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NON-DISTURBANCE AND ATTORNMENT AGREEMENT

*John*

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made and entered into as of August 18, 2011 by and between the UNITED STATES OF AMERICA, acting by and through the SECRETARY OF HOUSING AND URBAN DEVELOPMENT ("HUD"), and AMERICAN HEARTLAND HOMES TWO LLC, an Indiana limited liability company ("Owner").

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WITNESSETH:

WHEREAS, the Indiana Public Housing Authority (the "Authority") and HUD, on or about February 16, 1996 have entered into that certain Consolidated Annual Contributions Contract number C-918 (the "ACC"), which provides for loans, grants and annual contributions to be made by HUD to assist the Authority in developing, maintaining and operating certain public housing projects; and

WHEREAS, the ACC, on or about the date hereof, has been amended by that certain Mixed-Finance Amendment (as so amended, and as same may be amended further from time to time, the "Amended ACC"), so as to be made applicable seventeen (17) public housing units to be located in a rehabilitated 49-unit development to be known as American Heartland Homes Two (the "Development"); and

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WHEREAS, the real property comprising the Development is being leased to Owner pursuant to that certain Ground Lease between the Authority and Owner dated on or about the date hereof (the "Lease"), said property being more particularly described in Exhibit A hereto and being referred to herein as the "Leased Premises"; and

WHEREAS, HUD has certain rights with respect to the Leased Premises pursuant to the Amended ACC and the Declaration of Restrictive Covenants made by and between the Authority and Owner in favor of HUD dated on or about the date hereof ("Declaration of Restrictive Covenants"); and

WHEREAS, in connection with the Development the parties hereto desire to enter into this Agreement on the terms set forth below.

NOW THEREFORE, in consideration of the foregoing premises, Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

- 1 **Non-Disturbance.** In the event that HUD or any transferee from or through HUD acquires title to, or possession of the Leased Premises pursuant to HUD's exercise of its remedies in the event of a default by the Authority under the Amended ACC or the Declaration of Restrictive Covenants, or otherwise under applicable law, then so long as Owner is not in default under the Lease (subject to any applicable notice and cure periods

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MERIDIAN TITLE CORPORATION  
HAS MADE AN ACCOMODATION  
RECORDING OF THIS DOCUMENT

set forth therein), (i) the Lease shall not be diminished or terminated, nor shall the use, possession or enjoyment of the Leased Premises by Owner be interfered with, nor shall the leasehold estate granted by the Lease to the Owner be affected in any manner, except in accordance with the provisions of the Lease, (ii) neither HUD nor any transferee shall take any action that would interfere with or disturb the possession or use of the Leased Premises or other rights under the Lease by Owner, except in accordance with the provisions of the Lease, (iii) HUD and all transferees shall be bound to Owner under all the terms, covenants and conditions of the Lease, and Owner shall, from and after such event of transfer, have the same remedies against HUD and any transferee for the breach of an agreement contained in the Lease that Owner would have had against the Authority under the Lease; and (iv) the Leased Premises shall be subject to the Lease and HUD and any transferee shall recognize Owner as the lessee of the Leased Premises for the remainder of the term of the Lease in accordance with the provisions thereof.

- 2 **Attornment.** Owner hereby agrees with HUD that, in the event HUD or its transferee acquires title to or possession of the Leased Premises pursuant to HUD's exercise of its remedies in the event of a default by the Authority under the Amended ACC or otherwise under applicable law, then upon written notice from HUD that it has succeeded to the Authority's interest in the Lease Owner shall attorn to and recognize HUD or its transferee as the lessor under the Lease for the remainder of the term thereof, and Owner shall perform and observe its obligations under the Lease, subject to the terms and conditions of the Lease. Owner further covenants and agrees to execute and deliver upon request of HUD, or its assigns, an appropriate agreement of attornment to HUD and any subsequent fee titleholder of the Leased Premises.
- 3 **No Modification of Lease.** Nothing herein contained nor anything done pursuant to the provisions hereof shall be deemed or construed to modify the Lease.
- 4 **Title of Paragraphs.** The titles of the paragraphs of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- 5 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana and, where applicable, the laws of the United States of America.
- 6 **Provisions Binding.** The terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns (including mortgagees), respectively, of HUD and Owner. In the event of a conflict between this Agreement and the US Housing Act of 1937 or the Amended ACC, then the Act and the Amended ACC, in that order, shall control.

[Signatures on following pages]





**LEGAL DESCRIPTION**

**Parcel 1**

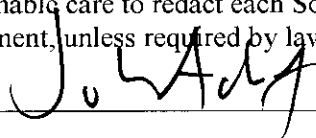
All of Lot 11 in the Columbia Center Unit 4 (a Planned Unit Development) Addition to the City of Hammond, Indiana as recorded in the Lake County Recorder's Office in Plat Book 105 Page 11. Lying in the northwest quarter of the northeast quarter of Section 18, Township 36 North, Range 9 West, of the second principal meridian, in the City of Hammond, Lake County, Indiana, containing 2.811 acres more or less.

**Parcel 2**

All of Lot 12 in the Columbia Center Unit 5 (a Planned Unit Development) Addition to the City of Hammond, Indiana as recorded in the Lake County Recorder's Office in Plat Book 105 Page 12. Lying in the northwest quarter of the northeast quarter of Section 18, Township 36 North, Range 9 West, of the Second Principal Meridian, in the City of Hammond, Lake County, Indiana. Containing 1.320 acres more or less.



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

  
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This instrument was prepared by:  
John Achatz, Esq.  
Klein Hornig LLP  
145 Tremont Street  
Boston, MA 02111

