

This instrument was prepared by and after recording to be returned to:

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AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND

This AGREEMENT ("Agreement") is made on or as of the 1st day of July, 1997, by and between the CITY OF CHICAGO, an Illinois municipal corporation ("City"), having its principal offices at city Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and THE HABITAT COMPANY, an Illinois corporation ("Habitat"), not personally, but as Receiver for the Chicago Housing Authority (the "CHA") Scattered Site Program (Habitat in its capacity as Receiver shall be referred to herein as the "Purchaser"), located at 350 W. Hubbard Street, Suite 500, Chicago, IL 60610.

RECITALS:

WHEREAS, the CHA is an Illinois Municipal Corporation; and

WHEREAS, the CHA is required to implement the Scattered Site Program in accordance with Gautreaux, et al v. CHA, et al., 66 C 1460 (N.D. Illinois) (Referred to herein as the "Gautreaux Case"), which requires the construction of housing for low- and moderate-income persons; and

WHEREAS, Habitat and Daniel Levin have been appointed by the United States Court for the Northern District of Illinois as Receiver for the development of family housing owned by the CHA; and

WHEREAS, the City, as a home rule unit of government under the 1970 Constitution of the State of Illinois, has the power and authority to perform any function pertaining to its government and affairs; and

WHEREAS, on May 14, 1997 the City Council of the City ("City Council") determined that the sale of the real estate described on Exhibit A (collectively the "City Property" and each parcel of which is hereinafter referred to as a "Parcel") to the Purchaser for the purpose of developing housing in the City's North Kenwood Oakland Conservation Area pursuant to the Gautreaux Case pertains to the local government and affairs of the City and approved of the sale of the City Property to Habitat;

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them hereby covenant and agree with the other as follows:

Section 1. Incorporation of Recitals. The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

Section 2. Sale and Purchase. Subject to the terms, covenants and conditions of this Agreement, the City agrees to sell the City Property to the Purchaser, and the Purchaser agrees to purchase the City Property from the City for the amount of One Dollar (\$1.00) per Parcel ("Purchase Price") to be paid by check or by such other means as shall be satisfactory to the City.

Section 3. Conveyance of Property.

A. Closing. The closing (the "Closing") of the conveyance of the City Property or portions thereof to Purchaser shall take place at the Title Company (as hereinafter defined) on such date or dates as the parties may mutually agree to in writing but in no event later than December 31, 1997 ("Closing Date").

B. Form of Deed. The City shall convey to the Purchaser title to the City Property by Quitclaim Deed ("Deed") substantially in the form attached hereto as Exhibit B. The Deed shall include and convey title to all of the Parcels; provided, however, if the Purchaser or the Title Company (as hereinafter defined) shall request prior to a Closing that the City convey title to any Parcel by a separate Deed, the City shall convey such parcel by a separate Deed. The conveyance and title shall, in addition to the provisions of this Agreement, be subject to the following permitted exceptions ("Permitted Exceptions"):

1. Covenants and restrictions set forth in the Deed.
2. Taxes which are not yet due and owing.

3. Easements, encroachments, covenants and restrictions of record and not shown of record which will not affect the use of the City Property for residential purposes or the marketability or insurability of the City Property.

4. Such other exceptions as are agreed to by Purchaser in writing.

C. Title Commitment and Survey. City acknowledges that the Purchaser has advised the City of those matters which the Purchaser deems are not Permitted Exceptions with respect to any Parcel being conveyed on such Closing Date and that Purchaser has provided the City with a copy of the ALTA title commitment and survey evidencing such matters which are not Permitted Exceptions ("Title Defects"). The cost of the title commitment and survey shall be paid by Purchaser. The City shall use reasonable and diligent efforts by the Closing Date with respect to each Parcel to cure any Title Defects by waiver, endorsement or other appropriate action, however, the City shall not be obligated to cure any Title Defects by the payment of money, the filing of a lawsuit in a court of law or equity, deposit of funds with the Title Company or providing an indemnification to the Title Company. If the City is diligently pursuing but has not cured such Title Defects by the Closing Date, the City shall have an additional thirty (30) day period of time plus such additional period of time as the Purchaser may grant the City ("Cure Period") to cure such Title Defects and the Closing Date for such Parcel shall be postponed to a mutually agreed upon date which is within ten (10) business days after the expiration of the Cure Period. In the event the City has not cured such Title Defects by the Closing Date or upon the expiration of the Cure Period and the City and the Purchaser cannot agree upon a resolution of such matter, the Purchaser may elect to take such title as the City can convey or terminate this Agreement with regard to such Parcel or any other Parcel the use of which shall be affected by such Title Defects.

D. Escrow Closing. The Closing shall occur through an escrow at the downtown Chicago offices of the Greater Illinois Title Company (the "Title Company"), the cost of which shall be paid by Purchaser. The closing escrow shall be pursuant to a written closing escrow agreement in customary form among the Purchaser, the City and the Title Company modified to conform to the provisions of this Agreement. Upon creation of the closing escrow, payment of the Purchase Price and delivery of all documents shall be made through the closing escrow. The City and the Purchaser agree to execute and deposit into the closing escrow all documents necessary to effectuate the conveyance of the City Property to the Purchaser. This Agreement shall not be merged into any escrow agreement. The escrow agreement required under this Agreement shall be auxiliary to this Agreement and as between the City and the Purchaser the provisions of this Agreement shall control.

E. Real Estate Taxes. Subject to the provisions of Section 3(C) above, the City shall use reasonable efforts to obtain the waiver of all delinquent general real estate

tax liens, special assessments or other impositions, if any, on the City Property prior to the Closing associated with any Parcel.

F. Closing Documents. At the Closing, the City and the Purchaser shall deposit into escrow the following:

1. The City Deposits:

(i) The Deed or Deeds conveying to the Purchaser title to the City Property.

(ii) A certified copy of the ordinance adopted by the City Council authorizing the City to enter into and perform under this Agreement.

(iii) Executed closing statement.

(iv) Executed ALTA Statement.

(v) Executed Illinois Responsible Property Transfer Act ("IRPTA") Disclosure Document or an affidavit stating that Parcels to be conveyed at such Closing are not subject to the disclosure requirements or any other aspect of IRPTA.

(vi) Such other documents as may be required by the Title Company to issue a title insurance policy to the Purchaser for the City Property subject only to Permitted Exceptions.

2. The Purchaser Deposits:

(i) The Purchase Price for the City Property.

(ii) Executed closing statement.

(iii) Executed ALTA Statement.

3. Joint Deposits:

(i) City of Chicago, County of Cook and State of Illinois Transfer Declarations marked "Exempt".

Section 4. The Purchaser's Obligation.

A. The Scattered Site Housing Program. The Purchaser shall commence or cause to be commenced upon each Parcel within five years from the date of the conveyance of such Parcel to Purchaser, the construction of housing constructed pursuant to the Scattered Site Program in accordance with the Gautreaux Case. For purposes of this Agreement, the term "housing constructed pursuant to the Scattered Site Program" shall mean the construction of public housing in the City's North Kenwood Oakland Conservation Area. Purchaser's obligation as set forth in this Subsection 4(A) to construct housing pursuant to the Scattered Site Program shall be referred to herein as "Purchaser's Obligation".

B. Contractor. In order to satisfy Purchaser's Obligation under this Agreement, after the Closing, the Purchaser may convey any Parcel to a developer or contractor (the "Contractor") who shall be responsible for the construction (including the financing of such construction) of the improvements to be made to such Parcel. The conveyance of a Parcel or Parcels to a Contractor shall occur pursuant to a written agreement (a "Turnkey Contract") between the Purchaser and the Contractor that shall (1) obligate the Contractor to construct new housing pursuant to the Scattered Site Program (2) permit the Contractor, subject to the provisions of Section 8 of this Agreement, to obtain funds necessary to construct the improvements on such Parcel or Parcels and create a lien or encumbrance on such Parcel or Parcels for such purpose, (3) require the Contractor to convey such Parcel or Parcels to the CHA upon completion of such improvements and acceptance thereof by the Purchaser; (4) be subject to a reversion interest in the Purchaser in the event the Contractor does not complete construction of such improvements in accordance with the terms and conditions of such agreement. The City shall have the right, upon written request to the Purchaser, to review copies of any and all Turnkey Contracts.

Section 5. Satisfaction of Purchaser's Obligation. Upon the satisfaction of Purchaser's Obligation in accordance with this Agreement with respect to a Parcel or parcels, fee title to such Parcel or Parcels shall be conveyed to the CHA. It shall be conclusively presumed that Purchaser has satisfied Purchaser's Obligation with respect to a Parcel if such Parcel has been conveyed by deed to the CHA. The conveyance of such Parcel to the CHA shall be a conclusive determination of the satisfaction and termination of the covenants in this Agreement and the Deed (for such Parcel) with respect to Purchaser's Obligation and the termination of the City's right to re-enter and take possession of such Parcel. Purchaser shall deliver or cause to be delivered to the City a photocopy of the recorded deed or deeds conveying such Parcel or Parcels to the CHA.

Section 6. Restrictions on Use. The Purchaser agrees that it shall not discriminate based upon race, color, religion, sex, national origin or ancestry, military status, sexual

orientation, source of income, age, handicap, in the sale, lease, rental, use or occupancy of the City Property or any improvements located or to be erected thereon.

Section 7. **Prohibition against Transfer of Property.** Subject to the provisions of Subsection 4(B) of this Agreement, prior to the satisfaction of Purchaser's Obligation regarding a Parcel, the Purchaser shall not, without the prior written consent of the City: (a) sell or convey such Parcel or any part thereof; or (b) create any assignment with respect to this Agreement or such Parcel that would take effect prior to the satisfaction of Purchaser's Obligation with respect to such Parcel; or (c) contract or agree to: (1) sell or convey such Parcel, or (2) create any assignment with respect to this Agreement or such Parcel that would take effect prior to the satisfaction of Purchaser's Obligation with respect to such Parcel. The provisions of this Section 7 shall not limit the Purchaser's rights under Section 8 of this Agreement. Notwithstanding anything to the contrary in this Section 7, the Purchaser may create an assignment with respect to this Agreement or any Parcel to the CHA, the United States Department of Housing and Urban Development or such other entity as shall be required by court order entered in the Gaureaux Case.

Section 8. **Limitation upon Encumbrance of City Property.** Prior to the satisfaction of Purchaser's Obligation regarding a Parcel, the Purchaser or any Contractor shall not engage in any financing or other transaction which creates an encumbrance or lien upon such Parcel, except for the purposes of obtaining: (a) funds necessary to acquire such Parcel; (b) funds necessary to construct the improvements upon such Parcel; or (c) funds necessary for architects, surveyors, appraisers, environmental consultants or attorneys in connection with the construction of such improvements.

Section 9. **Mortgagees not Obligated to Construct.** Notwithstanding any other provision of this Agreement or of the Deed, the holder of any mortgage on a Parcel authorized by Subsection 4(B) or Section 8 of this Agreement shall not be obligated to construct or complete any improvements; provided, however, that the foregoing provision shall not apply to any purchaser, other than the holder of the mortgage, of a Parcel at a foreclosure sale. Nothing in this Section 9 nor in any other section of this Agreement shall be deemed or construed to permit or authorize any such holder of a mortgage to devote such Parcel to any use, or to construct any improvements thereon, other than those uses or improvements permitted under this Agreement.

Section 10. **Covenants Running with the Land.** The parties agree that with respect to each Parcel, and the Deed shall so expressly provide, that the covenants provided in Sections 4(A), 6, 7 and 8 shall be covenants running with the land, binding the Purchaser and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City. The covenants provided in Sections 4(A), 7 and 8 shall be terminated as to a Parcel upon the conveyance of such Parcel to the CHA in accordance with Section 5 of this Agreement.

Section 11. Performance and Breach.

A. Time of the Essence. Time is of the essence in the parties' performance of their obligations under this Agreement.

B. Permitted Delays. The Purchaser shall not be considered in breach of its obligations with respect to the completion of housing constructed pursuant to the Gautreaux Case in the event of a delay in the performance of such obligations due to unforeseeable causes beyond the Purchaser's or any Contractor's control and without the Purchaser's or any Contractor's fault or negligence, including but not limited to, delays or faults in construction of such housing which are compelled by court order, acts of God, acts of the public enemy, acts of the United States government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such cause.

C. Breach.

1. Generally. Except as otherwise provided in this Agreement, in the event of a default by either party in the performance of its obligations under this Agreement, the defaulting party, upon written notice from the other, shall cure or remedy the default not later than sixty (60) days after receipt of such notice. If the default is not capable of being cured within the sixty (60) day period but the defaulting party has commenced action to cure the default and is diligently proceeding to cure the default within the sixty (60) day period, then the sixty (60) day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the aggrieved party shall have the remedies available to it in accordance with this Section 11.

2. Event of Default. For purposes of this Agreement, the occurrence of any one or more of the following shall constitute an "event of default":

(i) The Purchaser fails to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations required under this Agreement; or

(ii) The Purchaser makes or furnishes a warranty, representations, statement or certification to the City which is not true and correct in any material respect; or

(iii) The Purchaser fails to timely pay or cause to be paid real estate taxes or assessments affecting a Parcel or suffers or permits any levy or attachment, material suppliers' or mechanics' lien, or any other

lien or encumbrance unauthorized by this Agreement to attach to a Parcel;
or

(iv) The Purchaser makes an assignment, pledge, encumbrance, transfer or other disposition in violation of this Agreement.

(v) The City fails to convey the City Property, or any portion thereof, in accordance with the terms and conditions of this Agreement or to satisfy any of its other obligations under this Agreement.

3. **City Remedies.** If after the execution of this Agreement, the Purchaser defaults in any specific manner described in this Section 11(C), the City may terminate this Agreement or institute any action or proceeding at law or in equity against the Purchaser. If subsequent to the conveyance of a parcel to the Purchaser but prior to the conveyance of such Parcel to the CHA in accordance with Section 5 of this Agreement, the Purchaser defaults in any specific manner described in this Section 11(C) or otherwise fails to perform any of its obligations under this Agreement, but subject to any applicable cure period set forth in this Agreement, the City, by written notice to the Purchaser, may utilize any and all remedies available to the City at law or in equity, including but not limited to, the right to re-enter and take possession of such Parcel, terminate the estate conveyed to the Purchaser, and re-vest title to such Parcel in the City; provided, however, that the re-vesting of title in the City shall be limited by, and shall not defeat, render invalid, or limit in any way, any pledge, encumbrance or lien authorized by this Agreement.

4. **Purchaser Remedies.** If after the execution of this Agreement the City defaults on its obligation to transfer title to any Parcel, Purchaser may either terminate this Agreement with respect to such Parcel or Purchaser, subject to the provisions of Section 3(c) above, may utilize any and all remedies available to the Purchaser at law or in equity, including but not limited to, specific performance. Notwithstanding the foregoing, Purchaser shall not have the right to recover money damages from the City as a result of a City default hereunder.

D. **Waiver and Estoppel.** Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the city of or limit such rights in any way. No waiver made by the City with respect to any specific default by the Purchaser shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of the Purchaser.

E. **Access to the Property.** After the Closing and prior to the satisfaction of Purchaser's Obligation with respect to a Parcel, any duly authorized representative of