

CONTRACT NO. 11650

PRIVATE PROPERTY MANAGEMENT AGREEMENT

BETWEEN

THE CHICAGO HOUSING AUTHORITY

AND

EAST LAKE MANAGEMENT GROUP, INC.

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PRIVATE PROPERTY MANAGEMENT AGREEMENT

THIS PRIVATE PROPERTY MANAGEMENT AGREEMENT (this "Agreement") is made effective as of the 5TH day of October, 2015, between the **CHICAGO HOUSING AUTHORITY**, a municipal corporation organized under the laws of the State of Illinois at Illinois Housing Authorities Act, 310 ILCS 10/1 et. seq., (hereinafter "Owner") and **EAST LAKE MANAGEMENT GROUP, INC.**, an Illinois limited liability company (hereinafter "Manager").

RECITALS

WHEREAS, the Owner desires to contract with the Manager to rent, lease, operate and manage that certain property (the "Property") described in Exhibit A; and

WHEREAS, the Manager desires to manage, rent, lease and operate the Property;

NOW THEREFORE, in consideration of the mutual promises hereunder and for the good and valuable consideration, the receipt and sufficiency hereto, agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS AND DEFINITIONS

Section 1.1 Incorporation of Recitals

The recitals set forth above are incorporated by reference as if fully set forth herein.

Section 1.2 Definitions

(a) "ACC" shall mean the Annual Contributions Contract(s), including all relevant amendments, pursuant to which HUD provides funding to the CHA for the administration, management and operation of the Property.

(b) "Act" shall mean the United States Housing Act of 1937 (42 U.S.C. 1437, et seq.), as amended from time to time, any successor legislation and all implementing regulations issued thereunder or in furtherance thereof.

(c) "Agreement" shall mean this Private Property Management Agreement for the administration, management and operation of the Property, including all Exhibits attached to it and incorporated in it by reference, all existing CHA policies and procedures effective during the term of the agreement and incorporated herein by reference, and all amendments. Modification or revisions made in accordance with its terms.

(d) "ACOP" shall mean the latest version of the CHA's Admissions and Continued Occupancy Policy, which is the statement of CHA's policies and procedures relating to the admission of and continued occupancy in its public housing program, as may be amended from time to time.

(e) "Annual Plan" shall mean the plan prepared annually by the CHA pursuant to the Moving to Work Demonstration Agreement by and between HUD and the CHA as it may be amended or extended, and in accordance with Section 204 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and any successor annual plan prepared in accordance with federal laws.

(f) "Applicable Public Housing Requirements" shall mean the ACC, the Act, the HOPE VI Grant Agreement, HUD notices (including any notices of fund availability under which the PHA received an award of HOPE VI funds for use in connection with the Property), the Declaration of Restrictive Covenants, other written policies and procedures of HUD, the ACOP, and all pertinent Federal statutory executive orders and regulatory requirements applicable to public housing, as those requirements may be amended from time to time.

(g) "Claim" shall have the meaning set forth in Section 7.3(a) herein.

(h) "Commencement Date" shall have the meaning set forth in Section 3.1 herein.

(i) "Corrupt Activity" shall mean bribery, theft, fraud, forgery, perjury, dishonesty or deceit or the attempt thereof under any local, state or federal law or conspiracy to engage in any of the aforementioned acts.

(j) "Deliverables" shall have the meaning set forth in Section 4.9 herein.

(k) "Depository Account" shall have the meaning set forth in Section 5.2 herein.

(l) "Flat Rent Schedule" shall mean the schedule of anticipated rent that can be charged for units in the Property, as it may be updated from time to time by Owner.

(m) "Fiscal Year" shall mean calendar year unless specifically provided to the contrary herein.

(n) "Governing Documents" shall mean those documents listed in Exhibit B that detail specific operating and compliance requirements for the Property.

(o) "Grievance Policy and Procedure" shall mean the Owner's current Grievance Policy and Procedure.

(p) "HUD" shall mean the United States Department of Housing and Urban Development.

(q) "Lease" shall mean any lease in which Owner has agreed to lease and a Tenant has agreed to accept a residential dwelling unit of the Property or Non-Dwelling unit of the Property identified in the lease in accordance with the terms of the lease.

(r) "Lease Rider" shall mean a rider, as it may be modified from time to time by the Owner, which must be made part of each Lease as appropriate for tax credit units, public housing units, non-dwelling units and Section 8 assisted units.

(s) "Leasing Guidelines" shall mean the policies and procedures to be followed by Manager in leasing units in the Property, as set forth by in the Property Management Procedural Manual and as may be modified by Owner from time to time.

(t) "Management Plan" shall mean the Manager's written description of the manner in which the Property shall be operated that has been approved by the Owner; the Management Plan may be modified from time to time upon written agreement of the Owner and must be strictly adhered to by Manager. The initial Management Plan is attached hereto as Exhibit C.

(u) "Manager" shall mean the private property management company, authorized by this Agreement to manage the Property described herein.

(v) "Non-dwelling Units" shall mean those units approved by CHA and HUD, if necessary, to be used for non-residential purposes.

(w) "OIG" shall mean the Office of the Inspector General.

(x) "Operating Account" shall mean an account established by Owner to disburse funds to the Manager to pay the normal and reasonable expenses for the operation and maintenance of the Property.

(y) "Operating Budget" shall mean the annual operating budget currently approved by the CHA and attached hereto as Exhibit J, and any subsequent operating budget approved by the CHA.

(z) "Owner" shall mean the Chicago Housing Authority or "CHA".

(aa) "Performance Standards" shall mean the standards or factors the CHA will use in evaluating the performance of the Contractor under this Agreement including the Public Housing Assessment System ("PHAS") or such other systems as HUD may designate.

(bb) "Pet Policy" shall mean the "Owner's pet policies and procedures.

(cc) "Property" shall mean the CHA owned property as described on and attached hereto as Exhibit A.

(dd) "Public Housing Units" shall mean the units of public housing at the Property.

(ee) "Rent" shall mean that monthly amount which Tenant is obligated to pay Owner pursuant to the terms of a Lease.

(ff) "Request for Proposals" or "RFP" shall mean that certain Request for Proposal #129 dated May 22, 2015.

(gg) "Services" shall mean the administration, management and operation of the Properties and all the work, services, duties and responsibilities described throughout this Agreement and attached as Exhibits and any and all work necessary to complete them in accordance with the performance standards required under this Agreement.

(hh) "Tenant" shall mean a person, family or entity occupying a unit in the Property pursuant to a Lease.

ARTICLE 2. APPOINTMENT

Section 2.1 Appointment and Acceptance. Owner hereby appoints Manager to manage, operate and maintain the Property, consult and undertake other related functions. Manager hereby accepts the appointment, subject to the terms and conditions set forth in this Agreement.

Section 2.2 Independent Contractor Status. The Manager and the Owner recognize that Manager is an independent contractor and not an employee, agent, partner, joint venturer, covenantor, or representative of the Owner and that the Owner will not incur any liability as the result of Manager's actions. Manager and its employees, representatives, and agents shall at all times represent and disclose that they are independent contractors of the Owner and shall not represent to any third party that they are an employee, agent, covenantor, or representative of the Owner. The Owner shall not be obligated to withhold any funds from Manager for tax or other governmental purposes, with respect to its employees, agents, representative or subcontractors. Manager and its employees, representatives, and agents shall not be entitled to receive any employment benefits offered to employees of the Manager including workers' compensation insurance coverage.

ARTICLE 3. TERM

Section 3.1 Term. Unless terminated by Owner or Manager pursuant to Article 11, this Agreement shall become effective on the date hereof and shall continue in full force and

effect for a period of three (3) years, or until this Agreement is terminated in accordance with its terms, whichever occurs first. The Manager shall commence performance under this Agreement on the date the Owner issues a Notice to Proceed ("Commencement Date").

Section 3.2 Option Term. The parties may renew this Agreement by written agreement for one two (2)- year option period, subject to the approval of the CHA Board of Commissioners and HUD, to the extent required. In the event, that the Owner does not issue a notice of termination prior to the expiration date, this Agreement will automatically continue in accordance with its terms on a month to month basis. The Owner shall have the right to terminate this Agreement upon thirty (30) days written notice to the Manager.

ARTICLE 4. SERVICES OF MANAGER

Section 4.1. Scope of Services. Manager shall fulfill all services customarily associated with third party multi-unit property management including but not limited to:

- a. **Leasing** - Managers shall be responsible for the marketing/leasing of available units in accordance with the ACOP, and expected to maintain occupancy at or above 98%.
- b. **Regulatory Compliance** – Managers shall comply with all applicable local, state and federal laws, regulations and codes.
- c. **Rent Collection** – Managers are expected to collect at least 98% of the accrued rent.
- d. **Preventive Maintenance & Work Orders (Emergency & Non-Emergency)** – Managers shall adhere to the CHA's Work Order Policy and perform necessary maintenance and repairs promptly while being courteous to CHA residents.
- e. **Unit Turnaround Time** – Managers are expected to make previously leased units ready for new occupancy within 20 days of being notified of the vacancy.
- f. **Tenant Re-examination** – Managers shall perform a complete re-examination of tenant households in compliance with applicable Federal Regulations and the CHA ACOP.
- g. **Technology & Systems** – Managers shall use CHA's Yardi software (or other designated system of record) to manage and track units, applicants, residents, properties, budgets and expenses.
- h. **Quality Control** – Managers shall implement a quality control ("QC") program designed to assure quality in the services being provided. The QC program shall also include procedures for an internal audit of the Manager's own processes to be conducted and reported to the CHA.
- i. **Inspections** – Managers shall prepare for and participate in any required inspections of the property. Managers shall also document all observable

deficiencies, resident infractions, and other matters which require work orders to be generated.

- j. **Long Term Maintenance/Replacement/Capital Needs Planning** - Managers shall prepare and maintain long term maintenance, replacement and capital needs plans and schedules, as well as oversee any needed construction in coordination with the CHA.
- k. **Green Operations and Maintenance** – Additional green operations and maintenance innovations for each site are encouraged, including implementing a CHA approved plan for water conservation in each building, as well as implementing and maintaining a green purchasing policy which considers Indoor Air Quality.
- l. **Risk Management** – Managers shall ensure its employees are following safety procedures, correcting unsafe conditions, filing incident reports for insurance purposes, and taking necessary steps to minimize risk and exposure.
- m. **Lease Enforcement** – Managers shall enforce the CHA Residential Lease and ACOP.
- n. **Safety and Security** – Managers are responsible for the security functions at each property, and shall coordinate with CHA's Safety and Security and Emergency Services teams; and the Chicago Police and CAPS.
- o. **Customer Service** – Managers shall provide an outstanding level of customer service at all times.
- p. **Community Engagement** – Managers shall foster crucial partnerships and expand education opportunities for CHA clients through community engagement.
- q. **Coordination with Appropriate Services** – Managers shall coordinate supportive services to tenants with CHA Resident Services and its contracted service providers for all CHA properties, and shall provide direct social services through the hiring of Resident Service Coordinators at CHA designated senior buildings via the Resident Service Coordination Program.
- r. **Code Violations** – Managers shall promptly respond to all notices from the City of Chicago and other governmental entities regarding the condition of the Property.
- s. **Fines, Penalties and Late Fees** – Managers shall be responsible for the prompt payment of all fines and penalties assessed against the Property. These payments may not be charged against the property budget.
- t. **Management Plan** - Managers shall prepare an annual management plan for each property which must be approved by the CHA's Asset Management Department.
- u. **Management of Mixed Income Units** – Manager shall represent CHA's interest in mixed income properties with CHA owned units.

- v. **Vacant Land Maintenance** – Manager shall be responsible for the maintenance of upkeep of assigned CHA vacant property including maintain lawns at a height acceptable to the CHA, or city ordinance; clearing of snow from any public sidewalk adjoining the vacant property in accordance with the City of Chicago's Snow Removal Municipal Code.
- w. **File Retention** – Managers shall be required to adhere to the CHA Records Management Policy and State – HUD Retention Schedule.

All services shall be performed in conformance with the Governing Documents, the Management Plan, and the Request for Proposal, as they may be modified from time to time by the Owner and upon appropriate written notice to the Manager of those modifications, and other direction, the Owner may provide from time to time.

Section 4.2. Standard of Conduct. Manager represents that it is experienced in professional management of multifamily property of a character and nature similar to the Property. Manager agrees to manage the Property in accordance with the highest professional standards for such property and in accordance with the Owner approved Management Plan.

Section 4.3 Familiarization With Property. As soon as practicable, Owner will furnish Manager with a complete set of general plans and specifications for the Property, if any, and copies of all guarantees and warranties pertinent to construction and fixtures and equipment of the Property. With the aid of this information and inspection by competent personnel, Manager shall thoroughly familiarize itself with the character, construction, layout, and plans of the Property, including the electrical, heating, plumbing and ventilating system and all other mechanical equipment in the Property.

Section 4.4 On-Site Management Office. The Manager's on-site Management Office shall be open, at a minimum, during normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. unless otherwise approved in writing by Owner. In some instances, the Management Office shall be available on weekends. On-site Management Offices may observe the Holiday Schedule observed by the CHA, attached as Exhibit D which may be modified from time. In the event of an emergency, the Owner, in its sole discretion, may require the Management Office to be open, at such times and/or on such dates as later specified by Owner.

Manager shall maintain a twenty-four (24) emergency response system. Manager must maintain an after hour answering service staffed by a live person (not recording), prepared to forward emergencies to the assigned maintenance and/or management personnel on a 24-hour basis. The assigned staff must promptly respond to emergencies and notify the Owner of all emergencies and actions taken in accordance with CHA procedures.

Section 4.5 Personnel. All on-site personnel shall be employees or subcontractors of Manager. Manager shall be solely responsible for hiring, supervising and termination of its personnel. Manager shall be solely responsible for paying all personnel and complying with all laws pertaining to employment. Owner shall reimburse Manager for salaries, workman's compensation, payroll administration fees, social security taxes and other taxes normally paid by employers of on-site personnel, pursuant to the approved Property budget. It is understood by Manager and Owner that "advances" or "reimbursements" for personnel shall be

limited to: a) customary reimbursements for services provided for the Owner; b) required services the Manager does not and cannot render. Manager will not be reimbursed for expenses attributable to personnel who work in Manager's corporate or business office.

The Manager shall use reasonable care in the selection of on-site personnel, including without limitation, a criminal record check, drug screening and other adequate background checks of each potential new hire. The Manager shall notify the Owner promptly of on-site personnel changes or personnel action. The Owner reserves the right to review and approve the Manager's selection of personnel.

Section 4.6 Initial Budgets. Within forty-five (45) days of Owner providing the budget for the Property, Manager shall review and advise Owner of any modifications deemed necessary for the upcoming operating year.

Section 4.7 Annual Operating Budget. Manager shall prepare a recommended annual operating budget for the Property for each fiscal year during the term of this Agreement, and shall submit the same to Owner in accordance with Owner's property budgeting process, at least one hundred twenty (120) days before the beginning of such fiscal year or as designated by Owner. The annual operating budget shall be presented to Owner in the manner and format prescribed by Owner.

Upon written approval of the budget by Owner, the Manager shall not deviate, in type or amount, from the line items approved in the Operating Budget without prior written approval from Owner.

Section 4.8 Book and Records. The Manager shall use the accrual basis of accounting to record its activity in their general ledger. The Manager shall keep full and adequate books for accounts and such other records reflecting the results of operation of the Property including without limitation all contracts, original leases, amendments, extensions and agreements relating to contracts and leases, files, correspondence with tenants and prospective tenants, computations of rental adjustments, tenant income and other records required to verify satisfaction of property requirements, maintenance and preventative maintenance programs, schedules and logs; inventories of personal property and equipment; correspondence with vendors; job descriptions; correspondence with federal, state, county and municipal authorities; brochures and accounts held or maintained. Such books and records shall be kept in all material respects in accordance with accepted accounting practices and in accordance with all the terms and conditions of the Owner Records Retention Policy, and all Applicable Public Housing Requirements.

- a. Manager shall process and record all financial transactions related to the Properties into the Owner's designated system of record (i.e. Yardi, Sharepoint, etc.).
- b. Manager shall scan and attach all invoices and supporting documents to their respective payables in Yardi or any other Owner's designated system of record.
- c. Manager shall use the Owner's Private Managers Financial Procedures Manual as a reference guideline but shall not be limited to this policy in processing financial transactions.

- d. Manager shall be responsible for the issuance of 1099's under the Manager's corporate tax identification number for expenses incurred under the Manager's operation of the properties.

Manager shall allow the Owner, the CHA OIG, its accountants, attorneys and agents, the right to enter the on-site Management Office to examine or inspect the books and records relating to the operation and maintenance of the Property at any time during the normal business hours. Books and records of the Property shall be kept at the on-site Management Office or such other place as the Manager and Owner may deem appropriate.

Section 4.9 Preparation of Reports. In carrying out its services, the Manager shall prepare data, reports, the Management Plan, and other Owner required documents, (collectively "Deliverables"). The CHA reserves the right to reject any and all Deliverables which in the sole judgment of the CHA do not: (a) adequately represent the intended level of completion or standard of performance, (b) include relevant information or data or (c) include all documents specified in this Agreement and/or those which are reasonably necessary for the purposes for which the CHA entered into this Agreement with the Manager. Partial or incomplete Deliverables may be accepted for review only when required for a specific purpose and when consented to in advance by the CHA. Such Deliverables may not be considered as satisfying the requirements of this Agreement, and partial or incomplete Deliverables shall in no way relieve the Manager of its obligations hereunder to submit complete Deliverables.

The reports and submission dates shall be specified by CHA and adhered to by the Manager. The reports include, but are not limited to, financials, monthly performance reports, PHAS performance as it relates to the Management Plan, audit reports, procurement and compliance reports, and other documents, as requested. A partial listing of required reports is attached as Exhibit E and will be modified, from time to time, at the Owner's sole discretion. The format of the reports will be determined by the CHA and will utilize Yardi or any successor property management system as much as possible. Sample copies of the required reporting forms are available through the CHA Departments of Asset Management; Procurement and Compliance; and the Comptroller's Office.

Section 4.10 Owner Communications. Manager shall meet with Owner upon Owner's written request and shall keep Owner advised of items materially affecting the Property.

Section 4.11 Manager's Duty to Report Litigation. Manager shall report promptly to Owner any litigation involving the Property and any litigation involving the Manager and Manager's subcontractors that may adversely impact the Owner. Manager shall not enter into any settlement agreement involving the Property without the consent of the CHA's Office of the General Counsel. Manager shall report promptly to Owner prior to conducting an internal investigation involving the Owner that may negatively impact the Owner.

Section 4.12 Procurement and Contract Compliance. The Manager shall use competitive purchasing procedures pursuant to 24 C.F.R. 85.36, HUD Procurement Handbook 7460.8 REV.1, (Procurement Handbook), CHA's Procurement Policy, 24 C.F.R. Part 135 and to the maximum extent possible, 24 C.F.R. Part 963 for procuring services, supplies, material and equipment for use by the Manager in carrying out its responsibilities under this Agreement. The

Owner reserves the right to monitor and review all purchases made for the Property for Procurement and Contract Compliance.

Section 4.13 Power to Enter Into Agreements. Manager shall have the power and authority to make reasonable contracts for terms not to exceed one (1) year (except for Non-Dwelling Unit Leases approved by the CHA). All contracts with a value more than \$100,000.00 must be submitted to Owner for approval accompanied by a brief description of the work or services, the budget authority, summary of bids, and explanation for the selection of the bids. All contracts entered into by Manager for goods and services for the Property shall be subcontracts of the Manager under this Agreement.

The Manager shall monitor and supervise all vendors and contractors for services rendered to the Property to reasonably assure the required quality of the workmanship, enforcement of warranties and compliance with the contracts for the daily operation of the Property.

Section 4.14 Training and Certification Pursuant to 24 C.F.R. §967.1 *et. seq.* and to the extent applicable, the Manager and its subcontractors shall attend CHA and/or HUD sponsored trainings and workshop programs designed to enhance the skills, safety awareness and capabilities of its employees and subcontractors.

Manager shall also be required to annually certify the performance of background checks and completion of training for security personnel located at the Property.

Section 4.15 Compliance with Law. Manager shall at all times comply fully with all federal, state, county, municipal, and special district laws, ordinances, rules, regulations and orders relative to the marketing, renting, leasing, use, operation, repair and maintenance of the Property, the selection and treatment of Tenants, investigation of credit, collection of rents, disclosure of information to and about Tenants and prospective Tenants, and the eviction of Tenants. Manager and its employees shall at all times comply with the federal Drug Free Workplace Act of 1988, and HUD's implementing regulations thereunder. Manager shall remedy promptly any violation of any such law, ordinance, rule, regulation or other which it has knowledge of and shall notify Owner by the end of the next business day after Manager receives written notice of any violation for which Owner may be subject to a penalty.

Section 4.16 Manager's Duty to Cooperate with CHA Inspector General.
It is the duty of the Manager and its subcontractors to cooperate with the CHA Inspector General in any investigations, audits, reviews, inspections or hearings undertaken. Premises associated with the Owner or doing business with or on behalf of the Owner shall be made available without undue delay including but not limited to equipment, personnel, books, records (in any form) and paper deemed relevant by the OIG. All of the Manager's subcontracts must inform subcontractors of this provision and require agreement and compliance with the same.

Section 4.17 Manager's Duty to Report Corrupt or Unlawful Activity.
Manager and its subcontractors shall report, directly and without undue delay, to the CHA's Inspector General any and all information concerning conduct by any person which such manager or subcontractor knows or suspects to involve fraud or other corrupt activity. A Manager's or subcontractor's intentional failure to report Corrupt Activity as required in this subsection 4.17 shall constitute an event of default under this Agreement.

Section 4.18 Manager's Internal Controls and Procedures. Manager shall within 60 to 90 days of the Commencement Date of the Agreement submit internal control procedures and process flow for accounts payable, accounts receivable, month-end closing and procurements. Manager shall also maintain desk procedures for employees processing financial transactions.

Section 4.19 Manager's Duty to Comply with CHA's Governing Documents. Manager and its employees shall have a duty to comply with all CHA Governing Documents described in Exhibit B. Failure to comply with any CHA Governing Document as required in this subsection 4.19 shall constitute an event of default under this Agreement.

Section 4.20 Manager's Duty to Coordinate with CHA Resident Services Manager and its employees shall have a duty to coordinate with CHA Resident Services and its directed programs and supportive services. A Manager's or subcontractor's intentional failure to collaborate with Resident Services and its directed programs as required in this subsection 4.20 shall constitute an event of default under this Agreement.

ARTICLE 5. ESTABLISHMENT OF ACCOUNTS

All funds referenced hereunder shall be managed in accordance with the governing documents, HUD Cash Management Guidelines and the CHA Finance Division policy and procedures as it relates to the property management fiscal activities. The Manager shall recognize its fiduciary capacity in its role as a CHA fiscal agent.

Section 5.1 Accounts. The CHA Finance Division through the CHA Department of Treasury shall designate the financial institutions for which accounts are established through the HUD General Depository Agreement.

Manager shall make all requests for banking products and services through the Department of Treasury's designated contact in accordance with Exhibit B (Governing Document No. 20) and related attachments. The appropriate management approval shall be given by the Manager for timely and accurate documentation as it relates to the following, including but not limited to: signature authorizations, Electronic banking permissions and internet banking access.

Banking fees associated with the commercially reasonable activities of the property management accounts shall be the responsibility of the Owner. "Excess" banking fees shall be construed as those fees which are generated as a result of the Manager's standard of care failure (i.e. writing NSF checks). These charges may be deducted from management fees.

The CHA Treasury Department reserves the right to change banking services. However, such action will be performed in a manner which will ensure that the property management operational or financial activities will not be hindered.

Section 5.2 Depository Account. Manager shall establish a "Depository Account" which shall be used for the deposit of all funds received as the management fee. The "Depository Account" shall be under the sole control of the Manager.

Section 5.3 Management of Security Deposit Transactions. All transactions relating to Security Deposits are generated through the Operating Account. This account will be adjusted by the Owner based on the Manager's monthly Security Deposit Activity Report in accordance with Exhibit B (Governing Document No. 13).

ARTICLE 6. MANAGEMENT AUTHORITY

Section 6.1 Authority. Manager's authority is expressly limited to the provisions contained herein and incorporated herein as they may be amended in writing from time-to-time in accordance with the provisions of this Agreement. Owner expressly withholds from Manager any power or authority to make any structural changes in the Property or to make any other major alterations or additions in or to the Property or fixtures or equipment therein, or to incur any expense chargeable to Owner other than expenses related to exercising the express powers granted to Manager by the terms of this Agreement without the prior written consent of Owner.

Section 6.2 Delegation of Duties. In accordance with this Agreement, Manager shall have the right to engage independent contractors for performance of such of its duties hereunder as Manager deems necessary, but Manager shall have the responsibility for supervision of the performance of such duties. All subcontracts with a value of more than \$100,000 shall be subject to the approval of Owner.

ARTICLE 7. DISPUTES

Section 7.1 Disputes. In the event of a dispute between the Owner and the Manager involving this Agreement, both parties will attempt to negotiate a resolution. If the parties cannot resolve the dispute through negotiation, either party shall, unless otherwise set forth herein, submit the dispute in writing to CHA's Department of Procurement and Contracts Contracting Officer for resolution and his/her decision shall be final and binding, subject to review by a court of competent jurisdiction.

In the event of a dispute between the Manager and any of its subcontractors, the Manager agrees to expeditiously address and seek resolution of the dispute.

ARTICLE 8. INDEMNIFICATION

Section 8.1 Indemnification of Owner. To the maximum extent permitted by law, Manager agrees to defend, indemnify, and hold harmless Owner, its officers, employees, agents and contractors from all claims, suits, liabilities, damages, costs, company obligations, expenses (including reasonable attorneys' fees) of any nature whatsoever arising from or relating to, in whole or part (i) Manager's breach of its obligations, representations or warranties under this Agreement, (ii) the failure of Manager, its employees or agents to comply with the Governing Documents, (iii) violation by Manager or its employees or agents of any federal, state or local law, regulation or ordinance applicable to Manager's activities under this Agreement, or (iv) the negligence, willful misconduct, intentional tort or criminal activity of Manager, its employees or agents. Provided, however, that Manager shall have no obligation to indemnify Owner for claims,

suits, liabilities, damages, costs, expenses arising from the negligent act or omission or willful misconduct of Owner, its officers, employees, agents or contractors as applicable.

Section 8.2 Indemnification Procedure

- (a) Promptly after receipt by an indemnified party of notice of any suit, proceeding, claim, demand or action that falls under the scope of this Article 8 and that the indemnified party intends to seek indemnification therefore (collectively, the "Claim"), such indemnified party will deliver to the indemnifying party a written notice of the Claim and the indemnifying party shall assume the defense thereof with counsel mutually satisfactory to the parties.
- (b) The indemnified party shall reasonably cooperate with the indemnifying party in connection with the defense of the Claim including, without limitation, by making available to the indemnifying party all relevant information material to the defense of the Claim. The indemnified party shall be entitled to participate in the settlement or defense of the Claim and to approve any proposed settlement that would impose any obligation or duty on the indemnified party, which approval may, in the sole discretion of the indemnified party, be withheld. The indemnified party shall have the right to pay or settle any Claim at any time, provided that in such event it waives the right to indemnification therefore by the indemnifying party.
- (c) If the indemnifying party fails to contest the Claim or undertake or approve settlement in good faith and with reasonable diligence, the indemnified party shall thereafter have the right to contest, settle or compromise the Claim in its sole discretion, at the risk and expense of the indemnifying party, and the indemnifying party will thereby waive any claim, defense or argument that the indemnified party's settlement or defense of such Claim is any respect inadequate or unreasonable.
- (d) If the indemnification provided for in this Article 8 is held by a court of competent jurisdiction to be unavailable to an indemnified party with respect to any Claim, then the indemnifying party, in lieu of indemnifying such indemnified party hereunder, shall contribute to the amount paid or payable by such indemnified party as a result of such loss, liability, claim, damage or expense, including reasonable attorneys' fees.

Section 8.3 Survival of Indemnity Obligations. The indemnity obligations contained in this Agreement shall survive the termination of this Agreement.

ARTICLE 9. AUDIT RESPONSIBILITIES AND OBLIGATIONS

Section 9.1 Manager's Obligation to Audit. Manager is required to audit 100% of Tenant files for accuracy in rent calculations and compliance with the Owner's "Perfect File Folder" format as defined in section 15.1 of Property Management Procedural Manual in

Exhibit B. Manager shall inspect 100% of units in accordance with all Applicable Public Housing Requirements. Manager's audit of Tenant files shall not be financed from the operating budget.

Section 9.2 Owner's Right to Audit. Owner reserves the right to conduct or to appoint others to conduct examinations, without notification, including but not limited to, the books and records (in any form) equipment and personnel maintained for Owner by Manager and to perform any and all additional audit tests relating to Manager's activities hereunder.

Section 9.3 Correction of Discrepancies. In accordance with Article 11, should Owner or Owner's appointees discover either deficiencies in internal control or errors in record keeping, Manager may be deemed in default of the terms and conditions of the Agreement and shall correct such discrepancies either upon discovery or no more than thirty (30) calendar days from written notice of such discrepancy. Manager shall inform Owner in writing of the action(s) taken to correct such audit discrepancies.

ARTICLE 10. COMPENSATION

Section 10.1 Compensation. The Manager will be compensated for its management services under this Agreement by a management fee (the "Management Fee"), to be paid by Owner into a Depository Account held by the Manager within 30 days of receipt of invoice. The Management Fee will also include incentive and disincentive fees based on key performance standards as described in Exhibit K.

Unit Categories	Compensation
Occupied/Approved Vacant Units	\$41.00./per unit
Special Use/Non-Dwelling Units	\$10.00 / per unit
Vacant Lots	\$20.00/ per month/per Owner defined lot
Units under MOD/Demo	\$5.00 per unit

Section 10.2 Non-Appropriation. Funding for this Agreement is subject to (a) availability of Federal funds from HUD, (b) actual receipt of the Owner's operating funds from HUD, and (c) appropriation by the CHA's Board of Commissioner. No payments shall be made or due to the Manager under this Agreement beyond those amounts appropriated and budgeted by the Owner to fund payments hereunder.

**ARTICLE 11. EVENTS OF DEFAULT, REMEDIES, TERMINATION, RIGHT TO
OFFSET,**

Section 11.1 Events of Default Defined.

Each of the following shall constitute an event of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Manager to the Owner.
- B. The Manager's failure to perform any of its obligations under this Agreement including, but not limited to, the following:
 - 1. Failure to perform the Services with sufficient personnel or with sufficient resources to ensure the performance of the Services or due to a reason or circumstance within the Manager's control;
 - 2. Failure to meet any of the performance standards set forth in this Agreement;
 - 3. Failure to perform the Services in a manner reasonably satisfactory to the Owner or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
 - 4. Failure to promptly re-perform within a reasonable time Services or Deliverables that were rejected as erroneous or unsatisfactory;
 - 5. Discontinuance of the Services for reasons or circumstances not beyond the Manager's control;
 - 6. Failure to comply with a material term of this Agreement, including, but not limited to, the provisions concerning compliance with HUD regulations, insurance and nondiscrimination; and
 - 7. Any other acts specifically and expressly stated in this Agreement as constituting an event of default.
 - 8. Failure to cooperate with the Inspector General in any investigations, audits, reviews, inspections or hearing.
 - 9. Failure to report fraud or other corrupt activity to the Inspector General.
- C. Any change in majority ownership control of the Manager without the prior written approval of the Owner, which written approval shall not be unreasonable withheld.
- D. The Manager's default under any other agreement it may presently have or may enter into with the Owner during this Agreement. The Manager acknowledges and

agrees that in the event of default under this Agreement the Owner may also declare a default under any such other agreements.

Section 11.02 Remedies

The occurrence of any event of default which the Manager fails to cure within thirty (30) calendar days after receipt of written notice given in accordance with the terms of the this Agreement and specifying the event of default or, if such event of default cannot be reasonably cured within thirty (30) calendar days after notice, or if the Manager has failed to commence and continue diligent efforts to cure such default within thirty (30) days, the Owner may, at its sole option, declare the Manager in default. Whether to declare the Manager in default is within the sole discretion of the Owner and neither that decision nor the factual basis for it is subject to review or challenge under the disputes provision of this Agreement. Written notification of the default, and any intention of the Owner to terminate the Agreement, shall be provided to the Manager and such decision shall be final and effective upon the Manager's receipt of such notice pursuant to Article 14. Upon the giving of such notice, the Owner may invoke any or all of the following remedies:

- A. The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time period specified by the Owner.
- B. The right to pursue any and all remedies, legal and/or equitable, available to the Owner.
- C. The right to withhold all or any part of Manager's management fee hereunder with respect to Services not completed in accordance with the terms hereof prior to the termination of this Agreement.
- D. The right to deem Manager non-responsible in future contracts to be awarded by the Owner.
- E. The right to take over and complete the Services or any part thereof as agent for and at the cost of Manager, either directly or through others.

If the Owner considers it to be in its best interests, it may elect not to declare default or to terminate the Agreement hereunder. The parties acknowledge that this provision is solely for the benefit of the Owner and this if the Owner permits the Manager to continue to provide the Services despite one or more events of default, the Manager shall in no way be relieved of any of its responsibilities, duties or obligations under this Agreement nor shall the Owner waive or relinquish any of its rights.

The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon any event of default or acquiescence therein, and every such right

and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.3. Termination Upon Damage or Sale. This Agreement shall be terminated automatically and immediately upon destruction, condemnation, sale, exchange or other disposition of the Property.

Section 11.4 Termination for Convenience. The Owner may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by written notice from the Owner to Manager when the Agreement may be deemed to be no longer in the best interest of the Owner. If the Owner elects to terminate the Agreement in full, all Services to be provided hereunder shall cease sixty (60) days after the date written notice was provided. The Manager shall continue to render the Services until the effective date of termination. No cost incurred by the Manager after the effective date of termination shall be allowed. Subject to performance within the requisite performance standards and audits of invoices as set forth above, the Owner shall pay to Manager on a pro-rata basis, cost incurred for Services rendered through the date of termination. This Section 11.4 is not subject to Article 7 of this Agreement.

The Manager shall flow down the provisions of Section 11.4 in all of its contracts with its subcontractor, if any.

Section 11.5 Termination by Manager

The Manager may terminate this Agreement by giving sixty (60) days written notice to the Owner if the Owner defaults in its obligations under this Agreement. If Manager elects to terminate the Agreement, all services to be performed hereunder shall cease sixty (60) days after the date of receipt of the notice in accordance with notice provisions of this Agreement, or any date thereafter mutually agreed upon between the parties. In no event shall Manager be permitted to abandon the Property.

Section 11.6 Effect of Termination. Upon termination pursuant to this Article 11, Manager and Owner shall have no further duties and obligations, one to another. Manager shall turn all books and records, outstanding bills, current receipts and bank accounts, and tenant ledgers over to Owner immediately. Owner shall pay all accrued Management Fees due to Manager under the Agreement within thirty (30) days of final termination.

Section 11.7 Duties Upon Termination. Upon termination of this Agreement for any reason:

- (a) Manager shall have no further right to act on behalf of Owner or to disburse any of Owner's funds;
- (b) Manager will immediately deliver to Owner, at no cost to Owner, all Books and Records (as herein defined) maintained by it pursuant to this Agreement and do all that is reasonably necessary to facilitate the orderly transition of management of the Property.

- (c) Manager shall render to Owner an accounting of all funds of Owner held by Manager relating to the Property and shall immediately cause such funds to be paid to Owner; and
- (d) Manager shall perform all reporting and accounting functions hereunder for the period from the date of the last report or accounting to the date of termination, including year-end 1099 processing under its tax identification number.
- (e) Manager shall be responsible for losses incurred by Owner as a result of Manager's failure to maintain or provide records required to be maintained under this Agreement.

Section 11.8 Right to Offset

To the extent permitted by applicable law:

- A. In connection with performance under the Agreement, the CHA may offset any incremental costs and other damages the CHA incurs in any and all of the following circumstances.
 - i. If the CHA terminates the Agreement for default or any other reasons resulting from the Manager's performance or non-performance;
 - ii. If the CHA exercises any of its remedies under Section 11.2 of the Agreement;
 - iii. If the CHA has any credits due or has made any overpayments under the Agreement.

The CHA may offset these incremental cost and any other damages by use of any Payment due for Services completed before the CHA terminated the Agreement or before the CHA exercised any remedies. If the amount offset is insufficient to cover those incremental cost and other damages, the Manager shall be liable for and must promptly remit to the CHA the balance upon written demand for it. The right to offset is in addition to and not a limitation of any other remedies available to the CHA.

- B. Without breaching this Agreement, the CHA may set off a portion of the compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated damages or claims that the CHA has against the Manager arising out of any other agreements between the CHA and the Manager or otherwise unrelated to this Agreement. If and when the CHA's claims against the Manager are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the CHA will reimburse the Manager to the extent of the amount the CHA has offset against this Agreement inconsistently with the determination or resolution.

ARTICLE 12. COOPERATION

Section 12.1 Cooperation. If any claims, demands, suits, or other legal proceedings which arise out of any of the matters relating to this Agreement be made or instituted by any third party against either Owner or Manager, Owner or Manager shall cooperate with each other in all reasonable respects and shall give to each other all pertinent information and reasonable assistance in the disposition thereof, at its sole expense.

ARTICLE 13. CONSENT

Section 13.1 Consent. Whenever in this Agreement the consent or approval of Manager or Owner is required, such consent or approval shall not be unreasonably withheld, or conditionally delayed. Such consent shall be in writing and shall be duly executed by an authorized officer of agent for the party granting such consent or approval; provided, however, notwithstanding anything in this Agreement to the contrary, if such consent or approval would be required for Manager to comply with the Program Restrictions, Manager shall not be responsible for a failure to comply with the Program Restrictions as a result of Owner's refusal or unreasonable delay to so consent or approve.

ARTICLE 14. NOTICES

Section 14.1 Notices. All notices, demands and consents, provided for in this Agreement shall be given in writing and shall be deemed received by the addressee (a) on the third day after mailing if mailed by United States certified or registered mail (mail return receipt requested, postage prepaid), or (b) on the day delivered if personally delivered; or (c) one business day after being sent, if sent by overnight mail or overnight courier, in each case to the parties at the following addresses:

If to Owner: Chicago Housing Authority
60 E. Van Buren Street, 13th Flr.
Chicago, Illinois, 60605
Attn: Asset Management Department

With a copy to: Chicago Housing Authority
60 E. Van Buren Street, 12th Flr.
Chicago, Illinois 60605
Attn: Chief Legal Counsel

If to Manager: East Lake Management Group, Inc.
2850 South Michigan Avenue
Chicago, Illinois 60616
Attn: Elzie Higginbottom

A party may change the above addresses by written notice to the other parties.

ARTICLE 15. INSURANCE

Section 15.1 Insurance. The Contractor agrees to comply with and meet or exceed all of CHA's insurance requirements that are set forth in Exhibit L, which is attached hereto and incorporated by reference herein as if fully set forth herein.

ARTICLE 16. MISCELLANEOUS

Section 16.1 Assignment. Manager shall not assign its rights or obligations under this Agreement without the prior written consent of Owner and any purported assignment without Owner's prior written consent shall be of no effect.

Section 16.2 Amendments. This Agreement constitutes the entire Agreement between Manager and Owner and no amendment, alteration, modification or addition to this Agreement shall be valid or enforceable unless expressed in writing and signed by the party or parties to be bound thereby.

Section 16.3 Waiver. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed as waiver of such terms and conditions on any future occasion.

Section 16.4 Illegality. If any provision of this Agreement shall prove to be illegal, invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

Section 16.5 Relationship. Nothing contained in this Agreement shall be construed to create a relationship of employer and employee between Owner and Manager, it being the intent of the parties hereto that the relationship created hereby is that of an independent Manager. Nothing contained herein shall be deemed to constitute Owner and Manager as partners or joint ventures.

Section 16.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

Section 16.7 Governing Law and Conflicts. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois. In the event of any conflict or inconsistency between any requirements contained in this Agreement, the Governing Documents, and the Applicable Public Housing Requirements, the Applicable Public Housing Requirements shall, in all instances, be controlling.

Section 16.8 Enforceability. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions. Owner's remedies under this Agreement are cumulative, and the exercise of one remedy shall not be deemed an election of remedies nor foreclose the exercise of Owner's other remedies. No waiver by Owner of any breach

of this Agreement shall be deemed to be a waiver of any other or subsequent breach. Owner or Manager may apply to any court, state or federal, for specific performance of this Agreement, for an injunction against any violations of this Agreement or for such other relief as may be appropriate, since the injury arising from a default under any of the terms of this Agreement would be irreparable and the amount of damage would be difficult to ascertain.

Section 16.9 Successors and Assigns. This Agreement shall inure to the benefit of and constitute a binding obligation upon Owner and Manager and their respective successors and assigns; provided, however, that Manager shall not assign this Agreement, or any of its duties hereunder, without the prior written consent of Owner.

Section 16.10 No Third Party Beneficiary Rights: This Agreement confers no rights on any third parties with the exception of the Investor Member of the Owner which is an intended third party beneficiary of this agreement.

Section 16.11 HUD Disclaimers.

(a) Nothing contained in the ACC or this Agreement, nor any act of HUD or the Owner, shall be deemed or construed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD except between HUD and the Owner as provided under the terms of the ACC.


(b) Manager acknowledges that any transfer of public housing funds by Owner to Manager shall not be deemed an assignment of such funds. Manager will not succeed to any rights or benefits of the Owner under the ACC or attain any privileges, authorities, interest, or rights in or under the ACC.

(c) Manager agrees to ensure that paragraphs (a) and (b) of this Section are inserted into any contract or subcontract involving the use of HUD funds in connection with the Property.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OWNER:

CHICAGO HOUSING AUTHORITY


BY: 
Dionna Brookens
Deputy Chief Procurement Officer
Deputy of Procurement and Contracts

EAST LAKE MANAGEMENT GROUP, INC.:


BY: ~~Elzie Higginbottom~~ **EILEEN RHODES**

ITS: President

Approved As To Form And Legality For
Chicago Housing Authority
Office of the General Counsel

By: 
James Bebley
Title: Chief Legal Officer