable.

(2) Indemnification. The First Source Referral System shall, jointly and severally, indemnify, hold harmless and defend the Developer and any Employer, and their officers, directors, partners, agents, employees and funding sources, if required by any such funding source (the "Indemnified Parties") from and against all fines, suits, liabilities, proceedings, claims, costs, damages, losses and expenses, including, but not limited, to attorney's fees and court costs, demands, actions, or causes of action, of any kind and of whatsoever nature, whether in contract or in tort, arising from, growing out of, or in any way related to the breach by the First Source Referral System or their affiliates, officers, directors, partners, agents, employees, subcontractors (the "First Source Parties") of the terms and provisions of this First Source Hiring Policy or the negligence, fraud or willful misconduct of First Source Parties. The indemnification obligations of the First Source Parties shall survive the termination or expiration of this First Source Hiring Policy, with respect to any claims arising as the result of events occurring during the effective term of this First Source Hiring Policy.

(3) Compliance with Court Order. Notwithstanding the provisions of this Policy, the Developer, Employers, Contractors, or Subcontractors shall be deemed to be in compliance with this First Source Hiring Policy if subject to by a court or administrative order or decree, arising from a labor relations dispute, which governs the hiring of workers and contains provisions which conflict with terms of this Policy.

(4) Severability Clause. If any term, provision, covenant, or condition of this First Source Hiring Policy 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.

(5) Binding on Successors. This First Source Hiring Policy shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and assigns of each of the parties. Any reference in this Policy to a specifically named party shall be deemed to apply to any successor in interest, heir, administrator, executor, or assign of such party.

(6) Material Terms. The provisions of this First Source Hiring Policy are material terms of any deed, lease, or contract in which it is included.

(7) Coverage. All entities entering into a deed, lease, or contract relating to the rental, sale, lease, use, maintenance, or operation of the Project or part thereof shall be covered by the First Source Hiring Policy, through the incorporation of this First Source Hiring Policy into the deed, lease, or contract. Substantive provisions set forth in Section III. "Employer Responsibilities," apply only to jobs for which the work site is located within the Project.

Appendix D: Community Benefits Agreement for Purina Site Development

This CBA was signed in 2008 as an between Longfellow Station I, LLC, Light Rail Properties I, LLC, and the Longfellow Community Council.

Purina Site Development Community Benefits Agreement

Article 1: Parties

The parties to this Community Benefits Agreement (“Agreement”) are:

1. Longfellow Station I, LLC, a Minnesota limited liability company that will own and control the development to be constructed on the Purina Site;
2. Light Rail Properties I, LLC, a Minnesota limited liability company that owns the Purina Site property; and
3. Longfellow Community Council (“LCC”), a Minnesota non-profit corporation and the recognized citizen participation organization for the greater Longfellow Community, which encompasses the neighborhoods of Longfellow, Cooper, Howe, and Hiawatha in Minneapolis.

Article 2: Purpose of this Agreement

The purpose of this Agreement is to provide for a coordinated effort on the part of the Owner and LCC to maximize the benefits of the Purina Site Development by: (1) increasing the availability of affordable housing; (2) providing for environmentally sensitive construction and design; (3) increasing employment and economic opportunities; (4) enhancing pedestrian and bicycle use; (5) meeting community needs for public space; and (6) constructing buildings that are designed as good neighborhood legacies.

Article 3: Definitions

As used in this Agreement, the following terms have the following meaning. All definitions include both the singular and the plural.

1. “Owner” means Longfellow Station I, LLC and Light Rail Properties I, LLC.
2. “Development” or “Purina Site Development” means the Purina Site and the mixed-use development to be constructed on the Purina Site, containing a maximum of 225 units of housing and a maximum of 50,000 square feet of commercial/retail space.
3. “Interest” means any leasehold interest or fee ownership, cooperatives, condominiums, or townhouses in the Development or any portion thereof.
4. “Metropolitan Area Median Income” means as determined by the Minnesota Housing Finance Agency.
5. “Purina Site” means the property located in the Hiawatha Neighborhood of the City of Minneapolis (“City”) bounded by Hiawatha Avenue on the west and the Canadian Pacific Railroad tracks on the east and by East 38th Street on the north and East 40th Street on the south. The Purina Site is legally described in Attachment A and depicted in Attachment B. Attachments A and B are attached hereto and made an integral and enforceable part hereof.
6. “Successors” mean successors in interest, transferees, assigns, agents, and representatives.

Article 4: Transit Oriented Development Principles

A. TOD Development. The Development shall serve as a model of Transit-Oriented Development (TOD) and shall be consistent with the TOD Principles listed in Article 4.B below. Articles 5 through 9 of this Agreement provide specific details on how the Development shall incorporate the TOD Principles. TOD principles are discussed in general in the following articles, which are on file with LCC and with the Owner.

- "Eleven Principles for Creating Great Community Places," Project for Public Spaces (PPS).
- Bruce Liedstrand, "Ten Common Sense Rules For TOD," Planetizen, 24 October, 2005.
- "Access: Communities and Transit-Oriented Design," Mobility Partners Access.

B. Transit Oriented Development Principles. The TOD Principles are:

1. Urban Intensity: Higher density land uses and activities encourage ridership on public transit. The vitality and success of TOD is dependent on having enough people using streets, walks, and public spaces.
2. Height, Density, and Public/Green Space: TOD encourages mixed use development, incorporating commercial, retail, and residential uses in the same structures, including a mix of housing options. Increasing building heights and densities need to be offset by additional public/green space and other community amenities.
3. Economic Vitality: TOD promotes economic development by attracting consumers, businesses, and services to the area surrounding the transit station.
4. Urban Form: The design of the development must have an urban, rather than a suburban pattern of development. A transit oriented development is not just a denser suburban mixed use that is located at a transit stop. Generally, suburban forms are "loose," horizontal and spread out, and urban forms are "tight," vertical and compact.
5. Urban Uses: The commercial/retail uses in a TOD should be compatible with and supportive of the transit stop and those living and working in the Development. Large automobile oriented uses, particularly those that draw from a large area (big box retail, auto dealers, power center tenants, etc.) and drive-through windows are not permitted because they are autooriented rather than transit oriented.
6. Retail Location: Retail is dependent on access to enough customers, whether they come by train, bus, car, bike or on foot. Retail should be placed so that it is able to draw customers from the development, transit, and the surrounding neighborhood.
7. Reverse the Normal Parking Rules: Instead of parking minimums, TOD has parking maximums to encourage use of transit.
8. Walkability: Comfortable, convenient walkability is essential. TOD development creates an atmosphere that is safe, convenient and easily accessible by foot, bicycle, or alternative transit mode.
9. Transit Connectivity: The transit stop needs to give the rider access to the Development. Any site plan for the Development must address safe, inviting pedestrian access from the east side of Hiawatha to the light rail transit (LRT) station.
10. Neighborhood Connectivity: The transit stop needs to be connected to the adjacent neighborhood by a network of pathways and allow direct access to the transit stop without relying on the arterial street system. Convenient, easy flow of people from the adjacent neighborhood will add to the success of the TOD.

Article 5: Affordable Housing

A. Purpose. Neighborhoods are more vibrant if there is economic diversity in housing within the neighborhood. Inclusion of affordable housing in developments is supported by LCC's Strategic Plan (Housing Goal 2, Objective 1) to support the production and preservation of affordable housing in Longfellow and by the City of Minneapolis. This Agreement furthers these goals of creating a more vibrant community by including affordable units in the Development.

B. Percentage of Affordable Units.

1. Owner shall develop or cause to be developed “Affordable Housing” at the Development such that not less than 20% of the residential rental units constructed within the Purina Site Development comply with the City’s affordable housing requirement. A unit is considered Affordable if an individual or family with income at or below 50% of the Metropolitan Area Median Income (MMI) established by the Minnesota Housing Finance Agency can qualify to rent the unit assuming not more than 30% of that family or individual’s gross income is used for housing expenses.

2. Owner shall develop or cause to be developed an additional 10% to 40% of the residential rental units constructed within the Purina Site Development that are affordable to an individual or family with income between 40% and 60% of the MMI assuming not more than 30% of their gross income is used for housing expenses. The housing units described in this Article 5.B.2 are in addition to the City’s 20% affordable housing requirement in Article 5.B.1. above and are intended to make housing available at rents accessible to the income demographic of the greater Longfellow Community. The requirements of Article 5.B. 1 and 5.B.2 shall hereinafter be referred to as Affordable Housing.

3. Not more than 60% of the residential rental units in the Purina Site Development shall be Affordable Housing, and no single building of the Purina Site Development shall contain more than 65% Affordable Housing, except where small family housing is intentionally clustered (see Article 5.C.1 below). This is intended to prevent a concentration of affordable housing in any particular building in the Development.

C. Unit Types.

1. The Owner shall build affordable housing units targeting individuals and small families and shall develop at the Development a mix of studio, one-bedroom, two-bedroom and some three-bedroom units. Larger-sized family units should be intentionally clustered in areas with easy access to semi-private green space.

2. Owner shall ensure that there is at all times a building manager that has experience with management of affordable housing. Owner shall prepare a management plan for the rental housing which, at a minimum, shall include provisions for an on-site management office and a community room.

D. Term of Affordability. Affordable rental units shall remain affordable for a minimum of 30 years.

Article 6: Environmental Commitments

A. Purpose. It is a goal of the community to provide for environmentally sensitive demolition, construction, and design. The measures outlined in this Article support LCC’s Strategic Plan (Environmental, Transportation, and River Gorge Goal 4) to promote the overall sustainability of the neighborhood and development projects and to integrate green/sustainability issues more fully into development issues and planning. The following items describe how the environmental commitments outlined in this Article 6 will benefit the Development, the community, and the environment:

1. The environmental commitments will meet LCC’s and the City of Minneapolis’ goals of environmentally responsible growth and development. (References: Longfellow Neighborhood Summarized Values; Minneapolis Environmental Report: *Towards Sustainability*, published July 16, 2004).

2. The environmental commitments will improve marketability and ultimate success of development and cost less to operate and maintain over the long term.

3. Green buildings are better for the environment and for people who use the buildings. Benefits include, but are not limited to, reduced materials consumption and waste during construction, lower stormwater management and energy costs over the life of the building, and enhanced livability for residents through increased daylight and use of healthier building materials.

4. It is less expensive to obtain Leadership in Energy and Environmental Design certification by planning for it up front, therefore making it an attainable goal for the Owner and neighborhood.

B. Green Building Principles.

1. Green Building Certification. Owner shall obtain for the Development certification from one of the following systems that certify green buildings:

- a. Leadership in Energy and Environmental Design (LEED) green building rating system for new construction and major renovations (LEED-NC).
- b. Leadership in Energy and Environmental Design green building rating system for neighborhood development (LEED-ND).
- c. Minnesota Sustainable Building Guidelines (also known as B3: Buildings, Benchmarks, and Beyond).
- d. Green Communities Criteria. This criteria, which is administered locally by the Minnesota Green Communities

Collaborative, is available to certify all residential development, both affordable and market-rate.

2. Notification and Proof of Certification. Prior to obtaining certification under Article 6.B.1 above, the Owner shall notify LCC in writing of the type of green building certification the Owner will obtain for each component of the Development. After completion of certification, the Owner shall submit to LCC proof of certification.

C. Demolition And Construction Practices.

1. Integrated Pest Management Plan. Prior to beginning demolition activities, Owner shall develop an integrated pest management plan as required by the City of Minneapolis (City) and shall meet all other City pest management requirements.

2. Hazardous Substance Remediation and Asbestos Abatement.

a. If any known hazardous substances exist on the site, or if hazardous substances are discovered during demolition or construction, Owner shall inform LCC and the City of the substances found and shall remediate the contamination in accordance with Minnesota Pollution Control Agency (MPCA) requirements.

b. Prior to demolition activities, Owner shall perform asbestos abatement in accordance with all applicable federal and MPCA asbestos abatement requirements.

3. Truck and Machine Noise and Pollution. Owner shall comply with City noise and pollution prevention requirements during the demolition and construction at the Purina Site.

4. Light Pollution. Owner shall comply with City requirements relating to light pollution during demolition and construction.

5. Dust Mitigation and Air and Water Quality Requirements.

Owner shall ensure that the following measures are taken in all on-site construction or demolition activities:

a. All trucks transporting soil to or from the Purina Site shall be covered.

b. All stockpiles of soil and other materials shall be managed to prevent airborne dust and particulate matter.

c. Prior to beginning work on the Purina Site, Owner shall obtain from the MPCA a construction stormwater permit and shall develop and implement a stormwater pollution prevention plan in accordance with MPCA requirements.

d. Owner shall comply with city code: Chapter 47 Minneapolis Air Quality Management Authority.

6. Noise Mitigation / Hours of Work. Owner shall comply with City code relating to noise and hours of work which stipulates that no construction, demolition, or commercial power maintenance equipment shall be operated between the hours of 6:00 p.m. and 7:00 a.m. on weekdays or during any hours on Saturdays,

Sundays, and state and federal holidays, except under specific permit from the assistant city coordinator for regulatory services or its designee. If the Owner requests this type of specific permit, the Owner shall notify LCC and residents within a 600-foot radius of the Purina Site at the same time that it submits the request to the City for a permit.

D. Neighborhood Communications During Demolition and Construction.

1. Notification. Owner shall immediately notify LCC of all after-hours work permit applications that the Owner submits to the City by sending a copy of the application to LCC by facsimile or registered mail at the same time as it submits the application to the City.

2. Public Complaint Process.

a. The Owner, through its Project Manager, shall meet with the Implementation Committee (to be established under Article 10.A. below) prior to beginning each phase of the Development (e.g. demolition, construction) to establish a neighborhood complaint management plan.

b. At least 30 days before beginning demolition or construction activity at the Purina Site, the Owner shall provide to LCC, and to neighborhood residents and businesses within a 600-foot radius of the exterior perimeter of the Development, the names and telephone numbers of the Owner's Project Manager and the Owner's Neighborhood Contact who can be reached 24 hours a day, 7 days per week, including a voice mail system where messages can be left during non-business hours. Owner shall maintain a written log of complaints received including the name of the complaining party, the Development employee who responded, the date of the resolution of the complaint, and the nature of the resolution and shall ensure that calls are returned within one (1) business day after receipt. The Owner shall respond to each complaint within 7 days. The Owner shall also notify neighbors within a 600-foot radius of the exterior perimeter of the Development at least 30 days prior to the commencement of demolition activities. The Owner shall make the written complaint log available for LCC review upon request of LCC.

E. Landscape Maintenance.

The Owner shall maintain for 30 years all landscaping that is installed to earn LEED-NC, LEED-ND, B3, or Green Communities credits.

Article 7: Economic Development and Employment

A. Purpose/Living Wage Goal. It is the goal of this community and this Agreement that the construction phase jobs and the long-term jobs created by the Development meet living wage and prevailing wage standards and be available to area residents and businesses. Specifically, the community and this Agreement support redevelopment that creates opportunities for new businesses in the Development, with an emphasis on those that are minority and/or female owned. The requirements outlined for Economic Development and Employment, unless otherwise specified, apply to all stages of the Development, including demolition, construction and ongoing operation. For the purposes of the Agreement, a Living Wage Job is that which is defined by the City of Minneapolis' most current Living Wage Ordinance.

B. Owner Responsibilities Regarding Contracting.

The Owner shall comply with the standards outlined in the City of Minneapolis' most current Contract Requirements relating to Equal Opportunity (nondiscrimination and affirmative action), Prevailing Wage Policy, use of businesses owned by women and minorities, Apprenticeship Training Policy Accessibility Standards, and Living Wage Policy, which are referenced in paragraphs 1, 2, 3, 4, 5, and 22 of Attachment D, which is attached hereto and made a part hereof. The Owner shall comply with these requirements regardless of whether City funding or other public financing, such as Tax Increment Financing, is used on the Development.

C. Owner Responsibilities Regarding Project Commercial/Retail Tenants.

When choosing between prospective commercial/retail tenants for a particular space within the Development, the Owner shall, within commercially reasonable limits, take into account as a substantial factor each prospective tenant's potential impact on achievement of the Living Wage Goal. The Owner shall make every reasonable effort to select commercial/retail tenants in the Development that will maximize the number of Living Wage Jobs and which do not have a history of violation of labor laws. At least 30 days before signing any lease agreement or other contract for space, the Owner shall provide the Executive Committee of LCC (by sending the information to LCC's Executive Director as provided in Article 12.M) with the names of the prospective tenants and shall,

if LCC requests, meet with LCC regarding the prospective tenant's impact on the Living Wage Goal for long-term jobs. LCC will treat the information as confidential.

D. Commercial/Retail Tenant Mix. In order to ensure a mix of businesses that will meet the needs of the community, the Owner shall use both the LCC *Community Values Survey* and the results from LCC *Consumer Surveys* and the criteria listed in items 1-4 below to identify and recruit prospective commercial/retail tenants. At least 30 days before signing any lease agreement or other contract for space, the Owner shall provide the Executive Committee of LCC (by sending the information to LCC's Executive Director as provided in Article 12.M) with the names of the prospective tenants and shall, if LCC requests, meet with LCC regarding the prospective tenant. LCC will treat the information as confidential.

1. Preferred Business Sectors. The specific business sectors identified by the community as 'business sectors to solicit' in order of preference are as follows:

- small grocery store
- merchandise retail
- healthcare and wellness services
- restaurants and cafes – especially offering live music
- small hotel
- music/entertainment venues
- office space
- light manufacturing

2. Desired Business Types. The types of businesses the community desires include:

• small local businesses, with the following preference ranking: (1) from the Minneapolis/St. Paul metropolitan area, (2) the State of Minnesota, and (3) the Upper Midwest

- walkable, neighborhood-serving businesses accessible from sidewalk
- socially responsible businesses – offering living wage jobs
- financially viable businesses
- smaller "unique" shops offering quality products/foods
- small regional, rather than national, chains

3. Businesses Not Desired. The type of businesses the community does not desire are "big box" retailers because their scale does not fit within a residential neighborhood and because they require too much parking. Owner shall limit the size of any single commercial/retail space to 30,000 square feet or less.

4. National Franchises or National Chains. In selecting the commercial/retail operations at the Development, the Owner shall limit the amount of space occupied by national franchises or national chains to not more than 70% of the total retail/commercial space in the Development, with 30% or more of the commercial/retail mix as local businesses. For purposes of this paragraph, a local business is a business from the Minneapolis/St. Paul 7-county metropolitan area and does not include a local business owner of a franchise of a national chain. If Owner is unable to market 30% or more of commercial/retail space to local businesses, resulting in a vacancy greater than 60 days, or the Owner demonstrates to LCC that the Owner has actively marketed the space to local businesses for at least six consecutive months without being able to fill the space with a local business, the Owner may lease or convey the vacant space to a franchise or national chain business. However, the 30% or greater reserved local business space requirement is not eliminated, and Owner must continue to meet this requirement each time an open space becomes available in the Development. Owner shall provide to LCC proof of marketing efforts upon request.

E. Opportunity for Community-Based Small Business. The requirements set forth relative to community-based small businesses (CBSB) are intended to ensure ongoing opportunities for these businesses. A CBSB is defined as a local business from the Minneapolis/St. Paul metropolitan area that is either a new start-up or second stage business (a metropolitan area business with one existing location that wishes to expand to a second location or relocate to the

Development).

1. Provision of Space for Community-Based Small Business. The Owner shall ensure a minimum of 10% of the Development's total commercial/retail square footage is reserved for CBSB ("CBSB Space"). Preference shall be given to CBSBs that are minority and/or female owned. Owner must ensure the continuation of the CBSB Space with subsequent owners of the Development in accordance with Article 12.D of this Agreement. As in Article 7.D.4. above, for purposes of encouraging development of local, entrepreneurial businesses, a business is not considered to be a CBSC if it is a franchisee of a national franchise or chain. The successful lease of the 10% CBSB Space shall be credited towards the 30% or greater local businesses provisions in Article 7.D.4. above.

2. If all or any portion of the CBSB Space has been vacant for at least 60 days or the Owner demonstrates to LCC that the Owner has actively marketed the space to community based small businesses for at least six consecutive months without being able to fill the space, the Owner may lease or convey the vacant space to a non-CBSB business. However, the 10% CBSB Space requirement is not eliminated, and Owner must continue to meet this requirement each time an open space becomes available in the Development. Owner shall provide to LCC proof of marketing efforts upon request.

Article 8: Embracing Community

A. Access, Circulation and Connectivity. In order to realize the principles of Transit Oriented Development (TOD) and to meet the transportation needs of residents, workers, guests and patrons in innovative ways for the Twin Cities metropolitan area, the Owner agrees to the following:

1. Travel Demand Management Plan. In order to address potential access, traffic, and transportation issues arising from this Development, the Owner shall comply with the Travel Demand Management Plan that is approved by the City for the Development.

2. Transit Passes. To promote transit use by residents in the Development, the Owner shall provide or cause its successors and assigns to provide a first month transit pass free with each lease of residential rental units. The Owner shall negotiate with the Metropolitan Transit Commission to obtain group discounts for residents of apartments in and employees of commercial tenants of the Development. The Owner shall also make sale of transit passes conveniently available to the broader community through sales at one or more retailers within the Development. The Owner and Implementation Committee shall work together to propose additional programs and marketing efforts, for joint review, to encourage residents of the Development to use public transit.

3. Promotion of Access. In order to promote safe access within and around the Development by bicyclists, pedestrians and auto users, the Owner shall implement the following:

a. Bicycle Storage and Parking. The design and construction of the Development shall include convenient and adequate bike storage for Development residents and parking for Development residents and guests that is accessible to at least one entrance of each residential and mixed-use structure. Owner shall consult with a mutually agreed-upon bike rack and storage expert, preferably based in the community, to determine appropriate bike storage and design for the site.

b. Automobile Parking. Owner shall provide a maximum of 4.5 parking spaces per 1,000 square feet of leasable commercial/retail space and a maximum of 1.0 parking spaces per residential unit. These ratios must be met 90% or more through structured parking, not surface parking. If the Owner seeks to add additional parking for commercial/retail space, Owner shall first obtain approval from the Implementation Committee before requesting the City to grant a variance from the ratios in this paragraph.

c. Parking Costs. In order to increase incentives for residents in the Development to consider a reduced or car-free lifestyle, the Owner shall separate automobile parking rents for residential units from housing rents.

d. Car Sharing. The design of the Development shall include dedicated parking spaces within the Development for use by a carsharing company (such as HourCar and Zip Car) for use by people both in the Development and in the surrounding community. A sufficient ratio of spaces will be determined in consultation with the community and car-sharing experts.

e. Walk and Bike Paths. Site design and construction shall include paths sufficiently wide enough to allow for separate bike and pedestrian lanes through the Development and to connect the surrounding community with the Development and the 38th Street Station. Paths and the design of the Development shall be in accordance with Crime Prevention Through Environmental Design (CPTED) principles and shall include pedestrian-scale lighting. The Owner shall meet with City of Minneapolis Community Crime Prevention (CCP)/SAFE and Public Works Department personnel to discuss how the Owner proposes to implement CPTED principles in the design of the Development. The Owner agrees to follow recommendations of City staff with regards to CPTED implementation design and strategies for the Development. CPTED is based on four strategies:

(1) Natural Surveillance - A design concept directed primarily at keeping intruders easily observable. It is promoted by features that maximize visibility of people, parking areas and building entrances: doors and windows that look out on to streets and parking areas; pedestrian-friendly sidewalks and streets; front porches; and adequate nighttime lighting.

(2) Territorial Reinforcement - Physical design can create or extend a sphere of influence. Users then develop a sense of territorial control while potential offenders, perceiving this control, are discouraged. It is promoted by features that define property lines and distinguish private spaces from public spaces using landscape plantings, pavement designs, gateway treatments, and "CPTED" fences.

(3) Natural Access Control - A design concept directed primarily at decreasing crime opportunity by denying access to crime targets and creating in offenders a perception of risk. This is achieved by designing streets, sidewalks, building entrances and neighborhood gateways to clearly indicate public routes and discouraging access to private areas with structural elements.

(4) Target Hardening - Accomplished by features that prohibit entry or access: window locks, dead bolts for doors, interior door hinges. For more information and specific guidelines for multifamily, office, commercial and parking design considerations: www.cpted-watch.com

f. Signage. The Development shall include kiosks and signage to direct pedestrians and bicyclists to businesses and other locations within the Development and in the surrounding community. The Implementation Committee shall review and comment on designs for kiosks and signage prior to ordering and installation.

4. Station Area Pedestrian Safety and Access. The Owner agrees to lead an opportunity to significantly improve safe access between the 38th Street Station, the Purina Site Development, and the blocks on the east side of Hiawatha Avenue, to implement traffic-calming measures, and to engage local and state government to implement various public infrastructure improvements. As a partner in this process, the Owner agrees to:

a. Actively work with local and state government and the community to design and implement improved pedestrian & bike access to the 38th Street Station across Hiawatha Avenue and in and around the Development.

b. Engage in active discussion with the community, government officials and staff to pursue a campaign to narrow Hiawatha Avenue to the minimum width needed to accommodate traffic lanes.

c. Seek approval from City of Minneapolis Public Works and the Minnesota Department of Transportation to implement bump-outs and other traffic-calming measures in and around the Purina Site Development.

B. Community Space and Benefits.

1. Design and Uses. The design of the Development shall include significant public space to function as an amenity for residents and workers in the Development and for the surrounding community. To accomplish this, the Owner agrees to work with LCC to reach a mutually agreeable Purina Site Development design such that the following objectives are all achieved:

- a. Maximize public gathering spaces at the portions of the Development that abut the surrounding community to encourage interaction with the surrounding community.
 - b. Include a minimum of 1,500 total square feet of outdoor space available to be used year-round (e.g. satellite farmer's market, skating rink, concert space, etc). Priority shall be given to community-based arts and nonprofit organizations for public events and festivals.
 - c. A minimum of 12,000 square feet of the Development shall be publicly accessible space landscaped with a mix of plantings and hardscape that can be used by the general public at all times. Green roofs or other private or semi-private areas of the Development are not considered to be part of the 12,000 square feet of publicly accessible space requirement.
2. Community History and Arts. Owner agrees to provide to the LCC a publicly accessible space to be used at all times to display information on Longfellow history, and other community information provided by LCC, and for public art installations and interpretative displays.
 3. Use of Community Room. Owner shall develop a community room at the Development and shall permit LCC to use the community room, when available, for community meetings at no cost to LCC.
- C. Ongoing Community Program Support.
1. Space for Non-Profit Community Serving Organizations. The Owner shall set aside a minimum of 500 square feet of commercial/retail/office space at ground level or aboveground level at zero base rent (payment of monthly Common Area Maintenance fees only) to be leased to a nonprofit community service agency or social service or arts organization ("Community Non-Profit Space"). If the space is above ground level, Owner shall ensure that the space is handicapped accessible and shall provide adequate signage so that the public can locate the space. LCC shall provide a list of potential tenants for the space for the Owner's approval, such approval shall not be unreasonably withheld. The Owner is encouraged to consider synergies with the requirements outlined in the Affordable Housing and the Economic Development and Employment Articles of this Agreement. Owner shall give notice of a vacancy in the 500 square foot Community Non-Profit Space to LCC's Executive Director as soon as Owner is aware of a potential vacancy so that LCC can assist owner in locating a new tenant for the space. The successful lease of the 500 square foot Community Non-Profit Space shall be credited towards Owner's commitment of the 10% CBSB Space under Article 7.E. above and towards the 30% or greater local business requirement in Article 7.D.4. above. Owner must ensure the continuation of the Community Non-Profit Space with subsequent owners of the Development in accordance with Article 12.D of this Agreement.

Article 9: Design and Placemaking

A. Placemaking.

The goal of the parties to this Agreement is to create a great 'place' through use of design, physical elements that make people feel welcome and comfortable (such as seating and landscaping) and "management" of pedestrian circulation pattern to encourage interaction between the surrounding retail and the activities going on in the public spaces at the Development. The goal is also to create a place that is a community gathering place with a comfortable pedestrian scale and pedestrian amenities. In designing the Development, the Owner shall:

1. Design to encourage interaction and connection at a human scale between the Development and surrounding neighborhoods through creation of a welcoming, safe, and accessible environment.
2. Include a variety of small scale open space amenities and gathering places with focal points that contribute to a sense of place (i.e. public plaza, kiosks, green spaces, public art spaces).
3. Create sight lines into the interior of the block in order to create a sense of connection and intimacy with the surrounding neighborhood.
4. Line 38th Street with active uses and create a sense of enclosure along the street. Enclosure is the perception by the user (whether pedestrian, bicyclist, automotive or other) that the space is human in scale and relationships. This is usually accomplished through careful design of the relationship of street width and sidewalk width to the height and setback from the street of building

façades and through use of hard and soft elements in the landscaping to 'enclose' the user (i.e. European plaza with three story buildings, a fountain and outdoor seating offers a sense of enclosure to the visitor. A large parking lot rarely offers that).

B. Architecture. The Development shall apply innovative architectural principles that incorporate the following design elements:

1. The Owner shall take into consideration the comments of residents, businesses, and neighboring communities on the design of the proposed Development.
2. The Development must be urban, not suburban, in feel and function, and be consistent with transit oriented development principles (See Article 4).
3. The Owner shall create retail/commercial spaces that are flexible to allow reconfiguration of a space as tenant/ownership changes.
4. Buildings in the Development shall be designed to have a pedestrian scale and feel at street level. Scale, massing and relationships of buildings shall be designed to relate to the users (not overwhelm the users).
5. Exterior finishes and materials shall be reflective of the Development as a gateway to the Longfellow neighborhood. From macro to micro scales, the architecture must be a community asset.
 - a. Materials shall be of innovative high-quality materials (i.e. wood, brick, exposed concrete, etc.).
 - b. Unacceptable exterior materials include vinyl siding.
 - c. No more than 50% of the exterior material shall be glass curtain wall construction.
6. Material quality and quantity shall not be significantly different from the front of buildings to the back of buildings.
7. Mechanical units, loading docks, delivery and trash areas shall be screened from public view.
8. The design of commercial and retail spaces and public spaces shall include elements to promote outdoor dining and vendor activities, including metered electric outlets, access to water taps, as well as pad spaces incorporated in the outdoor design.
9. Owner shall establish and file with the Hennepin County Recorder an Operating Easement Agreement applicable to all commercial/retail businesses in the Development for maintenance of commercial/retail areas of the Development, including requirements that businesses keep litter picked up and maintain planting associated with the business' areas. The Owner shall provide and maintain trash receptacles at the Development.
10. Owner shall include graffiti abatement techniques, such as graffiti resistant surfaces, sacrificial, maintainable surfaces (i.e. paintable, etc.), murals, and graffiti prevention gardening in the design of the Development.
11. Landscape design shall acknowledge the location of the Longfellow neighborhood as part of an extended urban forest environment and the Longfellow community's existing and historical landscape priorities by inclusion in the Development such items as native plants, rain gardens, and disease-resistant boulevard trees that provide canopy shade.
12. The Development shall be designed with a sense of permanency, using sustainable, high quality materials.
13. No buildings in the Development shall be taller than 140 feet, in order to be in keeping with the existing area context.
14. Owner shall not include or allow any drive through windows in the Development.

C. Architecture Advisory Committee.

LCC shall establish an Architecture Advisory Committee to provide input and feedback to the Owner and the Owner's architects on the design of the Development, including landscape design, based on the provisions of this Agreement and on input from community meetings on the proposed Development. LCC shall appoint community members to the Architecture Advisory Committee who have knowledge or experience in architecture or design. Owner and Owner's architects shall meet with the Architecture Advisory Committee to discuss and receive input and feedback from LCC on the design of the Development.

D. History. Owner shall respect the unique identity and history of Longfellow Neighborhood in design elements. A brief history and background of the Purina Site and its surrounding area is as follows: The area along Minnehaha and Hiawatha Avenues has been a transportation corridor for hundreds of years, first for Native Americans traveling to St. Anthony Falls and later starting in 1823 as a road for soldiers going from Fort Snelling to their mill at St. Anthony Falls. The first settlers in the 1850s used it to get to the newly formed city of Minneapolis at the Falls. The Chicago, Milwaukee, and St. Paul Railway tracks were laid in 1866, making it possible for the later development of grain elevators and mills along the Hiawatha corridor. The first grain elevator, the Monarch elevator, was built in 1888 near 33rd Street and the first mills were built around 1915. In 1890, a streetcar line was laid down Minnehaha Avenue which stimulated development and by 1905 enough houses had been built that Simmons School was opened at 38th Street and Minnehaha. The houses were small cottages (and later bungalows) built for working class owners, a good number of them recent immigrants from Sweden and other Scandinavian countries. With convenient streetcar access, they could easily commute to jobs as laborers, machinists, etc. at the farm implement plants near Lake and Minnehaha and other factories at the edge of downtown Minneapolis. At 38th and Hiawatha, the first mill was the Clarx built in 1916. The Clarx mill was a whole grain mill that operated until 1921. Ralston Purina bought the mill and opened it as a cereal mill in 1924. The Purina mill made cereal until around 1950 when it was converted to an animal feed mill which it remained until it closed in 2005.

Article 10: Implementation

A. Establishment of Implementation Committee. To assist with the implementation of this Agreement, the parties shall establish an Implementation Committee. The Implementation Committee shall be composed of LCC staff and a representative selected by LCC, and Owner and a representative selected by the Owner.

B. Meetings. The Implementation Committee shall meet in a good faith effort to develop strategies for implementation of the requirements, policies and programs set forth in this Agreement. The Implementation Committee shall meet at least monthly, or less frequently if mutually agreed by the parties. At such meetings, any party may raise issues related to implementation of this Agreement, in an effort to facilitate open dialogue, resolve implementation challenges, and advance the goals of the parties regarding the 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, Owner shall provide such designs to LCC at an Implementation Committee meeting to facilitate LCC's ability to make suggestions to Owner and/or at public meetings or hearings regarding such design.

C. Development Updates and Agreement Implementation. In order for the Implementation Committee to track implementation of this Agreement, the Owner shall provide timely information on a regular basis to LCC on the following:

1. Governmental regulatory review schedules, including dates and times of any regulatory review of the Development, where LCC will be required to provide support under Article 11.
2. Updates on major site plan revisions, including scale of the Development, number of units, and change from rental to ownership;
3. Progress of the Development, including any changes in timelines, delays in construction and lease-up, and cost overruns.
4. Sources and use budgets listing funders for all affordable housing units, copies of applications for affordable housing funding, and information on changes to the mix of affordable and market rate rental units.
5. Copies of reports submitted to all funders of affordable housing units and reports submitted to the State of Minnesota, Hennepin County, and the City of Minneapolis on the Development.

6. All reports and information to show compliance with the terms of this Agreement, including Green Building Certification, affordable housing certificates, hazardous substance reports, complaints received from residents and Owner's responses, plans and designs, and all other matters related to implementation of this Agreement.

Article 11: LCC Support Obligations

In light of Owner's commitments set forth in this Agreement, LCC supports the Development and will, therefore, make the support efforts set forth in this Article 11. LCC's support of the Development, however, does not preclude any individual citizen from commenting on, contesting, or otherwise exercising any and all right of the public with respect to the Development.

A. Letters of Support. Prior to the first public hearing considering the Development, LCC shall send a letter of support for the Development to the Minneapolis Planning Commission, the City's Zoning and Planning Committee, Community Development Committee, and Ways and Means Committee and to the City Council in support of a zoning change, conditional use permit, and public financing and shall also send a letter of support for the Development to any other governmental entity specified by Owner.

B. Hearing Attendance. LCC shall send at least one representative knowledgeable about the Development to speak in support of the Development at the Minneapolis Planning Commission, the City's Zoning and Planning Committee, Community Development Committee and Ways and Means Committee and the City Council. LCC will encourage attendance by individuals who are interested in or affected by the Development.

C. Media Availability. LCC shall work with Owner to prepare a collaborative media strategy regarding shared support for the Development.

D. Mutual Covenants. LCC covenants not to sue, challenge, or contest, administratively, judicially, or publicly, any of the approvals for the Development, except as provided in Article 11.E below and in Article 12.E (Remedies). Owner covenants not to sue LCC based on LCC's exercise of its right to make permissible public comments as provided in Article 11.E. below.

E. Permissible Public Comment. Notwithstanding Article 11.D above, LCC retains the right to make public comments regarding the Development if what is proposed is not, in LCC's reasonable opinion, consistent with the terms of this Agreement. LCC also retains the right to suggest 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. LCC also retains the right to make public comments regarding the design of the Development, including, but not limited to, the location of buildings on the Site, exterior materials, height, and location of green space within the Development. LCC agrees that before making such public comments, it shall use its best efforts to address the issues in question with Owner at Implementation Committee meetings. Nothing in this Agreement shall preclude LCC from asking the City to include all or a portion of the terms of this Agreement into the City's development agreements or into City approvals related to the Development.

F. LCC Reimbursement. Owner shall pay \$7,500 to LCC to assist LCC in the costs it will incur in the implementation of the requirements of this Agreement. Owner shall pay the \$7,500 in two installments of \$3,750 each by June 1, 2008 and November 1, 2008. Payments shall be made by check made out to Longfellow Community Council and mailed to the Executive Director of LCC at the address in Article 12.M.

Article 12: Miscellaneous

A. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.

B. Severability. If any term, provision, covenant or condition of this Agreement, or portion thereof, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Agreement shall continue in full force and effect.

C. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of LCC, LCC's Successors, and Successors to any Successors of LCC. This Agreement shall be binding upon and inure to the benefit of Owner, Owner's Successors, and Successors to any Successors of Owner. Owner's Successors include, but are not limited to, any party who obtains an Interest in the Development, the Owner's developers, vertical developers, retail developers, contractors, condominium or townhouse associations, cooperatives, management companies, and owners' or retail merchants' association participating in the Development. Upon conveyance of an Interest to an entity in compliance with Article 12.D. (Purchase and Assumption Agreements), LCC may enforce the obligations under this Agreement with respect to that Interest only against such entity, and neither Owner 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 Article 12.C. (Binding on Successors), references in this

Agreement to a party shall be deemed to apply to any successor in interest, transferee, assign, agent, and representative of that party.

D. Purchase and Assumption Agreements. Owner shall not execute any purchase agreement, deed or lease conveying an Interest in the entirety or any portion of the Development, unless: (i) Owner and the entity receiving such Interest have executed an agreement governing conveyance of that Interest; (ii) that agreement requires the transferee to assume the obligations of the Owner under this Agreement as a Successor of

Owner; and (iii) this Agreement is a material term, binding on the entity receiving the Interest and enforceable by LCC as an intended third party beneficiary. At the time of execution of the purchase agreement, deed or lease, Owner shall provide a copy of this Agreement to the transferee at the time of the signing of the purchase agreement, deed or lease. Owner shall provide notice to LCC of any conveyance of an Interest in all or any portion of the Development within 30 days of the conveyance.

E. Remedies.

1. 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.

2. 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.

3. Implementation Meetings and Mediation. Before and during the 60-day right-to-cure period described above, the parties may attempt to resolve any alleged default at the regularly scheduled Implementation Committee meetings, or in mediation requested by either party.

4. Remedies. In the event that a party is alleged in default under this Agreement, the party alleging default may elect, in its sole and absolute discretion, to waive the default or to pursue legal proceedings to enforce this Agreement or seek other legal or equitable relief. The venue of any action shall be Hennepin County District Court. Such remedies may be pursued only after exhaustion of the 60-day right to cure period described above, except where an alleged default may result in irreparable injury, in which case the non-defaulting party may immediately pursue the remedies described in this Article 12.E.4.

F. Term. This Agreement shall become effective on the date of mutual execution of this Agreement and shall terminate 30 years from such date. All commitments of the parties described herein are effective upon the effective date of this Agreement, unless otherwise specified.

G. Implementation Through Relevant Contracts. When this Agreement requires the Owner to impose responsibilities on entities that are not parties to this Agreement, the Owner 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 Purina Site Development through the contract in question;
3. require all parties with such responsibilities to provide to LCC upon request any information reasonably necessary to determine compliance with such responsibilities, provided that LCC 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 LCC is an intended third party beneficiary with enforcement rights; and
5. include any other provisions necessary to ensure application and enforceability by LCC. 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.

H. Assurance Regarding Preexisting Contracts. Owner warrants and represents that as of the effective date of this Agreement, it has executed no contract that would have violated Article 12.C. (Binding on Successors), Article 12.D. (Purchase and Assumption Agreements), or Article 12.G. (Implementation Through Relevant Contracts) of this Agreement had it been executed after the effective date of this Agreement.

I. 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.

J. 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 default, shall not be deemed a waiver of any provision or term of this Agreement.

K. 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 strictly construed against any party, and any rule of construction that any ambiguities be resolved against the drafting party shall not apply to this Agreement.

L. Entire Agreement. This Agreement contains the entire agreement between the parties. This Agreement may not be altered, amended or modified except by an instrument in writing signed by the parties hereto.

M. Correspondence. All correspondence shall be in writing and shall be addressed to the affected parties set forth below. A party may change its contact person or address by giving notice in compliance with this Article 12.M. The addresses of the parties are:

If to the Owner:

Dale Joel, Chief Manager
Longfellow Station I, LLC
101 East 5th Street, Suite 1901
St. Paul, Minnesota 55101

Dale Joel, Chief Manager
Light Rail Properties I, LLC
101 East 5th Street, Suite 1901
St. Paul, Minnesota 55101

If to the Longfellow Community Council:

Executive Director
Longfellow Community Council
2727 26th Avenue South
Minneapolis, Minnesota 55406

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

O. Further Assurances. LCC agrees to work with Owner, in good faith, to try to resolve issues raised by Owner's lenders or by governmental regulatory agencies related to this Agreement in a manner that is consistent with the spirit of the provisions of this Agreement. If Owner and LCC agree on changes to the terms of this Agreement, the parties shall amend this Agreement in accordance with Article 12.L.

THE UNDERSIGNED REPRESENT AND CERTIFY THAT HE/SHE IS AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF THE PARTY THEY REPRESENT.

LONGFELLOW STATION I, LLC

By: _____

Dale Joel
Chief Manager

Date: _____

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On February ____, 2008, this instrument was acknowledged before me by Dale Joel, the Chief Manager of Longfellow Station I, LLC on behalf of Longfellow Station I, LLC.

Notary Public
My Commissioner Expires _____

LIGHT RAIL PROPERTIES I, LLC

By: _____

Dale Joel
Chief Manager

Date: _____

On February ____, 2008, this instrument was acknowledged before me by Dale Joel, the Chief Manager of Light Rail Properties I, LLC on behalf of Light Rail Properties I, LLC.

Notary Public
My Commissioner Expires _____

LONGFELLOW COMMUNITY COUNCIL

By: _____

Melanie Majors
Executive Director

Date: _____

On February ____, 2008, this instrument was acknowledged before me by Melanie Majors, the Executive Director of Longfellow Community Council on behalf of Longfellow Community Council.

Notary Public
My Commission Expires _____

This Agreement was drafted by:
Longfellow Community Council
2727 26th Avenue South
Minneapolis, Minnesota 55406
(612) 722-4529

Appendix E: Analysis of City of Boston Condo Conversion Ordinance

The following is excerpted from the Massachusetts Legal Website MassLegalHelp.com. The website is funded by the Massachusetts Legal Assistance Corporation. ¹⁷

In Boston, between 1979 and 1994, condominium conversion protections were provided under the city's rent control laws. Initially, protections were limited to extended notice periods, right of first refusal, moving expenses, and relocation assistance, similar to those ultimately adopted in the statewide law.

Beginning in 1984, a condominium conversion eviction ban was established for elderly, disabled, and low- to moderate-income tenants. This was gradually expanded to encompass more groups. Finally, in 1988, the city established a general ban on condominium conversion evictions and required that owners seek removal permits to convert units to condominiums.

In 1994, rent control laws were abolished by a narrow statewide referendum vote. After the expiration of transitional rent control protections in 1995-1996, condo protections could no longer be based on rent control authority. As a result of the efforts of housing advocates, Boston then adopted a local condo ordinance based on the authority in the statewide condo law. Early efforts to adopt a local condo ordinance in 1995 and 1996, however, were invalidated by litigation filed by the Greater Boston Real Estate Board. In 1999, the Boston condo ordinance was finally adopted and currently remains in effect.

Boston's law differs from the statewide law in the following respects:

- There is a five-year notice period for elderly, handicapped, or low- to moderate-income households, in comparison to the statewide two- to four-year period.
- Boston's ordinance includes people with mental disabilities in the definition of "handicapped."
- The five-year notice period is automatic, unlike the statewide law, which requires the tenant to show that the owner did not provide relocation assistance in order to get an extension of up to two years on the original two-year period.
- The notice period applies to both new conversions and units already converted and occupied by elderly, disabled, or low- to moderate-income tenants who previously had rent control protections against condominium conversion eviction.
- If an owner has given a notice of proposed conversion, the tenant's lease is to be extended through the notice period, and rent increases through the notice period are limited to 10% per year or the annual percentage increase in the Consumer Price Index, whichever is less.
- The owner may evict the tenant only for "just cause."

¹⁷ McCreight, Mac. July 2008.

- If a tenant is in a unit at the time of conversion and has not received a notice of a condo conversion eviction, any eviction is presumed to be a condo conversion eviction—unless the owner can show that this was not the case (for example, the owner simply wanted a higher rent, but intends to keep the unit as rental housing).
- Relocation benefits are double those under the statewide law (\$3,000 for all tenants, and \$5,000 for elderly, disabled, or low- to moderate-income tenants).
- There are two rights of first refusal: (i) at the time the property is first converted to condominiums or cooperatives, even if it is not the owner's intent at that time to displace the tenant; and (ii) any time the owner intends to displace the tenant in order to facilitate sale or occupancy of a condominium unit. The tenant is to be offered the unit on the same or better terms that are offered to third parties and to have a 90-day period to enter into a purchase and sale agreement.
- Boston's Rental Housing Resource Center (RHRC) is to be given copies of various notices and affidavits from the owner to monitor compliance. If there is a dispute about whether a tenant is low- to moderate- income, elderly, or disabled and therefore entitled to enhanced protections, either RHRC or the courts, at the parties' preference, can resolve the dispute. Other disputes are to be resolved by the courts.

Appendix F: Analysis of Town of Lexington Condo Conversion Ordinance

*The following is excerpted from the Massachusetts Legal Website MassLegalHelp.com. The website is funded by the Massachusetts Legal Assistance Corporation.*¹⁸

In 1987, following the announcement that Emerson Gardens, the largest rental housing development in **Lexington**, was facing condo conversion, residents and other supporters in the town passed a bylaw to create a condo conversion permit system. The system is run by a board appointed by the selectmen. It gives tenants in Lexington the following protections, in addition to those in the state condo law:

- Eviction protections are provided for elderly, handicapped, and low- or moderate-income tenants for up to five years if the tenants can show a hardship relating to matters such as finances, health, school, age, or family problems, or the lack of suitable housing in Lexington.
- All conversions and evictions must be licensed by the conversion board. Conditions may be imposed upon the granting of the license. The board may use the following factors in making that determination:
 - The protection of the public interest of the Town of Lexington,
 - The hardships imposed upon the tenants or the landlord,
 - The aggravation of the shortage of rental housing, and
 - The existence of reasonable accommodations to alleviate the hardship.
- The owner may be required by the town to sell up to 20% of the converted units to the Lexington Housing Authority for long-term affordable units.

¹⁸ McCreight, Mac. July 2008. Local Protections for Tenants Facing Condo Conversion. Source: <http://www.masslegalhelp.org/housing/private-housing/ch20/local-protections-for-tenants-facing-condo-conversion>

Appendix G: Analysis of Town of Marlborough Condo Conversion Ordinance

The following is excerpted from the Massachusetts Legal Website MassLegalHelp.com. The website is funded by the Massachusetts Legal Assistance Corporation. ¹⁹

In 1985, Marlborough adopted a condominium conversion ordinance as part of its zoning bylaws. The ordinance was amended in 2005. It covers buildings that have been used in whole or in part for residential purposes within one year prior to the conversion. The original law has several unique provisions:

- No more than 25% of the housing accommodations in any building, structure or part of the building may be converted in any one calendar year.
- Tenants' right of purchase extends for a six-month period from the date of notice of the intent to convert.
- The notice period for tenants is at least three years for all tenants, and is five years for handicapped, elderly, or low- or moderate-income tenants. Moreover, this period for handicapped, elderly, or low- to moderate-income tenants can be extended for an additional two years if the owner fails to find substitute comparable rental housing in Marlborough at a similar rent.

Provisions on relocation benefits, extension of rental agreements and caps on rent increases, and limitation on eviction are similar to those in the state condo law.

In 2005, Marlborough provided that an owner could obtain a waiver from this law, and that the provisions of the state condo law would apply instead, provided the following conditions were met:

- The Mayor certified that the owner had paid \$1,250 to the Marlborough Affordable Housing Fund (or to such other fund for the benefit of affordable housing as may be designated by the City Council) for each unit to be created as a result of the filing of the master deed, with no more than 125 units being created by the owner.
- The owner and the Executive Director of the Community Development Authority (CDA) (or other person or entity designated by the City Council) signed a Monitoring Agreement, under which 70% of the units sold would be sold to those planning owner-occupancy, and a bond of \$500 times the number of units would be held to insure this condition was met within three years.
- Tenants would be reimbursed for relocation expenses in accordance with the state condo law without any proof of actual moving or other expenses, as well as a "tenancy longevity bonus" equal to \$250 for every year or fraction of an uncompleted year greater than two years that the tenancy was in existence as of the filing of the master deed.

¹⁹ McCreight, Mac. July 2008. Local Protections for Tenants Facing Condo Conversion. Source: <http://www.masslegalhelp.org/housing/private-housing/ch20/local-protections-for-tenants-facing-condo-conversion>

- The owner would pay the CDA or other entity \$10,000 in advance as compensation for administering the Monitoring Agreement.

The owner provided the CDA or other entity with the condominium bylaws to be recorded including the 70% owner-occupancy requirement to exist at all times, and that provision may not be deleted or amended.

Appendix H: Analysis of City of New Bedford Condo Conversion Ordinance

The following is excerpted from the Massachusetts Legal Website MassLegalHelp.com. The website is funded by the Massachusetts Legal Assistance Corporation. ²⁰

In 1988, New Bedford adopted a condominium conversion ordinance. The law differs from the state condo law in a few respects:

- Elderly tenants are defined as those who are 59 years of age or older as of the date of receipt of notice.
- Three-unit buildings are covered, as well as buildings which have been used in whole or in part for residential purposes within one year prior to the recording of a master deed.
- Notices to the tenants must be in English, Spanish, and Portuguese, include certain disclosures in “clear and conspicuous” language, and be given either in hand or by registered or certified mail.

A condominium review board monitors all conversions; verifies income, handicap, and elderly status; hears complaints about violations; and issues conversion permits. In addition, no permit is to be granted if, within the prior 12 months, the owner has taken any action to circumvent the state or local condo law, including unreasonable rent increases, reduction or elimination of services, termination of tenancy without cause, or the imposition of new conditions of the tenancy.

²⁰ McCreight, Mac. July 2008. Local Protections for Tenants Facing Condo Conversion. Source: <http://www.masslegalhelp.org/housing/private-housing/ch20/local-protections-for-tenants-facing-condo-conversion>

Appendix I: City of Berkeley Condo Conversion Ordinance Housing Mitigation Fee

The following information is content from the document “Understanding Berkeley’s Condominium Conversion Housing Mitigation Fee”.²¹

About the Mitigation Fee and City of Berkeley Housing Policy

Condominium conversion is the process of subdividing a multi-unit property into separately owned housing units. Subdivisions are regulated under the California Subdivision Map Act and Subdivided Lands Act. State law also allows local government to impose additional requirements. In Berkeley, these additional requirements are found in the Condominium Conversion Ordinance (CCO, Berkeley Municipal Code [BMC] Chapter 21.28 *et seq.*). Until 2005, the CCO prohibited conversion of rental units to Tenancy in Common (TIC) ownership.

Because condominium units typically have a higher market value than rental units or TICs, it has an overall effect on the affordability of the City’s housing stock. To mitigate this impact, since 1992, the City of Berkeley has imposed a housing mitigation fee. Revenues from the fee accrue to the Berkeley Housing Trust Fund to help finance construction and rehabilitation of permanently affordable housing in Berkeley. Between 1992 and 2005, this mitigation fee recaptured the entire difference in affordability that resulted from conversion. This had the effect of discouraging conversions. In 2005, the state Court of Appeal held that cities could not prohibit conversion of rental units to TICs. Since then, the City has sought to encourage conversion of rental units to condominiums rather than TICs because of difficulties that can arise for people who invest in TIC properties. It has done so by imposing a cap on the affordable housing mitigation fee charged for conversion to condominiums. In addition, Berkeley’s affordable housing mitigation fee is designed to encourage property owners to extend protections to their tenants. Owners providing additional tenant protections specified in the CCO receive a substantial decrease in the amount of the affordable housing mitigation fee.

Exemptions from the Mitigation Fee

There is only one exemption under the Berkeley CCO.

- Inclusionary housing units provided on site in multi-unit properties built since 1987** are exempt from the affordable housing mitigation fee, because these units provide permanently affordable housing opportunities. However only the inclusionary units are exempt from the affordable housing mitigation fee.

All other multi-unit properties are subject to the CCO’s affordable housing mitigation fee provisions.

Two Mitigation Fee Formulæ

There are two mitigation fee formulæ in the CCO.

- **Nexus-Based Affordable Housing Mitigation Fee** (BMC 21.28.070.A) is intended to mitigate the entire loss of affordability that results from conversion of rental units to

²¹ [http://www.ci.berkeley.ca.us/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/AHMFBrochureCCO20080522.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/AHMFBrochureCCO20080522.pdf)

condominium units. The fee is calculated by dividing the difference between the costs of owning the unit as a condominium less the rental costs by the current fixed mortgage rate. If a unit is an owner-occupied TIC unit, the CCO specifies how rental costs are to be calculated.

- **Affordable Housing Mitigation Fee Cap** (BMC 12.28.080) provides fee reductions to converters who agree to limit future rent increases for the life of the property to any resident tenant at the time of conversion to no more than 65% of the increase in the Consumer Price Index for all Bay Area Consumers. If a converter commits to that rent limitation, the affordable housing mitigation fee is capped at 8% of the sale price, or 4% for 2-unit properties.

Example of first formula:

Rental Costs = \$1,500 per month x 12 months/year = \$18,000 annually

Ownership Cost (including principal, interest, taxes, insurance, and homeowners' association dues) = \$2,700 per month x 12 = \$32,400

Assume a mortgage rate of 6.5 percent.

Increased housing cost due to ownership conversion of the unit = \$32,400 - \$18,000 = \$14,400

Mitigation Fee = \$14,400/0.065 = \$221,538

Example of second formula:

Assume a condominium unit you created through conversion has sold for \$400,000, and you've agreed to limit rents to existing or future tenants.

Mitigation fee = 8% x \$400,000 = \$32,000.

Understanding Mitigation Fee Reductions

The 8% cap is subject to the following additional reductions:

- **Duplex units** are subject to a cap of 4% of the sales price for each unit.
- **An owner occupant** in a property containing three or more units who has occupied the unit as his or her principal place of residence, including as a tenant, for at least 5 consecutive years immediately prior to the date of sale is eligible for a 50% fee reduction, **but only if the owner owned and resided in the unit as of June 30, 2010**. This reduction applies to both the full fee or the 8% cap, whichever is otherwise applicable.
- **An additional 25% fee reduction** is available to converters who pay the fee no later than the date of conversion. This reduction also applies to both the full fee or the 8% cap, whichever is otherwise applicable, and is in addition to any other reduction.

Election of Fee Regulations

Applicants with applications pending before the City as of March 24, 2009, may elect to pay the affordable housing mitigation fee in effect as of March 24, 2009, or as it was between August 16, 2007 and March 23, 2009 so long as the City has not taken final action approving a parcel map or final subdivision map no later than December 31, 2012. An application is considered "pending" if the applicant has submitted and paid fees for either Local Law Compliance or the main Condominium Conversion Application/Map Application prior to March 24, 2009.

How will the City collect the mitigation fee?

In drafting the three mitigation fee documents (promissory note, deed of trust, and conversion agreement), the City will prepare an estimated fee that is based on either a prorated value for each unit based on the price at which you originally purchased the entire property as reported by the Alameda County Assessor’s office, an analysis of sales price for comparable units, or some other mutually agreed upon basis for estimating the fee.

The fee estimate is done for three reasons.

- To determine whether you are exempt from the fee
- To determine whether you are eligible for fee reductions
- To generate an estimate of the entire mitigation fee for the property for inclusion in the promissory note and the deed of trust.

It is only at the time of sale of each that your actual mitigation fee is finally calculated for determining your fee payment, unless you elect to pay the fee up front (see below).

To complete your condominium conversion, the City will issue escrow instructions to your title company that will accompany your new subdivision map, condominium plan and CC&Rs, along with three documents that implement the City’s mitigation fee: a promissory note, a deed of trust, and a conversion agreement. You will sign these documents through your title company. City escrow instructions will tell your title company the order in which to record your Subdivision Map, followed by its plan, CC&Rs, and your deed of trust and conversion agreement. You will execute the promissory note also through the title company, but the note will be returned to the City directly. Once recorded, the City will receive a copy of the deed of trust and conversion agreement from the County and will retain them in your property file in the Housing Department.

At the time you sell your unit, your realtor, or the realtor for your buyer will obtain a title report that discloses the conversion agreement and as part of your escrow process, you will be in touch with the City of Berkeley to arrange final calculation of your fee based on the sale price. The fee should be paid to the “City of Berkeley Housing Department” as part of any and all disbursements from escrow. Payment of the fee is **not** triggered by transfer of an owner-occupied TIC unit from the TIC to that owner-occupant.

Paying the Mitigation Fee Up Front

You may choose to take advantage of the additional 25% prepayment reduction by paying the affordable housing mitigation fee no later than the date of conversion (BMC Section 21.28.080.D). To pursue this alternative, you must obtain an appraisal from a Certified Residential Appraiser licensed by the California Office of Real Estate Appraisers, who will be instructed to appraise your property as a condominium. The affordable housing fee will be based on the appraised value of the unit, subject to the 25% reduction.

How do I document that I owned and occupied my property for purposes of claiming a fee reduction?

The City of Berkeley Housing Department will recognize a variety of personal and public records in making a determination of your eligibility to claim the owner/occupant fee reduction.

Record Keeping for Demonstrating Occupancy of the Converting Unit	
Tax Records	<ul style="list-style-type: none"> • Property tax records, especially bills from Alameda County indicating you claimed the homeowner’s exemption for the property. • Records indicating you filed your income taxes from the unit you own and live in.

Utility Records	<ul style="list-style-type: none">• Phone bills from as far back as you have retained.• PG&E bills from as far back as you have retained.• City of Berkeley refuse collection bills from as far back as you have retained.
Other Records	<ul style="list-style-type: none">• Rent Board information indicating you were a tenant in the unit.• Other evidence that reasonably proves you used the unit as your principal place of residence during the time in question.• Rent Board information indicating your property had been owner-occupied and/or occupied rent-free.