

Agenda

Minnetonka Economic Development Authority

Monday, August 8, 2016

Following the Regular Meeting

Council Chambers

1. Call to Order
2. Roll Call: Allendorf-Acomb-Wiersum-Bergstedt-Wagner-Ellingson-Schneider
3. Approval of Agenda
4. Approval of Minutes: April 11, 2016 EDA meeting
5. Business Items:
 - A. Music Barn Apartments Development Agreement
Recommendation: Adopt the resolution (4 votes)
 - B. Amendment to the Elmbrooke Loan Documents
Recommendation: Adopt the resolution (4 votes)
6. Adjourn

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Minutes
Minnetonka Economic Development Authority
Monday, April 11, 2016

1. Call to Order

Schneider called the meeting to order at 9:31 p.m.

2. Roll Call

Commissioners Tony Wagner, Bob Ellingson, Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, and President Terry Schneider were present.

3. Approval of Agenda

Wagner moved, Acomb seconded a motion to accept the agenda with an addendum to item 5. All voted "yes." Motion carried.

4. Approval of Minutes: March 28, 2016 EDA meeting

Bergstedt moved, Wagner seconded a motion to approve the March 28, 2016 EDA meeting minutes. All voted "yes." Motion carried.

5. Business Items:

A. Resolution supporting an application to DEED for funds from the Minnesota Investment Fund in connection with StemoniX

The applicant withdrew its application with the Minnesota Department of Employment and Economic Development

6. Adjournment

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 9:32 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk

**EDA Agenda Item #5A
Meeting of August 8, 2016**

Brief Description	Music Barn Apartments Development Agreement
Recommendation	Adopt the resolution

Background

In May 2014, the EDAC reviewed a plan from Shelter Corporation for a multi-family development at 5740 and 5750 Shady Oak Road, commonly referred to as “The Music Barn”. At that meeting, the EDAC was supportive of exploring a funding inquiry and voted to have a subcommittee review the request. In July 2014, the subcommittee met to review the evaluation criteria for TIF pooling and discussed the overall project. The subcommittee was supportive of both the project and the TIF pooling request.

On April 30, 2015 the EDAC convened and reviewed a request for \$500,000 in TIF Pooling funds for the Music Barn Apartment proposal that included a Contract for Private Development. In general, the commission agreed that the request for funds was appropriate using the TIF Pooling Council Policy as a guide; however, the amount of funds being requested prompted discussion. Because the applicant still needed to apply to Minnesota Housing for funding assistance, the total gap was not known at the time. On a 6-0 vote, the commission recommended that the EDA approve the proposal with the notation that prior to the execution of the contract the EDAC will review an evaluation from the financial consultant as to their opinion of the project sources and uses.

During January and February of 2016, the EDAC reviewed the project with a potentially expanded scope to include the Elmbrooke property on Smetana Road and a property in Golden Valley. While, the pooling funds no longer include those properties, the EDAC reviewed, with the city’s financial consultant and TIF attorney the project financials, the specific sources and uses of various funds for the projects.

EDA Review

On May 18, 2015 the EDA approved the Contract for Private Development pending a review of sources and uses and an analysis by the city’s financial advisor. (This review was completed in February of 2016 and a memorandum can be found in this link to the [February 25, 2016 EDAC packet.](#))

Following the May 18 meeting the developer made an application to Minnesota Housing for tax credit consideration and housing revenue bonds to assist with an expanded project. The developer is expected to secure both of these funding sources. The expanded project includes the rehabilitation of 46 existing affordable townhomes located

at 5400 Smetana Drive (Elmbrooke) and the rehabilitation of 8 existing affordable townhome units in Golden Valley.

The request for assistance for the Music Barn project in Minnetonka remains the same and has not changed. In June 2016, the developer submitted a revised sources and uses that was reviewed by the city's financial advisor. The advisor confirmed that the \$500,000 was still needed to assist in filling the gap. The developer had attempted to secure funding through the Hennepin County TOD program in an effort to minimize the gap, but was unsuccessful in securing these funds.

Current Proposal

The Music Barn proposal remains the same as the initial proposal that was approved in May 2015. The applicant will be making all 27 units affordable to those at 60% Area Median Income (\$51,960 for a family of four) or less. The developer had requested \$500,000 in TIF pooling funds from the city to assist in filling the gap. These funds will be the last funds into the project and will be used for the construction of the building.

Contract for Private Development

A Contract for Private Development was approved on May 18, 2015. The revisions to the Contract for Private Development are noted in ~~strikeout~~ on pages A3-A63. The city's attorney has reviewed these changes and included a memo further explaining the revisions (pages A1-A2). Key changes in the agreement include:

- Ownership name added to the Contract
- Added the requirement that the TIF Grant can only be used for the Music Barn.
- Construction to begin by October 31, 2016 and be completed by March 31, 2018.
- The developer fee limitation was set at 12%.
- Added language related to FHA loan documents.
- Property management covenant.

Recommendation

Staff recommends the EDA adopt the resolution (pages A64-A66) approving the Contract for Private Development.

Submitted through:

Geralyn Barone, City Manager

Julie Wischnack, AICP, Community Development Director

Originated by:

Alisha Gray, Economic Development and Housing Manager

Other Supplemental information

May 22, 2014 EDAC Meeting Minutes (See pages A67-A69)
April 30, 2015 EDAC Meeting Minutes (See pages A70-A73)
May 18, 2015 EDA Meeting Minutes (See page A74)
January 28, 2016 EDAC Minutes (See pages A75-A79)
February 25, 2016 EDAC Minutes (See pages A80-A83)



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August 1, 2016

Julie Wischnack
Community Development Director
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Revised Contract for Private Development between the EDA, Community Housing Corporation of America, Inc. and CHC Minnetonka Affordable Housing LLC

Dear Julie,

As you know, CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company (the "Borrower"), has asked the Economic Development Authority in and for the City of Minnetonka (the "EDA") to provide gap financing for its acquisition, construction, and equipping of approximately twenty-seven (27) new affordable apartment units to be located at 5750 Shady Oak Road in the City (the "Project"). Pursuant to a proposed Contract for Private Development (the "Contract"), between the EDA, Community Housing Corporation of America, Inc. and CHC Minnetonka Affordable Housing LLC (collectively, the "Developer"), it is proposed that the EDA provide a grant from pooled tax increment in the amount of up to \$500,000 to provide additional financing to the Developer to complete the Project.

The Contract was approved by the Board of Commissioners of the EDA previously on May 18, 2015. Since significant revisions to the contract have been made since the initial approval, we are asking the Board of Commissioners of the EDA to consider the latest version of the Contract for approval. Attached please find a comparison of the revised Contract to the last version provided to the Commissioners of the EDA. The changes to the Contract include the following:

- The name of the owner of the Project (CHC Minnetonka Affordable Housing LLC) was added to the Contract;
- The owner is a limited liability company so all references to partners were changed to members;
- Added requirement that the TIF Grant only be used for the Music Barn Apartments (and not for the three other projects the Owner is financing at the same time);
- Developer fee limitation was set at 12% of the total costs of all four projects the owner will purchase and construct or rehabilitate based on MHFA calculations for allowable developer fee;
- Commencement of construction was set at October 31, 2016 and completion of construction was set for March 31, 2018; and
- HUD required language was added regarding limited sources of funding for owner indemnification obligations and subordination of Declaration of Restrictive Covenants to FHA loan documents.

I will attend the meeting of the Board of Commissioners of the EDA on August 8, 2016 and can answer any questions that may arise during the meeting. Please contact me with any questions you may have prior to the City Council meeting.

Sincerely,

Julie A. Eddington

~~Third~~Eighth Draft
May 11, 2015
August 2, 2016

CONTRACT
FOR
PRIVATE DEVELOPMENT

between

ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE
CITY OF MINNETONKA, MINNESOTA,

and

COMMUNITY HOUSING CORPORATION OF AMERICA, INC.

and

~~[TBD LIMITED PARTNERSHIP]~~
CHC MINNETONKA AFFORDABLE HOUSING LLC

Dated _____, ~~201~~2016

This document was drafted by:

KENNEDY & GRAVEN, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402

Telephone: (612) 337-9300

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CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT, made on or as of the ____ day of ~~August, 2015~~ August, 2016 (the “Agreement”), is by and between the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”), COMMUNITY HOUSING CORPORATION OF AMERICA, INC., a Delaware nonprofit corporation (“CHCA”), and ~~[TBD—LIMITED—PARTNERSHIP]~~ CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited ~~partnership~~ liability company (the “Owner”).

WITNESSETH:

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 through 469.1082, as amended (the “Act”), and was authorized to transact business and exercise its powers by a resolution of the City Council of the City of Minnetonka (the “City”); and

WHEREAS, the Authority and City have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and facilitate the development of affordable housing, and in this connection created a development district known as Development District No. 1 (the “Project”) in the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.134, as amended; and

WHEREAS, by Resolution No. 93-9649, the City transferred control, authority and operation of the Project from the City to the Authority; and

WHEREAS, the City and the Authority have established Redevelopment Tax Increment Financing District No. 2 (the “TIF District”) within the Project and adopted a financing plan (the “TIF Plan”) for the TIF District in order to facilitate redevelopment of certain property in the Project, all pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the “TIF Act”); and

WHEREAS, pursuant to Section 469.1763, subdivision 2(d) of the TIF Act, the Authority and City modified the TIF Plan for the TIF District in order to increase the amount of Tax Increments (defined hereinafter) that may be spent outside the boundaries of the TIF District from twenty-five percent (25%) to thirty-five percent (35%), provided that such pooled Tax Increment is used solely to assist the development of rental housing that meets the requirements for federal low income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, CHCA is the ~~sole managing~~ member of ~~[_____], LLC]~~ CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company ~~and sole general partner~~ of the Owner (the “~~General Partner~~ Managing Member”); and

WHEREAS, the Owner has proposed a development of an affordable rental housing facility described further herein as the “Minimum Improvements” on certain property (the “Development Property”) located in the Project, which facility is expected to receive federal low income tax credits; and

WHEREAS, upon CHCA’s receipt of the financial assistance provided by the Authority under this Agreement it will either loan such funds to the Owner or contribute them to the ~~General Partner~~Managing Member and the ~~General Partner~~Managing Member shall then contribute them to the Owner; and

WHEREAS, the Owner shall utilize such funds to partially finance the acquisition and construction of the Minimum Improvements on the Development Property; and

WHEREAS, the Authority believes that the development of the Development Property pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Minnesota and local laws and requirements;

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

(The remainder of this page is intentionally left blank.)

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Act” means the Economic Development Authority Act, Minnesota Statutes, Sections 469.090 through 469.1082, as amended.

“Affiliate” means with respect to CHCA or the Owner (a) any corporation, partnership, corporation or other business entity or person controlling, controlled by or under common control with the Owner or CHCA, as applicable, and (b) any successor to such party by merger, acquisition, reorganization or similar transaction involving all or substantially all of the assets of such party (or such Affiliate). For the purpose hereof the words “controlling,” “controlled by,” and “under common control with” shall mean, with respect to any corporation, partnership, corporation or other business entity, the ownership of fifty percent or more of the voting interests in such entity, possession, directly or indirectly, of the power to direct or cause the direction of management policies of such entity, whether ownership of voting securities or by contract or otherwise.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Economic Development Authority in and for the City of Minnetonka, Minnesota, or any successor or assign.

“Authority Representative” means the Executive Director of the Authority, or any person designated by the Executive Director to act as the Authority Representative for the purposes of this Agreement.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification to be provided the Owner, pursuant to Section 4.4 hereof and substantially in the form attached as Schedule B.

“CHCA” means Community Housing Corporation of America, Inc, a Delaware nonprofit corporation, or its permitted successors or assigns.

“City” means the City of Minnetonka, Minnesota.

“Closing Date” has the meaning provided in Section 3.3(b) hereof.

“Code” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed on the Development Property which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following for each building: (1) site plan; (2) foundation plan; (3) basement plans; (4) floor plan for each floor; (5) cross-sections of each (length and width); (6) elevations (all sides); (7) landscape plan; and (8) such other plans or supplements to the foregoing plans as the Authority may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means the County of Hennepin, Minnesota.

“Declaration” means the Declaration of Restrictive Covenants attached as Schedule C hereto.

“Development District” means the Authority’s Development District No. 1.

“Development Plan” means the Development Program for the Development District.

“Development Property” means the property described in Schedule A hereto.

“Disbursing Agent” means the title company selected by the Owner to serve as the disbursing agent under the Master Disbursing Agreement.

“Event of Default” means an action by a party described in Section 9.1 hereof.

~~“General Partner” means [_____], LLC, a Minnesota limited liability company and sole general partner of the Owner, or its permitted successors or assigns.~~

“Holder” means the owner or mortgagee of a Mortgage.

“Managing Member” means CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company and managing member of the Owner, its permitted successors and assigns.

“Management Consultant” means an entity experienced in the management and leasing of low and moderate income housing projects, qualified to study operations of facilities like the Minimum Improvements and having a favorable reputation in the industry.

“Master Disbursing Agreement” means the ~~Master Disbursing~~Construction Loan Disbursement Agreement to be entered into between ~~the Authority,~~ the Owner, the Disbursing

Agent, ~~Other Lenders, and other parties (if any)~~ and [Dougherty Mortgage LLC](#) with respect to the Development Property and the Minimum Improvements.

“Minimum Improvements” means the construction on the Development Property of a three-story rental housing facility containing 27 Rental Housing Units, subject to the affordability requirements and bedroom configurations described in Section 4.5 hereof, and underground parking.

“Mortgage” means any mortgage made by the Owner in favor of one of the Other Lenders which is secured, in whole or in part, with the Development Property, and which is a permitted encumbrance pursuant to the provisions of Article VIII hereof.

“Other Lenders” means any entities (other than the Authority and the Tax Credit Investor) that provide grants or loans to the Owner in order to finance a portion of the cost of the Minimum Improvements.

“Owner” means ~~[TBD LIMITED PARTNERSHIP]~~ [CHC Minnetonka Affordable Housing LLC](#), a Minnesota limited ~~partnership~~ [liability company](#), or its permitted successors or assigns.

“Rental Housing Units” means the rental housing units constructed as part of the Minimum Improvements.

“State” means the State of Minnesota.

“Tax Credit Investor” means ~~_____~~, ~~the limited partner~~ [Great Lakes Capital Fund for Housing Limited Partnership 29, the proposed investor member](#) of the Owner that has agreed to make capital contributions to the Owner in exchange for 99.99% of the low-income housing tax credits allocated to the Development Property.

“Tax Credit Law” means Section 42 of the Code.

“Tax Increment” means that portion of the real property taxes which is paid with respect to the TIF District and which is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 through 469.1794, as amended.

“Tax Increment District” or “TIF District” means the Authority’s Redevelopment Tax Increment Financing District No. 2.

“Tax Increment Plan” or “TIF Plan” means the Authority’s Tax Increment Financing Plan for the TIF District, as most recently modified by the Authority and City on December 20, 2010, and as it may be amended from time to time.

“Tax Official” means any County assessor, County auditor, County or State board of equalization, the commissioner of revenue of the State, or any State or federal court including the tax court of the State.

“Termination Date” means the later of the date the TIF Grant is paid in full in accordance with its terms, or the date of termination of the “Qualified Project Period” as defined in the Declaration.

“TIF Grant” has the meaning provided in Section 3.3(a) hereof.

“Transfer” has the meaning set forth in Section 8.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of war, terrorism, strikes, other labor troubles, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City or the Authority in exercising its rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the Owner’s obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 hereof, unless (a) the Owner has timely filed any application and materials required by the City for such permit or approvals, and (b) the delay is beyond the reasonable control of the Owner.

(The remainder of this page is intentionally left blank.)

ARTICLE II

Representations and Warranties

Section 2.1. Representations and Covenants by the Authority.

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. Under the provisions of the Act and the TIF Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The Authority will use its best efforts to facilitate development of the Minimum Improvements, including but not limited to cooperating with the Owner and CHCA in obtaining necessary administrative and land use approvals and construction and/or permanent financing pursuant to Section 7.1 hereof.

(c) The activities of the Authority are undertaken for the purpose of fostering the development of affordable rental housing, which will also revitalize this portion of the Development District and increase tax base.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of charter or statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the Authority is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) The Authority shall promptly advise CHCA and the Owner in writing of all litigation or claims affecting any part of the Minimum Improvements.

Section 2.2. Representations and Warranties by CHCA and the Owner. CHCA and the Owner represent and warrant that:

(a) CHCA is a nonprofit corporation organized and in good standing under the laws of the State of Delaware, is not in violation of any provisions of its articles of incorporation or bylaws, or, to the best of its knowledge, the laws of the State or the State of Delaware, is duly authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its Board of Directors.

(b) The Owner is a limited ~~partnership form~~liability company organized and in good standing under the laws of the State ~~of Minnesota~~, is not in violation of any provisions of its ~~certificate of limited partnership, partnership~~articles of organization, operating agreement, or, to the best of its knowledge, the laws of the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of ~~it~~its members.

(c) The Owner will construct, operate and maintain the Minimum Improvements in accordance with the terms of this Agreement, the Construction Plans, and all applicable local, State and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations) in all material respects.

(d) The Owner will obtain, in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, State and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any partnership or company restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which CHCA or the Owner is now a party or by which either is bound, or constitutes a default under any of the foregoing.

(f) CHCA and the Owner shall promptly advise the Authority in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting the Owner or its business, which may delay or require changes in construction of the Minimum Improvements.

(g) The proposed redevelopment on the Development Property hereunder would not occur but for the financial assistance being provided by the Authority hereunder.

(The remainder of this page is intentionally left blank.)

ARTICLE III

Tax Increment Assistance

Section 3.1. Status of the Property. ~~As of the date of this Agreement~~On or prior to the commencement of construction of the Minimum Improvements, the Owner ~~is~~will be the owner of a fee interest in the Development Property.

Section 3.2. Environmental Conditions.

(a) Each of CHCA and the Owner acknowledges that the Authority makes no representations or warranties as to the condition of the soils on the Development Property or the fitness of the Development Property for construction of the Minimum Improvements or any other purpose for which the Owner may make use of such property, and that the assistance provided to CHCA and indirectly to the Owner under this Agreement neither implies any responsibility by the Authority or the City for any contamination of the Development Property or poor soil conditions, nor imposes any obligation on such parties to participate in any cleanup of the Development Property or correction of any soil problems.

(b) Without limiting its obligations under Section 8.3 hereof, each of CHCA and the Owner further agrees that it will indemnify, defend, and hold harmless the Authority, the City, and their governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Development Property as a result of the actions or omissions of CHCA or the Owner, unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the indemnitees. Nothing in this section will be construed to limit or affect any limitations on liability of the City or Authority under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

Section 3.3. Tax Increment Assistance. In order to make development of the Minimum Improvements financially feasible, the Authority will provide to CHCA the following assistance:

(a) *TIF Grant.* The Authority will also make a grant to CHCA in an amount that is the lesser of (i) \$500,000 or (ii) the qualified basis of the Minimum Improvements (as such term is defined in the Tax Credit Law), less the aggregate amount of any tax credit with respect to the Minimum Improvements allowed under the Tax Credit Law (the "TIF Grant"). The amount of the TIF Grant is subject to reduction as described in paragraph (b) of this Section, and proceeds of the TIF Grant shall be disbursed in accordance with paragraph (b). CHCA shall either make a loan to the Owner in the amount of the TIF Grant or make a capital contribution to ~~General Partner~~the Managing Member and then cause the ~~General Partner~~Managing Member to make a capital contribution to the Owner in the amount of the TIF Grant.

(b) *Disbursement of TIF Grant.* The Authority will deposit the TIF Grant with the Disbursing Agent on the effective date of the Master Disbursing Agreement (the "Closing Date"). Notwithstanding anything to the contrary herein, if, prior to the commencement of construction,

the total costs of developing the Minimum Improvements as of the Closing Date are reduced below the amounts estimated as of the date of this Agreement, such reduction shall be applied first to reduce the amount of the TIF Grant, prior to reducing any other funding sources; provided that if CHCA or the Owner demonstrates to the Authority's reasonable satisfaction that such reduction in the TIF Grant will impair the Owner's eligibility to receive the full amount of tax credits awarded for the Minimum Improvements under the Tax Credit Law, then the TIF Grant reduction amount will be adjusted to a level that prevents such impairment. The Authority's obligation to fund the TIF Grant is subject to satisfaction of the following conditions as of the Closing Date:

(i) the Owner and CHCA having delivered to the Authority a copy of the executed Master Disbursing Agreement;

(ii) CHCA or the Owner having provided evidence satisfactory to the Authority that the Owner has established a separate accounting system for the Minimum Improvements for the purpose of recording the receipt and expenditure of the TIF Grant proceeds;

(iii) the Owner having delivered to the Authority evidence of the amount specified in Section 3.3(a)(ii) hereof, together with a statement from an independent certified public accountant that the calculation of that amount is an accurate calculation of projected qualified basis of the Minimum Improvements less the projected amount of the low-income housing tax credits calculated in accordance with the Tax Credit Law based upon the then current development budget.

(iv) the Authority having approved Construction Plans for the Minimum Improvements in accordance with Article IV hereof;

(v) the Owner having obtained, and the Authority having approved, financing as described in Article VII hereof;

(vi) the Owner having delivered to the Authority the executed Declaration in accordance with Section 4.5 hereof;

(vii) CHCA and the Owner having delivered to the Authority a list of all sources of funding to be used to develop the Minimum Improvements and evidence of the total costs of developing the Minimum Improvements, in a form reasonably satisfactory to the Authority, evidencing any reduction in the amount TIF Grant as described in this paragraph; and

(viii) there being no uncured Event of Default under this Agreement.

(c) *Reduction of TIF Grant.* Subject to the provisions of Section 3.3(b), if after review of the sources of funds and total costs of developing the Minimum Improvements provided by CHCA and the Owner pursuant to Section 3.3(b)(vii) but prior to commencement of construction of the Minimum Improvements, the Authority's financial advisor determines that the entire amount of the TIF Grant is not necessary to cover a gap in the amount of funds needed to construct

the Minimum Improvements, the TIF Grant will be reduced to the amount necessary to cover the gap in the amount of funds needed to construct the Minimum Improvements.

(d) ~~Master Disbursing Agreement. The Master Disbursing Agreement must require that proceeds of the TIF Grant are~~Restrictions on Use of TIF Grant. In conjunction with the construction of the Minimum Improvements, CHCA and the Owner will enter into various financing documents related to funding four projects, including two rehabilitation projects in Golden Valley, Minnesota, one rehabilitation project in the City (Elmbrooke Apartments) and the Minimum Improvements (collectively, the “Projects”). The TIF Grant shall be used solely to pay the costs of the Minimum Improvements.~~Authority officials are authorized and directed to execute a~~ and the loan agreements entered into between the City and the Developer related to the financing of the Projects and the Master Disbursing Agreement ~~that substantially complies with the requirements in this Section~~shall include this requirement.

(e) CHCA and the Owner further agree that: (i) the aggregate amount paid to ~~the~~ CHCA and the Owner as a developer fee from proceeds of all sources of funding under the ~~Master Disbursing Agreement~~financing documents, and from the proceeds of permanent financing entered into ~~upon completion of construction of~~with respect to the Projects, including the Minimum Improvements (but net of any portion of such fee reinvested to pay the costs of the Projects, including the Minimum Improvements ~~costs~~) shall not exceed ~~ten~~12% percent ~~(10%)~~ of the total cost of ~~development of~~the Projects, including the Minimum Improvements and (ii) any amount paid ~~to CHCA or by~~ the ~~General Partner~~Owner as distributions from annual cash flow shall not exceed the amounts specified in the first mortgage held by the Minnesota Housing Finance Agency, if applicable. Upon completion of the Minimum Improvements (and as a condition to issuance of a Certificate of Completion), the Owner shall provide to the Authority a report from an independent certified public accountant evidencing compliance with clause (i) of this paragraph. Upon request from the Authority from time to time (but no more often than annually), CHCA or the Owner shall provide to the Authority a report certifying and evidencing compliance with clause (ii) of this paragraph.

Section 3.4. Payment of Authority Costs.

(a) The City and the Authority will pay Authority Costs up to a maximum amount of \$4,000. CHCA and the Owner are responsible to pay all Authority Costs that are incurred by the City or the Authority that exceed ~~\$5,000~~4,000. The term “Authority Costs” means out-of-pocket, reasonable costs incurred by the City or Authority from and after March 15, 2015 for: (i) the Authority’s financial advisor in connection with the Authority’s financial participation in redevelopment of the Development Property, (ii) the City or Authority’s outside legal counsel in connection with negotiation and drafting of this Agreement and any related agreements or documents, and any legal services related to the Authority’s financial participation in redevelopment of the Development Property, including without limitation costs related to the TIF Grant.

(b) On or after the Closing Date, but not more often than monthly, the City or Authority may request payment of Authority Costs, and CHCA agrees to pay all Authority Costs within thirty (30) days of the City or Authority’s written request, supported by suitable billings,

receipts or other evidence of the amount and nature of Authority Costs incurred. At CHCA's request, but no more often than monthly, the Authority will provide CHCA with a written report on current and anticipated expenditures for Authority Costs, including invoices or other comparable evidence.

Section 3.5. Exemption from Business Subsidy Act. The parties agree and understand that all financial assistance provided by the Authority under this Agreement represents assistance for housing, and accordingly is not subject to the Business Subsidy Act.

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ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. The Owner will construct or cause construction of the Minimum Improvements on the Development Property substantially in accordance with approved Construction Plans and at all times through the Termination Date will operate, maintain, preserve and keep the respective components of the Minimum Improvements or cause such components to be operated, maintained, preserved and kept with the appurtenances and every part and parcel thereof, in good repair and condition.

Section 4.2. Construction Plans.

(a) *Generally*. Before commencing construction of the Minimum Improvements, CHCA and the Owner shall submit Construction Plans for the Minimum Improvements to the Authority. The City's chief building official and community development director will review and approve all Construction Plans on behalf of the Authority, and for the purposes of this Section the term "Authority" means those named officials. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement and all applicable State and local laws and regulations. The Authority will approve the Construction Plans in writing or by issuance of a permit if: (i) the Construction Plans conform to all terms and conditions of this Agreement in all material respects; (ii) the Construction Plans conform to the goals and objectives of the TIF Plan; (iii) the Construction Plans conform to all applicable federal, State, and local laws, ordinances, rules and regulations; (iv) the Construction Plans are adequate to provide for construction of the Minimum Improvements; and (v) there is no uncured Event of Default. No approval by the Authority shall relieve the Owner or CHCA of the obligation to comply with the terms of this Agreement, applicable federal, State, and local laws, ordinances, rules and regulations, or to construct the Minimum Improvements in accordance therewith. No approval by the Authority shall constitute a waiver of an Event of Default, or waiver of any State or City building or other code requirements that may apply. Within 30 days after receipt of complete Construction Plans and permit applications for the Minimum Improvements, the Authority will deliver to CHCA and the Owner an initial review letter describing any comments or changes requested by Authority staff. Thereafter, the parties shall negotiate in good faith regarding final approval of Construction Plans for that building. The Authority's approval shall not be unreasonably withheld or delayed. Said approval shall constitute a conclusive determination that the Construction Plans (and the Minimum Improvements constructed in accordance with said plans) comply to the Authority's satisfaction with the provisions of this Agreement relating thereto. The issuance by the City of permits for the construction of the Minimum Improvements shall be conclusive evidence of the Authority's approval of the Construction Plans.

Each of CHCA and the Owner hereby waives any and all claims and causes of action whatsoever resulting from the review of the Construction Plans by the Authority and/or any changes in the Construction Plans requested by the Authority, except for any failure by Authority to perform its obligations under this Section. Neither the Authority, the City, nor any employee or

official of the Authority or City shall be responsible in any manner whatsoever for any defect in the Construction Plans or in any work done pursuant to the Construction Plans, including changes requested by the Authority.

(b) *Construction Plan Changes.* If the Owner desires to make any material change in the Construction Plans or any component thereof after their approval by the Authority, the Owner shall submit the proposed change to the Authority for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of this Section 4.2 with respect to such previously approved Construction Plans, the Authority shall approve the proposed change and notify the Owner and CHCA in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Authority unless rejected, in whole or in part, by written notice by the Authority to the Owner and CHCA, setting forth in detail the reasons therefor. Such rejection shall be made as soon as reasonably practicable but in any event within 30 days after receipt of the notice of such change. The Authority's approval of any such change in the Construction Plans will not be unreasonably withheld.

Section 4.3. Completion of Construction.

(a) Subject to Unavoidable Delays, the Minimum Improvements must be constructed in accordance with the following schedule: commence construction on or about ~~July 1,~~October 31, 2016 and complete construction by ~~December~~March 31, ~~2017,~~2018. Construction is considered to be commenced upon the beginning of physical improvements beyond grading.

(b) All work with respect to the Minimum Improvements to be constructed or provided by the Owner on the Development Property shall be in substantial conformity with the Construction Plans as submitted by the Owner and approved by the Authority. The Owner agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Owner, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Development Property through the construction of the Minimum Improvements thereon, and that, subject to Unavoidable Delays, such construction shall be commenced and completed within the period specified in this Section 4.3. Until construction of the Minimum Improvements has been completed, CHCA and the Owner shall make reports, in such detail and at such times as may reasonably be requested by the Authority, as to the actual progress of the Owner with respect to such construction.

Section 4.4. Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Owner to construct the Minimum Improvements (including the dates for completion thereof), and delivery of the developer fee evidence described in Section 3.3(e) hereof, the Authority will furnish the Owner and CHCA with a Certificate of Completion in substantially the form attached as Schedule B. Such certification by the Authority shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in any deed with respect to the obligations of the Owner and CHCA, and its successors and assigns, to construct the Minimum Improvements and the dates for the completion thereof. Such certification

and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Owner or CHCA to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) The Certificate of Completion provided for in this Section 4.4 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the Authority shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4, the Authority shall, within 30 days after written request by the Owner or CHCA, provide the Owner and CHCA with a written statement, indicating in adequate detail in what respects the Owner has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Authority, for the Owner to take or perform in order to obtain such certification.

(c) The construction of the Minimum Improvements will be considered substantially complete when the Owner has received a certificate of occupancy from the City for all Residential Housing Units.

Section 4.5. Affordable Housing Covenants.

(a) The Owner shall cause at least 27 (100%) of the Rental Housing Units in the Minimum Improvements to be rent-restricted and income-restricted in accordance with the Tax Credit Law, all as further described in the Declaration attached as Schedule C. Notwithstanding anything to the contrary in the Tax Credit Law, such restrictions shall remain in effect for the 30-year period described in the Declaration. On or before the Closing Date, the Owner shall deliver the executed Declaration to the Authority in recordable form.

(b) Pursuant to the Section 3(iv) of the Declaration, the Owner shall provide the Authority with annual reports regarding tenant eligibility and rents within the Minimum Improvements.

(c) The Authority and its representatives shall have the right at all reasonable times while the covenants in this Section are in effect, after reasonable notice to inspect, examine and copy all books and records of CHCA and the Owner and its successors and assigns relating to the Development Property's satisfaction of the covenants described in this Section and in the Declaration.

Section 4.6. Records. The Authority, the legislative auditor, and the State auditor's office, through any authorized representatives, shall have the right after reasonable notice to inspect, examine and copy all books and records of CHCA and the Owner relating to the construction of the Minimum Improvements. CHCA shall maintain or shall cause the Owner to maintain such records and provide such rights of inspection for a period of six years after issuance of the Certificate of Completion for the Minimum Improvements.

Section 4.7. Property Management Covenant. CHCA shall cause its property manager to operate the Minimum Improvements in accordance with the policies described in this Section. For

any documented disorderly violations by a tenant or guest, including but not limited to prostitution, gang-related activity, intimidating or assaultive behavior (not including domestic), unlawful discharge of firearms, illegal activity, or drug complaints (each a “Violation”), CHCA agrees and understands that the following procedures shall apply:

(a) After a first Violation regarding any unit in the Minimum Improvements, the City police department will send notice to CHCA and the property manager requiring CHCA and the property manager to take steps necessary to prevent further Violations.

(b) If a second Violation occurs regarding the same tenancy within 12 months after the first Violation, the City police department will notify CHCA and the property manager of the second Violation. Within 10 days after receiving such notice, CHCA or the property manager must file a written action plan with the Authority and the City police department describing steps to prevent further Violations.

(c) If a third Violation occurs regarding the same tenancy within 12 continuous months after the first Violation, the City police department will notify CHCA and the property manager of the third Violation. Within 10 days after receiving such notice, CHCA or the property manager shall commence termination of the tenancy of all occupants of that unit. CHCA shall not enter into a new lease agreement with the evicted tenant(s) for at least one year after the effective date of the eviction.

(d) If CHCA or the property manager fails to comply with any the requirements in this Section, then the Authority may provide at least 10 days’ written notice to CHCA and the property manager directing attendance at a meeting to determine the cause of the continuing Violations in the Minimum Improvements and provide an opportunity for CHCA and the property manager to explain their failure to comply with the procedures in this Section.

(e) If CHCA and property manager fail to respond to the written notice under paragraph (d), or at least two additional Violations occur within the next 12-month period after the date of the notice under paragraph (d), then the Authority may direct CHCA to terminate the management agreement with the existing property manager and to replace that entity with a replacement property manager selected by the CHCA but approved by the Authority. The parties agree and understand that appointment of any replacement manager may be subject to consent by the Tax Credit Investor and the Holder of a first Mortgage on the Development Property.

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ARTICLE V

Insurance

Section 5.1. Insurance.

(a) The Owner or the general contractor engaged by the Owner will provide and maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the Authority, furnish the Authority with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the Authority shall be protected in accordance with a clause in form and content satisfactory to the Authority;

(ii) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence, and shall be endorsed to show the City and Authority as additional insured (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) Workers' compensation insurance, with statutory coverage.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, the Owner shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the Authority shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Commercial general public liability insurance, including personal injury liability, against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000 and shall be endorsed to show the City and Authority as additional insureds.

(iii) Such other insurance, including workers' compensation insurance respecting all employees of the Owner, if any, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.

(c) All insurance required in this Article V shall be taken out and maintained in responsible insurance companies selected by the Owner that are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Owner will deposit annually with the Authority a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V each policy shall contain a provision that the insurer shall not cancel nor modify it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to the Owner and the Authority at least 30 days before the cancellation or modification becomes effective. In lieu of separate policies, the Owner may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Owner shall deposit with the Authority a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) CHCA and the Owner agrees to notify the Authority immediately in the case of damage exceeding \$100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. In such event the Owner will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, the Owner will apply the net proceeds of any insurance relating to such damage received by the Owner to the payment or reimbursement of the costs thereof.

(e) The Owner shall complete the repair, reconstruction and restoration of the Minimum Improvements, regardless of whether the net proceeds of insurance received by the Owner for such purposes are sufficient to pay for the same. Any net proceeds remaining after completion of such repairs, construction, and restoration shall be the property of the Owner.

Section 5.2. Subordination. Notwithstanding anything to the contrary herein, the rights of the Authority with respect to the receipt and application of any insurance proceeds shall, in all respects, be subordinate and subject to the rights of any Holder under a Mortgage allowed pursuant to Article VII hereof.

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ARTICLE VI

Tax Increment; Taxes

Section 6.1. Right to Collect Delinquent Taxes. Each of CHCA and the Owner acknowledges that the Authority is providing substantial aid and assistance in furtherance of the redevelopment described in this Agreement. The Owner understands that, while the Development Property itself is not located within the TIF District or any other tax increment financing district, one purpose of the assistance under this Agreement is to increase the property tax base of the City. To that end, the Owner agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Owner acknowledges that this obligation creates a contractual right on behalf of the Authority through the Termination Date to sue the Owner or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor. In any such suit, the Authority shall also be entitled to recover its costs, expenses and reasonable attorneys' fees. Notwithstanding the foregoing, nothing in this Agreement in any way limits or prevents the Owner from contesting the assessor's proposed market values for the Development Property or the Minimum Improvements.

Section 6.2. Review of Taxes. The Owner agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Development Property through: (A) willful destruction of the Development Property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 hereof. The Owner also agrees that it will not, prior to the Termination Date, apply for a deferral of property tax on the Development Property pursuant to any law, or transfer or permit transfer of the Development Property to any entity whose ownership or operation of the property would result in the Development Property being exempt from real estate taxes under State law (other than any portion thereof dedicated or conveyed to the City or Authority in accordance with this Agreement). The Owner may, at any time following the issuance of the Certificate of Completion, seek through petition or other means to have the estimated market value for the Development Property reduced. The Authority and the Owner acknowledge and understand that the Owner intends to seek the "class 4d" property classification rate for affordable rental properties under Minnesota Statutes, Section 273.13 for the Development Property at all times during the term of this Agreement.

Section 6.3. Use of Tax Increment. The parties agree and understand that the Authority expects to finance the TIF Grant under Section 3.3 hereof from Tax Increments generated from the TIF District. However, the Authority may use any funds available to the Authority to fund the TIF Grant, and may also, in its discretion, approve an interfund loan to apply Tax Increments toward repayment of other funds used for those purposes. Neither the Owner nor CHCA has any title or interest in Tax Increments, except to the extent the Authority elects to use Tax Increment to fund the TIF Grant.

ARTICLE VII

Financing

Section 7.1. Financing.

(a) Before the Closing Date, the Owner shall submit to the Authority evidence of receipt of a ~~reservation of~~ preliminary determination letter evidencing eligibility for low income tax credits under the Tax Credit Law from the Minnesota Housing Finance Agency, together with commitments for other financing (including without limitation grants or loans from Other Lenders) which, together with committed equity for such construction, is sufficient for acquisition of the Development Property construction of the Minimum Improvements. Such commitments may be submitted as short-term financing, long-term mortgage financing, a bridge loan with a long-term take-out financing commitment, or any combination of the foregoing.

(b) If the Authority finds that the financing is sufficiently committed and adequate in amount to pay the costs specified in paragraph (a) then the Authority shall notify the Owner and CHCA in writing of its approval. Such approval shall not be unreasonably withheld and either approval or rejection shall be given within 20 days from the date when the Authority is provided the evidence of financing. A failure by the Authority to respond to such evidence of financing shall be deemed to constitute an approval hereunder. If the Authority rejects the evidence of financing as inadequate, it shall do so in writing specifying the basis for the rejection. In any event the Owner shall submit adequate evidence of financing within 10 days after such rejection.

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ARTICLE VIII

Prohibitions Against Assignment and Transfer; Indemnification

Section 8.1. Representation as to Redevelopment. ~~CHCA~~The Owner represents and agrees that its purchase of the Development Property and its other undertakings pursuant to the Agreement are, and will be used, for the purpose of redevelopment of the Development Property by the Owner and not for speculation in land holding.

Section 8.2. Prohibition Against Transfer of Property and Assignment of Agreement. The Owner represents and agrees that until the Termination Date:

(a) Except as specifically described in this Agreement, the Owner has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity (collectively, a “Transfer”), without the prior written approval of the Authority’s Board of Commissioners. The term “Transfer” does not include (i) encumbrances made or granted by way of security for, and only for, the purpose of obtaining construction, interim or permanent financing necessary to enable the Owner or any successor in interest to the Development Property or to construct the Minimum Improvements or component thereof; (ii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements; or (iii) a transfer of any ownership interests in the Owner in accordance with the terms of the Owner’s ~~partnership~~operating agreement. The Owner may effect a Transfer of the Development Property to CHCA or its Affiliate without approval by the Authority provided that CHCA submit to the Authority an assignment and assumption executed by the Affiliate in accordance with Section 8.2(b)(2) hereof.

(b) If CHCA seeks to effect a Transfer, the Authority shall be entitled to require as conditions to such Transfer that:

(1) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Owner and CHCA as to the portion of the Development Property to be transferred; and

(2) Any proposed transferee, by instrument in writing satisfactory to the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the Authority, have expressly assumed all of the obligations of CHCA and the Owner under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which each of CHCA and the Owner is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for

whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) deprive the Authority of any rights or remedies or controls with respect to the Development Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the Authority of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Development Property that the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the Authority to the contrary, no such transfer or approval by the Authority thereof shall be deemed to relieve CHCA, or any other party bound in any way by this Agreement or otherwise with respect to the Development Property, from any of its obligations with respect thereto; and

(3) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII shall be in a form reasonably satisfactory to the Authority.

(c) If the conditions described in paragraph (b) are satisfied, then the Transfer will be approved and CHCA and the Owner shall be released from their obligations under this Agreement, as to the portion of the Development Property that is transferred, assigned, or otherwise conveyed, unless the parties mutually agree otherwise. Notwithstanding anything to the contrary herein, any Transfer that releases CHCA and the Owner from their obligations under this Agreement (or any portion thereof) shall be approved by the Authority's Board of Commissioners, which approval shall not be unreasonably withheld, conditioned, or delayed. If CHCA or the Owner remains fully bound under this Agreement notwithstanding the Transfer, as documented in the transfer instrument, the Transfer may be approved by the Authority Representative. The provisions of this paragraph (c) apply to all subsequent transferors.

Section 8.3. Release and Indemnification Covenants.

(a) Each of CHCA and the Owner releases from and covenants and agrees that the Authority and the City and the governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees to indemnify and hold harmless the Authority and the City and the governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for willful or negligent misrepresentation, misconduct or negligence of the Indemnified Parties (as hereafter defined), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, each of CHCA and the Owner agrees to protect and defend the Authority and the City and the governing body members, officers, agents, servants

and employees thereof (the “Indemnified Parties”), now or forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) Except for any negligence of the Indemnified Parties (as defined in clause (b) above), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of CHCA, the Owner, or their respective officers, agents, servants or employees or any other person who may be about the Minimum Improvements due to any act of negligence of any person.

(d) All covenants, stipulations, promises, agreements and obligations of the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Authority and not of any governing body member, officer, agent, servant or employee of the Authority in the individual capacity thereof.

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ARTICLE IX

Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides 30 days’ written notice to the defaulting party of the event, but only if the event has not been cured within said 30 days or, if the event is by its nature incurable within 30 days, the defaulting party does not, within such 30-day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) Subject to Unavoidable Delays, failure by CHCA or the Owner on the one hand or the Authority on the other to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement; or

(b) CHCA or the Owner having:

(i) filed any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law and failing to discharge the same within 90 days;

(ii) made an assignment for benefit of its creditors;

(iii) admitted in writing its inability to pay its debts generally as they become due; or

(iv) been adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default.

(a) Whenever any Event of Default referred to in Section 9.1 hereof occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing 30 days’ written notice to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said 30 days or, if the Event of Default is by its nature incurable within 30 days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible. The Authority agrees that it will provide notice and an opportunity to cure any Event of Default to the Tax Credit Investor and that it will accept such cure as though it was made by the Owner or CHCA, as applicable.

(b) Upon an Event of Default by CHCA or the Owner, the Authority may (i) demand repayment of the outstanding principal and accrued interest on the TIF Grant from CHDC, and (ii) take whatever action, including legal, equitable or administrative action, which may appear

necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority, CHCA, or the Owner is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

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ARTICLE X

Additional Provisions

Section 10.1. Conflict of Interests; Authority Representatives Not Individually Liable. The Authority, the Owner, and CHCA, to the best of their respective knowledge, represent and agree that no member, official, or employee of the Authority shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, official, or employee of the Authority shall be personally liable to CHCA or the Owner, or any successor in interest, in the event of any default or breach by the Authority or County or for any amount which may become due to CHCA, the Owner, or their successors or on any obligations under the terms of the Agreement.

Section 10.2. Equal Employment Opportunity. Each of CHCA and the Owner, for their respective successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, State and local equal employment and non-discrimination laws and regulations.

Section 10.3. Restrictions on Use. Each of CHCA and the Owner agrees that until the Termination Date, CHCA, the Owner, and such successors and assigns, shall devote the Development Property to the operation of the Minimum Improvements for uses described in the definition of such term in this Agreement and shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, overnight mail, or delivered personally; and

- (a) in the case of CHCA, is addressed to or delivered personally to CHCA at:

Community Housing Corporation of America, Inc.
161 Saint Anthony Avenue # 820

Saint Paul, MN 55103
Attention: _____

(b) in the case of the Owner, is addressed to or delivered personally to the Owner at:

[CHC Minnetonka Affordable Housing LLC](#)
[161 Saint Anthony Avenue #820](#)
[St. Paul, MN 55103](#)
Attention: _____

with copies to:

Winthrop & Weinstine, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, MN 55402
Attention: Jeffrey Koerselman

and, so long as the Tax Credit Investor is a ~~partner~~[member](#) in the Owner to:

[Great Lakes Capital](#)
[Fund For Housing Limited](#)
[Partnership 29](#)
[118 South Washington](#)
[Lansing, MI 48910](#)
Attention: _____

(c) in the case of the Authority, is addressed to or delivered personally at:

Economic Development Authority in and for the City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345-1502
Attention: Executive Director

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The Authority may record this Agreement and any amendments thereto with the County recorder or registrar of titles, as the case may be. CHCA or the Owner shall pay all costs for recording.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the Authority, the Owner, and CHCA.

Section 10.10. Authority Approvals. Unless otherwise specified, any approval required by the Authority under this Agreement may be given by the Authority Representative.

Section 10.11. Termination. This Agreement terminates on the Termination Date, except that termination of the Agreement does not terminate, limit or affect the rights of any party that arise before the Termination Date.

Section 10.12. Indemnification by Owner. Notwithstanding anything to the contrary in this Agreement, for so long as the Development Property is subject to a loan held or insured by the U.S. Department of Housing & Urban Development (“HUD”), any Owner payment obligations under this Agreement, including but not limited to any indemnity payments and Authority Costs, shall be limited to available liability insurance and/or Surplus Cash and/or non-Project Assets, as each such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Owner and HUD. In the event of a conflict between this Section 10.12 and any other provision in this Agreement, this Section 10.12 shall control. [If no HUD financing, delete this section]

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed in its name and behalf on or as of the date and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this August, ~~201~~, 2016, by Terry Schneider, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this August, ~~201~~, 2016, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

**COMMUNITY HOUSING CORPORATION OF
AMERICA, INC.**

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ~~_____~~August _____,
~~201~~2016, by _____, the _____ of Community Housing
Corporation of America, Inc., a Delaware nonprofit corporation, on behalf of the corporation.

Notary Public

~~[TBD LIMITED PARTNERSHIP]~~CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company

By : CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

~~Its~~ By:
Name: Richard Martin
Title: Administrative Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, ~~201~~, day of August, 2016, by _____, the _____ of ~~[TBD Limited Partnership], a Minnesota limited partnership,, on behalf of such limited partnership~~Richard Martin, the Managing Member of CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company, the managing member of CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company, on behalf of the Owner.

Notary Public

SCHEDULE A

DESCRIPTION OF DEVELOPMENT PROPERTY

Parcel 1:

That part of the East 30.00 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 972.80 feet; thence North 2 degrees 53 minutes 46 seconds West a distance or 448.09 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1008.65 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 06 minutes 28 seconds East a distance or 97.56 feet to the point or beginning of the land to be described; thence South 26 degrees 34 minutes 09 seconds East a distance of 160.00 feet; thence North 63 degrees 25 minutes 51 seconds East a distance of 208.69 feet to the Southeasterly right of way line of County Road Number 61; thence Northwesterly along said right of way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 35; thence South 87 degrees 06 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 996.01 feet; thence North 1 degree 19 minutes 39 seconds West 388.02 feet; thence North 86 degrees 20 minutes 14 seconds East 12.59 feet, which point is marked by a Judicial Landmark; thence North 2 degrees 53 minutes 46 seconds West 460.27 feet to the point of beginning of the land to be described, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East, along the last described line, 400.23 feet; thence North 87 degrees 06 minutes 28 seconds East 97.56 feet; thence North 63 degrees 25 minutes 51 seconds East 186.14 feet to the Southwesterly right-of-way line of County Road 61 (also known as Shady Oak Road); thence North 34 degrees 35 minutes 25 seconds West, along said right-of-way, 248.72 feet; thence North 39 degrees 23 minutes 15 seconds West, along said right of way, 173.57 feet, to its intersection with a line which bears North 50 degrees 09 minutes 52 seconds East from the point of beginning; thence South 50 degrees 09 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota

Abstract Property

SCHEDULE B

CERTIFICATE OF COMPLETION

The undersigned hereby certifies that ~~{TBD Limited Partnership}~~CHC Minnetonka Affordable Housing LLC, a Minnesota limited ~~partnership~~liability company (the "Owner"), and Community Housing Corporation of America, Inc., a Delaware nonprofit corporation ("CHCA"), have fully complied with their obligations under Articles III and IV of that document titled "Contract for Private Development" dated ~~_____~~August, ~~201~~2016 (the "Contract"), by and between the Economic Development Authority in and for the City of Minnetonka, Minnesota, the Owner, and CHCA, with respect to construction of the Minimum Improvements in accordance with the Construction Plans, and that each of the Owner and CHCA is released and forever discharged from its obligations to construct the Minimum Improvements under Articles III and IV of the Contract, but all other covenants under the Contract remain in full force and effect.

Dated: _____, 20__.

**ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 20__, by _____, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

SCHEDULE C

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (this “Declaration”) dated as of _____, ~~2015~~, by ~~[TBD LIMITED PARTNERSHIP]~~ August _____, 2016, by CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited ~~partnership~~ liability company (the “Owner”), is given to the **ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA** (the “Authority”).

RECITALS

WHEREAS, the Authority entered into that certain Contract for Private Development, dated _____, ~~2015~~, 2016, filed _____, 20____ in the Office of the [Recorder] [Registrar of Titles] for Hennepin County as Document No. _____ (the “Contract”), between the Authority, the Owner, and Community Housing Corporation of America, Inc., a Delaware nonprofit corporation (“CHCA”); and

WHEREAS, pursuant to the Contract, the Owner is obligated to cause construction of 27 housing units of rental housing on the property described in Exhibit A hereto (the “Property”), and to cause compliance with certain affordability covenants described in Section 4.5 of the Contract; and

WHEREAS, Section 4.5 of the Contract requires that the Owner cause to be executed an instrument in recordable form substantially reflecting the covenants set forth in Section 4.5 of the Contract; and

WHEREAS, the Owner intends, declares, and covenants that the restrictive covenants set forth herein shall be and are covenants running with the Property for the term described herein and binding upon all subsequent owners of the Property for such term, and are not merely personal covenants of the Owner; and

WHEREAS, capitalized terms in this Declaration have the meaning provided in the Contract unless otherwise defined herein.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter set forth, and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CHCA agrees as follows:

1. Term of Restrictions.

(a) Occupancy and Rental Restrictions. The term of the Occupancy Restrictions set forth in Section 3 hereof and the Rental Restriction set forth in Section 4 hereof shall commence at the end of the first taxable year of credit period for the Property under the Tax Credit Law. The period from commencement to termination is the “Qualified Project Period.”

(b) Termination of Declaration. This Declaration shall terminate upon the date that is 30 years after the commencement of the Qualified Project Period.

(c) Removal from Real Estate Records. Upon termination of this Declaration, the Authority shall, upon request by the Owner or its assigns, file any document appropriate to remove this Declaration from the real estate records of Hennepin County, Minnesota.

2. Project Restrictions.

(a) The Owner represents, warrants, and covenants that:

(i) All leases of units to Qualifying Tenants (as defined in Section 3(a)(i) hereof) shall contain clauses, among others, wherein each individual lessee:

(1) Certifies the accuracy of the statements made in its application and Eligibility Certification (as defined in Section 3(a)(ii) hereof); and

(2) Agrees that the family income at the time the lease is executed shall be deemed substantial and material obligation of the lessee's tenancy, that the lessee will comply promptly with all requests for income and other information relevant to determining low or moderate income status from the Owner or the Authority, and that the lessee's failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the lessee's tenancy.

(ii) The Owner shall permit any duly authorized representative of the Authority to inspect the books and records of the Owner pertaining to the income of Qualifying Tenants residing in the Project.

3. Occupancy Restrictions.

(a) Tenant Income Provisions. The Owner represents, warrants, and covenants that:

(i) Qualifying Tenants. From the commencement of the Qualified Project Period, at least 27 Rental Housing Units shall be occupied (or treated as occupied as provided herein) or held vacant and available for occupancy by Qualifying Tenants. Qualifying Tenants shall mean those persons and families who shall be determined from time to time by the Owner to have combined adjusted income that does not exceed ~~fifty percent (50%)~~ 60% of the Minneapolis-St. Paul metropolitan statistical area (the "Metro Area") median income for the applicable calendar year. For purposes of this definition, the occupants of a residential unit shall not be deemed to be Qualifying Tenants if all the occupants of such residential unit at any time are "students," as defined in Section 151(c)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), not entitled to an exemption under the Code. The determination of whether an individual or family is of low or moderate income shall be made at the time the tenancy commences and on an

ongoing basis thereafter, determined at least annually. If during their tenancy a Qualifying Tenant's income exceeds 140 percent of the maximum income qualifying as low or moderate income for a family of its size, the next available unit (determined in accordance with the Code and applicable regulations) (the "Next Available Unit Rule") must be leased to a Qualifying Tenant or held vacant and available for occupancy by a Qualifying Tenant. If the Next Available Unit Rule is violated, the Unit will not continue to be treated as a Qualifying Unit.

(ii) Certification of Tenant Eligibility. As a condition to initial and continuing occupancy, each person who is intended to be a Qualifying Tenant shall be required annually to sign and deliver to the Owner a Certification of Tenant Eligibility substantially in the form attached as Exhibit B hereto, or in such other form as may be approved by the Authority (the "Eligibility Certification"), in which the prospective Qualifying Tenant certifies as to qualifying as low or moderate income. In addition, such person shall be required to provide whatever other information, documents, or certifications are deemed necessary by the Authority to substantiate the Eligibility Certification, on an ongoing annual basis, and to verify that such tenant continues to be a Qualifying Tenant within the meaning of Section 3(a)(i) hereof. Eligibility Certifications will be maintained on file by the Owner with respect to each Qualifying Tenant who resides in a Project unit or resided therein during the immediately preceding calendar year.

(iii) Lease. The form of lease to be utilized by the Owner in renting any units in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Eligibility Certification.

(iv) Annual Report. The Owner covenants and agrees that during the term of this Declaration, it will prepare and submit to the Authority on or before August 1 of each year, a certificate substantially in the form of Exhibit C hereto, executed by the Owner, (a) identifying the tenancies and the dates of occupancy (or vacancy) for all Qualifying Tenants in the Project, including the percentage of the dwelling units of the Project which were occupied by Qualifying Tenants (or held vacant and available for occupancy by Qualifying Tenants) at all times during the year preceding the date of such certificate; (b) describing all transfers or other changes in ownership of the Project or any interest therein; and (c) stating, that to the best knowledge of the person executing such certificate after due inquiry, all such units were rented or available for rental on a continuous basis during such year to members of the general public and that the Owner was not otherwise in default under this Declaration during such year.

(v) Notice of Non-Compliance. The Owner will immediately notify the Authority if at any time during the term of this Declaration the dwelling units in the Project are not occupied or available for occupancy as required by the terms of this Declaration.

4. Rental Restrictions. The Owner represents, warrants and covenants that the maximum gross rent for all units occupied by Qualifying Tenants shall not exceed 30 percent of the ~~50~~60 percent income limitation, all in accordance with the Tax Credit Law.

5. Transfer Restrictions. The Owner covenants and agrees that the Owner will cause or require as a condition precedent to any Transfer (as defined in the Contract) that the transferee of the Project pursuant to the Transfer assume in writing, in a form acceptable to the Authority, all duties and obligations of the Owner under this Declaration, including this Section 5, in the event of a subsequent Transfer by the transferee prior to expiration of the Rental Restrictions and Occupancy Restrictions provided herein (the “Assumption Agreement”). The Owner shall deliver the Assumption Agreement to the Authority prior to the Transfer.

6. [Intentionally omitted.]

7. Enforcement.

(a) The Owner shall permit, during normal business hours and upon reasonable notice, any duly authorized representative of the Authority to inspect any books and records of the Owner regarding the Project with respect to the incomes of Qualifying Tenants.

(b) The Owner shall submit any other information, documents or certifications requested by the Authority which the Authority deems reasonably necessary to substantial continuing compliance with the provisions specified in this Declaration.

(c) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Declaration is to ensure compliance of the property with the housing affordability covenants set forth in Section 4.5 of the Contract, and by reason thereof, the Owner, in consideration for assistance provided by the Authority under the Contract that makes possible the construction of the Minimum Improvements (as defined in the Contract) on the Property, hereby agrees and consents that the Authority shall be entitled, upon any breach of the provisions of this Declaration and the Owner’s failure to cure such breach within the cure periods described in Section 9.1 of the Contract, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Owner of its obligations under this Declaration in a state court of competent jurisdiction. The Owner hereby further specifically acknowledges that the Authority cannot be adequately compensated by monetary damages in the event of any default hereunder.

(d) The Owner understands and acknowledges that, in addition to any remedy set forth herein for failure to comply with the restrictions set forth in this Declaration, the Authority may exercise any remedy available to it under Article IX of the Contract.

8. Indemnification. The Owner hereby indemnifies, and agrees to defend and hold harmless, the Authority from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys’ fees and expenses), causes of action, suits, allegations, claims, demands, and judgments of any nature arising from the consequences of a legal or administrative proceeding or action brought against them, or any of them, on account of any failure by the Owner to comply

with the terms of this Declaration, or on account of any representation or warranty of the Owner contained herein being untrue.

9. Agent of the Authority. The Authority shall have the right to appoint an agent to carry out any of its duties and obligations hereunder, and shall inform the Owner of any such agency appointment by written notice.

10. Severability. The invalidity of any clause, part or provision of this Declaration shall not affect the validity of the remaining portions thereof.

11. Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing. The Owner and the Authority may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. The initial addresses for notices and other communications are as follows:

To the Authority: Economic Development Authority in and for the City of
Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345
Attention: Community Development Director

To the Owner: CHC Minnetonka Affordable Housing, LLC
161 Saint Anthony Avenue #820
St. Paul, MN 55103
Attention:

With copies to:

Winthrop & Weinstine, P.A.
Capella Tower, Suite 3500
225 South Sixth Street
Minneapolis, MN 55402
Attention: Jeffrey Koerselman

And, so long as the Tax Credit Investor is a ~~partner~~member in the Owner to:

Great Lakes Capital

[Fund For Housing Limited
Partnership 29
118 South Washington
Lansing, MI 48910
Attention: _____](#)

12. Governing Law. This Declaration shall be governed by the laws of the State of Minnesota and, where applicable, the laws of the United States of America.

13. Attorneys' Fees. In case any action at law or in equity, including an action for declaratory relief, is brought against the Owner to enforce the provisions of this Declaration, the Owner agrees to pay the reasonable attorneys' fees and other reasonable expenses paid or incurred by the Authority in connection with such action.

14. Declaration Binding. This Declaration and the covenants contained herein shall run with the real property comprising the Project and shall bind the Owner and its successors and assigns and all subsequent owners of the Project or any interest therein, and the benefits shall inure to the Authority and its successors and assigns for the term of this Declaration as provided in Section 1(b) hereof.

15. Relationship to Tax Credit Law Requirements. Notwithstanding anything to the contrary, during any period while at least 27 units in the Property are subject to income and rent limitations under the Tax Credit Law, evidence of compliance with such Tax Credit Law requirements filed with the Authority at least annually will satisfy any requirements otherwise imposed under this Declaration. During any portion of the Qualified Project Period as defined herein when the Tax Credit Law income and rent restrictions do not apply to the Property, this Declaration controls.

16. HUD Rider. The HUD Rider to Restrictive Covenants (the "HUD Rider") attached to the Declaration of Restrictive Covenants is hereby made a part of this Declaration of Restrictive Covenants. In the event of a conflict between the provisions of the HUD Rider and the provisions of this Declaration of Restrictive Covenants, the provisions of the HUD Rider shall control. [If no HUD financing, delete this section]

Drafted by:

Kennedy & Graven Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402

IN WITNESS WHEREOF, the Owner has caused this Declaration of Restrictive Covenants to be signed by its respective duly authorized representatives, as of the day and year first written above.

~~[TBD LIMITED PARTNERSHIP]~~

CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company

~~By~~ By: CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

~~Its~~ By:
Name: Richard Martin
Title: Administrative Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 201_, by _____, the _____ of ~~[TBD Limited Partnership], a Minnesota limited partnership, on behalf of such limited partnership~~ day of August, 2016, by Richard Martin, the Managing Member of CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company, the managing member of CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company, on behalf of the Owner.

Notary Public

This Declaration is acknowledged and consented to by:

ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this August ,
~~201~~2016, by Terry Schneider, the President of the Economic Development Authority in and for
the City of Minnetonka, Minnesota, on behalf of the authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this August ,
~~201~~2016, by Geralyn Barone, the Executive Director of the Economic Development Authority in
and for the City of Minnetonka, Minnesota, on behalf of the authority.

Notary Public

EXHIBIT A

Legal Description

The land referred to is situated in the State of Minnesota, County of Hennepin, and is described as follows:

Parcel 1:

That part of the East 30.00 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter; thence on an assumed bearing of South 87 degrees 06 minutes 28 seconds West along the South line of said Southeast Quarter of the Northeast Quarter a distance of 972.80 feet; thence North 2 degrees 53 minutes 46 seconds West a distance of 448.09 feet, said last described line if extended would intersect the North line of said Southeast Quarter of the Northeast Quarter at a point 1008.65 feet West of the Northeast corner of said Southeast Quarter of the Northeast Quarter; thence North 87 degrees 06 minutes 28 seconds East a distance of 97.56 feet to the point or beginning of the land to be described; thence South 26 degrees 34 minutes 09 seconds East a distance of 160.00 feet; thence North 63 degrees 25 minutes 51 seconds East a distance of 208.69 feet to the Southeasterly right of way line of County Road Number 61; thence Northwesterly along said right of way line to its intersection with a line bearing North 63 degrees 25 minutes 51 seconds East to the point of beginning; thence South 63 degrees 25 minutes 51 seconds West to the point of beginning.

Hennepin County, Minnesota
Abstract Property

Parcel 2:

That part of the East 30 acres of the Southeast Quarter of the Northeast Quarter of Section 35, Township 117, Range 22, Hennepin County, Minnesota, described as follows:

Commencing at the East Quarter corner of Section 35; thence South 87 degrees 06 minutes 28 seconds West, assumed bearing, along the South line of said Southeast Quarter of the Northeast Quarter, 996.01 feet; thence North 1 degree 19 minutes 39 seconds West 388.02 feet; thence North 86 degrees 20 minutes 14 seconds East 12.59 feet, which point is marked by a Judicial Landmark; thence North 2 degrees 53 minutes 46 seconds West 460.27 feet to the point of beginning of the land to be described, which point is marked by a Judicial Landmark; thence South 2 degrees 53 minutes 46 seconds East, along the last described line, 400.23 feet; thence North 87 degrees 06 minutes 28 seconds East 97.56 feet; thence North 63 degrees 25 minutes 51 seconds East 186.14 feet to the Southwesterly right-of-way line of County Road 61 (also known as Shady Oak Road); thence North 34 degrees 35 minutes 25 seconds West, along said right-of-way, 248.72 feet; thence North 39 degrees 23 minutes 15 seconds West, along said right of way, 173.57 feet, to its intersection with a line which bears North 50 degrees 09 minutes 52 seconds East from the point of

beginning; thence South 50 degrees 09 minutes 52 seconds West, along said line, 42.72 feet to the point of beginning.

Hennepin County, Minnesota
Abstract Property

EXHIBIT B

Certification of Tenant Eligibility

(INCOME COMPUTATION AND CERTIFICATION)

Project: [Address]

Owner:

Unit Type: _____ 2 BR _____ 3 BR

1. I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully, frankly and personally each of the following questions for all persons (including minors) who are to occupy the unit in the above apartment development for which application is made, all of whom are listed below:

Name of Members of the Household	Relationship To Head of Household	Age	Place of Employment
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Income Computation

2. The anticipated income of all the above persons during the 12-month period beginning this date,

(a) including all wages and salaries, overtime pay, commissions, fees, tips and bonuses before payroll deductions; net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness); interest and dividends; the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts; payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay; the maximum amount of public assistance available to the above persons; periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling; and all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; but

(b) excluding casual, sporadic or irregular gifts; amounts which are specifically for or in reimbursement of medical expenses; lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses; amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment, but in either case only to the extent used for such purposes; special pay to a serviceman head of a family who is away from home and exposed to hostile fire; relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; foster child care payments; the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged for the allotments; and payments received pursuant to participation in ACTION volunteer programs, is as follows: \$_____.

3. If any of the persons described above (or whose income or contributions was included in item 2) has any savings, bonds, equity in real property or other form of capital investment, provide:

(a) the total value of all such assets owned by all such persons: \$_____;

(b) the amount of income expected to be derived from such assets in the 12 month period commencing this date: \$_____; and

(c) the amount of such income which is included in income listed in item 2: \$_____.

4. (a) Will all of the persons listed in item 1 above be or have they been full-time students during five calendar months of this calendar year at an educational institution (other than a correspondence school) with regular faculty and students?

Yes _____

No _____

(b) Is any such person (other than nonresident aliens) married and eligible to file a joint federal income tax return?

Yes _____

No _____

THE UNDERSIGNED HEREBY CERTIFY THAT THE INFORMATION SET FORTH ABOVE IS TRUE AND CORRECT. THE UNDERSIGNED ACKNOWLEDGE THAT THE LEASE FOR THE UNIT TO BE OCCUPIED BY THE UNDERSIGNED WILL BE CANCELLED UPON 10 DAYS WRITTEN NOTICE IF ANY OF THE INFORMATION ABOVE IS NOT TRUE AND CORRECT.

Head of Household

Spouse

FOR COMPLETION BY OWNER
(OR ITS MANAGER) ONLY

1. Calculation of Eligible Tenant Income:

(a) Enter amount entered for entire household in 2 above: \$_____

(b) If the amount entered in 3(a) above is greater than \$5,000, enter the greater of (i) the amount entered in 3(b) less the amount entered in 3(c) or (ii) 10% of the amount entered in 3(a): \$_____

(c) TOTAL ELIGIBLE INCOME (Line 1(a) plus Line 1(b)): \$_____

2. The amount entered in 1(c) is less than or equal to ~~_____~~ 50 60% of median income for the area in which the Project is located, as defined in the Declaration. ~~50~~60% is necessary for status as a "Qualifying Tenant" under Section 3(a) of the Declaration.

3. Rent:

(a) The rent for the unit is \$_____.

(b) The amount entered in 3(a) is less than or equal to the maximum rent permitted under the Declaration.

4. Number of apartment unit assigned: _____.

5. This apartment unit was ____ was not ____ last occupied for a period of at least 31 consecutive days by persons whose aggregate anticipated annual income as certified in the above manner upon their initial occupancy of the apartment unit was less than or equal to ~~50~~60% of Median Income in the area.

6. Check as applicable: _____ Applicant qualifies as a Qualifying Tenant (tenants of at least ____ units must meet), or _____ Applicant otherwise qualifies to rent a unit.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS NO KNOWLEDGE OF ANY FACTS WHICH WOULD CAUSE HIM/HER TO BELIEVE THAT ANY OF THE INFORMATION PROVIDED BY THE TENANT MAY BE UNTRUE OR INCORRECT.

~~NAME OF OWNER,~~

CHC MINNETONKA AFFORDABLE
HOUSING LLC, a Minnesota
limited liability company

By _____: CHC Minnetonka Affordable
Housing MM LLC
Its _____: Managing Member

By: _____
Name: _____
Title: _____

EXHIBIT C

Certificate of
Continuing Program Compliance

Date: _____, _____.

The following information with respect to the Project located at _____, Minnetonka, Minnesota (the "Project"), is being provided by _____ (the "Owner") to the Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority"), pursuant to that certain Declaration of Restrictive Covenants dated _____, ~~2015~~2016 (the "Declaration"), with respect to the Project:

(A) The total number of residential units which are available for occupancy is 27. The total number of such units occupied is _____.

(B) The following residential units (identified by unit number) have been designated for occupancy by "Qualifying Tenants," as such term is defined in the Declaration (for a total of ____ units):

2 BR Units:

3 BR Units:

(C) The following residential units which are included in (B) above, have been re-designated as units for Qualifying Tenants since _____, 20____, the date on which the last "Certificate of Continuing Program Compliance" was filed with the Authority by the Owner:

Unit Number	Previous Designation of Unit (if any)	Replacing Unit Number
_____	_____	_____
_____	_____	_____

(D) The following residential units are considered to be occupied by Qualifying Tenants based on the information set forth below:

	Unit Number	Name of Tenant	Number of Persons Residing in the Unit	Number of Bedrooms	Total Adjusted Gross Income	Date of Initial Occupancy	Rent
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							

(E) The Owner has obtained a “Certification of Tenant Eligibility,” in the form provided as EXHIBIT B to the Declaration, from each Tenant named in (D) above, and each such Certificate is being maintained by the Owner in its records with respect to the Project. Attached hereto is the most recent “Certification of Tenant Eligibility” for each Tenant named in (D) above who signed such a Certification since _____, _____, the date on which the last “Certificate of Continuing Program Compliance” was filed with the Authority by the Owner.

(F) In renting the residential units in the Project, the Owner has not given preference to any particular group or class of persons (except for persons who qualify as Qualifying Tenants); and none of the units listed in (D) above have been rented for occupancy entirely by students, no one of which is entitled to file a joint return for federal income tax purposes. All of the residential units in the Project have been rented pursuant to a written lease, and the term of each lease is at least ___ months.

(G) The information provided in this “Certificate of Continuing Program Compliance” is accurate and complete, and no matters have come to the attention of the Owner which would indicate that any of the information provided herein, or in any “Certification of Tenant Eligibility” obtained from the Tenants named herein, is inaccurate or incomplete in any respect.

(H) The Project is in continuing compliance with the Declaration.

(I) The Owner certifies that as of the date hereof at least ___ of the residential dwelling units in the Project are occupied or held open for occupancy by Qualifying Tenants, as defined and provided in the Declaration.

(J) The rental levels for each Qualifying Tenant comply with the maximum permitted under the Declaration.

IN WITNESS WHEREOF, I have hereunto affixed my signature, on behalf of the Owner,
on _____, ~~201~~2016.

~~[TBD LIMITED PARTNERSHIP]~~
CHC MINNETONKA AFFORDABLE
HOUSING LLC

By _____

Its _____

EXHIBIT C

[If no HUD financing, delete this Exhibit C]

HUD RIDER TO RESTRICTIVE COVENANTS

THIS RIDER TO RESTRICTIVE COVENANTS is made as of _____, 2016 (the “Rider”), by CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company (the “Developer”), and the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the “Authority”).

WHEREAS, the Developer has obtained funds from CHC Minnetonka Affordable Housing MM LLC, its managing member, pursuant to a grant in the amount of \$500,000 (the “Grant”) from the Authority for the acquisition, construction, and equipping of approximately twenty-seven (27) new affordable apartment units to be located at 5750 Shady Oak Road, Minnetonka, Minnesota known as the Music Barn Apartments (“Project”) which is not secured by real or personal property; and

WHEREAS, in consideration of the Grant, the Authority has required that the Developer record against the Project a Declaration of Restrictive Covenants, between the Developer and the Authority (the “Restrictive Covenants”) requiring certain affordability covenants; and

WHEREAS, in addition, the Developer has obtained financing from Dougherty Mortgage LLC, a Delaware limited liability company (the “FHA Lender”), for the benefit of the Project, which loan will be secured by a Multifamily Mortgage, Assignment of Leases and Rents, and Security Agreement (Minnesota), dated _____, 2016 (the “FHA Mortgage”), filed in the office of the Abstract and Torrens records of Hennepin County, Minnesota (the “Records”) simultaneously herewith and is insured by the United States Department of Housing and Urban Development (“HUD”); and

WHEREAS, HUD requires as a condition of its insuring the FHA Lender’s financing to the Project, that the lien and covenants of the Restrictive Covenants to which this Rider is attached be subordinated to the lien, covenants, and enforcement of the FHA Mortgage; and

WHEREAS, the Authority has agreed to subordinate the Restrictive Covenants to the lien of the FHA Insured Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

“Authority” means Economic Development Authority in and for the City of Minnetonka, Minnesota, its successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended.

“FHA Insured Mortgage Loan” means the mortgage loan made by FHA Lender to the Developer pursuant to the FHA Loan Documents with respect to the Project.

“FHA Lender” means Dougherty Mortgage LLC, a Delaware limited liability company, its successors and assigns.

“FHA Loan Documents” means the FHA Mortgage, the HUD Regulatory Agreement and all other documents required by HUD or FHA Lender in connection with the FHA Insured Mortgage Loan.

“FHA Mortgage” means the mortgage or deed of trust from Developer in favor of FHA Lender, as the same may be supplemented, amended or modified.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Regulatory Agreement” means the Regulatory Agreement for Multifamily Projects between Developer and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

“National Housing Act” means the National Housing Act of 1934, as amended.

“Program Obligations” has the meaning set forth in the FHA Mortgage.

“Residual Receipts” has the meaning specified in the Program Obligations.

“Surplus Cash” has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, the provisions hereof are expressly subordinate to (i) the FHA Loan Documents, including without limitation, the FHA Mortgage, and (ii) Program Obligations (the FHA Loan Documents and Program Obligations are collectively referred to herein as the “HUD Requirements”). The Developer covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Authority’s ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Developer represents and warrants that to the best of Developer’s knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In the event of foreclosure (or deed in lieu of foreclosure) of the FHA Insured Mortgage Loan, the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate.

(e) Developer and the Authority acknowledge that Developer's failure to comply with the covenants provided in the Restrictive Covenants does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

(f) Except for the Authority's reporting requirement, in enforcing the Restrictive Covenants the Authority will not file any claim against the Project, the FHA Insured Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the FHA Mortgage or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

(i) Available Surplus Cash, if the Developer is a for-profit entity;

(ii) Available distributions of Surplus Cash and Residual Receipts authorized for release by HUD, if the Developer is a limited distribution entity; or

(iii) Available Residual Receipts authorized by HUD, if the Developer is a non-profit entity.

(g) For so long as the FHA Insured Mortgage Loan is outstanding, the Developer and the Authority shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Authority may require the Developer to indemnify and hold the Authority harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Authority relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Developer's obligation to indemnify and hold the Authority harmless shall be limited to available surplus cash and/or residual receipts of the Developer.

(i) No action shall be taken in accordance with the rights granted herein to preserve the tax exemption of the interest on the notes or bonds, or prohibiting the owner from taking any action that might jeopardize the tax-exemption, except in strict accord with Program Obligations.

[Signature Pages to Follow]

Execution page of the Authority to the HUD Rider.

ECONOMIC DEVELOPMENT AUTHORITY
IN AND FOR THE CITY OF MINNETONKA,
MINNESOTA

By _____

Its President

By _____

Its Executive Director

STATE OF MINNESOTA)
_____) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016,
by Terry Schneider, the President of the Economic Development Authority in and for the City of
Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
_____) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2016, by
Geralyn Barone, the Executive Director of the Economic Development Authority in and for the
City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

Execution page of the Developer to the HUD Rider.

CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company

By: CHC Minnetonka Affordable Housing MM LLC

Its: Managing Member

By:

Name: Richard Martin

Title: Administrative Manager

STATE OF MINNESOTA)

) ss

COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Richard Martin, the Managing Member of CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company, the managing member of CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company, on behalf of the Developer.

Notary Public

Resolution No. 2016-

Resolution approving a contract for private development between the Economic Development Authority in and for the City of Minnetonka, Community Housing Corporation of America, Inc., and CHC Minnetonka Affordable Housing LLC

Be it resolved by the Board of Commissioners (the “Board”) of the Economic Development Authority in and for the City of Minnetonka (the “Authority”) as follows:

Section 1. Background.

- 1.01. The Authority and the City of Minnetonka (“City”) have undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and facilitate the development of affordable housing, and in this connection created a development district known as Development District No. 1 (the “Project”) in the City, pursuant to Minnesota Statutes, Sections 469.124 to 469.134, as amended.
- 1.02. The City and the Authority have established Redevelopment Tax Increment Financing District No. 2 (the “TIF District”) within the Project and adopted a financing plan (the “TIF Plan”) for the TIF District in order to facilitate redevelopment of certain property in the Project, all pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended.
- 1.03. In order to facilitate development of affordable rental housing in the Project, the Authority has caused to be prepared a Contract for Private Development (the “Contract”) between the Authority, Community Housing Corporation of America, a Delaware nonprofit corporation (“CHCA”), and CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company (the “Owner”), under which the Owner will construct a three-story, 27-unit multifamily housing rental facility on certain real property in the Project (the “Development Property”), subject to certain income and rent limitations, and the Authority will provide certain financial assistance to CHCA using tax increment revenues derived from the TIF District.
- 1.04. CHCA intends to either loan such funds received from the financial assistance provided by the Authority to the Owner or contribute such funds to CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company and the managing member of the Owner, for distribution to the Owner.
- 1.05. The Board has reviewed the Contract and finds that the execution thereof by the Authority and performance of the Authority’s obligations thereunder are in the best interest of the City and its residents.

Section 2. Board Action.

- 2.01. The Contract is approved in substantially the form on file in City Hall, subject to modifications that do not alter the substance of the transaction and are approved by the President and Executive Director; provided that execution of the document will be conclusive evidence of their approval.
- 2.02. The President and Executive Director are authorized and directed to execute the Contract and any other documents or certificates necessary to carry out the transactions described therein.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka on August 8, 2016.

Terry Schneider, President

ATTEST:

David E. Maeda, Secretary

Action on this resolution:

- Motion for adoption:
- Seconded by:
- Voted in favor of:
- Voted against:
- Abstained:
- Absent:
- Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 8, 2016.

Secretary

**Minnetonka Economic Development Advisory Commission
Meeting Summary**

**May 22, 2014
6 p.m.**

1. Call to Order

Chair Aanenson called the meeting to order at 6 p.m.

2. Roll Call

EDAC commissioners present: Kathryn Aanenson, Benita Bjorgo, Michael Happe, Ken Isaacson, and Jerry Knickerbocker. EDAC commissioners absent: Jacob Johnson and Laurie McKendry.

Staff present: Community Development Director Julie Wischnack and Community Development Supervisor Elise Durbin.

3. Approve March 13, 2014 Meeting Minutes

On Page 3, Happe did not think he said that the money could be used for sidewalks or that the consensus was reflected in the minutes. There may be something missing in the minutes. On the top of Page 3, the second paragraph states that Bjorgo concurred with commissioners and likes the program. Happe would like added that Bjorgo's comment ended with her stating that it would be important that the commission does not have the appearance of funding things forever (that comment can be found later on in the March 13, 2014 meeting minutes).

Action on the March 13, 2014 minutes was postponed until the next meeting. Commissioners may notify staff of changes to the minutes prior to the next meeting so changes can be made before the meeting.

4. Shelter Corporation

Isaacson recused himself from discussion and action due to a potential conflict of interest.

Wischnack reported.

Johnson asked if there is a parking plan for the Opus station. Wischnack answered affirmatively. There would be 60 to 100 surface-parking spaces.

Wischnack continued her report.

Happe invited the developer to provide a presentation.

Jay Jenson, Shelter Corporation, developer, appreciated the opportunity to present the concept plan. He has been working with city staff and the neighborhood to create a concept plan. The building was reduced from four stories to three stories and went from 38 to 27 units which would be consistent with the comprehensive guide plan. The exit from the garage was changed to go north, so the median would not be in the way. He sent the changes to the neighborhood. One neighbor still does not like the density, but likes the plan better now than it was before. He appreciates the commission's consideration. He plans to submit an application to the Minnesota Finance Agency (MFA) June 10, 2014 requesting tax credits. The proposal would be eligible for a tax credit boost which would reduce the amount of housing subsidy funds the proposal would need. He appreciates working with the city on this project.

Knickerbocker asked if the Shelter Corporation would build, maintain, and run the apartment complex. Mr. Jenson stated that Shelter Corporation is working with Community Housing Corporation of America (CHCA) which is a 501C3 nonprofit who would own the proposal. Shelter Corporation would act as developer and long-time property manager. He has worked with CHCA before. There is a non-profit pool for housing tax credits. There is a much better chance of receiving tax credits if the request is made by a non-profit organization than by a for-profit organization.

Knickerbocker asked for the amount of funds requested. Mr. Jenson answered \$500,000. The development fee is typically about 15 percent. Shelter Corporation cut the fee in half to make the numbers work, mitigate the request for city assistance, and make the proposal more competitive.

In response to Knickerbocker's question, Wischnack explained that the funds come in over time. Right now, there is enough cash to handle the request. The city has internal borrowing mechanisms if needed. The Duffy project was funded with \$1.25 million tax increment financing (TIF) dollars for a total of 64 units with 75 percent affordable units. In the current proposal, all of the units would be considered affordable.

Knickerbocker asked if there are any other projects on the horizon that would request the same funds. Wischnack answered that there is nothing pending right now. The dollars would probably be used near light rail, but could be used in other places.

Bjorgo noted that 100 percent of the proposal would be for affordable housing and it would have connectivity to lite rail. She asked for the plans with the barn. Mr. Jenson said that the barn is two stories tall. There is a living residence and office. The lower level would be for exercise. The manager's office and

community room would be on the second floor. The building would be 100 percent apartments.

Johnson asked for the expected increase in property tax revenue post development. Wischnack said that the project costs are \$7 million which is \$6.7 million more than it is today in terms of tax value.

Happe noted that one more volunteer is needed for the subcommittee. Knickerbocker volunteered to be on the subcommittee. Knickerbocker was not sure what would be involved with reviewing the funding request further. Wischnack explained that the purpose of the subcommittee would be to review the financial information from the developer; determine whether the city would need to be involved with funding of the development if there would be a gap; measure the proposal against the TIF-pooling policy; and make a recommendation based on those items. Happe reviewed that the subcommittee members from the EDAC would be Knickerbocker and Aanenson.

Knickerbocker moved, Bjorgo seconded, to refer the Shelter Corporation proposal to the EDAC subcommittee. Bjorgo, Happe, Isaacson, Johnson, and Knickerbocker voted yes. McKendry and Aanenson were absent. Motion passed.

5. **Market Research**

Wischnack reported.

6. **TIF/Abatement Policy**

Wischnack and Durbin reported.

Happe likes the policy.

Isaacson applauded the effort to put it together. It is a great idea and necessary tool to be able to give to people. He hopes that the city continues to preserve a conservative approach to the use of these tools. It has proved to be good policy. He welcomed input.

Happe moved, Knickerbocker seconded, to recommend that the city council approve the TIF/Tax Abatement Policy. Bjorgo, Happe, Isaacson, Johnson, and Knickerbocker voted yes. McKendry and Aanenson were absent. Motion passed.

7. **2015-2019 EIP**

Durbin and Wischnack reported.

Minnetonka Economic Development Advisory Commission Meeting Summary

April 30, 2015
6 p.m.

1. Call to Order

Chair Aanenson called the meeting to order at 6 p.m.

2. Roll Call

EDAC commissioners present: Benita Bjorgo, Ken Isaacson, Jacob Johnson, Jerry Knickerbocker, and Kathryn Aanenson were present. Michael Happe and Kevin Maas were absent.

Staff present: Community Development Director Julie Wischnack, Community Development Supervisor Elise Durbin, and legal consultant Martha Ingram of Kennedy and Graven.

3. Approval of Minutes

Isaacson moved, Knickerbocker seconded a motion to approve the minutes as attached for the March 26, 2015 EDAC meeting. Bjorgo, Isaacson, Johnson, Knickerbocker, and Aanenson voted yes. Maas and Happe were absent. Motion passed.

4. Music Barn

Maas joined the meeting.

Chair Aanenson called for the staff report. Wischnack reported.

Chair Aanenson confirmed with Wischnack that there are sidewalks on both sides of Shady Oak Road. The cost for the proposed connections and improvements are included in the CIP.

In response to Isaacson's question, Wischnack stated that the property on the south is owned separately.

Wischnack narrated a video taken when biking the area including Lone Lake Park, Minnetonka Crossing, and the proposed Opus station. The distance totaled 3/4ths of a mile and took 4 minutes to travel on a bicycle. The subcommittee recommended approving the pooling request for 27 units to cost up to \$500,000 for construction and 30 years of affordability which would result in \$617 per unit per year price tag. Construction would begin in July of 2016 and be completed by December of 2017. All of

the units would be affordable at the 60 percent level with income and rent restrictions in place. There would be a property management covenant. Staff recommends that the EDAC recommend to the EDA to approve the contract for private development. Wischnack introduced the developer Jay Jensen of Shelter Corporation.

Knickerbocker asked Mr. Jensen if it is customary for the developer to act as the property manager. Mr. Jensen answered in the negative. Shelter Corporation is located in Minnetonka and is willing to do this. He does not have a tax-credit purchaser signed on yet. The tax-credit purchaser may not approve of the language, but Shelter Corporation is comfortable with it. Wischnack noted that the language has been used before by the Duffy project located on Interstate 394.

Knickerbocker asked what delayed the project for one year. Mr. Jensen said that the project did not get funded last time. The proposal has been improved by combining the Music Barn with a recapitalization of Elmbrook, an existing subsidized multi-family housing project, which Shelter Corporation owns and is located on the north part of Opus on the Hopkins border. It is half a mile from the lite rail station. Now the project totals 128 points. Last year, projects over 85 points were funded, so he is cautiously optimistic.

Knickerbocker asked if the funding package would be the same as last year with 9 different entities. Mr. Jensen answered that the funds would consist of the existing loans on Elmbrook from Minnetonka and Hennepin County, Minnetonka's \$500,000, and the balance of the funds from the Minnesota Housing Finance Agency. Knickerbocker noted that it would be more of a streamlined proposal than last year. Mr. Jensen explained that the MHFA lumps additional sources together including first mortgage, tax credits, and affordable funds. The project has been changed. The number of units has been reduced from 38 to 27 units. The number of stories has been reduced from 4 to 3. The building has been integrated to fit in with the barn. The entrance to the underground parking has been moved to the north. The last neighborhood meeting had 10 neighbors in attendance. Two of those residents sent emails after the meeting supporting the proposal.

Knickerbocker asked if the same grouping of units would be done. Mr. Jensen answered affirmatively.

Knickerbocker questioned if Minnetonka residents would have the first shot at residency. Mr. Jensen said that could be done. He expected it to fill up pretty quick.

Isaacson complimented the applicant on the creation of new affordable units in Minnetonka. Isaacson confirmed with Mr. Jensen that the rent would be restricted at 50 percent and income at 60 percent. Isaacson suggested clarifying that in the contract.

Isaacson confirmed with Mr. Jensen that he would apply for Hennepin County Home Funds in the next round. They want to be the last piece in.

Isaacson felt that the project is terrific. He wanted more information on the total sources and uses before he could make a recommendation for \$500,000 today. He supports making a commitment for the June application and reserving the right until the balance of sources and uses are more defined and the performa reviewed.

Isaacson confirmed with Mr. Jensen that Minnetonka's contribution would remain the same as long as the general partner capital contribution remained the same.

Wischnack pointed out Section 3, Subsection B that states that the minimum improvements at the closing date are reduced below the amounts estimated at the date of the agreement and such reduction shall be applied first to the TIF grant. If the dollar figures provided for the gap would change, then that would reduce the TIF grant amount. Isaacson would like something to account for other factors such as shift in existing sources, higher equity price, or additional first mortgages. He suggests that the city's TIF pool commitment be contingent on the general partners' capital contribution remaining at \$250,000. Wischnack confirmed that Ms. Ingram would be comfortable with that.

Knickerbocker said that the proposal would not be ideal. There are not a lot of support services adjacent to the site. He supports using tax increment financing and TIF pooling for the proposal.

Isaacson would like to see the proposal again in the fall to review the proposed sources.

Isaacson moved, Knickerbocker seconded a motion to recommend that the EDA approve a contract for private development for TIF pooling funds up to \$270,000 contingent upon the general partner capital commitment of at least \$250,000.

Maas asked how Isaacson arrived at the \$270,000 figure. Isaacson answered \$10,000 per unit.

Maas had called staff to get a sources and uses statement to learn more about the financing. He noted that the Minnesota Housing Finance Agency's process is very cumbersome and transparent. Given that the subcommittee reviewed that financing, he questioned why the EDAC would come up with \$270,000 rather than \$500,000 if the need is there, the money is there, and the number of units was decreased. It is on the low scale for the city's history with subsidy. Maas presumed the developer has worked on the proposal for a long time. He thought the project would be very nice for the area.

Mr. Jensen said that he would be happy to come back in the fall, but he would need the \$500,000 commitment before going to the MHFA. If there would be a way to reduce the amount of local funds, he would be in favor of it.

Isaacson was unsure of the committed sources and underwriting that arrived at the size of the mortgage, equity pricing, and cash flow. Wischnack said that it might be an option

to approve staff's recommendation and add a condition requiring revisiting the proposal before the contract is executed in December.

Isaacson and Knickerbocker voted yes. Bjorgo, Johnson, Maas, and Aanenson voted no. Happe was absent. Motion failed.

Johnson moved, Bjorgo seconded a motion to recommend that the EDA approve a contract for private development of TIF pooling funds up to \$500,000. Prior to the execution of the contract, the EDAC will review all committed sources, uses, and cash flow for the project.

Mr. Jensen stated that the thing that moves around the most is the first mortgage by the MHFA. They will try to get the mortgage up as much as possible to reduce subsidy funds. To the extent that the mortgage would be higher than the perform, the city could reduce its funds proportionately dollar for dollar. That is the wild card. The MHFA underwriting criteria and tax credit purchases underwriting criteria are not the same. They have to be worked through for every project. The mortgage amount is what moves around the most with MHFA. He does not think the tax credit purchaser will get higher than \$.98 on \$1.

Ms. Ingram suggested approving the \$500,000 subject to a full review of the sources and uses upon receipt. There is no intention to execute the contract unless MHFA approves the tax credits. Nothing is set in stone until the contract is executed. Wischnack asked if the contract could authorize a reduction in the TIF pooling amount based on whatever happens with other sources. Ms. Ingram said that the language in the contract would be sufficient for that. The contract requires the TIF pooling funds to be the first to be decreased if the total costs of development decreased. The language could be made stronger.

Bjorgo, Isaacson, Johnson, Knickerbocker, Maas, and Aanenson voted yes. Happe was absent. Motion passed.

5. 2016-2020 EIP

Wischnack reported.

Knickerbocker moved, Isaacson seconded a motion to recommend that the city council approve the 2016-2020 EIP with changes in the change memo. Bjorgo, Isaacson, Johnson, Knickerbocker, Maas, and Aanenson voted yes. Happe was absent. Motion passed.

6. Corridor Housing Strategy

Durbin reported.

Minutes
Minnetonka Economic Development Authority
Monday, May 18, 2015

1. Call to Order

Schneider called the meeting to order at 10:12 p.m.

2. Roll Call

Council Members Bob Ellingson, Dick Allendorf, Patty Acomb, Brad Wiersum, Tim Bergstedt, Tony Wagner and Terry Schneider were present.

3. Approval of Agenda

Wagner moved, Wiersum seconded a motion to accept the agenda, as presented. All voted "yes." Motion carried.

4. Approval of Minutes: April 20, 2015

Wagner moved, Acomb seconded a motion to approve the April 20, 2015 minutes. All voted "yes." Motion carried.

5. Business Items:

A. Music Barn Apartments TIF Pooling Request

Community Development Director Julie Wischnack gave the staff report.

Schneider said the development activity in the 394 area benefits the entire community. Wagner agreed and he commended the developer for the project.

Wagner moved, Allendorf seconded a motion to
1. Adopt resolution 2015-04 approving the Contract for Private
Development, but that prior to execution of the contract, a review of
sources and uses and the total gap will be completed by the EDAC and
city's financial advisor.

All voted "yes." Motion carried.

6. Adjournment

Bergstedt moved, Acomb seconded a motion to adjourn the meeting at 10:15 p.m. All voted "yes." Motion carried.

4. Review revised financing concept for Shelter Corporation.

Chair Aanenson called for the staff report. Wischnack reported.

Knickerbocker asked if there is a policy relating to tax-exempt bonds. Wischnack answered affirmatively. Knickerbocker asked if there would be requirements. It sounded like a lot of money. The 27 units met the “but, for test,” but adding on the 54 units no longer qualifies the proposal for the “but, for test,” but it might qualify for tax-exempt bonds. Wischnack explained that the city has done tax-exempt financing for entities that were also provided TIF pooling funds and tax-increment funds. The Ridge and The Overlook are examples. The policy provides standards.

Chair Aanenson asked if there are amount limits or a nexus between the other funding sources. Knickerbocker asked what should be taken into account when looking at the overall amount. Wischnack explained that it is hard to quantify tax-exempt financing mixed with TIF pooling. Isaacson explained that the tax-exempt bond policy allows for preserving an affordable development for the long term.

Jay Jensen, of Shelter Corporation, applicant, stated that Wischnack did a great job describing the project. He stated that:

- ElmbrookeTownhomes currently has tax-exempt financing issued by the city. The proposal would refinance the existing tax-exempt financing.
- The proposal did not get selected by the Minnesota Housing Finance Agency (MHFA). Four-percent tax credits are not nearly as valuable as nine-percent credit, but the only way to get them is with tax-exempt bonds. The interest rate between tax-exempt bonds and taxable bonds is about the same and it costs more to do tax-exempt bonds, but tax-exempt bonds have to be done to get the credits.
- There is no risk to the city and costs the city nothing.
- It would be FHA insured to get a 40-year term.
- The chart shows how the loss from the tax-credit proceeds would be made up. It is significant to go from \$9.7 million to \$5.1 million.
- An FHA, tax-exempt, 40-year mortgage is more efficient than a loan through the MHFA. An FHA, tax-exempt, 40-year mortgage saves at least 1.5 percent on the interest rate plus a longer term and lower debt-service coverage.
- HUD does a study every year to determine what the rents should be for Elmbrooke Townhomes. Five years ago, the rents went backwards. Now the market is as strong as it has been for many years. A study is being done now to increase the rents to support a larger mortgage.

- The non-profit would include \$1,250,000 of its own money. That is how committed the non-profit is to the project.
- The project still ends up \$300,000 short.
- He described the CHC Boardmembers.
- The rent comparison study should be done in the next month. He expected a \$100 to \$150 per month rent increase that would support a large enough mortgage so the city's \$300,000 would not be necessary.
- The CHC does not have current ownership interest in the property.
- He was available for questions.

Isaacson confirmed with Mr. Jensen that the proposal would not be preservation eligible.

Isaacson supports the concept. Combining the projects makes sense. He asked if the applicant planned to submit a spring application to Hennepin County. Mr. Jensen explained that the limited partner in Elmbrooke wants to go to market with the property. The current owners of the music barn site have been very patient. There is a negative capital account. It is getting close to the time when the limited partner could sell or require the applicant to buy their interest.

Isaacson asked if the applicant requested financing from Golden Valley. Mr. Jensen answered in the negative. The applicant asked last time, but Golden Valley did not have the resources to do so.

Isaacson emphasized his support for the concept, but he thought the applicant should be pursuing other lenders. The city has made a significant commitment. He felt it would be appropriate for Minnetonka to be involved, but others need to come to the table. The proposal is a perfect candidate for Hennepin County. Mr. Jensen said that he would be happy to apply to Hennepin County. Part of the issue is sequencing. He was trying to keep the current owners on board. If another funding source would be secured, then the last money in, the \$300,000 from Minnetonka, would be the first returned. The trigger date is this summer.

In response to Isaacson's question, Mr. Jensen explained that first-mortgage assumptions would be a 40-year term, FHA loan with an interest rate of 3.5 percent and 40 MIP. The rents used are based on the predicted updated rent of \$115 above the current monthly rent.

Mr. Jensen explained that the rent at the music barn is \$975 and \$1,175 for a 3-bedroom. At Elmbrooke, 30 percent of the tenant's income is paid to rent. A 2-bedroom at Elmbrooke is \$1,173. Thirty percent of a tenant's income may be \$500. The tenant writes a check for \$500 and HUD makes up the difference. The residents are looking forward to rehabilitating the inside of the units.

Mr. Jensen stated that the rent study has not been completed yet.

Isaacson asked for the assumption for equity pricing. Mr. Jensen said that two bids are at \$102.

Knickerbocker asked why the MHFA did not fund the bid. Mr. Jensen answered that there was one phrase that was not caught that added 5 more years of affordability onto the project. He thought the application was a slam dunk because it had so many points for preservation, was located close to light rail, and contained new construction in addition to rehabilitation of an existing structure. A commissioner told him that the rules would be changed to prevent another applicant from having new construction and rehabilitation together in one project to get points on both sides. The preservation points are so significant and the selection process is so competitive that it knocked the application out of the running.

Wischnack stated that the phrasing used on an application for tax credits can eliminate an application.

Isaacson added that it is common to not get funded since four times the number of applications received are able to be funded.

Mr. Jensen said that there is a great need for affordable housing and not nearly enough resources. The best tool is the 9 percent credit which is why it is so competitive throughout the whole state.

Isaacson supports the concept. It is creative. It is premature in terms of the projections. He is not confident that there would be a gap. He asked if the applicant would consider a cash-flow loan. There was moderate cash flow being distributed at one time. Mr. Jensen answered that the cash flow disappeared. Mr. Jensen stated that the general partner could consider a cash-flow loan as a last resort after some reasonable return to the general partner. The projection of annual cash flow is \$60,000. That includes a rent-value increase of \$115 per month.

Knickerbocker asked why there is a need for \$2.9 million for rehab for Elmbrooke. Mr. Jensen explained that the replacement reserve goes toward replacing carpet and painting as units turn over. The rent is not high enough to set aside funds to cover maintenance or a new roof. With tax-credit projects, every 15 years a substantial rehabilitation is done. There needs to be a replacement reserve large enough to cover maintenance costs for 15 years. The project is worth a lot more than \$2.9 million rehab. The rents are kept artificially low. HUD inspects the properties each year. Elmbrooke scored unsatisfactory on the exterior.

Knickerbocker thought 11 percent of the project as a developer's fee is high. Mr. Jensen explained that in 4 percent tax-credit projects, the key is to get the basis

as high as possible to get the most credits possible. There is also \$757,000 of deferred developer fee. That goes to the non-profit organization. That comes out of cash flow over a fifteen-year period. The amount is higher than it was last time to boost the base, but it is included in the deferred developer fee to get the tax credits bigger. The deferred part of the cash flow goes to the non-profit organization.

Chair Aanenson summarized that additional information would be needed including the amount of rent compensation and the results of fund requests to Hennepin County and Golden Valley.

Isaacson did not have enough information to recommend new additional financing. The city has made a significant commitment of \$500,000 early. Other opportunities need to be exhausted.

Mr. Jensen said that he could share the summary page of the rent-compensation study. Wischnack agreed. She will have Ehlers redo the "but, for" analysis for next month and have legal counsel weigh-in on the disbursement agreement that allocates Minnetonka's money to be the last used. She will have Ehlers address the issues related to rent, financial gap, developer fee, and county and Golden Valley applications.

Isaacson supports the project. This is the best way to expand potential resources. He was not convinced there would be a gap.

Wischnack requested the EDAC provide direction at the next meeting. She assumed the applicant could depend on the \$500,000 provided in the original contract with the city. Isaacson noted that the city's \$500,000 would be reduced if equity would come in significantly higher than originally projected or the debt financing would be more attractive than it is today.

Isaacson and Knickerbocker felt that the current deal is different than the previous one.

Wischnack will return with an analysis from Ehlers and the city attorney at the next meeting. The applicant may get information from Golden Valley and Hennepin County.

Chair Aanenson confirmed with Wischnack that the contract has to be revised if changed. The contract is good until July 1, 2016 for construction to begin.

Knickerbocker asked if TIF pooling is the only source of funds that can be used for the proposal. Wischnack said that it is the most appropriate source. The money in the development fund could also be used. The money in the Livable Communities Fund is committed. This proposal is one of the lowest amount-per-unit projects the city has funded. Isaacson said that the proposal would preserve

an existing asset and create a new one. The city's goal is to produce and maintain affordable housing in the city. The proposal makes great strides in helping the city reach that goal. He was not sure that there would be a gap.

4. Review revised financing concept for Shelter Corporation.

Chair Aanenson called for the staff report. Wischnack, Ruff, and Eddington reported.

Isaacson asked if the commitment for \$500,000 is still in place. Wischnack answered affirmatively. Eddington clarified that the \$500,000 would be added to \$300,000 for a total of \$800,000. The contract has not been signed by all of the parties. The contract could be changed to include the \$300,000 and move forward.

Knickerbocker asked Ruff what he would recommend for the amount of the contingency fund. Ruff made it clear that he is not making value judgements about the amount of contingency or the amount of renovation going on. He has no knowledge of what would be necessary for the building. It is common in renovation projects for surprises to occur. The minimum standards must be met and there must be a contingency plan in case of surprises. Chair Aanenson confirmed with Ruff that the expectations need to be made clear in the private development contract.

Knickerbocker asked if it is common for cities to hire an inspecting architect. Ruff answered not for this amount of financial assistance. He mentioned it as an option.

Isaacson expected that the equity investor would have a minimum of 7 percent and more likely 10 percent.

Ruff continued his report.

Eddington reported.

Isaacson asked if the sources and uses would be based on those from 2014. He asked what mechanism would make the city's funds the last money in. Eddington explained that there would be a sources and uses submitted at the time of the bond closing. There would be a master dispersing agreement that would prioritize how monies would be used. The city's \$800,000 would be the last money used and would be reduced by cost savings or additional funds. The final sources and uses would be sent to Ehlers for review.

Isaacson asked who makes decisions if an increase in construction costs is eligible and or appropriate and or there is a corresponding reduction of capital contribution from any of the other sources. Eddington stated that the TIF grant would not be increased because it would take board authority. Wischnack stated that staff would rely on Ehler's. Isaacson did not think Ehlers would provide a

subjective review. Wischnack explained that Ehlers would review the final numbers to find anything that looks different or inappropriate.

Ruff added that Ehlers was working off of the December pro forma as well.

Knickerbocker asked if \$500,000 or \$300,000 of the city's funds would be used first if needed. Wischnack clarified that both are money provided by TIF pooling. Eddington added that once the developer is closer to completing a construction contract, then the developer would request that the city issue tax-exempt bonds of the developer's behalf. At least 50 percent of the project cost must be issued with tax-exempt bonds.

Knickerbocker asked if the assessments attached to the property help qualify the site for tax credits. Wischnack agreed that there is an assessment for sewer and water improvements from years ago. Ruff was suggesting that an appraisal be done on the townhomes. It is much more difficult to get a third-party acquisition and purchase agreement today.

Isaacson asked Ruff if he reviewed an appraisal that supports a \$525 acquisition price for 54 or 46 units. He was unsure what the appraised value includes. Ruff understood that the appraisal includes both. The appraisal looked at units with rent restrictions and no rent restrictions.

Isaacson thought inflating the price added \$.65 to the gap for every dollar. Ruff understood. The tax credits do not bring the incentives, but acquisition and rehabilitation projects being done by related parties.

Isaacson was concerned with the acquisition price that establishes the base value for both properties. He asked if there as an appraisal that supports the purchase price. Ruff answered affirmatively. There are two appraisals for three different sites. Isaacson would like to see the appraisals.

Jay Jensen, of Shelter Corporation, applicant, stated that:

- The two appraisals were ordered by the Minnesota Housing Finance Agency. The combined value of the sites is \$84,000 less than the appraisal values.
- Shelter Corporation does a lot of new construction and rehabilitation business and uses different contractors for each of them. Shelter Corporation has done \$250 million of housing construction with Frana and Company over the years. Shelter Corporation has never had a surprise that cost beyond the contingency fund.
- Shelter Corporation is working with an occupied rehabilitation expert.

- The contingency for rehabilitation is 10 percent and for new is 4 percent. If it would go beyond that, Shelter Corporation would have corporate guarantors who would write the check. The developer's fee would be reduced dollar for dollar for an unplanned expense.
- He submitted a proposal for the Affordable Housing Incentive Fund provided by Hennepin County. He is cautiously optimistic that one or two applications he submitted will come through.

In response to Isaacson's question, Mr. Jensen stated that the appraisals considered the units market rate. Isaacson would be interested in appraisal results for rent-restricted units. Wischnack asked for authorization to release the appraisal. Mr. Jensen provided authorization.

Isaacson asked if Shelter Corporation got an approved HUD rent study. Mr. Jensen answered affirmatively. It showed that the additional \$300,000 would be needed.

Mr. Jensen explained that Shelter Corporation applied for a transportation-oriented development (TOD) grant. To be eligible for the grant, the city would have to create a redevelopment district. Wischnack added that a resolution is on the city council's agenda Monday night in support of the proposal receiving the TOD money.

Mr. Jensen stated that the two applications each requested \$250,000 from Hennepin County.

In response to Knickerbocker's question, Mr. Jensen stated that he hopes to close early this summer.

Chair Aanenson confirmed with Wischnack that commissioners may choose to recommend to staff to finalize the contract to include an additional \$300,000 for a total of \$800,000 with the caveat that it would be dispersed as Eddington described.

Isaacson noted that the equity investor would have an inspecting architect and the equity investor's interests are aligned with Minnetonka's interests.

Happe asked when the Hennepin County grants will be decided and the likelihood of the proposal being awarded either of the grants. Wischnack is hopeful, but the city would still provide a funding commitment. The amount would go down if a grant is awarded. The grants are expected to be awarded in April. Eddington explained that it would be easy to reduce the amount before the contract would be signed. Wischnack added that the contract could be amended if necessary.

Isaacson supports the project. He is not convinced that there continues to be a gap. He supports \$500,000. If the amount would be \$800,000, then he would want to explore a cash-flow loan in lieu of a deferred loan. He did not have enough information to make a recommendation of \$800,000.

Knickerbocker was comfortable with \$500,000 as a clean, separate deal. He was unsure, but wanted to give staff what they need to work with. He was willing to recommend to continue discussions regarding \$800,000 with the caveat of more information being provided.

Happe liked the project and the idea of the city supporting the project. The \$500,000 commitment feels pretty good. He felt like the conversation may be more if the other grants are received. The additional \$300,000 may not be needed.

Yunker agreed that there are other funding possibilities which make it difficult for him to make a recommendation to move forward without knowing the outcome of those possibilities.

Chair Aanenson was fine with reviewing the contract at the next EDAC meeting. Wischnack said that the contract will be brought back to the EDAC to review with changes in April. The \$800,000 discussion will be set aside. She needs to take a recommendation from the EDAC to the city council.

EDA Agenda Item #5B
Meeting of August 8, 2016

Brief Description	Amendment to the Elmbrooke Loan Documents
Recommendation	Adopt the resolution

Background

In August 2000, the Minnetonka Economic Development Authority entered into a loan agreement in the amount of \$108,000 with Elmbrook G.V. LP to assist with rehabilitation of the Elmbrooke Townhomes located at 5420 Smetana Drive.

The borrower, Elmbrook G.V LP, is requesting that the EDA consider assigning the loan to the new owner of the Elmbrooke Townhomes (CHC Minnetonka Affordable Housing L.L.C.) and amending the Loan Agreement and supporting documents (pages A14-A59) to extend the term of the loan to match the term of the new FHA loan that the developer is seeking to assist with the new Elmrooke rehabilitation project. The HUD regulations for FHA financing do not allow a subordinate loan, such as the Elmbrooke loan, to have a shorter repayment period than the MHFA financing that is being requested. Because, these types of loans do not require payments during the term, the developer is proposing paying the interest that has accrued on the original loan prior to the amendment of the new loan document. The interest accrued to date is approximately \$14,000.

Existing Loan:

- Elmbrook – G.V L.P Limited Partnership
- \$108,000
- 1% interest per annum
- Term 35 years (due August 1, 2035)

Amended Loan:

- CHC Minnetonka Affordable Housing L.L.C.
- \$108,000
- 2.08% interest per annum
- Term 30 years (due August 1, 2051)

A memo from the city's attorney explaining the changes is attached (pages A1-A2).

Recommendation

Staff recommends the EDA adopt:

- The resolution (pages A3-A5) approving the amendment to the Elmbrooke Loan Agreement and supporting documents(pages A14-A59) that include:

- Mortgage
- Promissory Note
- Assignment and Assumption of Loan
- Subordination Agreement

Submitted through:

Geralyn Barone, City Manager

Julie Wischnack, AICP, Community Development Director

Originated by:

Alisha Gray, Economic Development and Housing Manager

Other Supplemental Information

Original Elmbrooke Note (page A6)



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August 1, 2016

Julie Wischnack
Community Development Director
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1502

Re: Assignment and Assumption and Renewal of Elmbrooke Loan Documents

Dear Julie,

As you know, CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company (the "Borrower"), is working with the City of Minnetonka (the "City") to finance with tax-exempt bonds: (i) the acquisition, construction, and equipping of approximately twenty-seven (27) new affordable apartment units to be located at 5750 Shady Oak Road in the City (the "Music Barn Project"); (ii) the acquisition and substantial rehabilitation of forty-six (46) existing affordable townhome units located at 5400 Smetana Drive in the City (the "Elmbrooke Apartments"); and (iii) the acquisition and substantial rehabilitation of six (6) existing affordable townhome units located at 2100 Douglas Drive North and two (2) existing affordable townhome units located at 3354 Lilac Drive North in Golden Valley (the "Golden Valley Townhomes," and collectively with the Music Barn Project and the Elmbrooke Apartments, the "Projects"). The permanent financing for the Project is expected to include two series of tax-exempt obligations, one series secured by a FHA Insured Mortgage Loan and a second series secured by tax credit investor contributions.

In 2000, the City issued conduit bonds for the Elmbrooke Apartments and the Golden Valley Townhomes for the benefit of the owner of those projects (Elmbrook-G.V. LP). In conjunction with the issuance of the bonds, the Economic Development Authority in and for the City of Minnetonka (the "EDA") provided a loan in the amount of \$108,000 to Elmbrook-G.V. LP (the "Prior EDA Loan"). The principal of and interest on the Prior EDA Loan was due and payable upon the earlier of an event of default, upon transfer, or August 1, 2035. The Prior EDA Loan was secured by a Loan Agreement, Mortgage and Promissory Note. The Prior EDA Loan was subordinated to an MHFA loan provided to Elmbrook-G.V. LP as part of the 2000 bond financing (as required by HUD guidelines).

The Borrower intends to purchase the Elmbrooke Apartments and the Golden Valley Townhomes from Elmbrook-G.V. LP and rehabilitate the properties. Both the Borrower and Elmbrook-G.V. LP have requested that the EDA waive the requirement to pay the Prior EDA Loan at the time of a transfer, assign the Prior Loan to the Borrower, and extend the term of the Prior EDA Loan to the date of maturity of the FHA Insured Mortgage to be obtained by the Borrower to finance a portion of the Projects (as required by

HUD guidelines) to December 31, 2058. As part of the FHA Insured Mortgage Loan, HUD requires that the Prior EDA Loan be subordinated to the FHA Insured Mortgage Loan.

In order to assign the Prior EDA Loan to the Borrower we have prepared the following documents:

- Assignment and Assumption Agreement;
- Amended and Restated Loan Agreement;
- Amended and Restated Mortgage;
- Promissory Note; and
- FHA Insured Loan Subordination Agreement (in the form requested by HUD).

I will attend the meeting of the Board of Commissioners of the EDA on August 8, 2016 and can answer any questions that may arise during the meeting. Please contact me with any questions you may have prior to the City Council meeting.

Sincerely,

Julie A. Eddington

Resolution No. 2016-

Resolution approving an assignment of loan to CHC Minnetonka Affordable Housing LLC and authorizing the execution of loan documents in connection therewith

Be it resolved by the Board of Commissioners (the "Board") of the Economic Development Authority in and for the City of Minnetonka, Minnesota (the "Authority") as follows:

Section 1. Background.

- 1.01. The Authority and Elmbrook – G.V. LP, a Minnesota limited partnership ("Elmbrook") are parties to a Loan Agreement (EDA Funds), dated as of August 1, 2000 (the "2000 Loan Agreement"), pursuant to which the Authority made a loan (the "Loan") to the Assignor in the amount of \$108,000 to provide financing for the acquisition and installation of certain rehabilitation items described therein for a 46-unit multifamily housing project known as Elmbrooke Townhomes (the "Elmbrook Townhomes") located at 5420 Smetana Drive (the "Property") in the City of Minnetonka (the "City").
- 1.02. To evidence the Loan, Elmbrook executed and delivered a Promissory Note, dated as of August 1, 2000 (the "2000 Note"), to the Authority. To secure the repayment obligations of the Borrower, the Borrower executed and delivered to the Authority a Mortgage, dated as of August 1, 2000 (the "2000 Mortgage").
- 1.03. Elmbrook has determined to convey the Property to CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company (the "Borrower"), and to assign the Loan to the Borrower, and the Borrower has agreed to acquire the Property and assume the rights and obligations of Elmbrook with respect to the Loan.
- 1.04. In order to memorialize the assignment of the Loan by Elmbrook to the Borrower, there has been prepared and presented before this Board an Assignment and Assumption Agreement (the "Assignment and Assumption Agreement") proposed to be entered into between Elmbrook, the Borrower, and the Authority.
- 1.05. Following the assignment of the Loan to the Borrower, the Borrower has proposed to enter into an Amended and Restated Loan Agreement (the "Loan Agreement") with the Authority, which will amend and restate the terms of the 2000 Loan Agreement. Additionally, the Borrower will execute and deliver a Promissory Note (the "Note") to the Authority. The Borrower has also proposed to enter into an Amended and Restated Mortgage (the "Mortgage") with the Authority, which will amend and restate the 2000 Mortgage.

- 1.06. The repayment of the Loan by the Borrower is expected to be subordinate to the repayment obligation of the Borrower with respect to a mortgage loan in the approximate principal amount of \$8,925,000 (the "FHA Loan") to be advanced by Dougherty Mortgage LLC (the "FHA Lender") to the Borrower and insured by the Federal Housing Administration (the "FHA") under Section 221(d)(4) of the National Housing Act, as amended. The FHA Loan is being provided to the Borrower in connection with multifamily housing revenue bonds to be issued by the City for the benefit of the Borrower to finance, in part, the acquisition and substantial rehabilitation of the Elmbrook Townhomes.
- 1.07. The terms of the FHA Loan require that the EDA subordinate the repayment of its Loan to the FHA Loan. There has been presented before the Board a form of Subordination Agreement (U.S. Department of Housing and Urban Development) (the "Subordination Agreement"), providing for the subordination of the Loan to the FHA Loan.
- 1.08. The Board has reviewed the Assignment and Assumption Agreement, the Loan Agreement, the Note, the Mortgage, and the Subordination Agreement (collectively, the "Loan Documents"), and finds that the execution thereof by the Authority and performance of the Authority's obligations thereunder are in the best interest of the City and its residents.

Section 2. Board Action.

- 2.01. The Loan Documents are approved in substantially the form on file in City Hall, subject to modifications that do not alter the substance of the transaction and are approved by the President and Executive Director of the Authority; provided that execution of the Loan Documents will be conclusive evidence of their approval.
- 2.02. The President and Executive Director are authorized and directed to execute the Loan Documents and any other documents or certificates necessary to carry out the transactions described therein and herein.

Adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka on August 8, 2016.

Terry Schneider, President

ATTEST:

David E. Maeda, Secretary

Action on this resolution:

- Motion for adoption:
- Seconded by:
- Voted in favor of:
- Voted against:
- Abstained:
- Absent:
- Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Commissioners of the Economic Development Authority in and for the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 8, 2016.

Secretary

PROMISSORY NOTE

\$108,000

August 1, 2000

ELMBROOK – G.V. LP, a Minnesota limited partnership (the “Maker”), for value received, hereby promises to pay to the Economic Development Authority in and for the City of Minnetonka (the “EDA”) or its assigns (the EDA and any assigns are hereinafter referred to as the “Holder”), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of One Hundred Eight Thousand and No/100ths Dollars (\$108,000), or so much thereof as may be advanced under this Note, together with interest as hereinafter provided, in any coin or currency which at the time or times of payment is legal tender for the payment of private debts in the United States of America.

The principal of and interest on this Note is due and payable as follows:

1. Interest at the simple rate of one percent (1.0%) per annum shall accrue from the Loan Closing Date, as defined in the Loan Agreement of even date herewith between Maker and Holder (the “Loan Agreement”) until the Loan is repaid in full.

2. The entire unpaid balance of principal and interest shall be due and payable in full on the earlier of the following: (i) subject to Section 13 hereof, thirty (30) days after written notification by Lender to Borrower of the occurrence of an Event of Default as defined in the Loan Agreement and demand of payment according to Section 6 of the Loan Agreement; or (ii) ten days after Maker makes or allows to be made any total or partial transfer, sale, assignment, conveyance, lease (except a lease to a residential tenant of a unit within the Project and except transfer of any limited partnership interest), or transfer in any other mode, of the Project, all as such terms are defined in the Loan Agreement, except to the extent the transfer is permitted under the terms of the Bond Documents (as defined in Section 12 hereof), the Bonds remain outstanding after such transfers and the transferee assumes the obligations of the Maker under this Note; or (iii) August 1, 2035.

3. The Maker shall have the right to fully or partially prepay this Note at any time without penalty. Any partial prepayment shall be applied first to any unpaid, accrued interest with the balance, if any, applied to principal.

4. This Note is given pursuant to the Loan Agreement, as the same may be amended from time to time, and is secured by a mortgage of even date herewith (the “Mortgage”) covering certain real property located in Hennepin County, as defined in the Mortgage. All of the agreements, conditions, covenants, provisions, and stipulations contained in the Loan Agreement and the Mortgage are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence of this Note.

5. If an Event of Default occurs under the Loan Agreement, then the Holder of this Note may, at its right and option, but subject in all respects to Section 13 hereof, declare immediately due and payable the principal balance of this Note and interest accrued thereon, without notice, demand or presentment for payment to Maker or others. The remedies of Holder, as provided herein and in the Loan Agreement and the Mortgage, shall be cumulative and

concurrent, may be pursued singly, successively, or together, and, at the sole discretion of the Holder of this Note, and may be exercised as often as occasion therefor shall occur, subject in all respects to the provisions of Section 13 hereof.

6. The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder of this Note and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought, provided that any amendment of the terms of Sections 1, 2, 12 or 13 of this Note must also be approved by the Servicing Agent (as defined in Section 12 hereof) at any time that the Bonds (as defined in the Loan Agreement) are outstanding.

7. If any Event of Default occurs, and if Holder engages legal counsel or others in connection with advice to Holder or Holder's rights and remedies under the Loan Agreement or this Note, Maker shall pay all reasonable expenses incurred by Holder for such persons, irrespective of whether any suite or other proceeding has been or is filed or commenced. Any such expenses, costs and charges shall constitute additional principal, payable upon demand, and subject to this Note and the Loan Agreement.

8. Except as otherwise provided in this Note or in the Loan Agreement, Maker hereby (a) waives demand, presentment for payment, notice of nonpayment, protest, notice of protest, and all other notice; (b) agrees to any substitution, exchange, addition, or release of any party or person primarily or secondarily liable hereon; (c) agrees that Holder shall not be required first to institute any suit or to exhaust its remedies against Maker or any other person or party in order to enforce payment of this Note; (d) consents to any extension, rearrangement, renewal, or postponement of time or payment of this Note and to any other indulgence with respect hereto without notice, consent, or consideration to any of them.

9. If any term of this Note, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

10. It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and governed by the laws thereof.

11. Notwithstanding anything to the contrary herein, this Note shall be nonrecourse, and the Holder's sole recourse with respect to the Note shall be as set forth in the Mortgage.

12. The Maker and, by acceptance of this Note, the Holder, agree that the payments due under this Note shall be subordinate in all respects to the amounts required to be paid by the Maker under the Promissory Note dated August 25, 2000 in the principal amount of \$2,800,000 (the "Bond Note") and executed by the Maker in favor of the City of Minnetonka, Minnesota (the "Issuer"), as assigned to U.S. Bank Trust National Association (the "Trustee") and under the

Loan and Financing Agreement dated as of August 1, 2000 (the "Financing Agreement") and executed by the Maker and the Issuer in connection with the issuance by the Issuer of its \$2,800,000 Multifamily Housing Revenue Refunding Bonds (Elmbrooke-Golden Valley Townhomes Project) Series 2000 (the "Bonds")(the Financing Agreement, the Note and the other Documents executed in connection with the Bonds are hereinafter referred to collectively as the "Bond Documents"). Any payments made by the Maker under this Note in contravention of the provisions of the foregoing sentence shall be held by the Maker in trust for the benefit of the Issuer and the Trustee.

13. Notwithstanding any provision herein to the contrary, the Maker and, by acceptance of this Note, each Holder, agree that as long as any portion of the Bond Note remains unpaid or any amounts are due and payable to the Issuer, the Trustee or the Servicing Agent (as defined in the Financing Agreement) under the Bond Note or the Financing Agreement, the Holder shall have no right, without the written consent of the Servicing Agent, to commence foreclosure proceedings or exercise any other remedies in respect of or relating to any default on this Note or the mortgage executed as security for this Note. Each Holder, by acceptance of this Note, expressly agrees and acknowledges that no holder of this Note will institute against, or join any other person in instituting against, the Maker any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding under any bankruptcy or similar law, until the date the Bond Note has been paid in full and the Maker has paid all amounts due under the Financing Agreement.

14. IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed as of the 25th day of August, 2000.

ELMBROOK – G.V. LP

By: Elmbrook Golden Valley, Inc.
Its: General Partner

By *Ryan Carlson Schell*
Its *President*

MORTGAGE

This Mortgage made this 1st day of August, 2000, between ELMBROOK - G.V. LP, a Minnesota limited partnership, of the County of Hennepin and State of Minnesota, Mortgagor, and ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, public body corporate and politic under the laws of the State of Minnesota, Mortgagee.

Witnesseth: That the said Mortgagor, in consideration of the sum of One (\$1.00) Dollar and other good, valuable and sufficient consideration, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said Mortgagee, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota, described as follows, to-wit: See Exhibit A.

To Have and to Hold the Same, Together with the hereditaments and appurtenances thereto belonging to the said Mortgagee, its successors and assigns, forever. And the said Mortgagor, for itself, and its successors and assigns, does covenant with the said Mortgagee, its successors and assigns, as follows: That it is lawfully seized of said premises and has good right to sell and convey the same; that the same are free from all incumbrances, save and except reservations, restrictions and easements set forth on Exhibit B; that the Mortgagee, its successors and assigns, shall quietly enjoy and possess the same; and that the Mortgagor will Warrant and Defend the title to the same against all lawful claims not hereinbefore specifically excepted.

Provided, Nevertheless, That if said Mortgagor, its successors and assigns, shall keep and perform each and every one of its obligations under and pursuant to that certain Promissory Note dated August 1, 2000, given by Mortgagor to Mortgagee, and shall keep and perform all the covenants and agreements herein contained, then this deed to be null and void, and to be released at the Mortgagor's expense. This Mortgage secures a principal debt in the amount of One Hundred Eight Thousand Dollars (\$108,000) payable by Mortgagor to Mortgagee under the terms of the Note and the Loan Agreement, dated August 1, 2000 between Mortgagor and Mortgagee, which Note matures no later than August 1, 2035. Notwithstanding anything to the contrary herein, the Note shall be nonrecourse and the Mortgagee's sole recourse with respect to the Note shall be as set forth herein.

1. And the Mortgagor, for itself, and its successors and assigns, does hereby covenant and agree with the Mortgagee, its successors and assigns, to perform its obligations as above specified, to pay all taxes and assessments now due or that may hereafter become liens against said premises at least ten (10) days before penalty attaches thereto; to pay, when due, both principal and interest of all prior liens or incumbrances, if any, above mentioned and to keep said premises free and clear of all other prior liens or incumbrances; to commit or permit no waste on said premises and to keep them in good repair; to complete forthwith any improvements which may hereafter be under course of construction thereon, and to pay any other expenses and attorneys' fees incurred by said Mortgagee, its successors or assigns, by reason of litigation with any third party for the protection of the lien of this Mortgage.

2. That Mortgagor, does further covenant and agree that if any lien for labor, skill or material shall be filed for record during the life of this Mortgage, upon or against the premises

hereby mortgaged, the said Mortgagor will, within thirty (30) days after the date of its filing for record, either pay off the said lien and secure its satisfaction of record, or will protect the Mortgagee against any loss or damage growing out of its enforcement, by furnishing a bond for the same amount in the form and with the sureties to be approved by the Mortgagee.

3. In case of failure to pay said taxes and assessments, prior liens or incumbrances, expenses and attorneys' fees as above specified, or to insure said buildings and deliver the policies as aforesaid, the Mortgagee, its successors or assigns, may pay such taxes, assessments, prior liens, expenses and attorneys' fees and interest thereon, or effect such insurance, and the sums so paid shall bear interest at the highest rate permitted by law from the date of such payment, shall be impressed as an additional lien upon said premises, and be immediately due and payable from the Mortgagor, its successors or assigns, to said Mortgagee, its successors or assigns, and this Mortgage shall from date thereof secure the repayment of such advance with interest.

4. In case of default in any of the foregoing covenants, the Mortgagor confers upon the Mortgagee the option, subject to the terms of Section 6 hereof, of declaring a default and hereby authorizes and empowers said Mortgagee, its successors and assigns, to foreclose this Mortgage by judicial proceedings or to sell said premises at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the money arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fee permitted by law, which costs, charges and fees the Mortgagor herein agrees to pay.

5. By accepting this Mortgage, the Mortgagee hereby agrees that (i) the debt secured by this Mortgage is and shall be subordinate in the right of payment to the prior payment in full of the Bond Note (as defined in the Note) and (ii) this Mortgage and the lien created hereunder is and shall be subject and subordinate in all respects to the lien, terms, covenants, conditions, operation and effect of the Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Financing Statement (the "Bond Mortgage") executed as security for the Bond Note. The Mortgagee and the Mortgagor agree that the payments due under the Note shall be subordinate in all respects to the amounts required to be paid under the Bond Note and the Financing Agreement (as defined in the Note) and that any payments made by the Mortgagor under the Note in contravention of the provisions of the terms of this sentence or Section 12 of the Note shall be held by the Mortgagor in trust for the benefit of the Issuer and the Trustee.

6. Notwithstanding any provision herein to the contrary, the Mortgagor and, by acceptance of this Mortgage, the Mortgagee, agree that as long as any portion of the Bond Note remains unpaid or any amounts are due and payable to the Issuer, the Trustee and the Servicing Agent (as defined in the Note) under the Bond Note or the Financing Agreement, the Mortgagee shall have no right, without the written consent of the Servicing Agent, to commence foreclosure proceedings under this Mortgage or to exercise any other remedies in respect of or relating to any default on the Note, this Mortgage or the Loan Agreement. The Mortgagee, by acceptance of this Mortgage, expressly agrees and acknowledges that the Mortgagee will not institute against, or join any other person in instituting against, the Mortgagor, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding under any bankruptcy or similar law, until the date the Bond Note has been paid in full and the Mortgagor has paid all amounts due under the Financing Agreement.

In Testimony Whereof, The said Mortgagor has hereunto set its hand the day and year first above written.

ELMBROOK - G.V. LP

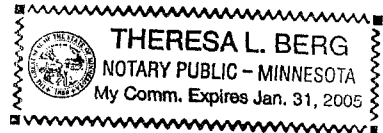
By: Shelter Corporation,
Its General Partner

By: Lynn Carlson Schell
Its: President

STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 24th day of August, 2000, by Lynn Carlson Schell, the President of Shelter Corporation, a Minnesota corporation, the general partner of ELMBROOK - G.V. LP, a Minnesota limited partnership on behalf of the partnership.

Theresa L. Berg
Notary Public



This Instrument was Drafted by:

Kennedy & Graven, Chartered
470 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

Description of Mortgaged Property

Tract B, Registered Land Survey No. 1530, Files of the Registrar of Title, County of Hennepin,
State of Minnesota

EXHIBIT B

Permitted Encumbrances

Permitted Encumbrances as defined in the Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Financing Statement dated as of August 1, 2000 between Elmbrook – G.V. LP and the City of Minnetonka, Minnesota.

**Third Draft
August 1, 2016**

**AMENDED AND RESTATED LOAN AGREEMENT
(EDA Funds)**

THIS AMENDED AND RESTATED LOAN AGREEMENT (EDA FUNDS) is made this _____, 2016 (the "Agreement"), between CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company (the "Borrower"), and the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic of the State of Minnesota (the "Lender").

RECITALS

On August 25, 2000, the City of Minnetonka, Minnesota (the "City"), issued its Multifamily Housing Revenue Refunding Bonds (Elmbrooke – Golden Valley Townhomes Project), Series 2000 (the "Series 2000 Bonds"), in the original aggregate principal amount of \$2,800,000, for the benefit of Elmbrook – G.V. LP, a Minnesota limited partnership ("Elmbrook"). On the date hereof, the Series 2000 Bonds have been paid in full and are no longer outstanding.

Elmbrook applied the proceeds of the Bonds to refinance certain multifamily housing developments, including but not limited to a 46-unit multifamily housing project known as Elmbrooke Townhomes (the "Project") located at 5420 Smetana Drive in the City on certain property legally described in EXHIBIT A attached hereto (the "Property").

In order to provide additional financing for the Project and thereby improve and retain affordable housing in the City, Lender made a loan to Elmbrook (the "2000 Loan") in the amount of \$108,000, pursuant to a Loan Agreement (EDA Funds), dated as of August 1, 2000 (the "2000 Loan Agreement"). The 2000 Loan was evidenced by a Promissory Note, dated as of August 1, 2000 (the "2000 Note"), payable by Elmbrook to Lender. The repayment obligations of Elmbrook were secured by a Mortgage, dated as of August 1, 2000 (the "2000 Mortgage"), from Elmbrook to Lender. To date, interest has accrued on the 2000 Loan in the amount of \$14,019.12 [interest to August 25, 2016].

Pursuant to an Assignment and Assumption Agreement, dated _____, 2016 (the "Assignment and Assumption"), Elmbrook assigned all of its rights and obligations under the 2000 Loan Agreement to Borrower, and Borrower agreed to assume all of the rights and obligations of Elmbrook under the 2000 Loan Agreement.

The repayment of the Loan by Borrower is subordinate to the repayment obligation of Borrower with respect to a mortgage loan in the approximate principal amount of \$8,925,000 (the "FHA Loan") to be advanced by Dougherty Mortgage LLC, a Delaware limited liability company (the "FHA Lender"), to Borrower and insured by the Federal Housing Administration (the "FHA") under Section 221(d)(4) of the National Housing Act, as amended. The FHA Loan is being provided to Borrower in connection with multifamily housing revenue bonds to be issued by the City for the benefit of Borrower to finance, in part, the acquisition and substantial rehabilitation of the Project.

The parties hereto intend for this Agreement to amend and restate the 2000 Loan Agreement.

ACCORDINGLY, to induce Lender to make the Loan (as defined herein) to Borrower, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Loan Amount. Subject to and upon the terms and conditions of this Agreement, Lender agrees to loan to Borrower the sum of One Hundred Eight Thousand and no/100ths Dollars (\$108,000), or so much thereof as is disbursed to Borrower in accordance with this Agreement (the "Loan"). The Loan shall be evidenced by a Promissory Note of even date herewith (the "Note"), payable by Borrower to Lender, which Note shall be secured by an Amended and Restated Mortgage of even date herewith (the "Mortgage"), between Borrower and Lender, which amends and restates the 2000 Mortgage.

2. Repayment of Loan. The Loan shall be repaid with interest as follows:

(a) Interest at the simple rate of 2.08% per annum shall accrue from the Loan Closing Date (as hereinafter defined) until the Loan is repaid in full.

(b) The entire unpaid balance of principal and interest shall be due and payable in full on the earlier of the following: (i) subject to Sections 2(c) and 11 hereof, thirty (30) days after written notification by Lender to Borrower of the occurrence of an Event of Default as defined in Section 5 hereof and demand of payment according to Section 6; or (ii) ten days after Borrower makes or allows to be made any total or partial transfer, sale, assignment, conveyance, lease (except a lease to a residential tenant of a unit within the Project and except transfer of any member interest), or transfer in any other mode, of the Project; or (iii) December 31, 2058.

(c) Notwithstanding anything to the contrary contained herein, so long as the Secretary of Housing and Urban Development ("HUD") or his/her successors or assigns are the insurers or holders of the first mortgage on Minnetonka Affordable Housing Project (FHA Project No. 092-35810), payments due under this Loan or any secondary debt instruments shall be payable from up to 75% of available Surplus Cash (as such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Borrower and HUD). The restriction on payment(s) imposed by this paragraph shall not excuse any default caused by the failure of the maker to pay the indebtedness evidenced by the Note. [If no HUD financing, delete this section]

3. [Intentionally Deleted].

4. Representations and Warranties. Borrower represents and warrants to Lender that:

(a) Borrower is a limited liability company duly organized and existing in good standing under the laws of the State of Minnesota.

(b) Borrower is duly authorized and empowered to execute, deliver, and perform this Agreement, the Note, and the Mortgage and to borrow money from Lender.

(c) The execution and delivery of this Agreement, and the performance by Borrower of its obligations hereunder, do not and will not violate or conflict with any provision of law or the operating agreement of Borrower and do not and will not violate or conflict with, or cause any default or event of default to occur under, any agreement binding upon Borrower.

(d) The execution and delivery of this Agreement has been duly approved by all necessary action of Borrower, and this Agreement has in fact been duly executed and delivered by Borrower and constitutes its lawful and binding obligation, legally enforceable against it.

(e) Borrower warrants that it shall keep and maintain books, records, and other documents relating directly to the receipt and disbursements of Loan proceeds and that any duly authorized representative of Lender shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other documents of Borrower respecting the Loan until the completion of all closeout procedures and the final settlement and conclusion of all issues arising out of this Loan.

(f) Borrower warrants that it has fully complied with all applicable state and federal laws pertaining to its business and will continue said compliance throughout the terms of this Agreement. If at any time Borrower receives notice of noncompliance from any governmental entity, Borrower agrees to take any necessary action to comply with the State or Federal law in question.

5. Event of Default by Borrower. The following shall be “Events of Default” under this Agreement:

(a) any breach or failure of Borrower to perform any term or condition of this Agreement, the Note, the Mortgage and such failure continues for thirty (30) days after Lender has given written notice to Borrower specifying such default or breach unless Lender agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lender will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Borrower within the applicable period and is being diligently pursued until the Default is corrected, but no such extension shall be given for a Default that can be cured by the payment of money (i.e., payment of taxes, insurance premiums, or other amounts required to be paid hereunder);

(b) any representation or warranty made by Borrower herein or in any document, instrument, or certificate given in connection with this Agreement is false when made; or

(c) Borrower is dissolved, liquidated, or wound up, or fails to maintain its existence as a going concern in good standing (excepting, reorganizations, consolidations and/or mergers into or with affiliates owned by, owning or under common control of or with such entity or into the parent of such entity, provided the succeeding organization assumes and accepts such entity’s obligations hereunder).

6. Lender’s Remedies upon Borrower’s Default. Upon an Event of Default by Borrower and after receipt of written notice from Lender, Lender shall, subject to the terms of the Note, have the right to exercise any or all of the following remedies (and any other rights and remedies available to it):

(a) declare the principal amount of the Loan and any accrued interest thereon to be immediately due and payable upon providing written notice to Borrower;

(b) suspend its performance under this Agreement; and

(c) take any action provided for at law to enforce compliance by Borrower with the terms of this Agreement, the Mortgage, or the Regulatory Agreement.

7. Lender’s Costs of Enforcement of Agreement. If an Event of Default has occurred as provided herein, then upon demand by Lender, Borrower will pay or reimburse Lender for all expenses, including all reasonable fees and disbursements of legal counsel, incurred by Lender in connection with the enforcement of this Agreement, or in connection with the protection or enforcement of the interests of

Lender in any litigation or bankruptcy or insolvency proceeding or in any action or proceeding relating in any way to the transactions contemplated by this Agreement.

8. Miscellaneous.

(a) Waiver. The performance or observance of any promise or condition set forth in this Agreement may be waived only in writing. No delay in the exercise of any power, right or remedy operates as a waiver thereof, nor shall any single or partial exercise of any other power, right or remedy.

(b) Assignment. This Agreement shall be binding upon Borrower and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns. All rights and powers specifically conferred upon Lender may be transferred or delegated by Lender to any of its successors and assigns. Borrower's rights and obligations under this Agreement may be assigned only when such assignment is approved in writing by Lender.

(c) Law Governing; Other Matters. This Agreement shall be governed by the substantive laws of the State of Minnesota. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement or in any other agreement between Borrower and Lender shall survive the execution, delivery and performance of this Agreement and the creation and payment of any indebtedness to Lender. Borrower waives notice of the acceptance of this Agreement by Lender.

(d) Notice. All notices required hereunder shall be given by depositing in the U.S. mail, postage prepaid, certified mail, return receipt requested, to the following addresses (or such other addresses as either party may notify the other):

To Lender: Economic Development Authority in and for the
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345-1597
Attn: Executive Director

To Borrower: CHC Minnetonka Affordable Housing LLC
161 St. Anthony Avenue, Suite 820
St. Paul, MN 55103
Attn: Chief Manager

With copies to: Shelter Corporation
1600 Hopkins Crossroad
Minnetonka, MN 55305
Attn: President

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629
Attention: Jeffrey J. Koerselman, Esq.

A notice of any default under the terms of this Agreement, the Note or the Mortgage shall be provided to Great Lakes Capital Fund for Housing Limited Partnership 29, a Michigan limited partnership, or its affiliate and their respective successors and assigns (the "Investor Member"), so long as it is a member of Borrower:

Great Lakes Capital
Fund For Housing Limited
Partnership 29
118 South Washington
Lansing, MI 48910
Attention: _____

9. Indemnification. Borrower shall and does hereby agree to indemnify against and to hold Lender, and its officers, agents, and employees, harmless of and from any and all liability, loss, or damage which it may or might incur by reason of or arising from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained herein. Should Lender, or its officers, agents, or employees incur any such liability or be required to defend against any such claims or demands, or should a judgment be entered against Lender, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall bear interest thereon at the rate then in effect on the Note, shall be added to the Loan, and Borrower shall reimburse Lender for the same immediately upon demand, and upon the failure of Borrower so to do, Lender may declare the Loan immediately due and payable.

10. Nonrecourse. Notwithstanding anything to the contrary herein or in the Note, the Loan shall be nonrecourse as to Borrower, and Lender's sole recourse with respect to the Loan shall be as set forth in the Mortgage.

11. HUD Provisions. Notwithstanding anything to the contrary in this Agreement, for so long as the Property is subject to a loan held or insured by the U.S. Department of Housing & Urban Development ("HUD"), any Borrower payment obligations under this Agreement, including but not limited to any indemnity payments and costs, shall be limited to available liability insurance and/or Surplus Cash and/or non-Project Assets, as each such term is defined in the Regulatory Agreement for Multifamily Projects by and between Borrower and HUD. In the event a conflict between this Section and any other provision in this Agreement, this Section shall control. [If no HUD financing, delete this section]

12. Extended Low-Income Housing Commitment. The lien of the Mortgage shall be subordinate to any extended low-income housing commitment, as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended (the "Code") (the "Extended Use Agreement"), recorded or to be recorded against the Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under the Mortgage or upon a transfer of the mortgaged property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Code. Without limiting the foregoing, the Mortgage shall be subject to the requirements of Section 42(h)(6)(E)(ii) of the Code.

13. Investor Transfer Rights. Notwithstanding anything to the contrary contained in the Loan

Agreement, the Mortgage, or the Note, it shall not constitute an Event of Default under this Agreement or a default under the Note or the Mortgage and the consent of Lender is not required, for: (a) the transfer of the investor member interest in Borrower owned Investor Member, to an affiliate of Investor Member, or to any other party after Investor Member's full payment of its capital contributions to Borrower, in accordance with the terms of Borrower's Amended and Restated Operating Agreement, dated _____, 2016, as the same may be amended from time to time (the "Operating Agreement"), (b) the transfer of the ownership interests in the Investor Member, so long as the managing member or general partner of Investor Member is an affiliate of Investor Member, (c) the removal of the managing member of Borrower for cause in accordance with the Operating Agreement by the Investor Member, or (d) an amendment of the Operating Agreement (i) resulting from transfers as described above or (ii) which does not materially and adversely affect the ability of Borrower to perform its obligations under this Agreement, the Mortgage, and the Note.

14. Investor Cure Rights. The Investor Member shall have the right, but not the obligation, to cure any Event of Default by Borrower under this Agreement or any default under the Note or the Mortgage, and Lender shall accept performance by the Investor Member of any obligation of Borrower thereunder as though tendered by Borrower itself, provided such performance by the Investor Member has occurred during the applicable cure period, if any, provided to Borrower thereunder with respect to such default or Event of Default.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the undersigned officers of Lender and Borrower have executed this Loan Agreement (EDA Funds) as of the date and year first written above.

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

Execution page of Borrower to the Loan Agreement (EDA Funds), dated as of the date and year first written above.

**CHC MINNETONKA AFFORDABLE HOUSING
LLC**, a Minnesota limited liability company

By: CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

By: _____
Name: Richard Martin
Title: Administrative Manager

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Tract B, Registered Land Survey No. 1530, Files of the Registrar of Title, County of Hennepin, State of Minnesota

Torrens Property
Torrens Certificate No. 1051689

**Third Draft
August 1, 2016**

AMENDED AND RESTATED MORTGAGE

THIS AMENDED AND RESTATED MORTGAGE, made as of _____, 2016 (the “Mortgage”), is between CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company, as mortgagor (the “Mortgagor”), and the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, public body corporate and politic of the State of Minnesota, as mortgagee (the “Mortgagee”).

WITNESSETH:

That Elmbrook – G.V. LP, a Minnesota limited partnership (“Elmbrook”), pursuant to a Mortgage, dated as of August 1, 2000 (the “Original Mortgage”), recorded in the Office of Registrar of Titles of Hennepin County, Minnesota on August 29, 2000, as Document No. 3310325, granted Mortgagee a secured interest in the real property legally described in EXHIBIT A attached hereto (the “Land”), in order to secure the repayment obligations of Elmbrook with respect to a loan made by Mortgagee (the “Loan”) under a Loan Agreement (EDA Funds), dated as of August 1, 2000 (the “2000 Loan Agreement”), between Mortgagee, as lender, and Elmbrook.

That Elmbrook assigned its interest in the Loan and its rights and obligations under the 2000 Loan Agreement to Mortgagor and Mortgagor assumed such rights and obligations pursuant to an Assignment and Assumption Agreement, dated _____, 2016, between Elmbrook, Mortgagor, and Mortgagee.

That the said Mortgagor, in consideration of the sum of One (\$1.00) Dollar and other good, valuable and sufficient consideration, the receipt whereof is hereby acknowledged, does hereby Grant, Bargain, Sell, and Convey unto the said Mortgagee, its successors and assigns, Forever, all the tract or parcel of land lying and being in the County of Hennepin and State of Minnesota and legally described in EXHIBIT A attached hereto.

To Have and to hold the same, together with the hereditaments and appurtenances thereto belonging to the said Mortgagee, its successors and assigns, forever. And the said Mortgagor, for itself, and its successors and assigns, does covenant with the said Mortgagee, its successors and assigns, as follows: That it is lawfully seized of said premises and has good right to sell and convey the same; that the same are free from all encumbrances, save and except reservations, restrictions and easements set forth on EXHIBIT B attached hereto; that Mortgagee, its successors and assigns, shall quietly enjoy and possess the same; and that Mortgagor will Warrant and Defend the title to the same against all lawful claims not hereinbefore specifically excepted; and

Provided, Nevertheless, That if said Mortgagor, its successors and assigns, shall keep and perform each and every one of its obligations under and pursuant to that certain Promissory Note of even date herewith (the "Note"), given by Mortgagor to Mortgagee, and shall keep and perform all the covenants and agreements herein contained, then this deed to be null and void, and to be released at Mortgagor's expense.

This Mortgage secures a principal debt in the amount of One Hundred Eight Thousand Dollars (\$108,000) payable by Mortgagor to Mortgagee under the terms of the Note and the Amended and Restated Loan Agreement of even date herewith (the "Loan Agreement"), between Mortgagor and Mortgagee, which amends and restates the 2000 Loan Agreement, which Note matures no later than December 31, 2058.

Notwithstanding the provisions of this Mortgage or any other document, Mortgagor shall not be personally liable for payment of the indebtedness evidenced by the Note, and Mortgagee's sole recourse for payment of such indebtedness upon the occurrence of an Event of Default (hereinafter defined) shall be to pursue the security provided by this Mortgage and other instruments securing payment of the Note. Nothing in this Section shall affect, limit or impair (i) the security provided by this Mortgage or any other document, (ii) the right to seek monetary judgment against Mortgagor or any owner of the mortgaged property to the extent necessary to permit foreclosure of this Mortgage by action (except that Mortgagor shall not be personally liable for payment of any such judgment to the extent that the judgment is for payment of the indebtedness evidenced by the Note and no deficiency judgment will be sought or obtained against Mortgagor for payment of the indebtedness evidenced by the Note), (iii) the enforcement by Mortgagee of any other legal or equitable rights or remedies or any other provision of any instrument by which the Note is secured, or (iv) the personal liability of Mortgagor for the failure to observe or perform any of the covenants or obligations of this Mortgage and other instruments securing payment of the Note other than the obligation to pay the indebtedness evidenced by the Note.

1. Mortgagor, for itself, and its successors and assigns, does hereby covenant and agree with Mortgagee, its successors and assigns, to perform its obligations as above specified, to pay all taxes and assessments now due or that may hereafter become liens against said premises at least ten (10) days before penalty attaches thereto; to pay, when due, both principal and interest of all prior liens or encumbrances, if any, above mentioned and to keep said premises free and clear of all other prior liens or encumbrances; to commit or permit no waste on said premises and to keep them in good repair; to complete forthwith any improvements which may hereafter be under course of construction thereon, and to pay any other expenses and attorneys' fees incurred by said Mortgagee, its successors or assigns, by reason of litigation with any third party for the protection of the lien of this Mortgage.

2. Mortgagor, does further covenant and agree that if any lien for labor, skill or material shall be filed for record during the life of this Mortgage, upon or against the premises hereby mortgaged, the said Mortgagor will, within thirty (30) days after the date of its filing for record, either pay off the said lien and secure its satisfaction of record, or will protect Mortgagee against any loss or damage growing out of its enforcement, by furnishing a bond for the same amount in the form and with the sureties to be approved by Mortgagee.

3. In case of failure to pay said taxes and assessments, prior liens or encumbrances, expenses and attorneys' fees as above specified, or to insure said buildings and deliver the policies as aforesaid, Mortgagee, its successors or assigns, may pay such taxes, assessments, prior liens, expenses and attorneys' fees and interest thereon, or effect such insurance, and the sums so paid shall bear interest at the highest rate permitted by law from the date of such payment, shall be impressed as an additional lien upon said premises, and be immediately due and payable from Mortgagor, its successors or assigns,

to said Mortgagee, its successors or assigns, and this Mortgage shall from date thereof secure the repayment of such advance with interest.

4. In case of default in any of the foregoing covenants (each an "Event of Default"), Mortgagor confers upon Mortgagee the option, subject to the terms of Section 6 hereof, of declaring a default and hereby authorizes and empowers said Mortgagee, its successors and assigns, to foreclose this Mortgage by judicial proceedings or to sell said premises at public auction and convey the same to the purchaser in fee simple in accordance with the statute, and out of the money arising from such sale to retain all sums secured hereby, with interest and all legal costs and charges of such foreclosure and the maximum attorneys' fee permitted by law, which costs, charges and fees Mortgagor herein agrees to pay.

5. The lien of this Mortgage shall be subordinate to any extended low-income housing commitment, as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended (the "Code") (the "Extended Use Agreement"), recorded or to be recorded against the Land; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Mortgage or upon a transfer of the mortgaged property by instrument in lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Code. Without limiting the foregoing, this Mortgage shall be subject to the requirements of Section 42(h)(6)(E)(ii) of the Code.

6. Notwithstanding anything to the contrary contained in this Mortgage, the Note, or the Loan Agreement, it shall not constitute an Event of Default under this Mortgage or a default under the Note or the Loan Agreement and the consent of Mortgagee is not required, for: (a) the transfer of the investor member interest in Mortgagor owned by Great Lakes Capital Fund for Housing Limited Partnership 29, a Michigan limited partnership, or its affiliate and their respective successors and assigns (the "Investor Member"), to an affiliate of Investor Member, or to any other party after Investor Member's full payment of its capital contributions to Mortgagor, in accordance with the terms of Mortgagor's Amended and Restated Operating Agreement, dated _____, 2016, as the same may be amended from time to time (the "Operating Agreement"), (b) the transfer of the ownership interests in the Investor Member, so long as the managing member or general partner of Investor Member is an affiliate of Investor Member, (c) the removal of the managing member of Mortgagor for cause in accordance with the Operating Agreement by the Investor Member, or (d) an amendment of the Operating Agreement (i) resulting from transfers as described above or (ii) which does not materially and adversely affect the ability of Mortgagor to perform Mortgagor's obligations under this Mortgage, the Note, and the Loan Agreement.

7. The Investor Member shall have the right, but not the obligation, to cure any Event of Default by Borrower under this Mortgage or any default under the Note or the Loan Agreement, and Mortgagee shall accept performance by the Investor Member of any obligation of Mortgagor thereunder as though tendered by Mortgagor itself, provided such performance by the Investor Member has occurred during the applicable cure period, if any, provided to Mortgagor thereunder with respect to such default or Event of Default.

8. Notwithstanding anything to the contrary in this Mortgage, for so long as the Land is subject to a loan held or insured by the U.S. Department of Housing & Urban Development ("HUD"), any Mortgagor payment obligations hereunder, including but not limited to any indemnity payments and costs, shall be limited to available liability insurance and/or Surplus Cash and/or non-Project Assets, as each such term is defined in the Regulatory Agreement for Multifamily Projects by and between Mortgagor and HUD. In the event a conflict between this Section and any other provision in this Agreement, this Section shall control. [If no HUD financing, delete this section]

IN WITNESS WHEREOF, the undersigned have executed this Amended and Restated Mortgage as of the date and year first written above.

CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company

By: CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

By: _____
Name: Richard Martin
Title: Administrative Manager

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Richard Martin, the Administrative Manager of CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company, the managing member of CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company, on behalf of the Assignee.

Notary Public

[Notarial Stamp]

This instrument drafted by:

Kennedy & Graven, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
612-337-9300

Execution page of Mortgagee to the Amended and Restated Mortgage, dated as of the date and year first written above.

AUTHORITY:

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Terry Schneider, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the Authority.

Notary Public

EXHIBIT A

DESCRIPTION OF MORTGAGED PROPERTY

Tract B, Registered Land Survey No. 1530, Files of the Registrar of Title, County of Hennepin, State of Minnesota

Torrens Property
Torrens Certificate No. 1051689

EXHIBIT B
PERMITTED ENCUMBRANCES

[insert]

**Third Draft
August 1, 2016**

PROMISSORY NOTE

\$108,000

_____, 2016

CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company (the “Maker”), for value received, hereby promises to pay to the Economic Development Authority in and for the City of Minnetonka, Minnesota (the “EDA”) or its assigns (the EDA and any assigns are hereinafter referred to as the “Holder”), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of One Hundred Eight Thousand and No/100ths Dollars (\$108,000), or so much thereof as may be advanced under this Note, together with interest as hereinafter provided, in any coin or currency which at the time or times of payment is legal tender for the payment of private debts in the United States of America. All terms capitalized herein and not defined have the definitions given such terms in the Loan Agreement (as defined herein).

The principal of and interest on this Note is due and payable as follows:

1. Interest at the simple rate of 2.08% per annum shall accrue from the Loan Closing Date, as defined in the Amended and Restated Loan Agreement of even date herewith (the “Loan Agreement”), between Maker and Holder, until the Loan is repaid in full.

2. The entire unpaid balance of principal and interest shall be due and payable in full on the earlier of the following: (i) subject to Sections 12 and 13 hereof, thirty (30) days after written notification by EDA to Maker of the occurrence of an Event of Default as defined in the Loan Agreement and demand of payment according to Section 6 of the Loan Agreement; or (ii) ten days after Maker makes or allows to be made any total or partial transfer, sale, assignment, conveyance, lease (except a lease to a residential tenant of a unit within the Project (as defined in the Loan Agreement) and except transfer of any member interest), or transfer in any other mode, of the Project; or (iii) December 31, 2058.

3. The Maker shall have the right to fully or partially prepay this Note at any time without penalty. Any partial prepayment shall be applied first to any unpaid, accrued interest with the balance, if any, applied to principal.

4. This Note is given pursuant to the Loan Agreement, as the same may be amended from time to time, and is secured by an Amended and Restated Mortgage of even date herewith (the “Mortgage”), between the Maker and the EDA, which amends and restates the Mortgage, dated as of August 1, 2000, covering certain real property located in Hennepin County and legally described in the Mortgage (the “Property”). All of the agreements, conditions, covenants, provisions, and stipulations contained in the Loan Agreement and the Mortgage are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence of this Note.

5. If an Event of Default occurs under the Loan Agreement, then the Holder of this Note may, at its right and option, but subject in all respects to Section 13 hereof, declare immediately due and payable the principal balance of this Note and interest accrued thereon, without notice, demand or presentment for payment to Maker or others. The remedies of Holder, as provided herein and in the Loan Agreement and the Mortgage, shall be cumulative and concurrent, may be pursued singly, successively, or together, and, at the sole discretion of the Holder of this Note, and may be exercised as often as occasion therefor shall occur, subject in all respects to the provisions of Section 13 hereof.

6. The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder of this Note and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought.

7. If any Event of Default occurs, and if Holder engages legal counsel or others in connection with advice to Holder or Holder's rights and remedies under the Loan Agreement or this Note, Maker shall pay all reasonable expenses incurred by Holder for such persons, irrespective of whether any suite or other proceeding has been or is filed or commenced. Any such expenses, costs and charges shall constitute additional principal, payable upon demand, and subject to this Note and the Loan Agreement.

8. Except as otherwise provided in this Note or in the Loan Agreement, Maker hereby (a) waives demand, presentment for payment, notice of nonpayment, protest, notice of protest, and all other notice; (b) agrees to any substitution, exchange, addition, or release of any party or person primarily or secondarily liable hereon; (c) agrees that Holder shall not be required first to institute any suit or to exhaust its remedies against Maker or any other person or party in order to enforce payment of this Note; (d) consents to any extension, rearrangement, renewal, or postponement of time or payment of this Note and to any other indulgence with respect hereto without notice, consent, or consideration to any of them.

9. If any term of this Note, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

10. It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and governed by the laws thereof.

11. Notwithstanding anything to the contrary herein, this Note shall be nonrecourse, and the Holder's sole recourse with respect to the Note shall be as set forth in the Mortgage.

12. Notwithstanding anything to the contrary herein, for so long as the Property is subject to a loan held or insured by the U.S. Department of Housing & Urban Development ("HUD"), any Maker payment obligations under this Note, including but not limited to any indemnity payments and costs, shall be limited to available liability insurance and/or Surplus Cash and/or non-Project Assets, as each such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Maker and HUD. In the event a conflict between this Section and any other provision in this Note, this Section shall control. [If no HUD financing, delete this section]

13. Notwithstanding anything to the contrary contained herein, so long as the Secretary of Housing and Urban Development ("HUD") or his/her successors or assigns are the insurers or holders of the first mortgage on Minnetonka Affordable Housing Project (FHA Project No. 092-35810), payments due under this Note or any secondary debt instruments shall be payable from up to 75% of available Surplus Cash (as such term is defined in the Regulatory Agreement for Multifamily Projects by and between the Maker and HUD). The restriction on payment(s) imposed by this paragraph shall not excuse any default caused by the failure of the Maker to pay the indebtedness evidenced by this Note. [If no HUD financing, delete this section]

14. IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed as of the date and year first written above.

**CHC MINNETONKA AFFORDABLE HOUSING
LLC**, a Minnesota limited liability company

By: CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

By: _____
Name: Richard Martin
Title: Administrative Manager

**Second Draft
August 1, 2016**

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT, made as of _____, 2016 (the "Assignment"), is by and between ELMBROOK – G.V. LP, a Minnesota limited partnership (the "Assignor"), CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company (the "Assignee"), and the ECONOMIC DEVELOPMENT AUTHORITY IN AND FOR THE CITY OF MINNETONKA, MINNESOTA, a public body corporate and politic of the State of Minnesota (the "Authority").

RECITALS

The Assignor and the Authority are parties to that certain Loan Agreement (EDA Funds), dated as of August 1, 2000 (the "Loan Agreement"), pursuant to which the Authority made a loan (the "Loan") to the Assignor in the amount of \$108,000 to provide financing for the acquisition and installation of certain rehabilitation items described therein for a 46-unit multifamily housing project known as Elmbrooke Townhomes (the "Minnetonka Project") located at 5420 Smetana Drive in the City of Minnetonka and legally described in EXHIBIT A attached hereto (the "Land").

The Assignor will convey the Land to the Assignee and desires to assign to the Assignee all of its interest in the Loan and its rights and obligations under the Loan Agreement, and the Assignee desires to assume such interest in the Loan and the rights and obligations under the Loan Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption of Loan Agreement. The Assignor hereby assigns to the Assignee all of its interest in the Loan and its rights and obligations under the Loan Agreement. The Assignee hereby accepts such rights and assumes such obligations, subject to the terms of this Assignment. The Authority acknowledges and consents to such assignment.

2. Release of Assignor. This Assignment shall be deemed to release and discharge the Assignor from any obligations of the "Borrower" under the Loan Agreement, such obligations having been assumed by the Assignee.

3. Assignee Address. For purposes of notice under the Loan Agreement, the Assignee's address is:

CHC Minnetonka Affordable Housing LLC
161 St. Anthony Avenue, Suite 820
St. Paul, MN 55103
Attn: Chief Manager

Copies of any notices to the Assignee shall also be sent to the following:

Shelter Corporation
1600 Hopkins Crossroad
Minnetonka, MN 55305
Attn: President

Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402-4629
Attention: Jeffrey J. Koerselman, Esq.

4. Governing Law. It is agreed that this Assignment shall be governed by, construed and enforced in accordance with the laws of the State of Minnesota.

5. Entirety of Agreement. This Assignment shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Assignment shall not be binding upon either party except to the extent incorporated in this Assignment.

6. Modification. Any modification of this Assignment or additional obligation assumed by either party in connection with this Assignment shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

7. Execution in Counterparts. This Assignment may be executed, acknowledged and delivered in any number of counterparts and each of such counterparts shall constitute an original but all of which together shall constitute one agreement.

(The remainder of this page is intentionally left blank.)

Execution page of the Authority to the Assignment and Assumption Agreement, dated as of the date and year first written above.

AUTHORITY:

**ECONOMIC DEVELOPMENT AUTHORITY IN
AND FOR THE CITY OF MINNETONKA,
MINNESOTA**

By _____
Its President

By _____
Its Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Terry Schneider, the President of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Geralyn Barone, the Executive Director of the Economic Development Authority in and for the City of Minnetonka, Minnesota, on behalf of the authority.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Tract B, Registered Land Survey No. 1530, Files of the Registrar of Title, County of Hennepin, State of Minnesota

Subordination Agreement

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 06/30/2017)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Project Name: Elmbrooke Apartments
HUD Project No: _____

THIS **SUBORDINATION AGREEMENT** ("**Agreement**") is entered into this _____ day of _____, 2016, by and among (i) Dougherty Mortgage LLC, a Delaware limited liability company ("**Senior Lender**"), (ii) the Economic Development Authority in and for the City of Minnetonka, Minnesota, a public body corporate and politic of the State of Minnesota ("**Subordinate Lender**"), and (iii) CHC Minnetonka Housing LLC, a Minnesota limited liability company ("**Borrower**").

Recitals

WHEREAS, Borrower is the owner of that certain 46-unit residential rental development known as "Elmbrooke Apartments" ("**Project**"), located at 5420 Smetana Drive, Minnetonka, Minnesota. Senior Lender has made or is making the senior mortgage loan as described on Schedule A hereto ("**Senior Indebtedness**") to Borrower in the original principal amount(s) as shown on Schedule A, evidenced by the Note described in Schedule A ("**Senior Note**"), and secured by, among other things, the Security Instrument as described in Schedule A (collectively, "**Senior Security Instrument**"), covering the property described in Exhibit A attached hereto together with all improvements thereon and personal property used relative thereof, all as more particularly described in the Senior Security Instrument ("**Mortgaged Property**").

WHEREAS, Borrower has requested Senior Lender to permit Subordinate Lender to make a subordinate loan to Borrower in the amount of \$108,000 ("**Subordinate Loan**"), pursuant to the Subordinate Loan Documents as defined below, and secured by, among other things, a mortgage lien against the Mortgaged Property.

WHEREAS, Senior Lender, with the approval of the U.S. Department of Housing and Urban Development ("**HUD**"), has agreed to permit Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Mortgaged Property subject to all of the conditions contained in this Agreement and in accordance with Program Obligations. "**Program Obligations**" means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project,

and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Agreement rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on HUD's official website: (<http://www.hud.gov/offices/adm/hudclips/index.cfm>, or a successor location to that site).

NOW, THEREFORE, in order to induce Senior Lender to permit Subordinate Lender to make the Subordinate Loan to Borrower and to place a subordinate mortgage lien against the Mortgaged Property, and in consideration thereof, Senior Lender, Subordinate Lender and Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

(a) "**Affiliate**" is defined in 24 C.F.R. 200.215, or any successor regulation.

(b) "**Bankruptcy Proceeding**" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

(c) "**Borrower**" means all entities identified as "Borrower" in the first paragraph of this Agreement, together with any successors, heirs, and assigns (jointly and severally). Borrower shall include any entity taking title to the Mortgaged Property, whether or not such entity assumes the Senior Note, provided that the term "Borrower" shall not include Senior Lender in the event that Senior Lender may acquire title to the Mortgaged Property. Whenever the term "Borrower" is used herein, the same shall be deemed to include the obligor of the debt secured by the Senior Security Instrument.

(d) "**Business Day**" means any day other than Saturday, Sunday or any other day on which Senior Lender or HUD is not open for business.

(e) "**Covenant Event of Default**" is defined in the Senior Security Instrument.

(f) "**Entity**" means an estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

(g) "**Monetary Event of Default**" is defined in the Senior Security Instrument.

(h) "**Non-Project Sources**" means any funds that are not derived from Project Sources.

(i) "Project Sources" means the Mortgaged Property (as defined in the Senior Security Instrument), any proceeds of the Senior loan, and any reserve or deposit made with Senior Lender or any other party as required by HUD in connection with the Senior loan.

(j) "Senior Indebtedness" means all present and future indebtedness, obligations, and liabilities of Borrower to Senior Lender under or in connection with the Senior loan or Senior Loan Documents.

(k) "Senior Lender" means the Entity named as such in the first paragraph on page 1 of this Agreement, its successors and assigns.

(l) "Senior Loan Documents" means the Senior Note, the Senior Security Instrument, and the Regulatory Agreement between Borrower and HUD, as such documents may be amended from time to time and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Senior Indebtedness.

(m) "Senior Security Instrument Default" means a "Monetary Event of Default" or a "Covenant Event of Default" as defined in the Senior Security Instrument.

(n) "Subordinate Indebtedness" means all present and future indebtedness, obligations, and liabilities of Borrower to Subordinate Lender under or in connection with the Subordinate Loan or the Subordinate Loan Documents.

(o) "Subordinate Lender" means the Entity named as such in the first paragraph on page 1 of this Agreement.

(p) "Subordinate Loan Documents" means the Subordinate Note, the Subordinate Mortgage, and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as identified in Exhibit B.

(q) "Subordinate Loan Enforcement Action" means the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the taking of any other enforcement action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

(r) "Subordinate Mortgage Default" means any act, failure to act, event, conditions, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), Subordinate Lender to take a Subordinate Loan Enforcement Action.

(s) "Surplus Cash" is defined herein to mean the same as that term is defined in the Regulatory Agreement between Borrower and HUD.

2. Permission to Place Mortgage Lien Against Mortgaged Property.

Senior Lender agrees, subject to the provisions of this Agreement, to permit Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Mortgaged Property (which are subordinate in all respects to the lien of the Senior Security Instrument) to secure Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of Borrower to Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are true and correct on the date of this Agreement [and on the date on which the proceeds of the Subordinate Loan are disbursed to Borrower]. If any of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are not true and correct on the date of this Agreement, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Mortgaged Property shall apply.

3. Borrower's and Subordinate Lender's Representations and Warranties.

Borrower and, with respect to subsections (a) through (d) below, Subordinate Lender each make the following representations and warranties to Senior Lender:

(a) Subordinate Loan Documents. The Subordinate Loan is evidenced by the Subordinate Note and is secured by the Subordinate Mortgage.

(b) Terms of the Subordinate Loan. The original principal amount of the Subordinate Note is \$108,000. Interest on the Subordinate Note accrues monthly at the rate of 2.08% per annum. The Subordinate Note is due and payable in full on _____, _____ ("Maturity"). The principal of the Subordinate Note will be fully amortized at Maturity. The promissory note evidencing the Subordinate Note obligates Borrower to make payments at Maturity. As long as HUD is the insurer or holder of the Senior Note on FHA Project No. 092-35810, any payments due from project income under the Subordinate Note shall be payable only (i) from permissible distributions from Surplus Cash of the Project; but in no event greater than seventy-five percent (75%) of the total amount of Surplus Cash; or (ii) from monies received from Non-Project Sources. No prepayment of the Subordinate Note shall be made until after final endorsement by HUD of the Senior Note, unless such prepayment is made from Non-Project Sources and is approved in writing by HUD. The restriction on payment imposed by this paragraph shall not excuse any default caused by the failure of the Borrower to pay the indebtedness evidenced by the Subordinate Note.

(c) Relationship of Borrower to Subordinate Lender. Subordinate Lender is not an Affiliate of Borrower.

(d) Term. The term of the Subordinate Note does not end before the term of the Senior Note.

(e) Subordinate Loan Documents. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, HUD prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(f) Senior Loan Documents. The executed Senior Loan Documents are the same forms as approved by HUD prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Deliveries.

Borrower shall submit the following items to Senior Lender and HUD not later than ten (10) Business Days after the date of the initial disbursement of proceeds of the Subordinate Loan.

(a) Title Evidence. Evidence of title (title policy or title policy endorsement, as appropriate) insuring the lien of the Senior Security Instrument which insures that (i) the lien of the Subordinate Mortgage is subordinate to the lien of the Senior Mortgage, and (ii) this Agreement has been recorded among the applicable land records.

(b) Certification. A certification from Borrower and Subordinate Lender to HUD that the Subordinate Loan Documents do not contain any changes from the Subordinate Loan Documents submitted to, and approved by, HUD, before the date of this Agreement.

(c) Loan Documents. A complete set of the Subordinate Loan Documents.

5. Terms of Subordination.

(a) Agreement to Subordinate. Senior Lender and Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement, to the prior payment of the indebtedness evidenced by the Senior Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Security Instrument and the other Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Security Instrument and the other Senior Loan Documents (including but not limited to, all sums

advanced for the purposes of (1) protecting or further securing the lien of the Senior Security Instrument, curing defaults by Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Security Instrument, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property). Subordinate Lender agrees to extinguish and release its lien on any and all Mortgaged Property in the event Senior Lender, HUD, or a designee of either acquires the Mortgaged Property pursuant to a deed in lieu of foreclosure.

(b) Subordination of Subrogation Rights. Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Mortgaged Property which (but for this subsection) would be senior to the lien of the Senior Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Security Instrument.

(c) Payments Before Senior Security Instrument Default. Until Subordinate Lender receives a default notice of a Senior Security Instrument Default from Senior Lender, Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents provided that such payments are otherwise permitted under the terms of this Agreement.

(d) Payments After Senior Security Instrument Default. Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Security Instrument Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without Senior Lender's prior written consent. Subordinate Lender agrees that, after it receives a default notice from Senior Lender with written instructions directing Subordinate Lender not to accept payments from Project Sources on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) unless either (i) such payment is being made solely from Non-Project Sources or (ii) such payment is made with Senior Lender's prior written consent. If Subordinate Lender receives written notice from Senior Lender that the Senior Security Instrument Default which gave rise to Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Subordinate Lender in this Section 5 shall terminate, and Senior Lender shall have no right to any subsequent payments made to Subordinate Lender by Borrower prior to Subordinate Lender's receipt of a new default notice from Senior Lender in accordance with the provisions of this Section 5(d).

(e) Remitting Subordinate Loan Payments to Senior Lender. If, after Subordinate Lender receives a default notice from Senior Lender in accordance

with subsection (d) above, Subordinate Lender receives any payments under the Subordinate Loan Documents (other than payments permitted under subsection (d) above), Subordinate Lender agrees that such payment or other distribution will be received and held in trust for Senior Lender and unless Senior Lender otherwise notifies Subordinate Lender in writing, will be promptly remitted, in kind to Senior Lender, properly endorsed to Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Subordinate Lender to endorse and remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Subordinate Lender, and remitted to Senior Lender under this Section 5, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Subordinate Mortgage Default which may arise from the inability of Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) Agreement Not to Commence Bankruptcy Proceeding.

Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any Bankruptcy Proceeding with respect to Borrower, without Senior Lender's prior written consent.

6. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. Subordinate Lender shall deliver to Senior Lender a default notice within five Business Days in each case where Subordinate Lender has given a default notice to Borrower. Failure of Subordinate Lender to send a default notice to Senior Lender shall not prevent the exercise of Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. Senior Lender shall have the opportunity, but not the obligation, to cure any Subordinate Mortgage Default within 60 days following the date of such notice; provided, however that Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents, subject to the limitations set forth in Section 6(b) below.

(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender. If a Subordinate Mortgage Default occurs and is continuing, Subordinate Lender agrees that it will not commence foreclosure proceedings with respect to the Mortgaged Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents with respect to the Mortgaged Property, including, but not limited to accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder without Senior Lender's prior written consent. However, the preceding sentence shall not (i) limit Subordinate Lender's right to bring an action seeking recovery solely from Non-Project Sources or (ii) preclude Subordinate Lender from

exercising or enforcing all the rights available to Subordinate Lender under the Subordinate Loan Documents and/or under applicable law to enforce covenants and agreements of Borrower relating to income, rent or affordability restrictions.

7. Default Under Senior Loan Documents.

(a) Notice of Default and Cure Rights. Senior Lender shall deliver to Subordinate Lender a default notice within five Business Days in each case where Senior Lender has given a default notice to Borrower (provided that Senior Lender shall have no liability to Borrower, Subordinate Lender or to any other Entity for failure to timely give such notice). Failure of Senior Lender to send a default notice to Subordinate Lender shall not prevent the exercise of Senior Lender's right and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. Borrower agrees that Subordinate Lender shall have the opportunity, but not the obligation, to cure either a Monetary Event of Default or a Covenant Event of Default within 30 days following the date of such notice, or any time prior to an assignment of the Senior Security Instrument from Senior Lender to HUD, whichever date is later. Subordinate Lender acknowledges that Senior Lender shall be entitled during such period described above to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender shall have the opportunity to cure a Covenant Event of Default during such period described above so long as there is no Monetary Event of Default under the Senior Loan Documents. All amounts paid by Subordinate Lender to Senior Lender to cure any default under the Senior Loan Documents shall be deemed to have been advanced by Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(b) Cross Default. Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Security Instrument Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents.

8. Conflict.

Borrower, Senior Lender and Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the Senior Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of Senior Lender and Subordinate Lender in the Mortgaged Property; and (b) solely as between Senior Lender and Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which Senior Lender and Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be; give Borrower the right to notice of any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be other than that, if any, provided, respectively under the Senior Loan Documents or the Subordinate Loan Documents, as applicable; or create any other right or benefit for

Borrower as against Senior Lender or Subordinate Lender.

9. Rights and Obligations of Subordinate Lender under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) Protection of Security Interest. Subordinate Lender shall not, without the prior written consent of Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that Subordinate Lender shall have the right to advance funds to cure Senior Security Instrument Defaults pursuant to Section 7(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Mortgaged Property and curing other defaults by Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty. In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Mortgaged Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Mortgaged Property (collectively, a "Casualty"), at any time or times when the Senior Security Instrument remains a lien on the Mortgaged Property the following provisions shall apply:

(1) Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents with respect thereto, and Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by or with the written consent of Senior Lender; and

(2) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (to payment of the costs and expenses of repair and restoration and/or to payment of the Senior Security Instrument) in the manner determined by Senior Lender in its sole discretion; provided, however, that if Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Security Instrument, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Security Instrument shall be paid to, and may be applied by, Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents. Any proceeds then remaining after the satisfaction in full of the principal of, interest on and other amounts payable

under the Subordinate Loan Documents shall be paid by the Subordinate Lender to Borrower.

(c) No Modification of Subordinate Loan Documents. Borrower and Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents without Senior Lender's consent shall be void ab initio and of no effect whatsoever.

10. Modification of Senior Loan Documents; Refinancing of Senior Indebtedness.

Subordinate Lender consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money, provided however, there shall be no modification of the Senior Loan Documents without the consent of the Subordinate Lender if such modification would increase the principal amount of the Senior Indebtedness beyond the original principal amount of the Senior Indebtedness (excluding any amounts having been advanced by Senior Lender for the protection of its security interest pursuant to the Senior Loan Documents), increase the interest rate of the Senior Indebtedness, or decrease the original maturity term of the Senior Indebtedness.

Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness in accordance with Program Obligations (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Indebtedness, the Senior Note, the Senior Security Instrument, the Senior Loan Documents and Senior Lender shall mean, respectively, the indebtedness related to the refinance loan, the refinance note, the security instrument securing the refinance note, all documents evidencing, securing or otherwise pertaining to the refinance note and the holder of the refinance note, provided however, there shall be no refinancing of the Senior Indebtedness without the consent of the Subordinate Lender if such refinancing would increase the principal amount of the Senior Indebtedness beyond the original principal amount of the Senior Indebtedness (excluding any amounts having been advanced by Senior Lender for the protection of its security interest pursuant to the Senior Loan Documents), increase the interest rate of the Senior Indebtedness, or decrease the original maturity term of the Senior Indebtedness.

11. Default by Subordinate Lender or Senior Lender.

If Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting Lender shall have the right to all available legal and equitable relief.

12. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which Senior Lender or Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating next Business Day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two Business Days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:
 Dougherty Mortgage LLC
 90 South Seventh Street, Suite 4300
 Minneapolis, MN 55402
 Attention: David B. Juran or Craig D. Theis

With a copy to:

U.S. Department of Housing and Urban Development
 Director - Office of Multifamily Asset Management
 Room 6160
 451 Seventh Street, S.W.
 Washington, DC 20410

SUBORDINATE LENDER:

Economic Development Authority in and for the City of
 Minnetonka, Minnesota
 14600 Minnetonka Boulevard
 Minnetonka, MN 55345
 Attention: Executive Director

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

13. General.

(a) Assignment/Successors. This Agreement shall be binding upon Borrower, Senior Lender and Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of Senior Lender and Subordinate Lender.

(b) No Partnership or Joint Venture. Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute Senior Lender as a joint venturer or partner of Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of any other party hereto.

(c) Senior Lender's and Subordinate Lender's Consent. Wherever Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) Further Assurances; UCC Financing Statements. Subordinate Lender, Senior Lender and Borrower each agree, at Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Loan Documents are subordinate to the lien, covenants and conditions of the Senior Loan Documents, or to further evidence the intent of this Agreement. Senior Lender is hereby authorized to file any and all UCC financing statement amendments required to reflect the priority of the Senior Indebtedness.

(e) Amendment. This Agreement shall not be amended except by written instrument signed by all parties hereto.

(f) Governing Law. This Agreement shall be governed by the laws of the State in which the Mortgaged Property is located, except as, so long as the Senior loan is insured or held by HUD, and solely as to rights and remedies of HUD, federal jurisdiction may be appropriate pursuant to any federal requirements. The State courts, and with respect to HUD's rights and remedies, federal courts, and governmental authorities in the State in which the Mortgaged Property is located, shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Subordinate Loan Documents. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

(g) Severable Provisions. If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement

shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to Section 5 hereof; (iii) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure; or (iv) the acquisition by Subordinate Lender of title to the Mortgaged Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement. Notwithstanding the foregoing, in the event the Senior Indebtedness is refinanced, the term of this Agreement shall continue and the Subordinate Indebtedness and Subordinate Loan Documents shall be subordinate to any such indebtedness related to the refinance loan as provided in Section 10 above.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

Each signatory below hereby certifies that each of their statements and representations contained in this Agreement and all their supporting documentation thereto are true, accurate, and complete. This Agreement has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

BORROWER:

CHC MINNETONKA AFFORDABLE HOUSING LLC, a Minnesota limited liability company

By: CHC Minnetonka Affordable Housing MM LLC
Its: Managing Member

By: _____
Name: Richard Martin
Title: Administrative Manager

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____, 2016, by Richard Martin, the Administrative Manager of CHC Minnetonka Affordable Housing MM LLC, a Minnesota limited liability company, the managing member of CHC Minnetonka Affordable Housing LLC, a Minnesota limited liability company, on behalf of the Borrower.

Notary Public

Warning:

Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

SCHEDULE A
SENIOR INDEBTEDNESS

[Insert list]

EXHIBIT A
MORTGAGED PROPERTY

Tract B, Registered Land Survey No. 1530, Files of the Registrar of Title, County of Hennepin, State of Minnesota

Torrens Property
Torrens Certificate No. 1051689

EXHIBIT B

SUBORDINATE INDEBTEDNESS

- 1) Assignment and Assumption Agreement, dated _____, 2016, between Elmbrook – G.V. LP, as assignor, the Borrower, as assignee, and the Subordinate Lender
- 2) Amended and Restated Loan Agreement, dated _____, 2016, between the Subordinate Lender and the Borrower
- 3) Promissory Note, dated _____, 2016, from the Borrower to the Subordinate Lender
- 4) Amended and Restated Mortgage, dated _____, 2016, between the Borrower and the Subordinate Lender