

Return To:  
William C. Pound  
Page, Scrantom, Sprouse, Tucker & Ford, P.C.  
P.O. Box 1199  
Columbus, GA 31902

---

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT (this “Agreement”) is made as of the \_\_\_\_ day of May, 2021, by and between COLUMBUS, GEORGIA, a consolidated city-county government of the State of Georgia, Muscogee County (“Grantor”), and the HOUSING AUTHORITY OF COLUMBUS, GEORGIA, a public corporation (“Grantee”).

RECITALS

WHEREAS, Grantee is the owner of those certain tracts or parcels of land lying and being located in Columbus, Muscogee County, Georgia, as described on Exhibit “A” attached hereto and made a part hereof by this reference (the “Grantee’s Property”), and

WHEREAS, Grantor is the owner of the property west of and adjacent to Parcel “A” of the Grantee’s Property that is a part of Grantor’s Riverwalk project (the “Grantor’s Property”), and

WHEREAS, Grantee, is undertaking the redevelopment of the Grantee’s Property for use as a new low-income apartment complex (the “Development Project”); and

WHEREAS, the site plans for the Development Project provide for the construction, of two (2) walkways and necessary retaining walls as shown on Exhibit “B” attached hereto (the “Walkway Facilities”), to be located partially on the Grantor’s property for the purpose of pedestrian access from the Grantee Property to the Riverwalk facilities on the Grantor’s Property; and

WHEREAS, Grantee and Grantor desire to enter into this Agreement for the purpose of allowing the construction, repair and maintenance of the Walkway Facilities on the Grantor’s Property, subject to the terms and conditions set forth herein.

NOW, THEREFORE, the parties, in consideration of their respective undertakings, for themselves and their respective successors and assigns, hereby covenant and agree, each with the other as follows:

1. In accordance with this Agreement, Grantor hereby grants to Grantee the right to encroach upon the Grantor’s property for the construction, maintenance and repair of the Walkway

Facilities on and over the Grantor's Property pursuant to the site plans attached hereto as Exhibit "B". Such right to encroach shall include the right to use so much of the Grantor's Property as reasonably necessary from time to time for the construction, repair and maintenance of the Walkway Facilities provided the Grantee repairs any damage or disturbance caused to the Grantor's Property due to such work and restores such property so damaged or disturbed to the condition as existed prior to any such work taking place.

2. The Grantee shall at all times, at Grantee's sole cost and expense, maintain, or cause to be maintained, the Walkway Facilities in a sightly and safe condition and good state of repair.

3. Grantor reserves all rights of ownership in and to the Grantor's Property which are not inconsistent with this Agreement and the encroachment rights and privileges of Grantee with respect to the same as set forth herein.

4. To the extent permitted by law, Grantee agrees to indemnify, hold harmless, and defend Grantor from and against any and all losses, claims, liabilities, and expenses, including reasonable attorneys' fees, which Grantor may suffer or incur in connection with Grantee's construction, maintenance and repair, disrepair or defective condition of the Walkway Facilities.

5. In the event Grantee defaults in the performance of its obligations hereunder and fails to cure any such default within thirty (30) days after written notice from Grantor, Grantee may, in addition to all other rights and remedies available at law or in equity (i) terminate this Agreement and, at Grantee's option, elect to retain the Walkway Facilities as Grantor's property, (ii) terminate this Agreement and, at Grantor's option, require Grantee, at Grantee's sole expense, to remove the Walkway Facilities and return Grantor's Property to the same condition as existed prior to the construction of the Walkway Facilities. Grantor shall have the right at all times during the term hereof, but not any obligation, to perform any actions required of Grantee hereunder which Grantee fails to perform and in doing so Grantee shall be required to reimburse Grantor for all reasonable costs and expenses Grantor incurs in doing so upon written demand from Grantor.

6. Nothing contained in this Agreement shall be construed to make the parties hereto, or their successors and assigns, partners or joint venturers or to render any of said parties liable for the debts or obligations of the other, except as in this Agreement expressly provided.

7. If any provisions or portions of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such provision, or portion thereof, to any other persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

8. No agreement shall be effective to add to, change, modify, waive or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the party to be bound.

9. All of the rights, privileges and conditions set forth in this Agreement to be performed or observed by either party are intended to be and shall be construed as covenants running with the land, and shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective lessees or successors in title of their respective properties or any part thereof.

10. Notices. Any notice, request, demand, approval or consent given or required to be given under this Agreement, shall be in writing and shall be deemed as having been given when mailed by United States registered or certified mail, postage prepaid, or by reputable national overnight service (such as Federal Express or UPS), to the other party at the address stated below or at the last changed address given by the party to be notified as hereinafter specified.

If to Grantor: Columbus, Georgia  
Attn.: \_\_\_\_\_  
\_\_\_\_\_  
Columbus, GA \_\_\_\_\_

If to Grantee: Housing Authority of Columbus, Georgia  
Attn.: Chief Executive Officer  
1000 Wynnton Road  
Columbus, GA 31906

In the event any party to this Agreement transfers an ownership interest in all or a portion of its property, said party shall notify the other parties hereto of the transferee and its address, the parties hereto agree to thereafter provide any notices required hereunder to said transferee(s).

11. Authority. Each person executing this Agreement represents and warrants that he or she is fully authorized to execute and deliver this Agreement as a binding obligation of the party for whom he or she is executing this Agreement.

12. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective lessees, successors, assigns.

13. Counterparts. This Agreement may be executed on any number of counterparts, each of which shall be considered one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

GRANTOR:

Columbus, Georgia

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(SEAL)

Signed in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

(SIGNATURES CONTINUED ON NEXT PAGE)

HOUSING AUTHORITY OF COLUMBUS,  
GEORGIA

By: \_\_\_\_\_  
Lisa L. Walters  
Its Chief Executive Officer

(SEAL)

Signed in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

EXHIBIT "A"

Grantee's Property

PARCEL "A"

All that lot, tract or parcel of land situate, lying and being in Columbus, Muscogee County, Georgia and being contained within the following metes and bounds, to-wit:

Commence at an iron pin located at the point formed by the intersection of the westerly right-of-way line of First Avenue (right-of-way varies) and the southerly right-of-way line of 21st Street which iron pin marks the True Point of Beginning of the real property herein described; from said True Point of Beginning run thence with the westerly right-of-way of First Avenue along a curve to the right for an arc distance of 243.22 feet (said curve having a radius of 893.19 feet, a chord bearing of South 10 degrees 11 minutes 31 seconds West, and a chord distance of 242.47 feet) to an iron pin; run thence along a curve to the left for an arc distance of 323.26 feet (said curve having a radius of 791.49 feet, a chord bearing of South 12 degrees 35 minutes 46 seconds West, and a chord distance of 321.01 feet) to an iron pin; run thence South 00 degrees 53 minutes 46 seconds West for a distance of 118.45 feet to an iron pin; thence leave First Avenue and run North 89 degrees 06 minutes 14 seconds West for a distance of 14.83 feet to an iron pin; run thence North 00 degrees 53 minutes 46 seconds East for a distance of 179.88 feet to an iron pin; run thence North 88 degrees 58 minutes 11 seconds West for a distance of 210.93 feet to an iron pin; run thence North 00 degrees 58 minutes 00 seconds East for a distance of 491.71 feet to an iron pin located on the southerly right-of-way line of 21st Street; run thence South 89 degrees 06 minutes 14 seconds East along the southerly right-of-way line of 21st Street for a distance of 329.42 feet to the True Point of Beginning. Said tract contains 3.25 acres, more or less.

Said property is shown as "PARCEL 'A', 3.25 Acres, 141,892 SQ. FT." on that certain survey entitled "ALTA/NSPS Land Title Survey of Louis T. Chase Housing, Part of Land Lot 90, 8th District, Columbus, Muscogee Georgia for Housing Authority of Columbus", prepared by Becker Survey Company, Inc., dated March 3, 2020.

PARCEL "B"

All that lot, tract or parcel of land situate, lying and being in Columbus, Muscogee County, Georgia and being contained within the following metes and bounds, to-wit:

Commence at an iron pin located at the point formed by the intersection of the southerly right-of-way line of 21st Street and the easterly right-of-way line of First Avenue (right-of-way varies) which iron pin marks the True Point of Beginning of the real property herein described; from said True Point of Beginning run thence South 89 degrees 06 minutes 14 seconds East along the southerly right-of-way line of 21st Street for a distance of 300.45 feet to an iron pin located at the point formed by the intersection of the southerly right-of-way line of 21st Street and the westerly right-of-way line of 2nd Avenue (right-of-way varies); run thence South 00 degrees 51 minutes 08 seconds West along the westerly right-of-way line of 2nd Avenue for a distance of 252.74 feet to an iron pin located at the point formed by the intersection of the westerly right-of-way line of 2nd Avenue and the northerly right-of-way line of 20th Street (54 foot right-of-way); run thence North 89 degrees 06 minutes 14 seconds West along the northerly right-of-way line of 20th Street for a distance of 300.64 feet to an iron pin located at the point formed by the intersection of the northerly right-of-way line of 20th Street and the easterly right-of-way line of First Avenue; run thence North 00 degrees 53 minutes 46 seconds East along the easterly right-of-way line of First Avenue for a distance of 252.74 feet to the True Point of Beginning. Said tract contains 1.74 acres, more or less.

Said property is shown as "PARCEL 'B', 1.74 Acres, 75,960 SQ. FT." on that certain survey entitled "ALTA/NSPS Land Title Survey of Louis T. Chase Housing, Part of Land Lot 90, 8th District, Columbus, Muscogee Georgia for Housing Authority of Columbus", prepared by Becker Survey Company, Inc., dated March 3, 2020.

PARCEL "C"

All that lot, tract or parcel of land situate, lying and being in Columbus, Muscogee County, Georgia and being contained within the following metes and bounds, to-wit:

Commence at an iron pin located at the point formed by the intersection of the southerly right-of-way line of 20th Street (54 foot right-of-way) and the westerly right of line of 2nd Avenue (right-of-way varies) which iron pin marks the True Point of Beginning of the real property herein described; from said True Point of Beginning run thence South 00 degrees 51 minutes 08 seconds West along the westerly right-of-way line of 2nd Avenue for a distance of 66.89 feet to an iron pin located on the northerly and westerly boundary of the property of the Central Georgia Railway; run thence South 34 degrees 37 minutes 38 seconds West along the northerly and westerly boundary of the property of the Central Georgia Railway for a distance of 376.79 feet to a concrete monument; run thence North 84 degrees 15 minutes 43 seconds West for a distance of 176.68 feet to an iron pin; run thence North 89 degrees 06 minutes 14 seconds West for a distance of 14.84 feet to an iron pin located on the easterly right-of-way line of First Avenue; run thence North 00 degrees 53 minutes 46 seconds East along the easterly right-of-way line of First Avenue for a distance of 118.45 feet to an iron pin; run thence along a curve to the right for an arc distance of 223.65 feet (said curve having a radius of 737.49 feet, a chord bearing of North 09 degrees 35 minutes 01 seconds East and a chord distance of 222.79 feet) to an iron pin; run thence along a curve to the right for an arc distance of 48.17 feet (said curve having a radius of 38.00 feet, a chord bearing of North 54 degrees 35 minutes 01 seconds East, and a chord distance of 45.01 feet) to an iron pin located on the southerly right-of-way line of 20th Street; run thence South 89 degrees 06 minutes 14 seconds East along the southerly right-of-way line of 20th Street for a distance of 330.16 feet to the True Point of Beginning. Said tract contains 2.62 acres, more or less.

Said property is shown as "PARCEL 'C', 2.62 Acres, 114,228 SQ. FT." on that certain survey entitled "ALTA/NSPS Land Title Survey of Louis T. Chase Housing, Part of Land Lot 90, 8th District, Columbus, Muscogee Georgia for Housing Authority of Columbus", prepared by Becker Survey Company, Inc., dated March 3, 2020.

#### PARCEL "D"

All that lot, tract or parcel of land situate, lying and being in Columbus, Muscogee County, Georgia and being contained within the following metes and bounds, to-wit:

Commence at an iron pin located at the point formed by the intersection of the westerly right-of-way line of 2nd Avenue (right-of-way varies) and the southerly and easterly right-of-way line of the property of the Central Georgia Railway which iron pin marks the True Point of Beginning of the real property herein described; from said True Point of Beginning run thence South 00 degrees 51 minutes 08 seconds West along the westerly right-of-way line of 2nd Avenue for a distance of 391.67 feet to a crimp top pipe; run thence North 89 degrees 31 minutes 18 seconds West for a distance of 101.91 feet to an iron pin; run thence North 03 degrees 27 minutes 15 seconds West for a distance of 79.04 feet to an iron pin; run thence North 88 degrees 47 minutes 41 seconds West for a distance of 85.13 feet to an iron pin located on the southerly and easterly right-of-way line of the property of the Central Georgia Railway; run thence North 31 degrees 32 minutes 38 seconds East along the southerly and easterly right-of-way line of the property of the Central Georgia Railway for a distance of 243.00 feet to an iron pin; run thence North 34 degrees 23 minutes 06 seconds East along the southerly and easterly right-of-way line of the property of the Central Georgia Railway for a distance of 124.80 feet to the True Point of Beginning. Said tract contains 0.90 acres, more or less.

Said property is shown as "PARCEL 'D', 0.90 Acres, 39,262 SQ. FT." on that certain survey entitled "ALTA/NSPS Land Title Survey of Louis T. Chase Housing, Part of Land Lot 90, 8th District, Columbus, Muscogee Georgia for Housing Authority of Columbus", prepared by Becker Survey Company, Inc., dated March 3, 2020.

# EXHIBIT "B"

## Site Plan

